



Agency for the Cooperation of Energy Regulators

Tasks for 2013

The tasks, organisation and operation of the Agency for the Cooperation of Energy Regulators (ACER) are set out in 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 (Agency Regulation)¹.

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 charging², Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT)³, as well as in the other legal acts forming the Third Legislative Package on the Liberalisation of the Energy Markets⁴. Finally, the European Commission proposal for a Regulation on guidelines for trans-European energy infrastructure⁵ envisages further tasks to the Agency, even though the text is still subject to significant changes during the legislative process.

The purpose of the Agency is to **assist** National Regulatory Authorities (NRAs) in exercising, at Community level, the regulatory tasks that they perform in the Member States and, where necessary, to **coordinate** their action.

Moreover, since the entry into force of REMIT on 28 December 2011 ACER is in charge of monitoring trading activities in wholesale energy products to detect and deter insider trading and

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 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).

³ 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).

⁴ 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) 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).

⁵ Proposal for a Regulation of the European Parliament and of the Council on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC (19.10.2011 COM/2011/0658 final)

market manipulation. In this respect, it works closely with the NRAs and other competent authorities.

According to Regulations (EC) No 713/2009 and (EU) No 1227/2011, the Agency plays a key role in promoting the well-functioning of the EU markets in electricity and gas, as well as their transparency and integrity. The Agency, in particular:

- complements and coordinates the work of NRAs,
- participates in the creation of European network rules, by producing Framework Guidelines containing criteria and principles for the Network Codes to be developed by the ENTSOs,
- takes, under certain conditions, binding individual decisions on terms and conditions for access and operational security for cross border infrastructure,
- gives advice on various energy related issues to the European institutions,
- monitors and reports on developments in the energy markets, and
- detects and deters insider trading and market manipulation in wholesale energy markets.

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

Deliverables in the area of Framework Guidelines and Network Codes

As regards the Agency's work on framework guidelines and network codes in 2013, article 6(1) of Regulations (EC) No 714/2009 and (EC) No 715/2009 provide that the European Commission, after consulting the Agency, the ENTSOs and the other relevant stakeholders, establishes an annual priority list identifying the areas to be included in the development of network codes. For 2013, the European Commission is identifying the following priority areas, with the expected activities indicated for each of them:

in Electricity:

- capacity allocation and congestion management rules including governance for day-ahead and intraday markets including capacity calculation (adoption under comitology procedure),
- rules for longer term (forward) capacity allocation (finalisation of the network code, issuance of the Agency's reasoned opinion and start of the comitology process),
- network connection rules:

- network rules on generator grid connection (adoption under comitology procedure)
- network code on distribution system operator and industrial load connection (finalisation of the network code, issuance of the Agency's reasoned opinion and start of the comitology process)
- network code on High-voltage direct current transmission system connection (finalisation of the network code, issuance of the Agency's reasoned opinion and start of the comitology process),
- system operation (finalisation of the network codes on operational security, operational planning and scheduling and on load-frequency control and reserves, issuance of the Agency's reasoned opinion and start of the comitology process⁶),
- balancing rules including network-related reserve power rules (finalisation of the network code, issuance of the Agency's reasoned opinion and start of the comitology process),
- rules regarding harmonised transmission tariff structures and/or investment incentives (subject to the finding of the current ongoing analysis, the Agency will issue a recommendation to the European Commission on the need and best approach to address this issue).

in Gas:

- capacity allocation (adoption under comitology procedure),
- balancing rules including network-related rules on nomination procedure, rules for imbalance charges and rules for operational balancing between transmission system operators' systems (finalise network code, issuance of the Agency's reasoned opinion, and start adoption process),
- interoperability and data exchange rules (finalisation of the network code, issuance of the Agency's reasoned opinion),
- rules regarding harmonised transmission tariff structures (finalisation of the network code, issuance of the Agency's reasoned opinion).

On the basis of the identified priority areas, and taking into account the level of progress achieved in each of them, the Agency, in line with the outcome of the latest Planning Group⁷ meeting of 8 May 2012, plans to work in 2013 towards the following deliverables:

In Electricity:

- 1) Reasoned opinion on the Network Code on long-term capacity allocation⁸.
- 2) Reasoned opinion on the Network Code on distribution system operator and industrial load connection rules.

⁶ The network codes on operational training and on requirements and operational procedures in emergency will follow later.

⁷ The Planning Group brings together the European Commission, the Agency and the ENTSO for Electricity and the ENTSO for Gas.

⁸ May be postponed to 2014, depending on the timing of the development of the Network Code.

