



E.ON AG

E.ON-Platz 1
40479 Düsseldorf
www.eon.com

Contact:

Market Regulation
marketregulation@eon.com
Phone: +49-211-4579 4804

**E.ON's Response to
the Public Consultation on
Establishment of the Priority List for the Development of
Network Codes for 2012 and Beyond**

DG Energy - ENER.B.2, 10 March 2011

Düsseldorf, 08 April 2011

1 General Remarks

E.ON welcomes and appreciates the Commission's consultation regarding the Network Code priorities for 2012 and beyond. The development of Framework Guidelines (FG) and Network Codes (NC) is important to us as we consider this process as an essential key to establish the internal energy market. But E.ON also believes that in order to take full advantage of these processes, they need to be treated in an adequate way. This means that stakeholders need to have sufficient time to evaluate and respond to drafts and ACER/the ENTSOs need to ensure that stakeholder feedback is considered thoroughly. With the decision by the European Council on 4 February 2011 to achieve completion of the internal market for electricity and gas already by 2014 the importance of efficient work organisation regarding the development of FGs and NCs increases. It is particularly important that at each stage in the consultation process ACER/the ENTSOs comment on why they have or have not taken particular stakeholder views into account.

There needs to be an active dialogue between stakeholders and institutions regarding the scope and feasibility of NC provisions. A process needs to be found in order to allow network users of being closely involved in the establishment of the NCs. They need to have the opportunity to put forward proposals and suggestions as well as initiate amendments on NCs. We believe that AESAG is an appropriate body to be consulted upfront the formal consultation process in order to ensure that the overall process delivers the right results. Such stakeholders' involvement will be fundamental for the success of the Gas Target Model as well. Drawing lessons from the integration of wholesale electricity markets and the related AHAG/AESAG process, a continual dialogue among all the stakeholders will be crucial to the successful implementation of the Gas Target Model. The NCs should present a balanced view on political objectives and market's needs that ultimately facilitate and support the internal market, a non-discriminatory competition within this market and ensure security of supply.

2 Specific Remarks

1. Are the priorities proposed for 2012 the correct ones?

and

2. What should be the longer-term priorities for 2013 and beyond? Please also specify in your response the expectations you have for the scope of these priorities.

E.ON agrees with the Commission that for 2012 it is most important to continue with the processes started in 2010 and 2011 and possibly finish some of them. However, we also believe that it needs to be guaranteed that sufficient time and consideration can be given to each FG and each NC in order to ensure an adequate result. The scope and details of all NCs will be essential to the internal market and a large part of the success of this market will depend on them; inaccuracies or excessive demands and provisions will inevitably lead to a less than optimal result.

As there has not yet been an official consultation of a NC draft by either of the ENTSOs, it is difficult to estimate how much time and resources will have to be spent on these consultations. However, if the draft electricity NC Grid Connection by ENTSO-E is any indication of the NCs to come, we expect

that for stakeholders each consultation will involve extensive impact analysis and discussions on the demands and provisions proposed by the TSOs.

Against this background, the large number of tasks set for 2012 seems quite ambitious for both, stakeholders and institutions. We, therefore, propose to ensure that the time given for answering consultations regarding each NC is no less than two months¹, with the avoidance of parallel processes on the same topics wherever possible so as to ensure efficient stakeholder contribution to the process. In practice, proper allowance needs to be made for the complexity of the issue under consideration and the time of the year consultations are conducted – allowing more time if needed.

We consider NCs dealing with balancing arrangements, congestion management and transparency in both electricity and gas as most important – therefore, we endorse the timeline proposed for FG/NC Capacity Allocation Management and FG/NC Balancing in gas as well as for FG Capacity Allocation and Congestion Management (CACM) with the related NCs and the work on the FG/NC Balancing for electricity. Moreover, the fact that the gas Congestion Management Procedures will be directly dealt with via a comitology guideline reflect the need for prioritised action regarding this topic.

Electricity

The electricity CACM FG plus the referring NCs on Intraday Platform, Day-ahead, Capacity Calculation and Forward Market need to be prioritized. The electricity Intraday Platform NC needs to be started before drafting the Balancing NC, however, there should be some overlapping in the process and co-ordination of basic principles. Intraday possibilities facilitate responsible parties to balance themselves. The Balancing NC considers the measures of TSOs and power generators to finally (afterwards) handle the remaining imbalances after closure of intraday markets.

