



# EUROPEAN REGULATORS GROUP FOR ELECTRICITY AND GAS

The Chairman

Mr Heinz Hilbrecht  
Director  
Directorate C  
Security of Supply and Energy Markets  
DG TREN  
European Commission  
B-1049 Brussels  
BELGIUM

London, 15 October 2009

DG TREN				CODE:			
AV				33684			
ACTION:				ECHEANCE:			
20 10 2009							
R	A	B	C	D	E	F	
G	H	I	P	CP1	CP2	CP3	
DG	ASS	01	DGA	DGA	DGA	AAE	
			GD	FFG	HI		

*Heinz*

The European energy regulators welcome the discussion paper on guidelines and codes including the DG TREN views on priorities. The paper is an important contribution as the efficiency of the work during the interim period will depend on a clear plan for the work to be undertaken by the various parties during this time.

In this response to the Commission the European energy regulators would like to present their views on the process of preparing framework guidelines and codes; what the regulators consider to be the priorities for the work in the near future; what issues are best suited to be addressed by the framework guidelines and codes approach and where (immediate) comitology guidelines would be the most suitable approach; and related to the previous point, how the various items could be addressed and grouped by using framework guidelines, codes and comitology guidelines.

The paper presents a simplified process for developing framework guidelines and codes in Picture 1. For the sake of simplicity, a number of details are missing, which, however, may lead to incorrect interpretations of the roles and responsibilities of the various parties. The European energy regulators recommend that the process should be described in a more detailed and exact manner as the sequence of the various stages of the process is important and relevant. It is also of high importance that the various stakeholders recognize and understand the correct process.

The Regulations (EC) No 714/2009 and No 715/2009 provide for the process to be applied when launching the preparation of framework guidelines and network codes. A step that is



## EUROPEAN REGULATORS GROUP FOR ELECTRICITY AND GAS

The Chairman

not very clear is the initial setting of the priorities. According to Article 6(1) the Commission shall, after consulting the Agency, the ENTSOs and the other relevant stakeholders, establish an annual priority list identifying the areas set out in Article 8(6) to be included in the development of network codes. Article 8(5) states that the annual work programme of the ENTSOs referred to in point (d) of paragraph 3 shall contain a list and description of the network codes to be prepared, a plan on coordination of operation of the network, and research and development activities, to be realised in that year, and an indicative calendar. Furthermore, according to Article 6(6), the Commission shall request the ENTSOs to submit a network code, which is in line with the relevant framework guideline, to the Agency within a reasonable period of time not exceeding 12 months.

An issue that arises from these articles is the sequence of the work to be undertaken by the Agency (and ERGEG during the interim period) and the ENTSOs. It is clear that the Commission sets the priorities after consultation but the sequence of framework guidelines and network codes is somewhat unclear. In the interim period it seems that framework guidelines and codes are being prepared at least partly in parallel to fully utilize the interim period. However, as the network codes need to be in line with the relevant framework guidelines, would the approach of parallel work fulfill the process as it is now described in the gas and electricity Regulations. The European energy regulators are interpreting the provisions in a way that – at least as of the end of the interim period – the framework guideline would need to be prepared first before the launch of the network code preparations.

The European energy regulators agree with the presented principle of where to use the two alternative approaches - that of framework guidelines and codes and that of comitology guideline - stating that comitology guidelines will in particular be used for rules which are not appropriate for drafting by the TSOs.

The discussion paper has presented priorities for the development of framework guidelines and codes. For electricity it lists grid connection and access, system operation, transparency and wholesale market as the areas for priorities and for the development of framework guidelines. The European energy regulators recognize that these areas are in line with the



## EUROPEAN REGULATORS GROUP FOR ELECTRICITY AND GAS

The Chairman

priority groups presented in our autumn consultation paper<sup>1</sup>. In the annex to the document, the following priority groups were proposed: Priority I: Security and reliability rules; interoperability rules; and operational procedures in an emergency; Priority II: Grid connection and access rules; capacity allocation and congestion management rules; and transparency rules; Priority III: Balancing rules including reserve power rules; and data exchange and settlement rules; and Priority IV: Rules regarding harmonised transportation tariff structures including locational signals and inter-TSO compensation rules; energy efficiency regarding electricity networks. The priorities presented in the Commission's discussion paper cover the items of the first two priority groups as presented by the regulators.

