



## Public Consultation Paper

### Establishment of the annual priority lists for the development of network codes and guidelines for 2017 and beyond

The Third Energy Package has created an institutional set up for developing network codes with a view to harmonising, where necessary, the technical, operational and market rules governing the electricity and gas grids. In this institutional setup there is a key role for the Agency for the Cooperation of Energy Regulators ("ACER"), for the European Network of Transmission System Operators ("ENTSOs") and for the European Commission to work in close cooperation with all relevant stakeholders on the development of network codes. The process of developing network codes is defined in Articles 6 and 8 of Regulation (EC) No. 714/2009 ("Electricity Regulation") and of Regulation (EC) No. 715/2009 ("Gas Regulation"). The areas in which network codes can be developed are set out in Article 8(6) of the Electricity Regulation and the Gas Regulation.

Despite the possibility to develop network codes according to the process laid down in Article 6 and 8 of the Electricity Regulation and the Gas Regulation, the European Commission can develop guidelines on its own initiative launching the adoption procedure to make them legally binding. The areas in which guidelines can be developed are set out in Article 18 (1), (2), (3) of the Electricity Regulation and Article 23 (1) of the Gas Regulation.

Once ACER submits a network code to the Commission recommending its adoption, the Commission starts the adoption phase ("Commission adoption phase").<sup>1</sup> First, in order to adopt a network code, it has to be finalised and translated by the Commission. Afterwards, it needs to obtain a positive vote<sup>2</sup> by the competent Committee composed of Member States' representatives. Following the positive vote of the Committee, the Commission aligns the translations of the network code and submits the network code (together with the translations and accompanying documents) to the European Parliament and the Council for a three months scrutiny period. If, on the expiry of this period, neither has opposed it, the Commission will adopt and publish the network code.

According to Article 6(1) of the Electricity Regulation and of the Gas Regulation, the Commission has to establish an annual priority list identifying the areas to be included in the development of network codes. Before setting the annual priorities, the Commission has to consult ACER, the ENTSOs and other relevant stakeholders. Since the adoption of the Third Energy Package the Commission has already consulted and adopted the annual priority lists for the years 2013<sup>3</sup>, 2014,<sup>4</sup> 2015<sup>5</sup> and 2016.<sup>6</sup>

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<sup>1</sup>Network codes and guidelines are adopted according to Article 5a (1) to (4) of Decision 1999/468/EC ("regulatory procedure with scrutiny").

<sup>2</sup>Qualified majority expressed by a majority of the Member States.

<sup>3</sup><http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32012D0413>

<sup>4</sup><http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013D0442>

<sup>5</sup><http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014D0713>

<sup>6</sup><http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015D1960>

The purpose of this document is to consult stakeholders on the priorities for the development of network codes and guidelines for 2017 as well as to receive input what network codes and guidelines could be envisaged beyond 2017.

## **1. Tentative annual priority lists 2017**

The development and implementation of network codes and guidelines is an important step to be taken in order to fully integrate the internal energy market. But not only the actions needed to develop and implement network codes and guidelines have to be taken, also the full implementation and enforcement of the Third Energy package, the enhancement of investments in energy infrastructure, the work of regional initiatives and the enforcement of competition and State aid rules are needed.

Having regard to: (i) the Commission's ongoing work concerning the market design initiative; (ii) the various actions needed to ensure the full integration of the internal energy market; (iii) the fact that in the recent years the most apparent priorities for network codes have already been identified and included in the list; and (iv) the fact that the implementation of network codes and guidelines will require significant resources from all relevant parties including the Commission, ACER and the ENTSOs, the Commission proposes to prioritise in 2017 the work already started in the previous years.

### **1.1 Tentative annual priority list 2017 regarding electricity networks rules**

Rules on capacity allocation and congestion management and on connection of generators have already been adopted, published and are going through a process of implementation. As it is expected that harmonised rules on (i) demand connection, (ii) high voltage direct current and on (iii) forward capacity allocation will be adopted and published in 2016, the European Commission proposes to put the following key areas on the annual priority list for 2017 for the development of harmonised **electricity** rules:

- rules regarding system operation (Finalisation of Commission adoption phase after Committee voting in 2016);
- rules on emergency and restoration requirements and procedures (Commission adoption phase after Committee voting in 2016);
- balancing rules (Commission adoption phase after Committee voting in 2016).

