

**8th EU-US Energy Regulators Roundtable
Berlin, Germany
26-27 October 2010
Closing Statement**

In this the 8th EU-US Energy Regulators Roundtable¹, held in Berlin, Germany, senior national regulatory authority representatives continued their informal dialogue on key current issues. The roundtable focused on 7 major and closely inter-related themes: recent regulatory developments; cross-border transmission planning; energy efficiency; transparency; security of supply; structural changes in the market; and international energy regulation activities, notably through the International Confederation of Energy Regulators (ICER)¹. During the sessions held for each theme, participants discussed a number of critical issues:

Energy policy is high on public and political agendas, as a result of climate change concerns and as a consequence of various security of supply incidents/developments in both Europe and the United States. European regulators presented an update of the implementation of the new legal and regulatory requirements under the so-called “3rd Package”³ of energy liberalisation legislation. The new provisions include a marked strengthening in the powers and independence of national regulatory authorities and an increased emphasis on cooperation and coordination across borders. They also establish a new body for Europe-wide monitoring and oversight of energy markets, through the Agency for the Cooperation of Energy Regulators (ACER), which is endowed with specific cross-border duties on Europe’s energy markets. Overall, the measures aim to provide greater legal and regulatory clarity and steps to promote an open and single European energy market.

In the United States, meanwhile, recent developments include the first step in the Obama Administration’s “clean energy” agenda with the enactment of the stimulus legislation containing billions of dollars of new funding for the deployment of smart grid technologies supported by expanded broadband facilities, expanded support for new nuclear investment through a loan-guarantee policy and robust transmission planning across all three U.S. interconnected grids. The U.S. House of Representatives passed comprehensive climate change legislation in 2009. However other than the stimulus package, the U.S. Senate has not yet acted on any energy legislation during the current session of Congress. A major Senate committee has passed energy legislation expanding investment in transmission infrastructure, national renewable energy standards and protection of the grid from cyber attack. However, none of these can become law until passed by both the House of Representatives and the U.S. Senate and signed by the U.S. President.

Closely interlinked are the issues of cross-border transmission planning and investments, energy efficiency and transparency. Both regions face a paradigm shift in both the generation and consumption of energy, with the corresponding need to consider:

- a) how to upgrade networks and integrate new forms of generation (renewables) into current networks;

- b) how to facilitate that adequate investments in infrastructure where they are needed to facilitate 'smarter', low-carbon and reliable transmission; and
- c) whether and how to "decouple" production from more efficient consumption to help promote energy efficient and low-carbon energy systems.

A key step in this process is an analysis of the state of the network – its capacity, functioning, interconnectivity, reliability - and coordinated planning for transmission as a whole. As systems across U.S. states and between EU countries become ever more interconnected, both regions are carefully examining cross-border planning to support the changing needs (and users) of transmission networks. EU and U.S. regulators can learn from each other's experiences on how to deal with this complex issue, by exchanging information and lessons learned. A related major challenge for regulators is to find ways of also encouraging an adequate level and scope of innovation while providing an appropriate degree of protection of customer interests and economically-effective development of the network. In the EU, plans are underway to present an energy infrastructure package with policy reflections and legislative proposals to support energy investment and infrastructure across Europe – looking ahead to 2020 and 2030 and how to ensure a well functioning internal energy market, underpinned by interconnected, modern and sustainable energy infrastructure and networks.

Stimulating the investments needed to move to "smart" and efficient low-carbon markets will be key: In the United States, cost effective demand-response measures have been put in place in a number of regions, while in Europe the 3rd Package legislation seeks to promote consumer awareness and (inter)active customers by calling for the roll-out of smart metering systems in the Member States. A wide-range of research and development, interoperability and standardisation efforts are being assiduously pursued in the U.S. and at European level to ensure that we pay appropriate attention to consumer concerns about data privacy and that both smart metering and smart grid technologies develop in a manner that will not create market barriers and will help to support efficiency and climate change objectives. Efficient operations and their 'smartness' can enable consumers to respond through their demand needs by enhancing transparency of actual consumption and the price for energy and may lead to electricity savings and thus carbon emission reduction. In parallel, smarter regulation needs to provide incentives consistent with greater energy efficiency.

