

## PUBLIC CONSULTATION PAPER<sup>1</sup>

### **Subject: Establishment of the priority list for the development of network codes for 2012 and beyond**

The European Council on 4 February 2011 set 2014 as a target for the completion of the internal market for electricity and gas. The Third Package of Directives and Regulations, as adopted in 2009, for the further development of the internal market is an important step in this direction. However, further efforts have to be made to allow gas and electricity to flow freely across Europe. The network codes which are foreseen by the Third Package will provide the relevant rules for this further development.

The purpose of this paper is therefore to consult stakeholders on the priorities for the development of framework guidelines and network codes for 2012 and beyond. The European Commission has to establish in accordance with Article 6(1) of Regulation (EC) No. 714/2009<sup>2</sup> ("the Electricity Regulation") and Article 6(1) of Regulation (EC) No. 715/2009<sup>3</sup> ("the Gas Regulation") an annual priority list identifying the areas to be included in the development of network codes. In setting the priorities, the European Commission has to consult the Agency for the Cooperation of Energy Regulators ("ACER"), the responsible European Network of Transmission System Operators ("ENTSOs") and other relevant stakeholders.

This paper sets out the proposals of the European Commission for the priorities for the year 2012 and beyond. These priorities are broadly based on the 3-year-plans (see Annexes 1 and 2) as developed in the interim period by the Planning Group, composed of the European Regulators Group for Electricity and Gas (ERGEG), the ENTSO for Electricity, the ENTSO for Gas and the European Commission.

## **1. Introduction**

### Legal Framework

The process of establishing framework guidelines and network codes is defined in Articles 6 and 8 of the Electricity and Gas Regulations. The areas in which framework guidelines and network codes can be prepared are set out in Article 8(6) of the Electricity and Gas Regulations.

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<sup>1</sup> This document does not represent an official position of the European Commission and its contents do not prejudice the form or content of any future policy proposal by the European Commission.

<sup>2</sup> Regulation (EC) No. 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003, OJ 2009, L 211, 15.

<sup>3</sup> Regulation (EC) No. 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to natural gas transmission networks and repealing Regulation (EC) No 1775/2005, OJ 2009, L 211, 36.

The (non-binding) framework guidelines will be developed by ACER based on the priorities set by and following a request of the European Commission. The framework guidelines will then form the basis for the development of the binding network codes by the ENTSOs. A request for the development of network codes will be made by the European Commission once it considers the framework guidelines submitted to it by ACER contribute to non-discrimination, effective competition and the efficient functioning of the energy market. The ENTSOs have to submit the draft network codes to ACER which is to provide a reasoned opinion on them. Once ACER is satisfied that the network code is in line with the relevant framework guideline, it forwards the network code to the European Commission which may decide to initiate a Comitology procedure with the aim of making the network code legally binding. This simplified description of the process for developing framework guidelines and network codes is mirrored in the picture in Annex 3.

In addition to this process, the European Commission also has the possibility on a number of additional issues which are provided for in Article 18 Electricity Regulation and Article 23 Gas Regulation to draft own guidelines itself and subsequently initiate Comitology proceedings to make them legally binding.

### Priorities in 2011

During the interim period, the European Commission asked ERGEG to start developing framework guidelines. ERGEG submitted to ACER upon its establishment draft framework guidelines in electricity concerning network connection rules and capacity allocation and congestion management rules and draft framework guidelines in gas concerning capacity allocation rules and balancing rules. ACER, which took over from ERGEG on 3 March 2011, will launch consultations on these draft framework guidelines in the course of 2011.

In addition, ACER's 2011 Work Programme foresees the development of further framework guidelines, in **electricity** on system operation and balancing; in **gas** on harmonised transmission tariff structures and interoperability. Scoping work for the future priorities should also be carried out during 2011 by ACER in cooperation with the Commission and the ENTSOs.

ENTSO-E intends to work during 2011 on network codes based on the framework guidelines for network connection, capacity allocation and congestion management and system operation. They are planning to develop several network codes for each of the framework guidelines addressing different aspects of the issues at stake by the framework guidelines.

ENTSOG will work during 2011 on network codes on the following issues: capacity allocation methodologies, balancing and harmonised transmission tariff structures. Contrary to ENTSO-E, ENTSOG is planning to develop one network code to mirror a specific framework guideline.