- 3) Reasoned opinion on the Network Code on high-voltage direct current (HVDC) transmission system connection rules⁹.
- 4) Reasoned opinion on the Network Codes on operational security, operational planning and scheduling and on load-frequency control and reserves.
- 5) Reasoned opinion on the Network Code on balancing rules including network-related reserve power rules¹⁰.
- 6) Recommendation to the European Commission on areas to be addressed regarding rules on harmonised transmission tariff structures and/or investment incentives, and on the most appropriate legal instruments (Framework Guidelines/Network Codes or "Comitology" Guidelines).

In Gas:

- 7) Reasoned opinion on the Network Code on balancing rules, including network-related rules on nomination procedure, rules for imbalance charges and rules for operational balancing between transmission system operators` systems.
- 8) Reasoned opinion on the Network Code on interoperability and data exchange rules.
- 9) Reasoned opinion on the Network Code on rules regarding harmonised transmission tariff structures.

Other specific planned deliverables

Beyond the Agency activities in the area of framework guidelines and network codes, the tasks currently planned for 2013 are as follows:

In the **electricity** area:

- 10) Proposal to the Commission on the annual cross-border infrastructure compensation sum.
- 11) Opinion on the appropriate range or ranges of transmission charges paid by producers for the period after 1 January 2015.
- 12) Ad-hoc report assessing the developments regarding national capacity adequacy schemes and their potential impact on the market integration process¹¹.

In the **gas** area:

- 13) Opinion on ENTSOG Ten-year network development plan.

⁹ May be postponed to 2014, depending on the timing of the development of the Network Code.

¹⁰ May be postponed to 2014, depending on the timing of the development of the Network Code.

¹¹ Related work conducted by CEER and commissioned by the European Commission, Directorate-General for Energy.

In both the **electricity and gas** areas:

- 14) Annual Report on the monitoring of the Internal Energy Market. The objective of the Agency's market monitoring activities is to assess the functioning of EU markets in electricity and natural gas¹² and to propose to European Parliament and Commission ways on how to remove any possible identified barriers to the completion of the Internal Energy Market by 2014.
- 15) Annual Regional Initiatives Status Review Report and Quarterly Updates. Follow-up and monitoring of the implementation of the cross-regional roadmaps for the completion of the Internal Electricity Market by 2014. Further development and monitoring of the implementation of cross-regional roadmaps for the completion of the Internal Gas Market by 2014.
- 16) Preparation and reporting to the European Commission on monitoring and analysis of the implementation of the network codes and the Guidelines adopted by the Commission and of their effect on the harmonisation of applicable rules aimed at facilitating market integration, as well as on non-discrimination, effective competition and the efficient functioning of the market.

In the area of **wholesale market monitoring** (REMIT)

- 17) Contributions in the context of the adoption of the REMIT implementing act according to Article 8(2) and (5) of REMIT.
- 18) Definition of the wholesale energy market monitoring strategy for the effective implementation of REMIT (detection of instances of market abuse), including cooperation with ESMA.
- 19) Definition of the format for coordination of NRAs' investigation activities on cross-border market abuse instances.
- 20) Update of the Agency's guidance on the application of REMIT definitions according to Article 16(1) of REMIT.
- 21) Development of IT solutions for the registration of market participants according to Article 9 of REMIT.
- 22) Development of IT solutions for market surveillance, data collection and data sharing of wholesale energy markets according to Article 7, article 8 and 10 of REMIT.
- 23) Definition of transparent rules for the dissemination of information according to Article 12(2) of REMIT.

¹² In particular, on the evolution of retail prices of electricity and natural gas, wholesale market integration, access to networks including electricity produced from renewable energy sources, and compliance with consumer rights.

24) Coordination of NRAs, including at the regional level, according to Article 16 of REMIT.

Deliverables related to activities to be performed on request:

- 25) 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).
- 26) Opinions on preliminary decisions by NRAs on TSO certification when requested by the Commission.
- 27) 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 related to activities to be performed on the Agency's own initiative:

- 28) 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.

Deliverables related to activities envisaged in the proposed Regulation on guidelines for trans-European energy infrastructure, based on European Commission's proposal of 19 October 2011 [Brussels, 19.10.2011, COM (2011) 658 final] and the Council text of 16 March 2012 [5139/1/12 REV 1 - Brussels, 16 March 2012] (assuming that the Regulation on guidelines for trans-European energy infrastructure is adopted by early 2013):

- 29) Opinions on the methodology and criteria for the cost-benefit analysis (CBA) of infrastructure projects.
- 30) Opinion on the consistent application of the identification and ranking criteria for Project of Common Interest and of the CBA across regions.
- 31) Guidance on incentives and risk assessment methodology.