



Agency for the Cooperation of Energy Regulators – Preliminary Outline of Tasks for 2014

This note presents a preliminary outline of the tasks which the Agency expects to perform in 2014. The content of this note will be further elaborated and will serve as the basis for the preparation of the Agency's Work Programme that the Director will submit to the European Parliament, the European Commission and the Board of Regulators by 30 June.

Legal basis

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, as well as in the other legal acts forming the Third Legislative Package on the Liberalisation of the Energy Markets².

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 charging³ and by 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)⁴. Further tasks in the area of energy infrastructure project assessment will soon be assigned to the Agency by the new Regulation on guidelines for trans-European energy infrastructure (TEN-E Regulation)⁵, which is expected to be adopted by mid-2013.

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.

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 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).

³ 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).

⁴ 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).

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)

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 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;
- monitors the execution of the tasks of ENTSOs and regional cooperation of TSOs, and provides opinions on their relevant documents (annual work programme, community-wide TYNDP, supply outlooks, etc.);
- 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
- monitor trading in wholesale energy markets in order to detect and deter insider trading and market manipulation.

In carrying out its tasks the Agency consults 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 2014

Framework Guidelines and Network Codes

As regards the Agency's work on framework guidelines and network codes, 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.

However, some activities in 2014 will derive from work already started in the previous year. This is the case of the Reasoned Opinions and Recommendations which the Agency will be called to formulate on Network Codes currently or soon to be developed by ENTSO-E and ENTSG, but also of the advice during the comitology process and the preparation for the monitoring of Network Code implementation. More specifically, during 2014, the Agency plans to work towards the following deliverables:

Electricity:

- 1) Reasoned opinion and Recommendation on the Network Code on electricity balancing;
- 2) Reasoned opinion and Recommendation on the Network Code on HVDC connections;
- 3) Reasoned opinion and Recommendation on the Network Code on Operational Procedures in Emergency;
- 4) Advice in the comitology process for the Network Code on Capacity Allocation and Congestion Management, as well as Forward Capacity Allocation;
- 5) Advice in the comitology process for the network connection rules, i.e. Network Codes on Requirements for Grid Connection applicable to all Generators, Demand Connection, as well as HVDC Connection;
- 6) Advice in the comitology process for the system operation rules, i.e. Network Codes on Operational Security, Operational Planning and Scheduling, as well as Load-Frequency Control and Reserves;
- 7) Preparation for the monitoring of the implementation of the Network Codes on:
 - a. Requirements for Grid Connection applicable to all Generators,
 - b. Capacity Allocation and Congestion Management,
 - c. Demand Connection,
 - d. Operational Security,
 - e. Operational Planning and Scheduling,
 - f. Load-Frequency Control and Reserves, and
 - g. Forward Capacity Allocation.

Gas:

- 8) Reasoned opinion and Recommendation on the Network Code on rules regarding harmonised transmission tariff structures and start-up of the adoption process under comitology procedure;
- 9) Advice in the comitology process for the Network Code on interoperability and data exchange rules;
- 10) Preparation for the monitoring of the implementation of the Network Code on capacity allocation rules;
- 11) Preparation for the monitoring of the implementation of 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;

The European Commission may identify further priority areas for the development of Framework Guidelines, including on rules for trading and third-party access.

Internal Energy Market monitoring - Cross-sectoral (electricity and gas)

As regards the Agency's work on Internal Energy Market monitoring, Article 11 of Regulation (EC) No 713/2009 specifies that the Agency must monitor the internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This activity has to be carried out in close cooperation with the European Commission, NRAs and other relevant organisations, and without prejudice to the competences of competition authorities.

Under this task, the Agency plans to work in 2014 towards the following deliverable:

- 12) A market monitoring report covering retail prices in electricity and natural gas, access to networks (where necessary linked to wholesale markets), and compliance with consumer rights.

Regional Initiatives - Cross-sectoral (electricity and gas)

Since its creation in March 2011, the Agency coordinates the Electricity and Gas Regional Initiatives (ERI and GRI) and monitors the implementation of regional and cross-regional projects developed in the frame of ERI and GRI.

In relation to this area, the Agency plans to work in 2014 towards the following deliverable:

- 13) An annual report reviewing the status of the Electricity and Gas Regional Initiatives as well as Quarterly reports on the same topic.

TSO Cooperation

The tasks related to the Agency's work on TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in formulating opinions on draft statutes, list of members and draft rules of procedure of the ENTSOs; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSO's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOs, monitoring progress of new interconnector projects and the implementation of TYNDPs, and monitoring regional cooperation of TSOs.

In relation to this area, the Agency plans to work in 2014 towards the following deliverables:

Electricity:

- 14) Annual monitoring report on the implementation and management of the inter-TSO compensation fund;

- 15) Opinions on ENTSO-E's annual work programme and ENTSO-E's annual report;
- 16) Opinions on ENTSO-E's annual Summer and Winter supply outlooks;
- 17) Opinion on the electricity Community-wide Ten-Year Network Development Plan;
- 18) Opinion on the electricity national TYNDP regarding their (in)consistency with the Community-wide TYNDP;
- 19) Opinions on ENTSO-E's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators;
- 20) Report on monitoring the implementation of the electricity Community-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity;
- 21) Monitoring the regional cooperation of transmission system operators with regard to regional investment plans;
- 22) Opinion on ENTSO-E's draft Scenario Outlook & Adequacy Forecast.