In addition, the Commission will also launch comitology procedures on gas congestion management procedures, on fundamental electricity data transparency and on governance concerning day-ahead market coupling. In parallel, the work on a gas target model has to be finalised during 2011 as requested by the XVIII<sup>th</sup> Madrid Forum in September 2010.

## Consultation timetable

Discussions on the priorities have taken place since the final stages of the discussions for the Third Package. The 3-year-plans, as prepared by the planning group, were discussed repeatedly already at the Florence (December 2010) and Madrid (September 2010) Regulatory Fora. In order to officially consult upon the priorities, the European Commission is now launching this public consultation.

Input to the consultation should be sent by **10 April 2011** by e-mail to [ENER-NC-PRIORITIES@ec.europa.eu](mailto:ENER-NC-PRIORITIES@ec.europa.eu).

Questions regarding the consultation can be addressed to [edith.hofer@ec.europa.eu](mailto:edith.hofer@ec.europa.eu).

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 European Commission will evaluate the inputs received and will adopt the priorities for 2012 by the end of April.

## **2. Priority areas for 2012**

During the interim period, which lasted until 3<sup>rd</sup> March 2011, the day the Third Package became fully applicable, the European Commission asked the regulators and the network organisations to test the procedures foreseen in the Third Package and to do as if these provisions are already applicable. This also included the definition of the priorities for 2011 (see above) which were integrated into the work programmes of ACER and the ENTSOs. These work programmes need to be followed up as some of the work starting in 2011 will spill over to 2012 and will have to be finalised then.

The European Commission proposes to work in 2012 on developing framework guidelines where they have not been developed yet and working on network codes on the basis of those framework guidelines which are already available, in particular:

For **electricity**, the work started in 2011 on capacity allocation and congestion management, network connection, system operation and balancing should continue. New priority areas will be third-party access rules and rules regarding harmonised transmission tariff structures<sup>4</sup>. In addition, the next version of the ten-year network development plan for electricity should also be published.

For **gas**, work should continue on the following priority areas: capacity allocation mechanisms, balancing, harmonised transmission tariff structures and interoperability. New priority areas for 2012 will be operational procedures in an emergency, security and reliability rules, data exchange and settlement rules, and rules for trading. In addition, the next version of the ten-year network development plan for gas should also be published in 2012.

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<sup>4</sup> As this topic is very wide, scoping work should be done already in 2011 to prepare the work in 2012. The priorities within this subject need to be defined in more detail. The work should also take into account the follow-up to the Energy Infrastructure Package and to the ITC-Guidelines.

### **3. Priority areas for 2013 and beyond**

The Commission's Energy 2020 Strategy calls upon ACER to establish market coupling by 2015, which should in turn lead to fully integrated energy markets. The European Council on 4 February 2011 set the target date for the completion of the internal market to 2014. In order to be able to succeed on this challenge, the necessary framework has to be put in place without delay. Therefore, the work started in 2011 and 2012 on framework guidelines and network codes should be continued and completed in the following years.

As it might not be realistic to finalise all framework guidelines and network codes which are foreseen in Article 8(6) of the Electricity and Gas Regulations by 2014, it is important to identify those areas which are key to the integration of the energy markets and to the completion of the internal market. The Commission's view on these essential areas for market integration are marked in the annexed 3-year-plans with an asterix. The Commission would welcome feedback from stakeholders on whether these are indeed the key areas which need to be tackled to complete the internal market and on what they believe should be the priorities for the longer term future after 2012. Scoping work should be done during 2011 on these outstanding issues to better be able to define the priorities for the period 2013-2014 in the next consultation on the priorities.

### **4. Consultation questions**

We invite stakeholders to provide comments on the whole consultation document, but would like them to address in particular the following questions:

1. Are the priorities proposed for 2012 the correct ones?
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.
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 ENTSOG on the other hand, are viable? 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? Do you agree that the sub-issues marked red in the 3-year-plan for electricity in Annex 1 are the essential ones to ensure completion of the single market by 2014?

