



Draft Outline of the 2015 Work Programme

This document presents a draft outline of the tasks that the Agency for the Cooperation of Energy Regulators (the “Agency”) plans to perform in 2015. It focuses primarily on the external deliverables the Agency expects to produce, while the full scope of activities (including those pertaining to administrative, coordination and communication activities that are not subject to public consultation) will be presented in the Agency’s Annual Work Programme. The content of this document, and any comment received on it before 18 June 2014, will serve as the basis for the preparation of the Agency’s Work Programme that the Director will submit to the European Parliament, the European Commission and the Board of Regulators by 30 June 2014.

The implementation of the Work Programme depends crucially on the continuous support of National Regulatory Authorities (NRAs) through the Working Groups, and on the Agency being assigned the human and financial resources on which the Work Programme is based.

The performance of the activities proposed in this note is consistent with the preliminary draft budget for 2015 and the estimate of expenditure made by the Agency’s Administrative Board on 19 March 2014; however, the subsidy to the Agency from the European Union (EU) Budget, and therefore the resources actually available to the Agency in 2015, will not be defined until the EU Budget is adopted by the Budgetary Authority. This will happen towards the end of 2014, and therefore after the Work Programme is finally approved by the Board of Regulators (by 1 September 2014) and adopted by the Administrative Board (by 31 September 2014). The adoption of the Work Programme is, in any case, without prejudice to the annual budgetary procedure. Therefore, it is only once the EU Budget is adopted and the resources available to the Agency finally defined that the Agency will be in a position to assess the feasibility of its Work Programme. At that stage, a revision of the content of the Work Programme may be proposed.

Legal basis

The purpose of the Agency is to assist NRAs in exercising, at Union level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action.

The tasks, organisation and operation of the Agency are set out in Regulation (EC) No 713/2009 (the “Agency Regulation”)¹, as well as in the other legal acts forming the Third Legislative Package on the Liberalisation of the Energy Markets (the “Third Package”)².

¹ 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 Regulators (OJ L 211, 14.8.2009, p. 1).

² Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55), Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94), 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 L 211, 14.8.2009, p. 15) and Regulation (EC)

Additional tasks have been assigned to the Agency by:

- Commission Regulation (EU) No 838/2010 of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging³;
- Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT)⁴; and,
- Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure (TEN-E Regulation)⁵.

The Agency plays a key role in promoting the integration of EU markets in electricity and gas, as well as their transparency and integrity. The Agency, in particular:

- complements and coordinates the work of NRAs in areas laid down in legislation;
- participates in the creation of European network rules, by producing Framework Guidelines containing criteria and principles for Network Codes to be developed by the European Network of Transmission System Operators (ENTSOs) and by providing Opinions on these Network Codes. Once the Agency is satisfied that a Network Code is in line with the respective Framework Guidelines, it recommends its adoption to the European Commission;
- monitors the execution of the tasks of ENTSOs and regional cooperation of Transmission System Operators (TSOs), and provides Opinions on their relevant documents (annual work programme, community-wide Ten Year Network Development Plan (TYNDP), supply outlooks, etc.);
- participates in the process for the identification of infrastructure Projects of Common Interest (PCIs), by providing an Opinion on several of the methodological and procedural aspects;
- takes, under certain conditions, binding individual decisions on terms and conditions for access and operational security for cross-border infrastructure, as well as on cross-border cost-allocation for PCIs;
- gives advice on various energy-related issues to the European institutions;
- monitors and reports on developments in the energy markets; and,

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 1775/2005 (OJ L 211, 14.8.2009, p. 36).

³ Commission Regulation (EU) No 838/2010 of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging (OJ L 250, 24.9.2010, p. 5).

⁴ Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326/1, 8.12.2011).

⁵ Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.04.13, p.39).

- monitors trading in wholesale energy markets in order to detect and deter insider-trading and market manipulation.

In carrying out its tasks, the Agency consults extensively and at an early stage with market participants, TSOs, consumers, end-users and, where relevant, competition authorities, without prejudice to their respective competence, in an open and transparent manner.

Deliverables and Activities in 2015

Framework Guidelines and Network Codes

As regards the Agency's work on Framework Guidelines and Network Codes, Article 6(1) of Regulations (EC) No 714/2009 and (EC) No 715/2009 stipulates that the European Commission, after consulting the Agency, ENTSOs and other relevant stakeholders, establishes an annual priority list identifying the areas for the development of Network Codes. This note takes into account the priorities provisionally identified by the European Commission, Directorate-General for Energy, in the Public Consultation Paper "Establishment of the annual priority lists for the development of network codes and guidelines for 2015 and beyond", published on 26 February 2014⁶.

