

**The European Commission
Directorate-General Energy
Unit B2– Wholesale markets; electricity and gas
Rue De Mot 24
B-1049 Bruxelles
Belgium**



Wednesday 18 September 2013

OGP response to ACER evaluation under Article 34 of Regulation 713/2009

OGP welcomes the opportunity to provide feedback on ACER's role. OGP strongly support the development of well-functioning internal European energy markets and is thus indeed engaged in the various work streams of developing framework guidelines and network codes.

Further we believe that REMIT is an efficient tool to monitor the energy (gas) wholesale markets and we are thus engaged in avoiding confusing overlaps from more general financial regulatory initiatives. OGP support and is involved in ACER's work mandated under REMIT.

OGP is confident that ACER will help to ensure that financial regulation is not undermining the good work carried out under the mandate of the 3. Energy Package.

Please find below OGP's response to the consultation specific 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):

X - International Association of Oil & Gas Consumers

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:

X

b) Regional Initiatives

c) Infrastructure and Ten Year Network Development Plans (TYNDPs)

d) Monitoring and reporting on the electricity and gas sectors:

X

e) Monitoring of wholesale energy trading and market integrity (under REMIT)

X

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)

2 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?

OGP believe that ACER in general has been in track according to the work plans.

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

OGP believe ACER is progressing.

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

OGP is mainly engaged in two of ACER's work streams: the work on Framework Guidelines, Network Codes and REMIT. OGP believe that a dialogue with stakeholders is key in achieving the best outcome of these work streams, and in our view ACER is maturing and has thus improved its stakeholder engagement.

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

See response to c)

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.

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

We believe it's important to focus on finalising the framework guidelines and network codes in order to progress the development of a well-functioning whole sale gas market.

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.

Yes

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?

For OGP it is important that ACER stays loyal to the formal governance structure. See response under b)

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?

OGP believe it's preferable for ACER's credibility to stay as neutral as possible, why OGP recommends ACER to enhance the local staff by project based employment and avoid dependence on NRA support.

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?

OGP believe that a close dialogue and transparent working process between ACER and ENTSO's is key in the process of developing framework guidelines and network codes.

Further OGP believe that a close cooperation between ESMA and ACER is key to for further coordination of their (potential overlapping) roles and activities on financial regulation (MAR/MAD, MIFID, EMIR) in general and REMIT.

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)?

See response under c)

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

No, please see response under c)

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 has improved it's communication (regular press releases, workshops, meetings, website)

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?

It's fairly good, but could be improved (overall list of relevant legislation and soft legislation, direct contact list to employees in the various dossiers, more clarity of next steps in the various dossiers)

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?

OGP reads all documents of the dossiers where we are engaged.

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?

In general we find your material well worked. During the development of REMIT we have been engaged in clarifying the various documents e.g. the guidelines.

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?

See response under a)

7. Suggestions for improvement to ACER's working methods

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

We suggest to have more ACER workshops and meetings based in Brussels.

b) Do you see a need for changes to Regulation 713

No input at this stage.

Please don't hesitate to contact us for any further information you might require on these issues at your earliest convenience.

Best regards,

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About OGP: The International Association of Oil and Gas Producers (OGP) represents the interests of companies engaged in the exploration and extraction of oil and natural gas, as well as national and other related industry associations. OGP membership spans the globe and accounts for more than half of the world's oil output and about one third of global gas production. From our London office, we foster cooperation in the area of health, safety and the environment, operations and engineering, and represent the industry before international organisations, such as the UN, IMO and the World Bank, as well as regional seas conventions, such as OSPAR, where we have observer status. OGP Europe in Brussels represents before the EU OGP members who are active in Europe.