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Reply of CEZ Group to public consultation by the Directorate General for Energy on ACER evaluation under Article 34 of Regulation 713/2009

CEZ Group welcomes the opportunity to present its views on ACER evaluation. Here below are our views on the given questions.

GENERAL INFORMATION:

1. Please specify which institution/organization you represent:

- a) EU Institution
- b) National Regulatory Authority/Association of Regulators
- c) Transmission system operator
- d) Consumers' representatives
- e) Industry representatives (companies, associations)**
- f) Academia
- g) Other, please specify

2. Please specify which area of work of the Agency you are aware of/familiar with?

- a) Development of Framework Guidelines and Network Codes for gas and electricity**
- b) Regional Initiatives**
- c) Infrastructure and Ten Year Network Development Plans (TYNDPs)
- d) Monitoring and reporting on the electricity and gas sectors**
- e) Monitoring of wholesale energy trading and market integrity (under REMIT)**
- f) Exemptions from third party access and tariff regulation for major new infrastructures
- g) Coordination and promotion of cooperation between National Regulatory Authorities
- h) Other (please specify)



RESULTS ACHIEVED BY THE AGENCY:

3. How do you evaluate the results achieved by the Agency so far in relation to its objective, mandate and tasks?

a) How do you rate in general the results of the Agency achieved since its establishment?

We recognise complexity and range of tasks given to ACER by the Regulation 713/2009 establishing an Agency for the cooperation of Energy Regulators but we consider ACER when executing its tasks as rather passive and inactive.

b) Has the Agency so far met its objectives as defined in the third energy package and complementary legislation?

Partially yes. But e.g. one of the tasks allocated to ACER should be promotion of regional cooperation which is not really happening and regional initiations do not work well. Moreover, ACER should coordinate the activities of individual regulatory authorities in different Member States, which, it seems, does not actually happen at all and the activity of these independent authorities is often hampered by political interventions.

c) Which of its tasks has the Agency in your view executed particularly well?

We consider the ACER's works in consultations of different network codes very well executed.

d) Are there any tasks which in your view the Agency has not given sufficient attention and/or which it has not (fully) executed?

From CEZ point of view, ACER should have paid more attention to REMIT regulation and its implementation which is actually significantly delayed. There are still gaps in understanding and many fundamental questions have not been answered so far. It is very difficult for market participants to prepare properly for new reporting system under REMIT without spending extra unnecessary costs.

Furthermore, we feel that ACER is not successful in promoting and improving market integration on regional level. ACER to some extent overlooks systematic violation of Regulation 714/2009 in some countries which still apply export fees (Bulgaria), restriction of OTC trading (Romania), end-price regulation for households and commercial business under wholesale price level (Slovakia) etc.

4. What do you think of the results of the Agency measured against ACER Annual Work Programmes?

a) Do you follow the development of the ACER Annual Work Programmes (by taking part in public consultations, workshops organized by the Agency)?

Yes, we are closely following ACER Annual Work Programme by different manners. We take part in public consultations directly or through different associations active in energy sector and we attend workshops especially on REMIT implementation which is the key issue within compliance tasks.

b) Do you consider that ACER has set the right priorities in its Annual Work Programmes?

Yes

c) Do you follow the Work Programme implementation through the reporting published by ACER in its Annual Activity Reports?

Yes



d) Do you think that ACER carried out its Work Programmes? If not, please indicate where this has not been the case.

We see a room for ACER to give more effort in fulfilling Work Programme, esp. its content.

WORKING METHODS:

5. Governance, organizational structure, independence and resources:

a) Are you aware of the organization of ACER and its governance arrangements (Administrative Board, Board of Regulators, Board of Appeal, Director)? If yes, do you consider the governance arrangements suited for the fulfilment of ACER's objectives, mandate and tasks?

Yes

b) How do you assess National Regulatory Authorities' coordination and cooperation through the Agency? Has the coordination and cooperation improved since the establishment of the Agency?

No. In this area, ACER stays significantly behind expectations and one can hardly find any example when ACER played important coordination role. Moreover, in some countries we are witnessing massive political interventions into the activities of national regulatory authorities which should be independent and which is not acceptable under the rules of the 3rd liberalisation package.

c) Please specify to what extent ACER has succeeded in your view in setting up effective and efficient working relationships with the EU institutions, NRAs, ENTSOs and other stakeholders, the public at large?

In general, working relationship with above mentioned institutions and stakeholders are quite good. However, more contacts between Ljubljana and Brussels should happen in order ACER is more active in EU circles.

d) Please specify the extent to which you think that ACER is independent (from gas and electricity companies, from Governments, from TSOs, from the Commission)?

Regarding the independency we don't see any problem.

e) Do you consider that ACER has adequate resources to carry out its tasks?

From our experience so far, especially ACER human resources responsible for REMIT implementation issues have very limited knowledge about world of trading, commodity markets and are learning these areas during discussions with stakeholders. This can be one of the reasons why REMIT implementation is so delayed.

General knowledge of commodity markets and derivatives market is not very good within ACER and it is obstacle for market integrations, development of framework guidelines etc.

We are not able to comments on ACER's budgetary resources.

6. Communication and Transparency:

a) How do you rate in general ACER's communication? Are you sufficiently informed of its activities? Which channels of communication do you consider to be most effective?

ACER website and newsletter is the most efficient way.

b) How do you rate ACER's website? How often have you visited it in the past 3 months? Did you find what you were looking for?

ACER's website is logically structured to basic areas (gas, electricity, REMIT) with latest development on the top.



We visit its website every day.

c) Did you read any of the documents that ACER has produced so far? Which ones did you consider particularly useful? Which ones did you consider less useful and why?

Yes, we have read most of the documents ACER has published so far relating to REMIT and electricity issues. We consider the activity of ACER when producing its documents for energy sector sufficient but more focus should be done on the clarity of the ACER's positions (see below our reply in point d).

d) What is your assessment of the quality of the documents that ACER has produced so far (framework guidelines, recommendations, guidelines, opinions, others)? Do they contain a clear position? Are they clearly drafted?

All documents prepared by ACER relating to REMIT are very general, ask open questions and it is not clear which options are preferred and why. We have participated to different public consultations of ACER directly or through several association of energy sector.

e) Are the public consultation arrangements of ACER sufficient, efficient and effective? In particular, does the Agency make efficient use of communication tools: Workshops? Publications? Website? Other?

We consider as ineffective to organize two-hour long workshops in Ljubljana on separate topics. Whenever ACER organizes a meeting/workshop/etc., these events should be better prepared and more space should be given for discussion and solution finding. The workshops could take place in Brussels.

7. Suggestions for improvement to ACER's working methods

a) Do you have any suggestions for improvement to ACER's working methods?

ACER should use more its powers and authorities for harmonization of market rules in EU Member countries and prevent violation of EU Regulations in energy field. ACER should focus on coordinating and harmonising role to ensure harmonized and effective application of the EU Regulations across the EU. CEZ believe that it is also important to highlight the need to exchange information, cooperate and coordinate actions of ACER and national energy regulators on one side and ESMA and national financial regulators on the other side.

b) Do you see a need for changes to Regulation 713/2009? If so, which changes and why.

Not necessarily.