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**RECOMMENDATION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 08/2013**

of 26 September 2013

**ON THE NETWORK CODE ON LOAD-FREQUENCY CONTROL AND
RESERVES**

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, and, in particular, Articles 6(4) and 17(3) thereof;

HAVING REGARD to 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 1228/2003², and, in particular, Article 6(9) thereof;

HAVING REGARD to the favourable opinion of the Board of Regulators of 25 September 2013, issued pursuant to Article 15(1) of Regulation (EC) No 713/2009,

WHEREAS:

- (1) The Framework Guidelines on Electricity System Operation, FG-2011-E-003 (the 'Framework Guidelines')⁴, were adopted by the Agency on 2 December 2011.
- (2) By letter of 24 February 2012, the Commission invited ENTSO-E to start drafting the network code on load-frequency control and reserves and to submit it to the Agency, pursuant to Article 6(6) of Regulation (EC) No 714/2009, by 1 July 2013.
- (3) In drafting this network code, ENTSO-E endeavoured to involve stakeholders in a transparent process by organising stakeholder workshops, technical expert group meetings for Distribution System Operators and public consultations, documented on ENTSO-E's website. The Agency recognises the close working of ENTSO-E with stakeholders and the Agency to facilitate improvements to the draft network code whilst under development.
- (4) On 28 June 2013, ENTSO-E submitted to the Agency, pursuant to Article 6(6) of Regulation (EC) No 714/2009, the Network Code on Load-Frequency Control and Reserves (the 'Network Code'), accompanied by the Supporting Document for the ENTSO-E

¹ OJ L 211, 14.8.2009, p. 1.

² OJ L 211, 14.8.2009, p. 15.

⁴ http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/FG%20on%20Electricity%20System%20Operation/FG-2011-E-003_02122011_Electricity%20System%20Operation.pdf

Network Code on Load-Frequency Control and Reserves (the ‘Supporting Document’), which the Agency also took into account when assessing the Network Code’s content.

- (5) In their letter of 10 September 2013, ENTSO-E addressed possible concerns of the Agency with respect to Recitals (7) to (9) and Article 4(1) to (4) of the Network Code. ENTSO-E submitted in an annex specific amendments to those provisions related to national scrutiny, to align them with the text which is being used in the revision of the Network Code on Operational Security and the Network Code on Operational Planning and Scheduling following the Agency’s Opinions No 10/2013 and No 12/2013. ENTSO-E asked the Agency to consider the submitted Network Code as being amended by the letter’s annex. Further it stated that it saw no need, nor would it use the possibility, pursuant to Article 6(8) of Regulation (EC) No 714/2009, to resubmit a revised version of the Network Code merely to amend Recitals (7) to (9) and Article 4(1) to (4) of the Network Code.
- (6) The Agency has taken the amended provisions on national scrutiny into account when formulating its Opinion No 19/2013 of 26 September 2013. The Agency concluded that the Network Code, as amended by ENTSO-E’s letter of 10 September 2013, was in line with the Framework Guidelines,

HEREBY RECOMMENDS:

The adoption by the European Commission of the Network Code, as amended by ENTSO-E’s letter of 10 September 2013.

The Agency invites the European Commission to pay particular attention to Article 60(1) of the Network Code, as amended by ENTSO-E’s letter of 10 September 2013, related to the sharing of Frequency Containment Reserves (‘FCR’). Too little data was communicated along the Network Code, as amended by ENTSO-E’s letter of 10 September 2013, to acknowledge whether this article reflects, on the one hand, the preferred policy option of ENTSO-E and, on the other hand, the best forward-looking approach with regard to FCR.

In addition, the European Commission, when adopting the Network Code, as amended by ENTSO-E’s letter of 10 September 2013, may wish to take into account the following considerations on Recital (7). This recital states *“that the Network Code does not preclude Member States from providing for the approval or fixing by national regulatory authorities of other relevant terms and conditions or actions necessary to ensure operational security other than the ones already provided in this Network Code”*. This clarification on Member States’ competences is important. However, it should also be clear that Member States’ scope of manoeuvre includes the competence to require also the approval or fixing of terms and conditions which under the Network Code, as amended by ENTSO-E’s letter of 10 September 2013, would only be notified. Similarly, it should be clear that Member States can require the notification of terms and conditions other than those which under the Network Code, as amended by ENTSO-E’s letter of 10 September 2013, are already subject to notification. Furthermore, Recital (7) refers to the approval or fixing *“within a timeframe allowing the timely delivery of those terms and conditions or actions”*. Such reference could be appropriate to avoid undue delays in the delivery of terms and conditions or actions necessary to ensure operational security, as long as it is construed as a recommendation without any limitations to the competences of Member States and national regulatory authorities pursuant to the 3rd Package.

The Agency also wishes to draw the European Commission's attention to Article 45(6), second paragraph, of the Network Code, as amended by ENTSO-E's letter of 10 September 2013, related to the minimum time period of 30 minutes for the full activation of continuous FCR by FCR Providing Unit or FCR Providing Group with an energy reservoir. It seems to the Agency that this paragraph would be clearer if the words "*FCR Providing Unit and FCR Providing Group*" were replaced by the words "*FCR Provider*", so as to encompass both FCR Providing Units and Groups.

This Recommendation is addressed to the European Commission.

The Agency's Opinion No 19/2013 of 26 September 2013, the Network Code, the Supporting Document received from ENTSO-E and the ENTSO-E letter of 10 September 2013 amending Recitals (7) to (9) and Article 4(1) to (4) of the Network Code are attached to this Recommendation for information purposes.

Done at Ljubljana on 26 September 2013.

For the Agency:



Alberto Pototschnig
Director



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