



## Public Consultation Paper

### Establishment of the annual priority lists for the development of network codes and guidelines for 2016 and beyond

The Third Energy Package has created an institutional setup for developing network codes with a view to harmonising, where necessary, the technical, operational and market rules governing the electricity and gas grids. In this institutional setup there is a key role for the Agency for the Cooperation of Energy Regulators ("ACER"), for the European Networks of Transmission System Operators ("ENTSOs") and for the Commission to work in close cooperation with all relevant stakeholders on the development of network codes. The process of developing network codes is defined in Article 6 and 8 of the Regulation (EC) No. 714/2009 ("Electricity Regulation") and of the Regulation (EC) No. 715/2009 ("Gas Regulation"). The areas in which network codes can be developed are set out in Article 8(6) of the Electricity Regulation and the Gas Regulation.

Besides the possibility to develop network codes according to the process laid down in Article 6 and 8 of the Electricity Regulation and the Gas Regulation, the Commission can develop guidelines by itself and subsequently initiate the adoption procedure to make them legally binding. The areas in which guidelines can be developed are set out in Article 18 (1), (2), (3) of the Electricity Regulation and Article 23 (1) of the Gas Regulation.

Once a network code is submitted by ACER to the Commission recommending its adoption the Commission starts the adoption phase ("Commission adoption phase"). As the Third Energy Package has not yet been aligned to the Lisbon Treaty, the network codes and guidelines are still being adopted according to Article 5a (1) to (4) and Article 7 of Decision 1999/468/EC, having regard to Article 8 thereof ("regulatory procedure with scrutiny"). Therefore, in order to adopt a network code it has to be finalised and translated by the Commission. Furthermore it needs to obtain a positive vote<sup>1</sup> by the competent Committee composed of Member States' representatives. After the positive vote of the Committee the Commission needs to adapt the translations in line the network code voted upon and submit it to the European Parliament and the Council. The European Parliament and Council then have three months to scrutinise it. If, on the expiry of this period, neither has opposed it, the network code will be adopted and published by the Commission.

According to Article 6(1) of the Electricity Regulation and the Gas Regulation an annual priority list identifying the areas to be included in the development of network codes has to be established by the Commission. Before setting the annual priorities, the Commission has to consult ACER, the ENTSOs and the other relevant stakeholders. Since the adoption of the Third Energy Package the Commission has already consulted and adopted the annual priority lists for the years 2013<sup>2</sup>, 2014<sup>3</sup> and 2015<sup>4</sup>. The purpose of this paper is to consult stakeholders

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<sup>1</sup> Qualified majority expressed by a majority of the Member States.

<sup>2</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32012D0413>

<sup>3</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013D0442>

<sup>4</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014D0713>

on the priorities for the development of network codes and guidelines for 2016 as well as to receive input what network codes and guidelines could be envisaged beyond 2016.

## 1. Tentative annual priority lists 2016

The development and implementation of network codes and guidelines is an important action to be taken in order to fully integrate the internal energy market. However, this is not the only action necessary; full implementation and enforcement of the Third Energy package, the enhancement of investments in energy infrastructure, the work of regional initiatives and the enforcement of competition and State aid rules are all needed.

Having regard to i) the various actions needed to ensure the full integration of the internal energy market, ii) the fact that in recent years the most apparent priorities for network codes have already been identified and included in the list, iii) limits to resources and iv) the fact that the implementation of network codes and guidelines will require significant resources from all relevant parties including Commission, ACER and the ENTSOs, the Commission proposes to also prioritise in 2016 the work already started in previous years.

### 1.1 Tentative annual priority list 2016 regarding electricity network rules

As it is foreseen that harmonised rules on i) capacity allocation and congestion management and on ii) requirements for grid connection applicable to generators will be adopted and published in 2015 the Commission proposes to put the following key areas on the annual priority list for 2016 for the development of harmonised **electricity** rules:

- network connection rules:
  - demand connection (Commission continuing adoption phase after Committee voting in 2015);
  - connection of high-voltage direct current systems and DC-connected power park modules (Commission continuing adoption phase after Committee voting in 2015);
- rules regarding system operations<sup>5</sup> (Commission continuing adoption phase after Committee voting in 2015),
- rules on emergency & restoration (finalise network code and start Commission adoption phase),
- balancing rules including network-related reserve power (finalise network code and start Commission adoption phase),
- rules for longer term (forward) capacity allocation (Commission continuing adoption phase after Committee vote in 2015),
- rules regarding harmonised transmission tariff structures<sup>6</sup> (finalise scoping by ACER).

