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**OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 13/2016**

of 26 October 2016

ON ENTSOG's 2017 DRAFT ANNUAL WORK PROGRAMME

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹ (hereinafter referred to as “the Agency”), and, in particular, Article 6(3)(b) thereof,

HAVING REGARD to Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005², and, in particular, Articles 8(3)(d), 8(5) and 9(2) thereof,

HAVING REGARD to the favourable opinion of the Board of Regulators of 12 October 2016, delivered pursuant to Article 15(1) of Regulation (EC) No 713/2009,

WHEREAS:

- (1) The European Network of Transmission System Operators for Gas (hereinafter referred to as “ENTSOG”) submitted, on 24 August 2016, the final draft Annual Work Programme 2017 (final draft AWP 2017) to the Agency for its opinion.
- (2) Pursuant to Article 6(3)(b) of Regulation (EC) No 713/2009 and Article 9(2) of Regulation (EC) No 715/2009, the draft annual work programme has to be evaluated by the Agency taking into account the objectives of non-discrimination, effective competition and the efficient functioning of the market,

HAS ADOPTED the present Opinion on ENTSOG's final draft AWP 2017, with the following main findings, recommendations, comments and guidance:

1. MAIN FINDINGS

- 1) ENTSOG's final draft AWP 2017 covers part of the Three-Year Plan of July 2015³, agreed between the European Commission, the Agency and ENTSOG. ENTSOG conducted a stakeholder consultation pursuant to Article 10 of Regulation (EC) No 715/2009, as transposed by Articles 26(2) and 27(3) of ENTSOG's Rules of

¹ OJ L 211, 14.8.2009, p. 1.

² OJ L 211, 14.8.2009, p.36.

³ Cf. https://ec.europa.eu/energy/sites/ener/files/documents/3years_work_plan_for_gas.pdf accessed on 7 September 2016.

Procedure, from 7 July to 5 August 2016. The Agency takes note of ENTSOG's statement that feedback received via the consultation process has been taken into consideration by ENTSOG for the preparation of the final draft AWP 2017 and invites ENTSOG to indicate in the AWP 2017 the number of respondents who provided feedback, as well as the way in which the feedback was taken into consideration. The Agency invites ENTSOG to submit in the future any received feedbacks to the Agency along with the draft annual work programme. The Agency notes that ENTSOG has taken into consideration most of the recommendations in the Agency's Opinion⁴ on the ENTSOG Annual Work Programme 2016.

- 2) The Agency welcomes ENTSOG's intention to continue working on its strategy in an environment of changing work content, in particular in the area of gas network codes. The Agency notes ENTSOG's plan to support the post-comitology process of the tariff network code (TAR NC), and the monitoring of the capacity allocation mechanisms (CAM), balancing (BAL) and interoperability (INT) network codes (NCs).
- 3) The Agency stresses the importance of ENTSOG's implementation of the Agency's recommendations regarding the Transparency Platform, in support of the work in the NC area and other key activities. The Agency encourages ENTSOG to coordinate its data- and transparency-related work more closely with the relevant areas of activity of the Agency, including data quality checks.
- 4) The Agency welcomes the balance between the activities foreseen in the NC area and other important activities, such as the publication and public consultation of the fifth 10-Year Network Development Plan (TYNDP) in 2017, the preparatory activities leading to the release of TYNDP 2018, the Gas Regional Investment Plans, and the Summer and Winter Supply Outlooks.
- 5) The Agency takes note of the fact that ENTSOG is in a continuous process of discussion with Third Countries in the spirit of cooperation with neighbouring countries, and that the participation of Third Countries as Observers in ENTSOG is growing. The Agency notes that ENTSOG has not submitted its recommendations relating to the coordination of technical cooperation between the European Union and third countries' transmission system operators (TSOs)⁵ to the Agency for its opinion. The Agency believes that reasonable time has passed since the relevant regulations came into force, and therefore invites ENTSOG to assign sufficient resources to work in this area, leading to the submission of the recommendations to the Agency for its opinion in 2017.
- 6) The Agency finds the content of the final draft AWP 2017 appropriate. The Agency welcomes the classification of the main tasks by work area and the clear setting of objectives and key deliverables in each main area of activity. The final draft AWP

⁴ Cf.

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2016-2015.pdf

⁵ ENTSOG's task pursuant to Article 8(3)(c) and Article 9(2) of Regulation (EC) 715/2009.

2017 is consistent with ENTSOG's tasks as described in Article 8 of Regulation (EC) No 715/2009 and the Three-Year Plan of July 2015.

- 7) The Agency acknowledges the ENTSOG's plan to finalise and publish the ENTSOG's Annual Work Programme for 2018 (AWP 2018) after the Agency's Opinion on it⁶.