A key element for the development and growth of energy markets, on both sides of the Atlantic, is a "level-playing field", which ensures all market participants are on equal footing with no "unfair advantages". This includes having the same standards for trading in the market, transparency rules and market monitoring by energy regulators which help to ensure that new entrants can access the market and that incumbent market participants leave room for competition, to the benefit of consumers. The upheavals in the banking and financial markets have brought regulatory issues to the fore. Energy trading regulation is thus much debated. In the U.S., legislation reforming financial markets - including energy trading - has been enacted in Congress, while in Europe, binding guidelines on transparency of fundamental data are being developed is a tailor-made market integrity regime on wholesale energy trading. Jurisdiction issues are also important for transparency in both the U.S. and EU markets, as different authorities can be involved in intra vs. inter state, regional or country trading. During the discussion, it was stressed that energy regulatory authorities, both in the U.S. and the EU, should play an important role in ensuring market integrity and supervising energy trading. Having in place robust and timely market monitoring can go some way to supporting transparent and fair trading. This is another area where EU and U.S regulators can mutually benefit from each other's

experience and emerging approaches. Furthermore, the role of price sensitive information (i.e. fundamental data) was underlined – as they play a major role not only for the functioning of energy markets, but for all commodities.

Another key issue for regulators is the security of the supply of electricity and natural gas across the networks. This fundamental issue concerns not only the uninterrupted delivery of energy but also the availability of capacity in the long-term and the development of the necessary infrastructure to deliver said energy. In electricity, much discussion revolves around new sources of generation, demand shifts and the replacement of ageing infrastructure. In gas, as well as the increasing use of shale gas in the U.S., changes in the sources and trade in natural gas, with the proliferation of liquid natural gas (LNG) and the use of storage sites are changing established practices. In the wake of the January 2009 gas supply disruption between Russia and Ukraine which affected a number of Member States, the EU has revised its legislative framework to foster preparedness and emergency mechanisms at all levels and to improve infrastructure in Europe. A new regulation places an emphasis on coordination and joint response. The provisions include a procedure for establishing reverse flow capacity; allowing supply and infrastructure standards to be also fulfilled on a regional level by several Member States together; and encouraging Member States to develop joint Preventive Action and Emergency Plans between themselves. Of particular interest is the role which ACER and energy regulators can have in safeguarding security of gas supply.

Taken together, the above extensive changes to the structure (and costs) of energy markets may require a rethinking of their regulation. Proposals at the FERC for compensating demand response have the potential to significantly affect the continued evolution of wholesale markets. In Europe, innovation and “green” measures are accompanied by unbundling requirements aimed at promoting competition in the energy sector. Moreover, European and American regulators recognise the impact that the global financial crisis and the various austerity measures being taken by governments may have on their work as well as the challenges ahead for regulators in fulfilling their duties, and pursuing constructive dialogue with fellow regulators, in these challenging times.

Dialogue and the exchange of experience will help regulators to prepare and guide the development of interconnected/integrated markets with a sustainable energy future. For example, by addressing problems of common interest such as integrating energy from intermittent renewable sources and handling regulatory aspects of programmes intending to promote renewables. Further collaboration between the EU and US could be undertaken in this area. Moreover, on a large scale, within the International Confederation of Energy Regulators (ICER), established at last year’s World Forum on Energy Regulation, regulators are working together to identify best regulatory practices regarding, for example, the promotion of energy efficiency⁴; the promotion of investments; regulatory powers in achieving national and regional security of supply; regulatory aspects of the integration of renewables and distributed generation; regulatory approaches to supporting greenhouse gas emission reductions; and market monitoring practices to oversee market functioning.