### **1.2 Tentative annual priority list 2017 regarding gas networks rules**

Harmonised rules on congestion management procedures, capacity allocation, balancing and interoperability and data exchange have already been adopted, published and are being implemented in the Member States. Rules regarding harmonised transmission tariff structures (Commission continuing adoption phase) and rules regarding an EU-wide market-based approach on the allocation of "new build" gas transmission capacity (amendment of the capacity allocation mechanisms network code) were included in the previous priority lists and the adoption of both legislative proposals is foreseen by early 2017.

Focus therefore remains on the correct implementation of those rules.

In addition, ACER informed the Commission in June 2014 that, according to its scoping exercise<sup>7</sup>, the necessity of harmonised rules for gas trading related to technical and

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<sup>7</sup> The Commission decision on the annual priority list for 2014 had foreseen this scoping exercise (OJ 2013, L 224, 14).

operational provisions of network access services and system balancing was at that time not demonstrated.<sup>8</sup>

The Commission therefore proposes to put the following item on the annual priority list for 2017 and beyond for the development of harmonised **gas** rules:

- amendment of the network code on interoperability and data exchange rules incorporating the adopted CEN standard on H-gas quality (EN 16726:2015) ).  
The European Committee for Standardisation (CEN) was mandated by the Commission in 2007 to draw up harmonised standards for H-gas quality in the EU. This mandate was concluded in December 2015. The amendment proposal would integrate the forthcoming CEN standard into European law making the respective, agreed CEN parameters binding at EU level. Therefore, the European Commission invited ENTSOG to prepare a detailed analysis and subsequently draft and submit to ACER an amendment proposal to the network code on interoperability and data exchange rules by 31 July 2017. In the light of the outcome of ENTSOG's assessment the process and exact timing of amending the network code will be defined for 2017 and 2018 (ACER work in second half of 2017 and start of Commission adoption phase in 2018). The amendment proposal will not include Wobbe-Index parameters (which are not included in the CEN standard either) as still more analysis on the precise effects of the Wobbe-Index bands and index variations on appliances (household and industrial) is needed<sup>9</sup>. For further information on the outcomes and public consultation of CEN on the gas quality please visit DG Energy's website: <http://ec.europa.eu/energy/en/topics/markets-and-consumers/wholesale-market/gas-quality-harmonisation>

## **2. Annual priorities beyond 2017**

Even though the European Commission proposes to focus in 2017 on the work already started in the previous years, it wants to encourage stakeholders at an early stage to give their input on the need and possible scope of network codes and guidelines that could be envisaged as key areas beyond 2017. This will enable ACER to include potential scoping work in its work program for 2017. The areas in which network codes can be developed are set out in the Articles 8 (6) of the Electricity and Gas Regulations. The areas in which guidelines can be developed are set out in Article 18 (1), (2), (3) of the Electricity Regulation and Article 23 (1) of the Gas Regulation.

## **3. Consultation**

The European Commission's view on key areas for network codes and guidelines is laid down in the tentative annual priority lists for 2017. The Commission would welcome feedback from stakeholders on whether they agree with the proposed annual priority lists and encourage them to give their input on the possible scope and the need of network codes and guidelines beyond 2017.

Input to the consultation should be sent by **14 October 2016** by e-mail to [ENER-NC-PRIORITIES@ec.europa.eu](mailto:ENER-NC-PRIORITIES@ec.europa.eu).

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<sup>8</sup> ACER has in particular assessed whether further harmonised rules on i) capacity products and terms and conditions of capacity contracts and transparency thereof ( in particular limitations to free allocability), ii) secondary capacity markets, iii) virtual trading point (VTP) design/access, and hub issues or iv) on licensing requirements for market participants other than TSOs are needed.  
[http://www.acer.europa.eu/Gas/Framework%20guidelines\\_and\\_network%20codes/Pages/Rules-for-Trading.aspx](http://www.acer.europa.eu/Gas/Framework%20guidelines_and_network%20codes/Pages/Rules-for-Trading.aspx)

<sup>9</sup> This is addressed by the continuation of the CEN mandate M/400 to allow for the inclusion of the Wobbe-Index parameters.

All responses will be published in full unless it is specifically indicated that the information contained within the response is confidential. Following the consultation period, the Commission will evaluate the input received and will adopt the priorities for 2017.