EC / ACER / ENTSO-E's 3-year work plan  
DRAFT 10 February 2011

Deliverable	ACER FG draft		ENTSO-E code drafting		ACER evaluation	Comitology	2011				2012				2013				2014			
	Start	End	Start	End			Start	1	2	3	4	1	2	3	4	1	2	3	4	1	2	
<b>Established work</b>																						
Framework Guideline (FG) on capacity allocation and congestion management (includes AHAG work)	Q2/11	Q2/11																				
* Capacity Calculation Network Code (NC) (includes IWG work) <sup>1</sup>			Q2/12	Q1/13	Q2/13	Q3/13																
* Intraday Platform (trading/congestion management) NC (including IWG) <sup>2</sup>			Q4/11	Q3/12	Q4/12	Q1/13																
* Day Ahead (trading/congestion management) NC (includes IWG) <sup>3</sup>			Q4/11	Q3/12	Q4/12	Q1/13																
* Forward Market network code			Q4/12	Q3/13	Q4/13	Q1/14																
* Regional progress, setup and testing																						
* EC guideline on governance	Q1/11	Q2/12																				
FG on network connection <sup>4</sup>	Q2/11	Q2/11																				
* NC on generation connection <sup>5</sup>			Q3/11	Q4/11	Q1/12	Q2/12																
* NC on DSO and industrial load connection			Q1/12	Q4/12	Q1/13	Q2/13																
NC on connection procedures			Q1/13	Q4/13	Q1/14	Q2/14																
NC on HVDC connection <sup>10</sup>			Q1/14	Q4/14	Q1/15	2015																
FG on system operation <sup>6</sup>	Q1/11	Q2/11																				
* NC on operational security			Q3/11	Q2/12	Q3/12	Q4/12																
* NC on operational planning and scheduling			Q1/12	Q4/12	Q1/13	Q2/13																
* NC on load-frequency control and reserves			Q3/12	Q2/13	Q3/13	Q4/13																
* NC on operational training <sup>7</sup>			Q1/13	Q4/13	Q1/14	Q2/14																
NC on requirements and operational procedures in emergency			Q3/13	Q2/14	Q3/14	Q4/14																
FG on balancing	Q3/11	Q4/11																				
* NC on balancing <sup>8</sup>			Q4/12	Q3/13	Q4/13	Q1/14																
* Draft comitology guideline on transparency	Q2/10	Q4/10			Q2/10	Q1/11																
* Next TYNDPs																						
<b>Proposed priorities post 2011 <sup>9</sup></b>																						
Third party access	Q1/12	Q2/12	Q4/13	Q3/14																		
NC on third party access			Q4/13	Q3/14	Q4/14	Q2/15																
NC on data exchange and settlement <sup>10</sup>			Q4/14	Q3/15	2015	2015																
Tariffs	Q3/12	Q4/12	Q1/13	Q4/13																		
NC on tariffs			Q1/13	Q4/13	Q1/14	Q2/14																
Energy efficiency regarding networks	Q1/14	Q2/14	Q3/14	Q2/15																		
NC on energy efficiency regarding networks <sup>10</sup>			Q3/14	Q2/15	Q1/15	Q2/15																
Possible Guidelines on incentives to TSOs to increase cross-border trade	Q4/12	Q3/13																				
Possible Guidelines on investment incentives to TSOs	Q4/12	Q3/13																				

**LEGEND**

FG Framework Guideline  
NC Network Code

Common scoping discussions  
ENTSO- E work  
Regulator work (ERGEG/ACER)  
Preparatory work including codes consistency work

ACER evaluation of NC  
Comitology process (including EC input to Comitology)  
Likely public consultations  
ENTSO-E consultations

**COMMENTS**

- <sup>1</sup> Informal work on CC NC starts in parallel with ID NC and DA NC while the formal work starts in Q2/12
- <sup>2</sup> Start of the formal code work after completion of official FG, i.e. in Q3/12, then 12 months
- <sup>3</sup> Start of the formal code work after completion of official FG, i.e. in Q3/12, then 12 months
- <sup>4</sup> Unofficial work of ERGEG, then shortened 3 months by ACER
- <sup>5</sup> Parallel FG/NC work is a (well reasoned) exception.
- <sup>6</sup> All NCs include information exchange
- <sup>7</sup> Complementary to the NC on operational principles
- <sup>8</sup> due to the interdependencies the formal work starts only after the DA and ID NCs will be accomplished and after the start of NC on load-frequency control and reserves
- <sup>9</sup> All proposals for NCs and timings are indicative
- <sup>10</sup> Should not start earlier because it depends on R&D results being pursued in the years until then



**Annex 3: Process to develop framework guidelines and network codes (simplified)**