For progress in integration of the power market we consider the electricity NCs related to System Operation and Network Connection of less importance (with the need that network connection is based on a clear definition of future system operation). TSOs have carried out already a lot of coordinated work on the named issues in the past (e.g. UCTE operational handbook and national codes) and these principles have to be adapted adequately into NCs without requiring immediately too much new regulation. The new issue to be considered in this context are the 2020 targets that have to be taken into account adequately.

¹ This time period is in line with the 'Guidelines on ERGEG's public consultation practices' (Ref: E07-EP-16-03).

Gas

The priorities seem generally appropriate. Like for electricity the plans are extremely ambitious, but this could be an opportunity for ACER and ENTSO-G to focus on the essential code rules that foster harmonisation, compatibility and alignments of markets arrangements in adjacent markets.

In gas, a NC on the allocation of incremental capacity should be a priority for 2013 at the latest. The harmonisation of tariff structures in gas is of a lower priority, other than if this were to hinder the sale of capacity at interconnection points. Tariff structures in themselves should not hinder competition if these are non discriminatory in a particular market area. However, tariffs should be subject to a NC process rather than a pure comitology process² as extensive stakeholder involvement is a key success factor.

3. In the 3-year-plan for electricity, several network codes are proposed for a single framework guideline. In gas, only one network code per framework guideline is foreseen. The Electricity and Gas Regulations do not specify whether a framework guideline has to be mirrored by a single network code or whether the issue can be divided into several sub-issues. Do you agree that keeping both options, as used by ENTSO-E on the one hand and ENTSG on the other hand, are viable?

The approach taken depends on the purpose of the codes. In an ideal world a single gas code and single electricity code applying across the whole of the EU would facilitate market entry. However, there are advantages and disadvantages to both options: If there are several NCs for a single FG, each NC can be focused on one topic which can facilitate the drafting and consultation as there is less need for the coordination of experts for different topics. However, several NCs under one FG bear the risk of inconsistencies or even contradicting provisions which increases the complexity of drafting codes scheduled for a later date and ensuring a general coordination of all NCs that belong to one FG.

Our experience in the Great Britain (GB) market where NCs have existed for over 15 years would suggest that the fewer number of codes the better. Indeed the original concept of the GB gas NC was simply to set out a common of technical and commercial rules for regulated third party access to replace a large number of negotiated third party transportation agreements. It was designed to facilitate easy non discriminatory access to the market and having all terms in one place reduced barriers to entry. In addition it is often difficult to compartmentalise particular issues within one particular code. Managing energy flows and energy balancing on any network is inherently linked (if not immediately in gas) with the flexible use and allocation of transport capacity (congestion management) in that network.

² At Madrid Forum 19 COM indicated that gas network tariffs might be referred to comitology without being subject to a FG/ NC procedure as foreseen in Art 8 No. 6 k) of Regulation 715/2009

For organisational reasons it may be appropriate to separate issues out during the development of codes, but overall we think it would be more appropriate to bring these together into the fewest number of NCs during Comitology. If there is only one NC for one FG, possible contradictions can be eliminated in the drafting phase and it can be ensured that the Code is created to cover the entire topic area. However, the single NC needs to be very comprehensive to actually cover the entire topic.

E.ON believes it is very important that the quality of electricity and gas NCs which are finally implemented after the comitology procedure is consistent. As there is no finished NC at this point, it is difficult to decide which of the named options will be more successful. Having in mind the GB example we tend to prefer the approach likely to be adopted by ENTSO-G namely mirroring each FG by a single NC. In any case if the model of several NCs in one FG is used, a full picture on all NCs in one FG and consistent interfaces between the different FGs is necessary to avoid inconsistencies

Do you agree with the order in which the sub-issues in electricity will be tackled under the framework guidelines for capacity allocation and congestion management, network connection and system operation?

From our perspective the proposed timeline for adoption of the FGs on Congestion Management and Capacity Calculation and the respective NCs is fine. We agree that the NCs on Day-Ahead and Intraday should be taken up first by ENTSO-E, followed by the Capacity Calculation NC and the Forward Market NC. The same applies in the area of system operation.

Do you agree that the sub-issues marked red [with an asterisk] in the 3-year-plan for electricity in Annex 1 are the essential ones to ensure completion of the single market by 2014?

Generally we agree on the prioritisation of sub-issues as outlined in Annex I. However, we have some doubts if a NC on DSO and industrial load connection and a NC on generation connection is needed for the completion of the single European market by 2014 (see answer to question 1). But as the FG on Network Connection was chosen already as a pilot FG it should be ensured that the 2020 targets are reflected adequately in the according NCs. A clear understanding on system operation in 2020 and beyond is needed to evaluate the requirements for grid connection.