For gas the discussion paper lists capacity allocation, balancing, tariff structures and interoperability as priority areas for the development of framework guidelines. The European energy regulators can broadly agree with these priorities as they are identified as well in the annex of our above mentioned consultation paper as top priorities: capacity allocation and congestion management rules, transparency rules, balancing rules, rules regarding harmonised transmission tariff structures and interoperability rules. However, the European energy regulators would also like to point out the high importance of transparency for the achievement of an internal market. Thus, the European energy regulators see transparency rules as a more pressing issue compared to others in the list. We also urge the European Commission to introduce as soon as possible a complete set of rules on this issue in the form of the proposed transparency guidelines into comitology,

The electricity and gas priorities are already reflected in the draft Work Programme 2010 that is currently under public consultation. For the year 2010, the electricity tasks include grid connection as a topic for the pilot framework guideline and operational security (referred to as system operation in the discussion paper), transparency and capacity allocation and congestion management (issues covered by the wholesale market guideline in the discussion paper) as areas where input for framework guideline will be prepared. The gas tasks include capacity allocation mechanisms as a topic for the pilot framework guideline and balancing rules as well as harmonized transmission tariff structures as areas for the development of framework guidelines.

<sup>1</sup> Implementing the third energy package - an initial consultation paper by the European Energy Regulators, Ref: C08-GA-45-08.



## EUROPEAN REGULATORS GROUP FOR ELECTRICITY AND GAS

### The Chairman

The European energy regulators want to draw the attention of the Commission to the terminology used in this paper and propose for the future the use of the exact terminology of the Regulations to avoid any confusion or misunderstanding.

The work on the pilots is already fully underway. According to the plan, the Impact Assessment process is applied and to ensure that all relevant expertise is harvested, ad hoc expert groups to provide their input to the preparation of the framework guidelines are being established. Furthermore, the European energy regulators are currently creating a new website area for the pilot framework guidelines to make the process of preparing the pilot framework guidelines as transparent to the stakeholders as possible.

A proposition on the architecture for the guidelines and codes is presented in Tables 1 and 2. For electricity, a couple of issues and questions arise. The Table 1 envisages the preparation of Market Information Framework Guideline under which two codes - "Network transparency code" and "Generation and load transparency code" - should be prepared. The European energy regulators are currently discussing their preferred approach to improve transparency. For gas the European Commission has chosen to prepare comitology guidelines on this issue. The regulators will provide their advice on introducing more efficient transparency framework for electricity wholesale market in the coming months. The second slightly problematic issue is the co-existence of ITC comitology guidelines and codes, which would require some more clarification and explanation. With regard to the market rules and the related guidelines and codes, the forward market timeframe needs to be addressed in addition to day-ahead, intraday and balancing timeframes. The European energy regulators plan to continue their analysis of the Table 1 and would like to have the opportunity to come up with any additional ideas and propositions before the next Florence Forum in December.

For gas, Table 2 also lists a wholesale market framework guideline which shall be the basis for codes on several issues: congestion management, capacity service and capacity allocation, capacity trading code, day-ahead and intra-day as well as capacity calculation. The European Commission, GTE+ and ERGEG, as supported by the Madrid Forum, agreed to use capacity allocation mechanisms as for the development of the pilot framework guideline. Regulators started their work to prepare the framework guideline on capacity allocation mechanisms as well as input to comitology guidelines on congestion management



## EUROPEAN REGULATORS GROUP FOR ELECTRICITY AND GAS

The Chairman

procedures. Congestion management is thus not covered by the pilot framework guideline. Capacity trading, day-ahead and intra-day as well as capacity calculation are not key issues in the pilot project. Therefore, the European energy regulators ask to also include the possibility of congestion management codes in Table 2 according to prior discussions.

I look forward to continuing our close and fruitful co-operation with the Commission. The work being undertaken during the interim period is and will be of critical importance for the proper functioning of the new European regulatory framework for electricity and gas. From that perspective the work carried out by the Commission, the regulators and the ENTSOs on the areas of priorities, framework guidelines and codes - naturally in interaction with the other relevant stakeholders - will be of paramount significance for the success of the future framework.

With my kind regards  
Yours sincerely  
