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Subject Consultation Paper containing the draft recommendations to the Commission as regards the records of wholesale energy market transactions including orders to trade, and as regards the implementing acts according to article 8 of Regulation (EU) 1227/2011

Dear Sir,

On 21 June 2012 you published the Consultation Paper containing the draft recommendations to the Commission regarding the records of wholesale energy market transactions including orders to trade, and the implementing acts according to article 8 of Regulation (EU) 1227/2011.

This public consultation paper is intended to collect views from all parties interested in the implementation of REMIT (market participants, organised market places and other persons professionally arranging transactions, trade matching systems, trade reporting systems, trade repositories, financial regulatory authorities, including ESMA, competition authorities, etc.). Energie-Nederland is a federation of market participants. We welcome the opportunity to respond to this consultation.

On the detailed level of specific questions Energie-Nederland supports the responses of Eurelectric, Eurogas and EFET but given the impact of REMIT on market participants we would like to emphasize some general issues which are of major importance to our members.

Before all, we would like to emphasize that all data transaction reporting under REMIT should be proportional with, and restricted to the stated objectives of REMIT. The information requested shall thus be sufficient to enable ACER to monitor the market for potential market abuse, but shall not impose unproportional burden on the market participants. The most (cost-) efficient manner for delivery to/finding by ACER of the requested information shall be applied.

This also implies that ACER will not require intra-group transactions to be reported. Not only does REMIT not require these transactions to be reported, more importantly, they also do not have an impact on market prices.

Further, Energie-Nederland would like to address the issue of confidentiality. The information requested is highly confidential. Therefore we would like to underline that guarantees are needed that data confidentiality is secured by both ACER and intermediate entities and that the data won't be used for any other purpose than monitoring of market abuse in accordance with REMIT.

Another very important point is that the framework to be adopted should provide a high level of clarity to market participants required to report. Right now a lot of definitions and processes are unclear which could lead to unnecessary confusion, costs and work, as well as to erroneous reporting.

To prevent double reporting and corresponding additional costs high level and detailed coordination with ESMA is needed. Energie-Nederland is glad to notice that this is increasingly the case. As a general rule financial products as defined under MiFID should be reported to ESMA under EMIR while wholesale energy products should be reported to ACER. The definition of financial product under MiFID is leading in this case. Only the trades that are not reported to financial regulator ESMA should be reported to ACER.

Data reporting under REMIT should also not be more extensive than data reporting under EMIR and MIFID. We would not know which information that will not be reported to ESMA would be needed by ACER. Therefore, transactions that have already been reported in accordance with EMIR should not be subject to any further reporting in accordance with REMIT. This would also lead to double reporting lines for the same contract, which should be avoided in any case.

Finally we would like to stress that preparing and implementing all relevant information channels is a time-consuming process, the results of which shall be first duly tested. Therefore Energie-Nederland believes that ACER should recommend a phased approach for the transaction reporting, allowing sufficient preparation time to the market participants and a sufficient testing period. Also, it would be very much appreciated if the timing for the implementation of the reporting requirements is clearly and as soon as possible communicated with the market.

Energie-Nederland remains at your disposal for any additional clarification on its position.

Yours sincerely,



Mr. A. Jurjus
Director