Gas:

- 23) Opinions on ENTSG's annual work programme and ENTSG's annual report;
- 24) Opinions on ENTSG's common network operation tools including a common incidents classification scale and research plans;
- 25) Opinions on ENTSG's annual Summer and Winter supply outlooks;
- 26) Reviews and recommendations on national TYNDP regarding their (in)consistency with the Community-wide TYNDP;
- 27) Opinions on ENTSG's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators;
- 28) Report on monitoring the implementation of the Community-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity;
- 29) Monitoring the regional cooperation of transmission system operators with regard to regional investment plans.

Electricity and Gas:

- 30) Report to the European Commission on the execution of the tasks of ENTSO-E and ENTSO-G referred to in Art. 8(1), (2) and (3) of Regulation (EC) 714/2009 and Regulation (EC) 715/2009.

Guidelines for Trans-European Energy Infrastructure (activities in proposed regulation)⁶

The proposed TEN-E Regulation assigns new tasks to the Agency, mostly related to the process of identification of Projects of Common Interest (PCIs):

Electricity and Gas:

- 31) Opinions on the methodology and criteria for the cost-benefit analysis (CBA) of infrastructure projects;
- 32) Opinion on the consistent application of the identification and ranking criteria for PCIs and of the CBA across regions;
- 33) Guidance on incentives and risk assessment methodology;
- 34) Recommendations to facilitate the implementation and overcoming delays/difficulties in PCI implementation (if necessary);
- 35) Annual consolidated report on PCI progress;
- 36) Evaluation of consistency of implementation of Community-wide TYNDP with regard to energy infrastructure priority corridors and areas;
- 37) Report on public consultation on CBA methodology improvements and updates and (if appropriate) requests for updates;
- 38) Contribution to a set of indicators and values used to assess unit investment costs;
- 39) Cross-border cost allocation decisions and notifications to the Commission (if applicable);
- 40) Recommendations regarding incentives and common methodology to evaluate incurred higher risks of investments in infrastructure projects;
- 41) Sharing of good practices about methodologies to evaluate the incurred higher risks of investments on the basis of benchmarking of best practice by NRAs.

Electricity:

- 42) Assessment of common network operation tools to ensure coordination of network operation in normal and emergency conditions developed by ENTSO-E.

⁶ Based on the European Commission's proposal of 19 October 2011 [Brussels, 19.10.2011, COM (2011) 658 final] and the Council consolidated compromise text of 5 December 2012, assuming that the Regulation is adopted by early 2013.

Wholesale Market Monitoring (REMIT)

In the REMIT area, the Agency expects to perform the following tasks:

- 43) Further development and maintenance of IT solutions for the registration of market participants according to Article 9 of REMIT and for market surveillance, data collection, and data sharing of wholesale energy markets according to Articles 7, 8 and 10 of REMIT;
- 44) Establishment and administration of a European register of market participants according to Article 9 of REMIT;
- 45) Data collection according to Article 8 of REMIT in connection with the REMIT implementing acts;
- 46) Establishment of appropriate mechanisms to access emission allowances data according to Article 10(3) of REMIT;
- 47) Monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation according to Article 7 of REMIT, in cooperation with NRAs, on the basis of data collected according to Article 8 of REMIT in connection with the REMIT implementing acts;
- 48) Further definition and implementation of a wholesale energy market monitoring strategy for the effective implementation of REMIT (detection of instances of market abuse), including close cooperation with NRAs and ESMA and strong links with organised market places;
- 49) Sharing of data with NRAs and other authorities according to Article 10 of REMIT and dissemination of information according to Article 12(2) of REMIT on the basis of transparent rules for the dissemination of information;
- 50) Ensuring operational reliability and professional secrecy according to Articles 12 and 17 of REMIT concerning the information received pursuant to Article 4(2) and Articles 8 and 10 of REMIT by taking all necessary measures to prevent misuse of, and unauthorised access to, the information received and maintained in the Agency's systems, by identifying sources of operational risk and by minimising them through the development of appropriate systems, controls and procedures;
- 51) Coordination of NRAs, including at the regional level, to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way, including the update of the Agency's guidance on the application of REMIT definitions according to Article 16(1) of REMIT, and coordination of NRAs' investigation activities on cross-border market abuse instances according to Article 16 of REMIT;
- 52) Cooperation with ESMA, competent national financial market authorities and other authorities according to Articles 1(3) and 16 of REMIT and with supervisory

authorities, international organisations and the administrations of third countries according to Article 19 of REMIT;

53) Contributions to potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts;

54) Annual report on the Agency activities under REMIT according to Article 7(3) of REMIT.

Activities to be performed on request

55) 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);

56) Opinions on preliminary decisions by NRAs on TSO certification when requested by the Commission;

57) Opinions and recommendations in the areas of its competence, upon request by Member States, NRAs, the European Parliament, the Council and the European Commission.

Activities to be performed on the Agency's own initiative

58) 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.