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**OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No. 09/2012**

of 12 December 2012

ON ENTSOG's 2013 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, Article 9(2) thereof;

HAVING REGARD to the favourable opinion of the Board of Regulators of 4 December 2012, 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 6 November 2012 the draft 2013 Annual Work Programme and on 19 November 2012 the information regarding the consultation process, by email 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 a favourable Opinion on ENTSOG's 2013 Annual Work Programme, with the following main findings, recommendations, comments and guidance:

1. MAIN FINDINGS

- 1.1. The draft 2013 Annual Work Programme is consistent with ENTSOG's tasks as described in Article 8 of Regulation (EC) No 715/2009, the 2013 Work Programme of the Agency and the joint Commission/ACER/ENTSOG three-year work plan.

¹OJ L 211, 14.8.2009, p. 1.

²OJ L211, 14.8.2009, p.36.

- 1.2. The draft 2013 Annual Work Programme is ambitious, and its priorities are in line with the targets for the Internal Energy Market.
- 1.3. In developing the draft Programme, ENTSOG proceeds from the premise that the process of its establishment is now complete, with the final Articles of Association and Rules of Procedure approved on 6 March 2012 and submitted to the Agency and the Commission. However, ENTSOG is still in the process of building up its internal resource base in order to meet the challenges defined in the draft 2013 Work Programme.
- 1.4. ENTSOG's draft 2013 Annual Work Programme foresees two main thrusts of activity, one related to network codes' development and implementation, and the other to all other types of activities. In network code-related work, ENTSOG plans work on capacity, balancing, tariffs, interoperability (including data exchange rules), and rules for trading. In other areas of activity, ENTSOG plans to carry out activities related to the Ten-Year Network Development Plan (TYNDP), Summer and Winter Supply Outlooks, Gas Regional Investment Plans (GRIPs), and the Regulation of the European Parliament and of the Council on guidelines for trans-European energy infrastructure and repealing Decision 1364/2006/EC and amending Regulations (EC) No 714/2009 and 715/2009 (expected to be adopted in 2013).
- 1.5. ENTSOG plans to support the execution of its tasks in 2013 by increasing its cooperation with stakeholders, enhancing the Transparency Platform, the proper conduct of public consultations, and other means. The execution method of the tasks is based on an overall project management approach, whereby each activity has its own management framework with assigned timeframe and defined deliverables.
- 1.6. For 2013, ENTSOG foresees as key deliverables:
 - 1.6.1. In the area of network codes development:
 - CAM code support during implementation;
 - CAM code and CMP guidelines implementation support;
 - Support of the development of other network codes, including draft Balancing Code submission for the Agency's opinion and support during further process, and the production of an Interoperability Network Code proposal suitable for submission to the Agency.
 - 1.6.2. In the area of other activities, ENTSOG foresees as deliverables:
 - Annual Report covering 2012;
 - Annual Work Programme for 2014;
 - TYNDP 2013-2022;
 - Summer Supply Outlook 2013;
 - Winter Supply Outlook 2013-2014;
 - Energy system-wide and project specific cost-benefit analysis (CBA) methodology;
 - Gas Regional Investment Plans (GRIPs);
 - Summer 2013 and Winter 2013-2014 Reviews;
 - The establishment of an upgraded and more user-friendly Transparency Platform in which all European Transmission System Operators (TSOs) can participate.

ENTSOG also anticipates relevant supporting, IT, and research and development activities in the light of the key deliverables foreseen for 2013.

- 1.7. In terms of process, ENTSOG has carried out a stakeholder consultation pursuant to Article 10 of Regulation (EC) No 715/2009 as transposed into ENTSOG's Rules of Procedure, Articles 26(2) and 27(3), namely by publishing the respective documents on its website and asking for feedback on the documents. ENTSOG has also shown how observations received during the consultation have been taken into account pursuant to Article 10(3) of Regulation (EC) No 715/2009. This procedure is a marked improvement over the procedure deployed for the development of its Annual Work Programme 2012.
- 1.8. In terms of content, the draft 2013 Annual Work Programme is a comprehensive and informative document. Nevertheless, some important tasks required of ENTSOG in compliance with Article 8(3) of Regulation (EC) No 715/2009 still remain underrepresented or implicit, particularly the tasks related to Articles 8(3)(a) and 8(3)(c), which may lead to unbalanced performance regarding the degree to which these requirements of Article 8(3) are met.

2. RECOMMENDATIONS, COMMENTS AND GUIDANCE

- 2.1 The Agency supports ENTSOG's transition to a fully operational and capable organisation fulfilling all requirements of the Third Energy Package. The Agency encourages ENTSOG to consider more consistent coverage of all required tasks under Article 8(3) of Regulation (EC) No 715/2009, taking into account resource availability and economic conditions.
- 2.2 Having regard to the extent of work planned by ENTSOG for 2013, and to the still ongoing resource procurement phase, the Agency recommends the following:
 - i. A more proactive position for ENTSOG regarding the development of common operation tools and an incidents classification scale, allowing for the provision of timely input and proper coordination with the development of Network Codes;
 - ii. ENTSOG should assess the explicit inclusion of work related to the development of common network operation tools and to technical cooperation with third party TSOs in its programme, while keeping a high-level coordination with other activities;
 - iii. ENTSOG should prepare and carry out research plans as they relate to, or are part of, ENTSOG's other work;
 - iv. ENTSOG's positive effort for the development of an anticipatory approach to the development of network codes, as demonstrated during 2012, whereby potentially divergent views on key issues are extensively and constructively consulted in order to arrive at acceptable solutions with key stakeholders before adopting the codes under ENTSOG's internal procedures, should be regarded as good practice and adopted in other areas of work.
- 2.3 The Agency welcomes, supports and encourages ENTSOG's plans to continue involving stakeholders in the network code processes, the Ten Year Network Development Plan, the Gas Regional Initiative, Cost-Benefit Analysis

methodologies, and all remaining activities necessary for the implementation of the internal gas market.

- 2.4 With respect to the proposal of a Regulation concerning guidelines for the implementation of European energy infrastructure priorities and repealing Decision No 1364/2006/EC and the deliverables associated with it, in particular a methodology for Cost-Benefit Analysis, the Agency encourages an early effort by ENTSOG for the development of a methodology to be reviewed by stakeholders under a broad consultation process. The Agency would welcome any indications on costs and benefits associated with the adoption of lists of Projects of Common Interest, as well as with pilot projects for the early implementation of Network Codes undertaken by TSOs in the frame of the Gas Regional Initiative.
- 2.5 The Agency encourages ENTSOG to involve distribution system operators in system development, in particular if they play a system operator role. The Agency appreciates ENTSOG's effort to involve upstream operators and gas suppliers in its deliberations, and encourages further dialogue with all relevant segments of the gas industry.
- 2.6 The Agency reiterates its view of the key role of ENTSOG and TSOs in the provision of information required for monitoring and reporting purposes, and in particular invites ENTSOG and TSOs to continuously liaise with the Agency for the purposes of undertaking market and network code monitoring and reporting. The Agency advises including essential work aspects, such as indicators, procedures and assessment reporting, already in the primary draft of the documents, in coordination with the relevant monitoring and reporting activities of the Agency.
- 2.7 The Agency acknowledges ENTSOG's efforts towards the provision of key information via the Transparency Platform and will continue to support the publication of information by ENTSOG and the TSOs, especially where it relates to cross-border system capacity, planning and development, safety, network access charging, cross-border tariff-making, and security of supply.

Done at Ljubljana on 12 December 2012.

For the Agency:


Alberto Pototschnig
Director



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