

Mid-term Review of the 2012 Work Programme of the Agency for the Cooperation of Energy Regulators

Introduction

The 2012 Work Programme of the Agency for the Cooperation of Energy Regulators was drafted by the Director in June 2011, approved by the Board of Regulators on 6 July 2011 and, following comments from the European Commission, on 21 September 2011 and adopted by the Administrative Board, after consulting the Commission, on 22 September 2011.

The adopted 2012 Work Programme was transmitted to the European Parliament, the Council and the European Commission on 30 September 2011.

Therefore, the 2012 Work Programme reflects the expectation, on the activities to be performed by the Agency in 2012, based on the information available and the assumption made during the period June – September 2011. As such, as it was already recognised in the 2012 Work Programme, some of the activities and timing envisaged therein could be subject to changes due to unexpected events or the actions of other institutions and entities involved in the same processes in which the Agency is engaged.

In particular:

- Section 3, on Priorities, indicated that “unexpected events in the energy sector may lead to a modification of priorities of EU institutions, including ACER, as well as lead the Agency to perform tasks which are not envisaged in the present Work Programme”; and
- Section 6.2, on Uncertainty and Risks, more specifically highlights that “the Agency’s tasks are often part of a process involving other institutions or entities (e.g. the Commission, ENTSOs) and therefore the exact timing of the Agency’s contribution may depend of the way in which these other bodies will develop their own work” and that the “Work Programme should therefore be read keeping in mind that the Agency may have to reallocate resources and priorities [...] in response to modified timelines in the work of other entities or as a result of unexpected events”.

This document presents the Mid-term (June 2012) Review of the 2012 Work Programme of the Agency, based on the information which has become available since the Work Programme was adopted in

September last year and the current assumptions on the activities of other relevant institutions and entities.

Framework Guidelines and Network Codes

Since the start of the formal operation of the Agency, activities by the European Commission, the Agency and the ENTSOs, in the areas of Framework Guidelines and Network Codes have been jointly planned and coordinated and progress monitored by a Planning Group, which is composed of senior representatives of the DG Energy, the Agency, ENTSO-E and ENTSOG. The Planning Group meets typically every two months, assessing progress, defining priorities and agreeing on a common timeline for the coordination of the different steps in the process of developing Framework Guidelines and Network Codes.

After the adoption of the 2012 Work Programme, in 2011 the Planning Group met on 28 October 2011 and 16 December 2011. In the first half on 2012 the Planning Group met on 29 February 2011 and 8 May 2012.

In these meetings it was agreed that, due to the need of supporting and promoting the completion of the Internal Energy Market by 2014 - the target set by the EU Council in its meeting on 4 February 2011 - it is most appropriate to give priority to and concentrate efforts in the finalisation of the work on the Framework Guidelines envisaged in the 2011 Work Programme of the Agency and of the related Network Codes, before starting activities in other areas. It was also acknowledged that:

- the development of some of the Framework Guidelines envisaged in the Agency's 2011 Work Programme requires significant more effort than originally expected, including at the scoping stage (before the invitation letter by the European Commission to the Agency is issued); and
- some of the Framework Guidelines may lead to the development of more than one Network Code, to be drafted by the ENTSOs and evaluated for consistency with the corresponding Framework Guidelines by the Agency.

Therefore, it was agreed that, until the work on the Framework Guidelines envisaged in the Agency's 2011 Work Programme and on the corresponding Network Codes is completed or significantly advanced, no new Framework Guidelines will be initiated.

Moreover, the timing of the evaluation of the Network Codes and the adoption of the Reasoned Opinions by the Agency depends on the date of their submission by the ENTSOs.

