

# **Explanatory Document for**

## **Network Code on Gas Balancing**

### **of Transmission Networks**

This document constitutes the Explanatory Document (hereafter the 'Explanatory Document') which accompanies the Network Code on Gas Balancing of Transmission Networks developed by ENTSOG (BAL500-13, hereafter the 'Network Code').

The Network Code was developed following the invitation letter of the European Commission (hereafter the 'EC') to draft a network code on Gas Balancing in Transmission Systems which was received by ENTSOG on 4 November 2011. The development of such a code is based upon the Framework Guidelines on Gas Balancing in Transmission Systems published by ACER on 18 October 2011<sup>1</sup> (hereafter the 'FG'). The Network Code was submitted to ACER for its reasoned opinion on 26 October 2012 pursuant to Article 6(6) of Regulation (EC) No 715/2009<sup>2</sup> (hereafter the 'Regulation').

Following the Opinion of ACER No 01-2013 of 25 January 2013 on the Network Code on Gas Balancing of Transmission Networks (hereafter the 'Reasoned Opinion'), ENTSOG has chosen to re-submit to ACER pursuant to Article 6(8) of the Regulation an amended Network Code which takes account of much of the feedback received from ACER and the EC during the three-month period of ACER review conducted pursuant to Article 6(7) of the Regulation. The relevant changes constitute the adjustments delivered in cooperation with ACER at the working level as well as the further amendments made to reflect the matters of concern raised by the EC. The rationale for these changes is explained in this Explanatory Document.

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<sup>1</sup> FGB-2011-G-002.

<sup>2</sup> OJ L 211, 14.8.2009, p. 36.

This Explanatory Document contains the following sections:

- I. Changes made in response to the Reasoned Opinion;
- II. Changes made in response to the EC feedback on the Network Code and changes triggered by the EC feedback on the Network Code on Capacity Allocation Mechanisms (hereafter the 'CAM Network Code') ahead of the CAM comitology procedure;
- III. Changes identified in the correlation table between the version of the Network Code submitted to ACER on 26 October 2012 and the proposed version to be re-submitted to ACER showing the differences in the numbering of Articles.

This Explanatory Document shall not be construed as part of the Network Code and is only published for information purposes without any commitment whatsoever from ENTSOG as to the final content of the Network Code.

The final content of Network Code shall be subject to the outcome of the comitology procedure according to Article 5a(1) to (4) and Article 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the European Commission as amended by Council Decision 2006/512/EC of 17 July 2006, as foreseen in Article 28(2) of Regulation (EC) No 715/2009.

## I. Changes made in response to the Reasoned Opinion

### 1. Partial acceptance of (re)nominations (Art. 23 / 24)

ENTSOG notes that the final scope of the Network Code goes beyond the original FG. The ACER letter of 2 February 2012<sup>1</sup> significantly extended the scope from identifying criteria for harmonisation to providing rules for (re-)nominations. This issue, raised in the Reasoned Opinion, actually arises from detailed issues about capacity definition that could not reasonably be expected to be addressed within the limited period available for the network code development. However, ENTSOG recognises the value of having both completeness and coherence in the balancing rules and therefore proposes to address the issue raised by ACER.

The revisions enable a consultation about the change of the existing terms and conditions for rejection/amendment of (re-)nominations at an interconnection point (hereafter the 'IP') can be requested by the transmission system operator (hereafter the 'TSO') concerned by these rules or its own national regulatory authority (hereafter the 'NRA'). Once the consultation process handled by the TSO regarding the proposed amendments ends, the final proposal shall be sent to its NRA for approval. In case two similar procedures are handled at the same IP involving two (or more) TSOs and two NRAs, both NRAs will cooperate with each other for cross-border issues pursuant to Article 41(1)(c) of Directive 2009/73/EC concerning common rules for the internal market in natural gas<sup>2</sup> (hereafter the 'Directive') and 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<sup>3</sup> (hereafter the 'Agency Regulation').