2. RECOMMENDATIONS, COMMENTS AND GUIDANCE

- 8) The Agency notes that the final draft AWP 2017 indicates key deliverables for 2017, but generally does not indicate whether there are specific risks of not achieving the various objectives, tasks and deliverables. The Agency reiterates its recommendation, already provided in its Opinion on ENTSOG's 2016 Annual Work Programme, that future annual work programmes indicate which objectives, activities and deliverables may be exposed to significant risks that could hinder due performance, along with the risk factors that could lead to such an outcome and any planned specific risk mitigation measures.
- 9) The Agency appreciates ENTSOG's plan to continue "third package" network code development and implementation, in close cooperation with the Agency during the preparatory phase. The Agency expects that the provisions of Article 8(9) of Regulation (EC) No 715/2009, on making available all information required by the Agency to fulfil its tasks, will be fully implemented by ENTSOG for the purpose of network code development and implementation, as well as for all other purposes where the involvement of the Agency is required or relevant.
- 10) The Agency agrees with ENTSOG's approach of maximising the opportunities for streamlining the current processes, while taking into account the experience of activities carried out in the past years, in view of the possible growth of ENTSOG's members and observers and the high turnover rate of ENTSOG's staff. The Agency encourages ENTSOG to ensure smooth knowledge transition within ENTSOG while striving optimally to allocate resources for performing the required tasks.
- 11) With respect to specific main areas of activity:
 - a) The Agency welcomes ENTSOG's focus on objectives and deliverables in capacity development.
 - i. The Agency finds the key deliverables appropriate, as they encompass, *inter alia*, the CAM NC and the Congestion Management Procedures Guideline (CMP GL) monitoring and reporting. The Agency welcomes the foreseen work on a template for the market demand assessment report for the purposes of the Incremental Capacity process, an update of the Business Requirements Specification for CAM NC and CMP GL, and a joint functionality process with the Agency which also encompasses the area of balancing (*cf.* below).

⁶ Cf. p. 11 of the final draft AWP 2017.

- ii. The Agency appreciates ENTSOG's objectives and deliverables in the area of the BAL NC, notably the monitoring, the reporting on the results of such monitoring and the potential update of BAL NC Business Requirements Specification.
 - iii. In the areas where monitoring reports have already been issued by both ENTSOG and the Agency, the Agency encourages ENTSOG to focus its monitoring efforts on problem issues, the most pertinent ones at this time being non-implementation and data provision for quantitative assessments initiated by the Agency.
 - iv. The Agency finds ENTSOG's objectives and deliverables in the area of the network code on Tariffs (TAR NC), along with its implementation monitoring, appropriate.
- b) The Agency welcomes the planning of work in the investment activity area, in particular work leading to the development of the TYNDP 2018.

The Agency notes that the ENTSOG TYNDP 2015 was elaborated by using a Cost-Benefit Analysis (CBA) methodology which does not take costs into account. The Agency reiterates its position that a CBA methodology which does not take costs into account is a *contradictio in terminis* and is consequently unable to produce meaningful results as required by Regulation (EC) No 715/2009⁷. The Agency therefore welcomes ENTSOG's activities leading to the update of the CBA methodology and expects the TYNDP 2018 fully to implement the updated CBA, as well as to consider the envisaged availability of a consistent interlinked electricity and gas network and market model, and network simulations (subject to a revision of Regulation (EU) 994/2010)⁸. The Agency invites ENTSOG to make sure that the network modelling, simulation, and analytical methodologies and tools used for network planning and adequacy assessments⁹ are consistent and compliant to the relevant Regulations, fully documented, transparent, and of enhanced utility to stakeholders, and that the AWP 2017 foresee the required resources for these purposes.

- i. The Agency encourages work for achieving ENTSOG's objective to support the infrastructure investment process "*from [investment] gap identification to the coming on-stream of the respective infrastructure remedies*"¹⁰.

⁷ Agency's Opinion on draft ENTSOG's TYNDP 2015, p. 4:

http://www.acer.europa.eu/official_documents/acts_of_the_agency/opinions/opinions/acer%20opinion%2011-2015.pdf

⁸ Cf. <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32010R0994>

⁹ Including, but not limited to, TYNDP, Gas Regional Investment Plans, Summer and Winter Supply Outlooks, Capacity and System development Maps, and assessments of the European security of gas supply.

¹⁰ Cf. p. 19 of the final draft AWP 2017.

- ii. The Agency appreciates ENTSOG's plan to take stakeholder considerations on-board regarding the assumptions used in the investment activity area, notably by accessing data beyond the remit of TSOs.
 - iii. The Agency appreciates ENTSOG's intention "*to release its sixth TYNDP edition in the third quarter of 2018. Following the report's release, ENTSOG will open it for public consultation and subsequently submit it to the Agency*", as the intended timing would allow an alignment of the electricity and gas TYNDPs, which would be beneficial for the TYNDPs and for the subsequent selection of projects of common interest. At the same time, the Agency notes that the submission of the TYNDP to the Agency should be in draft form and allow for pertinent changes of the TYNDP to be made after the formulation of the Agency's Opinion on it.
 - iv. The Agency expects ENTSOG to amend the plan of "system development activity"¹¹ so that it includes an Agency's Opinion on the draft TYNDP 2017 ahead of the finalisation and the publication of the TYNDP 2017 by ENTSOG.
 - v. The Agency welcomes ENTSOG's effort in supporting activities in the Gas Coordination Group, the Regional Groups for the 3rd selection of Projects of Common Interest, and Gas Regional Investment Plans. The Agency notes that these supporting activities should pursue objectives, timing, data and modelling consistency, and suggests ENTSOG take advantage of the potential synergies of the various work planned in the investment activity area.
- c) Regarding the area of transparency activity:

The Agency appreciates ENTSOG's objective of enhancing the transparency of TSO activities and, at the same time, invites ENTSOG to ensure that the Agency's recommendations contained in its report on the Monitoring of Gas Transparency Requirements of 9 April 2013¹² are implemented.

- i. The Agency commends ENTSOG's intention to use the updated Transparency Platform as a cross-activity support tool, including for data collection purposes under REMIT¹³ and the transparency obligations arising from network codes, as well as its general use in support of market participants and other stakeholders. In the latter

¹¹ Cf. p. 25 of the final draft AWP 2017.

¹² Cf.

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER_Report_Gas_Transparency_Monitoring%209%20April%202013.pdf

¹³ Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32011R1227>

aspect, a careful periodic consideration of user needs is, in the view of the Agency, desirable.

- ii. The Agency invites ENTSOG once again to consider the implications of Article 8(9) of Regulation (EC) No 715/2009 for the data flow to the Agency from the Transparency Platform and to facilitate such data flow whenever it is required or is of utility.
- d) Regarding the area of interoperability, the Agency appreciates the foreseen objectives and deliverables.

The Agency expects to receive a draft amendment to the network code on interoperability and data exchange in conjunction with CEN standard EN 16726:2015 by 30 June 2017, as indicated in the final draft AWP 2017. The Agency appreciates ENTSOG's intention to organise workshops and public consultations during the whole development process. Without prejudice to this process, based on the current legal requirements, the Agency expects that ENTSOG shall already include, for the first time, a long-term gas quality outlook in the TYNDP 2017¹⁴.

- i. The Agency is of the view that the Early Warning System established in 2014 and 2015 in order to facilitate a coordinated reaction to potential supply crises on short notice, as further developed into the Regional Coordination System for Gas, would be informative and helpful in the context of the revisions of Regulation (EU) 994/2010, and appreciates ENTSOG's intention to complete the system, including a regional cooperation tool.
 - ii. The Agency invites ENTSOG to submit any updated, revised and new documents of relevance to the development of Common Network Operation Tools, such as, for example, Business Requirements Specifications, solutions for Data Exchange, outputs of ENTSOG's cooperation with EASEE-gas, etc., to the Agency for its review and, where appropriate, opinion.
- e) In the area of IT and research and development activity:
- i. The Agency appreciates ENTSOG's work for further analyses of gas demand for power generation as well as gas, coal and CO₂ emission prices. However, the Agency does not see a need for ENTSOG "*developing a holistic approach to energy demand drawing the link between high-level political orientations and gas demand figures*"¹⁵ and invites ENTSOG to consider a more comprehensive gas demand approach, by using already existing demand analyses results available

¹⁴ [The Agency notes that on pp. 30 and 32 of the final draft AWP 2017 ENTSOG should correct the references to TYNDP 2019 to TYNDP 2018.](#)

¹⁵ Cf. p. 35 of the final draft AWP 2017.


from the European Commission, the International Energy Agency, and, first and foremost, Member States.

- ii. The Agency reiterates its view that the modelling tool used by ENTSOG for various purposes, *inter alia* for the TYNDP and system adequacy assessments, is in need of improvements so that it can at least handle varying gas quality, effects of gas transportation cost, actual system topology, and other critical parameters which make the modelling and its results more realistic. The Agency encourages ENTSOG to ensure that the modelling tool is accordingly updated and functionally upgraded.
- iii. The Agency notes ENTSOG's intention to:
 - publish the first Long-Term Gas Quality Monitoring Outlook in transmission systems together with the TYNDP 2017;
 - upgrade the Professional Data Warehouse System (PDWS) and enhance the Transparency Platform as a part of the PDWS;
 - improve the portal which covers infrastructure projects, but also demand data provided by TSOs, in order to improve its user-friendliness and to cope with the evolution of the TYNDP concept;
 - consider the Agency's activity for format standardisation of urgent market messages (UMM) across all platforms currently publishing them, the Transmission Platform being one such platform, by investigating the options of automating the UMM publication on ENTSOG's Transparency Platform and the opening the Transparency Platform UMM Publication feature to external market participants.

12) The Agency finds that the final draft AWP 2017 meets the objectives of Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009 in terms of contributing to non-discrimination, effective competition and the efficient and secure functioning of the internal natural gas market.

Done at Ljubljana on 26 October 2016.

For the Agency:


Alberto Pototschnig
Director



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