As a consequence, the activities to be performed by the Agency in 2012 in the areas of Framework Guidelines and Network Codes are going to be modified as follows:

- the Framework Guidelines on Electricity Balancing (point 6.3.1.a in the 2012 Work Programme) are now expected to be adopted by September 2012, as the development process has turned out to be more complex than expected (with expert groups being involved);
- the work on the Framework Guidelines on Third Party Access in electricity (point 6.3.2.a in the 2012 Work Programme) will not start, with the scoping phase, in 2012. A new timing for this activity has not yet been defined by the Planning Group;

- three Network Codes will be developed by ENTSO-E on the basis of the Framework Guidelines on Electricity Grid Connection: on generator grid connection, on distribution system operator and industrial load connection, and on High-voltage direct current transmission system connection. Only the first of these Network Codes (on generator grid connection) will be submitted by ENTSO-E in 2012. Its submission is expected in Q2/Q3 2012. The evaluation by the Agency, with the adoption of the Reasoned Opinion, is expected in Q3/Q4 2012;
- the Framework Guidelines on Interoperability of gas systems (point 6.4.1.a in the 2012 Work Programme) will be completed by 18 July 2012, as this is the deadline specified in the invitation to the Agency issued by the European Commission on 18 January 2012. These Framework Guidelines will also cover Data Exchange issues (Framework Guidelines on Interoperability and Data Exchange Rules);
- the Framework Guidelines on Rules for Trading in gas (point 6.4.2.a in the 2012 Work Programme) will not be developed in 2012. A new timing for this activity has not yet been defined by the Planning Group;
- the Framework Guidelines on Data Exchange and Settlement Rules in gas (point 6.4.2.b in the 2012 Work Programme) will not be developed in 2012. A new timing for this activity has not yet been defined. However, Data Exchange issues are dealt in the Interoperability and Data Exchange Rules.

Other Activity Areas

Beyond the areas of Framework Guidelines and Network Codes, the timing of other activities is also likely to be different from what was planned in the 2012 Work Programme of the Agency. More specifically:

- the first Annual Monitoring Report (point 6.5.a in the 2012 Work Programme) will be published in November 2012, due to the extended duration of the data collection process. In December last year it was decided that, at least for this first edition, the Annual Monitoring Report will be a joint ACER-CEER report, combining the results of the monitoring activities of the Agency and CEER, and that the collection from National Regulatory Authorities of the required data will be performed using the CEER platform, so as to maximise synergies with the monitoring activity which CEER has been performing for several years. Therefore, the timing of the data collection process will also be aligned to the annual cycle of the CEER data collection. Data will be available in September 2012 and it is expected that the Annual Monitoring Report will be finalised in November 2012;
- the development of monitoring methodologies and procedures for REMIT (point 6.5.a in the 2012 Work Programme) will not be completed in 2012, as these will significantly depend on the Implementing Acts to be issued by the European Commission – defining, *inter alia*, the record of transactions to be reported for monitoring purposes - and these Acts will not be adopted by the Commission in 2012 (they are expected to be adopted in 2013);
- the Agency is being called, sooner than expected, to contribute to the early implementation of the new Regulation on guidelines for trans-European energy infrastructure (point 6.5.f in the 2012 Work Programme). It is expected that this Regulation will be adopted early in 2013, but Regional

Groups have already been informally convened and the Agency is likely to be called, later this year, to assess the consistency of the application of the criteria/CBA methodology for individual Projects of Common Interest (PCI) and to evaluate their European added value already;

- the recommendation to the European Commission on the record of transactions for REMIT (point 6.5.i in the 2012 Work Programme) will be submitted in September/October 2012 (instead of July 2012), in order to take account of the results of the consultancy study commissioned by the European Commission and to run the public consultation as required by REMIT.

Finally, during the second semester of 2012 the Agency will commence work in two new areas, which have become urgent given developments in the energy sector. In particular:

- the Planning Group agreed that, also in the context of the early implementation of Regulation on guidelines for trans-European energy infrastructure, the Agency will analyse national tariff structures and regulatory framework for transmission network investments in order to identify any problem which may require courses of action either through Framework Guidelines or "Comitology" Guidelines;
- the Agency will seek to define an appropriate regulatory framework for cross-border redispatching, including cost-sharing arrangements, as a temporary solution to mitigate the impact of loop and parallel flows on the EU electricity network.