However, some activities in 2015 will derive from work already started in the previous year(s). This includes Reasoned Opinions and Recommendations which the Agency will be called to formulate on Network Codes currently or soon to be developed by the European Network of Transmission System Operators for Electricity (ENTSO-E) and the European Network of Transmission System Operators for Gas (ENTSO-G), the advice to be given during the comitology process, and preparation for Network Code implementation and monitoring. More specifically, during 2015, the Agency plans to work towards the following deliverables:

Electricity

- 1) Scoping to prepare for possible Framework Guidelines on rules regarding harmonised electricity transmission tariff structures;
- 2) Reasoned Opinion and Recommendation on the Network Code on operational procedures in an emergency;
- 3) Advice and support on Network Codes during the comitology process, as appropriate;
- 4) Preparation for monitoring implementation of the adopted Network Codes, including:
 - An Opinion on ENTSO-E's plan for monitoring implementation of the adopted Network Codes;

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http://ec.europa.eu/energy/gas_electricity/consultations/doc/20140509_network_code_consultation_document.pdf.

- Determination of a list of relevant information to be communicated by ENTSO-E to the Agency for the purpose of monitoring activities pursuant to the adopted Network Codes;
- 5) General activities related to the decision-making process established in the adopted Network Codes, including:
- Assistance in the decision-making process on terms and conditions or methodologies to be developed as required by the adopted Network Codes;
 - Delivery of Opinions on terms and conditions or methodologies developed as required by the adopted Network Codes and to be approved by relevant NRAs;
 - Coordination and possible dispute resolution in the process of NRA approval of the terms and conditions or methodologies developed as required by the adopted Network Codes; and,
 - Assistance in the functioning and the decision-making process of different committees established as required by the adopted Network Codes.

Gas

- 6) Framework Guidelines or appropriate legal tools to introduce rules for trading related to technical and operational provisions of network access services (and system balancing);
- 7) Preparation for the Review of Transparency Rules and Scoping potential Framework Guidelines on Settlement Rules, Operational Procedures in an emergency;
- 8) Reasoned Opinion and Recommendation on the Network Code on rules regarding harmonised transmission tariff structures;
- 9) Advice and support on the discussions on the Network Code on harmonised transmission tariff structures and the amendment of the Network Code on capacity allocation mechanisms regarding incremental capacity during the comitology process;
- 10) Public consultation (based on article 7 of the Gas Regulation) on the amendments of the Network Code on Capacity allocation mechanisms regarding incremental capacity and the preparation of reasoned proposals to the Commission on the same issue;
- 11) 1st ACER report on Progress of capacity bundling at interconnection points according to the Network Code on Capacity allocation mechanisms due on 4 November 2015;

- 12) 2nd ACER report on monitoring of Congestion at interconnection points (including transparency platform data, conditions for firm day-ahead use-it-or-lose-it mechanisms and changes in bundled capacity at interconnection points);
- 13) Preparation for and monitoring of the implementation of the adopted Network Codes (Implementation monitoring Report on congestion management procedures); and,
- 14) Opinion(s), if sought by NRAs, on within-day obligations and an annual report on interim measures according to the Network Code on Balancing.

Internal Energy Market monitoring: cross-sectoral (electricity and gas)

As regards the Agency's work on Internal Energy Market monitoring, Article 11 of Regulation (EC) No 713/2009 specifies that the Agency shall monitor the internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This activity has to be carried out in close cooperation with the European Commission, NRAs and other relevant organisations, and without prejudice to the competences of competition authorities.

In this area, the Agency plans to work towards the following deliverable in 2015:

- 15) The 4th Market Monitoring Report covering retail prices in electricity and natural gas, barriers to entry, wholesale market integration, consumer welfare benefits or losses as a result of market integration (or lack thereof), access to networks (including electricity produced or gas sourced from renewable energy sources), and compliance with consumer rights (including protection and enforcement of consumer rights).

Regional Initiatives: cross-sectoral (electricity and gas)

Since its formal establishment in March 2011, the Agency has been coordinating the Electricity and Gas Regional Initiatives (ERI and GRI) and monitors the implementation of regional and cross-regional projects developed in the frame of ERI and GRI.

In relation to this area, the Agency plans to work towards the following deliverables in 2015⁷:

- 16) Coordination and monitoring of activities for the early voluntary implementation of Network Codes before their rules become legally binding;
- 17) Regional Initiatives Annual Status Review Report, reviewing developments in ERI and GRI, and providing guidance for future work; and,
- 18) Online regular reports on ERI and GRI activities during the course of the year.

⁷ Some of the activities performed under the frame of the Regional Initiatives may fall under the scope of the implementation of Network Codes following their potential entry into force in 2015.