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<sup>5</sup> In previous annual priority list it was envisaged to have three separate system operations network codes one on i) load-frequency control and reserves, one on ii) operational security, one on iii) operational planning and scheduling as well as one on iv) emergency requirements & procedures. In order to ensure a timely and consistent adoption of the network codes the Commission decided to merge i) – iii) as they are at the same level of development. The network code on emergency requirements & procedures will be adopted only later as in 2016 it will be still in the development phase.

## 1.2 Tentative annual priority list 2016 regarding gas networks rules

Harmonised rules on congestion management procedures, capacity allocation, balancing and interoperability and data exchange have already been adopted and published. ACER informed the Commission in June 2014 that, according to its scoping exercise<sup>7</sup>, the necessity of harmonised rules for gas trading related to technical and operational provisions of network access services and system balancing was currently not demonstrated<sup>8</sup>. The Commission therefore proposes to put the following key areas on the annual priority list for 2016 for the development of harmonised **gas** rules:

- rules regarding harmonised transmission tariff structures (Commission continuing adoption phase),
- rules regarding an EU-wide market-based approach on the allocation of ‘new build’ gas transmission capacity (Commission continuing adoption phase of the amendment of the capacity allocation mechanisms network code),
- rules regarding forthcoming CEN standard on H-gas quality (draft amendment proposal to the network code on interoperability and data exchange rules and start Commission adoption phase).

The European Committee for Standardisation (CEN) was mandated by the Commission in 2007 to draw up harmonised standards for H-gas quality in the EU. This mandate should be concluded by the end of 2015. The amendment proposal would integrate the forthcoming CEN standard into European law making the respective, agreed CEN parameters binding on an EU level. The amendment proposal will not include Wobbe index parameters (which are not included in the draft standard either) as still more analysis on the precise effects of the Wobbe index bands and index variations on appliances (household and industrial) is needed. For further information on the outcomes and public consultation of CEN on the gas quality please visit DG Energy's website: <http://ec.europa.eu/energy/en/topics/markets-and-consumers/wholesale-market/gas-quality-harmonisation>

## 2. Annual priorities beyond 2016

Even though the Commission proposes to focus in 2016 on the work already started in the previous years, it wants to encourage stakeholders at an early stage to give their input on the need and possible scope of network codes and guidelines which could be envisaged as key areas beyond 2016. This will enable ACER to foresee potential scoping work in its work program for 2016. The areas in which network codes can be developed are set out in the Articles 8 (6) of the Electricity and Gas Regulations. The areas in which guidelines can be developed are set out in Article 18 (1), (2), (3) of the Electricity Regulation and Article 23 (1) of the Gas Regulation.

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<sup>6</sup> Regarding rules on investment incentives, the TEN-E Regulation notably Article 13, provides for rules to ensure that appropriate incentives are granted to infrastructure projects of common interest in gas and electricity. In this context, each national regulatory authority submitted to ACER its methodology and criteria used to evaluate investments and the higher risks incurred by them, subsequently ACER issued in June 2014 a recommendation on incentives for PCIs and on a common methodology for risk evaluation. The Commission may issue guidelines in case it proves to be necessary.

<sup>7</sup> The Commission decision on the annual priority list for 2014 had foreseen this scoping exercise (OJ 2013, L 224, 14).

<sup>8</sup> ACER has in particular assessed whether further harmonised rules on i) capacity products and terms and conditions of capacity contracts and transparency thereof ( in particular limitations to free allocability), ii) secondary capacity markets, iii) virtual trading point (VTP) design/access, and hub issues or iv) on licensing requirements for market participants other than TSOs are needed. <http://www.acer.europa.eu/Gas/Framework%20guidelines%20and%20network%20codes/Pages/Rules-for-Trading.aspx>

### 3. Consultation

The Commission's view on key areas for network codes and guidelines is laid down in the tentative annual priority lists for 2016. The Commission would welcome feedback from stakeholders on whether they agree with the proposed annual priority lists and encourage them to give their input on the network code development processes in general and on possible scope and the need of network codes and guidelines beyond 2016.

Input to the consultation should be sent by **10 August 2015** by e-mail to [ENER-NC-PRIORITIES@ec.europa.eu](mailto:ENER-NC-PRIORITIES@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 Commission will evaluate the input received and will adopt the priorities for 2016.