In closing, the Roundtable participants⁵ reaffirmed their commitment to continued cooperation, including through the exchange of experience, and acknowledged the contribution of the EU-US Roundtable in this respect. Part of this continuing dialogue involves sharing experiences with regulators from across the globe both through ICER and bilateral contacts.

Notes to Editors:

1. On 26-27 October 2010, the 8th EU-US Energy Regulators Round Table was held in Berlin, Germany. Since 2000, U.S. and EU regulators have maintained an informal dialogue where energy regulators exchange views and experience on selected topics of mutual interest in the electricity and gas markets, compare regulatory approaches, and discuss international developments and cooperation. With the involvement of the regulators from the Council of European Energy Regulators (CEER), the Federal Energy Regulatory Commission (FERC) and the National Association of Regulatory Utility Commissioners (NARUC), the roundtable convened to discuss energy and regulatory developments and challenges. The meeting was also attended by regulators from the Energy Regulators Regional Association (ERRA), whose members come from Central European and Eurasian countries).
2. ICER brings together in a formal and structured dialogue the energy regulatory authorities from across 6 continents and over 200 regulatory agencies, including both the most developed markets and those which are still taking shape. It is composed of 11 regional regulatory associations as well as the regulatory authority for Australia. ICER's goal is to serve an effective tool to help improve, worldwide, public and policy-maker awareness and understanding of energy regulation and its role in addressing a wide spectrum of socio-economic, environmental and market issues. More information and publications by ICER are available at www.icer-regulators.net.
3. The "3rd Package" was adopted on 13 July 2009 by the European Parliament and the Council. It contains two Directives on the internal energy market (Directive 2009/72/EC on electricity, Directive 2009/73/EC on gas), and three Regulations (Regulation (EC) No 713/2009 on the establishment of an Agency for the Cooperation of Energy Regulators "ACER", Regulation (EC) No 714/2009 on conditions for access to cross border electricity exchanges and Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks). Member States of the European Union must transpose the Directives into national law by 3 March 2011. The Regulations have direct effect and are applicable as of 3 March 2011. The European Parliament and Council have recently (11 October 2010) adopted the gas "Security of Supply" Regulation, repealing the current Directive 2004/67/EC. Publication of the measure in the EU's Official Journal is expected shortly.
4. As members of ICER, both NARUC and CEER signed the October 2009 World Energy Regulators' Statement on Climate Change, outlining eight concrete actions and committing regulators to playing their role in overseeing efficient and climate responsible markets. This built on the commitments made in the May 2009 G8+ Energy Regulators Statement, which similarly underlined regulators' perspectives towards a new world energy governance. In addition, NARUC and CEER contributed heavily to the ICER Report on regulatory practices for the promotion of energy efficiency, published June 2010 and sent to all G8 energy ministers on the occasion of the G8 summit in Muskoka, Canada.
5. The EU-US Roundtable is jointly organised by CEER and NARUC, with the involvement of other U.S. and EU regulatory organisations. Established in 2000, the Council of European Energy Regulators (CEER) is a not-for-profit association in which Europe's independent national regulators of electricity and gas voluntarily cooperate to protect consumers' interests and to facilitate the creation of a single, competitive, efficient and sustainable internal market for gas and electricity in Europe (www.energy-regulators.eu). Founded in 1889, the National Association of Regulatory Utility Commissioners (NARUC) is a non-profit organisation dedicated to representing the State public service commissions who regulate the utilities that provide essential services such as energy, telecommunications, water, and transportation (www.naruc.org). Established in 2000, the Energy Regulators Regional Association (ERRA) is a non-for-profit association of the national energy regulators in Central European and Eurasian countries cooperate with the common aim to improve national energy regulation, to foster development of stable energy regulators with autonomy and authority and to facilitate the exchange of information, research, training and experience among members and other regulators around the world.