TSO Cooperation

The tasks related to the Agency's work on TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in formulating Opinions on draft statutes, a list of members and draft rules of procedure of the ENTSOs; formulating Opinions on draft annual work programmes, draft Union-wide TYNDPs and other ENTSO's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOs, monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency plans to work towards the following deliverables in 2015:

Electricity

- 19) Annual monitoring report on the implementation and management of the inter-TSO compensation fund;
- 20) Opinions on ENTSO-E's annual work programme and ENTSO-E's annual report;
- 21) Opinions on ENTSO-E's annual Summer and Winter supply outlooks;
- 22) Opinions on ENTSO-E's common network operation tools, including a common incidents classification scale;
- 23) Opinion on ENTSO-E's research and development plan;
- 24) Opinion on the electricity national TYNDP to assess their consistency with the Union-wide network development plan and (if appropriate) Recommendations to amend the national TYNDPs or the Union-wide network development plan;
- 25) Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between the Union and third-country TSOs; and,
- 26) Opinion on monitoring the implementation of the electricity Union-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity.

Gas

- 27) Opinion on ENTSG's TYNDP 2015-2024;
- 28) Opinions on ENTSG's annual work programme and ENTSG's annual report;
- 29) Opinions on ENTSG's common network operation tools, including a common incidents classification scale and research plan;
- 30) Opinions on ENTSG's annual Summer and Winter supply outlooks;
- 31) Reviews and Recommendations on national TYNDPs regarding their (in)consistency with the Union-wide TYNDP;
- 32) Opinions on ENTSG's recommendations relating to the coordination of technical cooperation between the Union and third-country TSOs; and,

- 33) Report on monitoring the implementation of the Union-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity.

The Agency will report to the European Commission on the execution of the tasks of ENTSO-E and ENTSO-G referred to in Art. 8(1), (2) and (3) of Regulation (EC) 714/2009 and Regulation (EC) 715/2009, using the deliverables (Opinions and Recommendations) listed above and other relevant Agency's acts, with additional comments where needed.

Guidelines for Trans-European Energy Infrastructure

The TEN-E Regulation assigns new tasks to the Agency, mostly related to the process of identification of Projects of Common Interest (PCIs).

In relation to this area, the Agency plans to work towards the following deliverables in 2015:

Electricity and Gas

- 34) Annual consolidated report on progress of PCIs and (if appropriate) Recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation;
- 35) Opinion on the draft regional lists of proposed PCIs, in particular on the consistent application of the criteria and the cost-benefit analysis across regions; and,
- 36) Recommendation regarding the cross-border cost allocation requests submitted in the framework of the second Union list of electricity and gas PCIs.

Wholesale Market Monitoring (REMIT)

In the REMIT area, the Agency expects to perform the following tasks in 2015:

- 37) Operation and further development of the Centralised European register of energy market participants (CEREMP), of the Agency's REMIT Information System (ARIS) for collection of trade, fundamental and other data, and for the data sharing with NRAs, in connection with the REMIT implementing acts;
- 38) Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation according to Article 7 of REMIT, in cooperation with NRAs, on the basis of data collected in accordance with the REMIT implementing acts, and establishment, further development and operation of the Agency's market surveillance solution to perform its market monitoring activity;
- 39) Coordination of NRAs and other relevant authorities, including at regional level, without prejudice to their responsibilities, to promote best practices for the implementation of REMIT and to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way, including the update of the Agency's guidance on the application of REMIT definitions;

- 40) Coordination of NRAs' investigation activities on cross-border market abuse instances;
- 41) Cooperation with NRAs, ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries with the aim of ensuring that a coordinated approach is taken to the enforcement of market abuse rules where actions relate to one or more wholesale energy products which are financial instruments to which Article 9 of Directive 2003/6/EC applies and also to one or more wholesale energy products to which Articles 3, 4 and 5 of REMIT applies according to Article 1(3) of REMIT; and,
- 42) Annual report on the Agency activities under REMIT according to Article 7(3) of REMIT.

Deliverables/activities which are subject to request or specific conditions

In 2015, the Agency may be called to perform the following activities on request:

- 43) Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions, when requested jointly by the concerned NRAs or when the concerned NRAs fail to take a decision within a predefined period (6 months, with possible extension);
- 44) Decisions on investment requests including on cross-border cost allocation;
- 45) Requests for updates and improvements of the (electricity or gas) methodology for cost-benefit analysis;
- 46) Opinions on preliminary decisions by NRAs on TSO certification when requested by the Commission; and,
- 47) Opinions and Recommendations in the areas of its competence, upon request by Member States, NRAs, the European Parliament, the Council and the European Commission.

Deliverables/activities to be performed on the Agency's own initiative

In 2015, the Agency may decide to issue:

- 48) Opinions and Recommendations in the areas of its competence, to Member States, NRAs, the European Parliament, the Council and the European Commission, whenever this is appropriate for ensuring the proper functioning of the Internal Energy Market.

In 2013, the Agency launched the "Bridge to 2025" initiative to assess the main future trends in the energy sector and their regulatory implications. The final Report will be published in September 2014. As a result of the findings and recommendations presented in this Report, the Agency may decide to perform other activities in 2015, when these are required to maintain a

robust regulatory framework for the EU energy market. Such activities will be undertaken compatibly with the resources available to the Agency.

Ljubljana, 4 June 2014