

**OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY  
REGULATORS No 21/2017**

**of 7 December 2017**

**ON ENTSOG's 2018 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 Regulators<sup>1</sup> (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 1775/2005<sup>2</sup>, 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 22 November 2017, 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 1 September 2017 the final draft Annual Work Programme 2018 (final draft AWP 2018) 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:**

- 1) ENTSOG's final draft AWP 2018 covers part of the Three-Year Plan of July 2015<sup>3</sup>, agreed between the European Commission, the Agency and ENTSOG. ENTSOG conducted a stakeholder consultation pursuant to Article 10 of Regulation (EC) No 715/2009 from 27 July to 24 August 2017. The Agency takes note of ENTSOG's statement that feedback received from the consultation process consisted of only one response, which did not result in any change to the pre-consultation draft version of the AWP 2018.

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<sup>1</sup> OJ L 211, 14.8.2009, p. 1.

<sup>2</sup> OJ L 211, 14.8.2009, p. 36.

<sup>3</sup> Cf. [https://ec.europa.eu/energy/sites/ener/files/documents/3years\\_work\\_plan\\_for\\_gas.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/3years_work_plan_for_gas.pdf).

- 2) The Agency finds the content of the final draft AWP 2018 generally appropriate. Nevertheless, the Agency notes that in a few instances the draft AWP 2018 could benefit from improvements as described in the rest of this Opinion. The Agency also recommends a more detailed description of the actions which ENTSOG is planning to undertake in reaction to the views of the Agency expressed in its Opinions on documents provided by ENTSOG<sup>4</sup>.
- 3) The Agency welcomes the classification of the main tasks by work area and the clear setting of objectives, key deliverables work schedules in each main area of activity<sup>5</sup>. The final draft AWP 2018 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. A possible future improvement of the annual work programmes could include the greater highlighting of critically important work areas and deliverables.
- 4) The Agency notes ENTSOG's understanding that the main focus of its activities is shifting from developing network codes (NCs) to monitoring the implementation and the effects of the codes and related documents (CMP Guidelines, CAM NC, TAR NC, BAL NC and INT NC), and that, accordingly, ENTSOG's work effort in 2018 will focus on these issues. The Agency also notes ENTSOG's intention to continue working on various tasks related to the Market and System Operation Business Areas, as well as to IT activities and certain other tasks. The Agency also welcomes ENTSOG's further work related to assisting the Energy Community in NC implementation.
- 5) The Agency welcomes ENTSOG's plan further to develop the scope of the established Joint Functionality Process, managed by the Agency and ENTSOG, so that it could deal not only with potential adjustments to the implementation of NCs, but also include possible issues which might require future NC amendments.
- 6) The Agency stresses the importance of ENTSOG implementing 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 improve data quality checks on the platform after coordinating them with the Agency. The Agency expresses its concern for the fact that ENTSOG's draft AWP 2018 does not contain a clear commitment to delivering specific and ambitious results in terms of achieving an adequate level of completeness, plausibility and overall quality of the Transparency Platform data. From this viewpoint, the Agency welcomes ENTSOG's plan to undertake work leading to enhancing the functionality of the Transparency Platform, as well as to support the

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<sup>4</sup> Including, inter alia, the Opinion on ENTSOG's draft TYNDP 2017 ([http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2006-2017.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2006-2017.pdf)), the Opinion on ENTSOG's Summer Supply Outlook 2017 ([http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2011-2017.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2011-2017.pdf)), and the Opinion on the draft 2<sup>nd</sup> CBA methodology, *cf.* [http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2015-2017.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2015-2017.pdf).

<sup>5</sup> ENTSOG's draft AWP 2018 contains the following main work areas and related activities: 1. Market Business Area (Capacity, Balancing and Tariff Activities); 2. System Development Business Area (Investment Activity); 3. System Operations Business Area (Transparency and Interoperability Activities); 4. IT and R&D Activity; and 5. General Area (Objectives, Legal, Finance and HR, Communications, and IT).

Transmission System Operators (TSOs) in order to improve data quality and achieve REMIT requirements. Interoperability work includes the development, support and maintenance of Common Network Operation Tools (CNOTs) for data exchange. This work will also facilitate the ongoing processes related to gas quality standardisation.

- 7) Regarding the activities related to the development of natural gas infrastructure (System Development Business Area), the Agency invites ENTSOG to take into due account the views expressed by the Agency in its Opinions and Recommendations, including the views on the need to improve ENTSOG's modelling tool<sup>6</sup> and on the delivery of a proper interlinked electricity and gas network and market model.
- 8) The Agency notes that ENTSOG has not submitted any recommendation relating to the coordination of technical cooperation between the European Union and third countries' TSOs<sup>7</sup> to the Agency for its Opinion. The Agency believes that reasonable time has passed since the relevant Regulation came into force, and therefore invites ENTSOG to assign sufficient resources to analyse firstly the level of technical cooperation among EU and third country TSOs and, secondly, to propose possible ways and means of improving such cooperation, if its level is found to be unsatisfactory. The result of this work should lead to the submission of recommendations to the Agency for its Opinion in 2018.
- 9) The Agency takes note of ENTSOG's plan regularly to review its Articles of Association and Rules of Procedure in order to adapt and streamline the current processes to the experience of activities carried out in the past years, as well as to the expectations for the upcoming years.
- 10) The Agency notes that the final draft AWP 2018 indicates key deliverables for 2018, 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 and 2017 Annual Work Programmes, 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 specific risk mitigation measures.
- 11) Furthermore, with respect to specific main areas of activity:
  - a) In the areas where NC monitoring reports have already been issued by both ENTSOG and the Agency, the Agency encourages ENTSOG to focus its monitoring efforts on problematic issues, the most pertinent ones at this time being non-implementation and quality data provision for quantitative assessments initiated by the Agency.
  - b) In the investment activity area:

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<sup>6</sup> ENTSOG's network and market modelling TYNDP tool ("NeMo Tool"), *cf.* <https://www.entsog.eu/public/uploads/files/publications/Events/2017/Basic%20features%20of%20ENTSOG%20TYNDP%20tool.pdf>.

<sup>7</sup> ENTSOG's task pursuant to Article 8(3)(c) and Article 9(2) of Regulation (EC) 715/2009.

- i. The Agency expects the TYNDP 2018 to implement the updated CBA by duly taking the Agency's Opinion into account during the adaptation process of the CBA methodology.
- ii. The statement "engage with stakeholders to present the updated CBA methodology" (p. 21) should be amended to "consult stakeholders on the adaptation of the CBA methodology", as recommended in the Agency's Opinion No 15/2017 on the draft 2<sup>nd</sup> ENTSOG CBA methodology<sup>8</sup>.
- iii. The statement that "the report will identify the infrastructure gap<sup>9</sup>, namely the priority areas lacking market integration, security of supply, competition or sustainability" (p. 22) should be clarified in order to explain whether it refers to the Scenario Report mentioned in the previous sentence, or to the TYNDP report. Regarding infrastructure needs and gaps, at least for the TYNDPs beyond 2018, the Agency invites ENTSOG to issue a stand-alone needs and gaps identification report, to be released after the publication of the scenarios report and before the TYNDP report<sup>10</sup>.
- iv. The reference to projects of common interest (PCIs) appearing on p. 22, namely "for those projects intending to apply for the PCI label under the 4th PCI selection process", should be deleted as the project-specific assessment should apply to all projects of the TYNDPs, for the sake of fair, non-discriminatory treatment of all projects. The Agency positively takes note of ENTSOG's intention to include project-specific CBA results as a part of the TYNDP 2018.
- v. In the Agency's view, the statements "the complete TYNDP 2018 report, including the PS-CBAs, will be formally submitted to the Agency early 2019, together with the results of the public consultation" and "the final TYNDP will subsequently be published in spring 2019" (p. 23) are inconsistent with the timeline chart (p. 27) which displays a "final [TYNDP] report edition" in December 2018, especially considering that ENTSOG has to submit a draft version of the TYNDP to the Agency and subsequently adopt a final TYNDP reflecting the Agency's views expressed in its Opinion. The AWP 2018 should accordingly be modified to foresee an earlier submission of the draft TYNDP 2018 to the Agency, for its Opinion to be issued during 2018, on time for the finalisation of the TYNDP 2018 by ENTSOG by December 2018. Consistent information regarding such a timeline should be provided in the relevant chart.
- vi. The Agency requests ENTSOG to remove the publication of GRIPs by end 2018 from the ENTSOG work programme, given that the most recent edition of GRIPs was completed in September 2017 and that the development of the GRIPs is carried out every other year.
- vii. The Agency invites ENTSOG to make sure that the network modelling, simulation and analytical methodologies and tools used for network

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<sup>8</sup> Cf.

[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2015-2017.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2015-2017.pdf)

<sup>9</sup> *Sic, cf.* p. 22 of ENTSOG's draft AWP 2018.

<sup>10</sup> Similarly to the practice introduced for the ENTSO-E TYNDP 2018.

planning and adequacy assessments<sup>11</sup> are significantly improved, fully documented, transparent, and of enhanced utility to stakeholders, and that ENTSOG foresees the required resources and include concrete activities related to these tasks in its final AWP 2018. The Agency stands ready to work with ENTSOG on the follow-up implementation process leading to the delivery of improved tools and methodologies as indicated above.

c) Regarding the area of transparency activity:

- 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 REMIT<sup>12</sup> and the transparency obligations arising from NCs, as well as its general use in support of market participants and other stakeholders. In the latter aspect, a careful periodic consideration of user needs is, in the view of the Agency, desirable, along with delivering the improvements requested, in particular those that would take into account and act on the Agency's view regarding the need for achieving an adequate level of completeness, plausibility and overall quality of the Transparency Platform data.
- ii. The Agency invites ENTSOG better to facilitate data flows, based on Article 8(9) of Regulation (EC) No 715/2009, whenever it is required or it is of utility.

d) Regarding the area of interoperability and data exchange, the Agency appreciates the foreseen objectives and deliverables. The Agency invites ENTSOG to focus on the implementation of the NCs, in particular in the area of Interconnection Agreements and Common Network Operation Tools.

12) The Agency finds that the final draft AWP 2018 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 7 December 2017.

For the Agency:

  
Alberto Pototschnig  
Director

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<sup>11</sup> 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.

<sup>12</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, cf. <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32011R1227>