Also, it should be noted that ENTSOG considers it essential to make a distinction between rejection of (re-)nominations referred to in Article 23(1) to (3)<sup>4</sup> and the partial acceptance thereof referred to in Article 23(4) and the suggested Article 23(5). Throughout the process of the Network Code development ENTSOG has maintained that any right to partial acceptance of (re-)nominations should be limited. At no point has ENTSOG sought additional rights for TSOs over those that already exist within the applicable national rules or via current transportation agreements and therefore has reflected this in the text. To seek to address ACER concerns in the ACER letter of 2 October 2012<sup>5</sup> letter from Alberto Potoschnig ENTSOG made it explicit in Article 23(4) that *'The TSO may amend the gas quantity requested under a nomination (respectively re-nomination) in accordance with National Rules or legally binding agreements between the TSO and Network User.'*

Also, to avoid the potential risk of confusion, ENTSOG deems it of use to clarify that these rules should only apply to firm capacity. Interruptible capacity is interrupted for reasons other than exceptional events or emergency situations.

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<sup>1</sup> E-mail message from the co-chairperson of ACER's Gas Balancing project team to ENTSOG.

<sup>2</sup> OJ L 211, 14.8.2009, p. 94.

<sup>3</sup> OJ L 211, 14.8.2009, p. 1.

<sup>4</sup> Please see the correlation table in Section IV of this Explanatory Document.

<sup>5</sup> ACER/AP/ER/ss/2012/957.

### Changes to the Network Code

Changes to Article 23(4) and adding new (5):

*Article ~~23~~20.*

*Rejection of nominations (respectively re-nominations) or amendment of the requested gas quantity at ~~the~~ interconnection ~~points~~*

4. Without prejudice to the specific terms and conditions applicable to interruptible capacity, the terms and conditions (be they part of the applicable national rules or legally binding agreements between the transmission system operator and shipper) according to which ~~the TSO~~ transmission system operator may amend the gas quantity requested under a nomination (respectively re-nomination) ~~in accordance with National Rules or legally binding agreements between the TSO and Network User~~ shall principally only be admissible in exceptional events or in emergency situations when there is an evident danger to system security and stability.
- 4.5. If the transmission system operator or relevant national regulatory authority considers that the terms and conditions (including, where applicable, compensation arrangements) are to be amended so that they reflect the requirement set out in Article 20(4) then the transmission system operator shall consult or shall be requested to consult stakeholders on such amendments and submit a proposal to the relevant national regulatory authority for approval.

## **2. Principles of neutrality mechanism: Efficiently incurred costs (Art. 35)**

Given the TSO's essential role to facilitate the short term gas wholesale market, it is necessary that the TSO's financial exposure is appropriate. Therefore, the concept of neutrality, as reflected in the FG, requires that there are some limitations to the TSO's exposures. The cashflows that arise in neutrality are not simply costs incurred in running a transmission network business but are rather the result of the complex interactions inherent within the balancing regime. It is therefore important that the potential cashflows to be included in neutrality are defined and those that can justifiably be the subject of NRA's discretion and potential partial disallowance should be identified. Furthermore, it is important that the NRA scrutiny reflects the current arrangements.

Extensive discussion between ACER and ENTSOG has led ENTSOG to propose the text specified below which addresses the following points raised by ACER:

1. Amendment to be made to reflect that disallowance of costs and revenues would be a responsibility of the NRA (to address concern that the responsibility would arise elsewhere, specifically with an expert).
2. Amendment to address that NRAs' current rights to disallow costs are not limited by the Network Code so that it is clear that the proposed text is without prejudice to NRAs' rights.
3. Prescriptive nature of balancing action decision making: the automatic deeming of costs and revenues to be efficiently incurred should be removed. However, ACER recognise that TSOs would still require some safeguards, so any potential disallowance of costs and revenues shall be limited to the component of costs and revenues that arises as a result of TSO's discretion (if any).
4. Where incentives apply, there shall be no double exposure arising but NRAs should be able to consider potential cost elements that might be viewed to be outwith the scope of the incentive.

### Changes to the Network Code

Changes to Article 35(2) and (3):

~~Article 35-31.~~  
*Principles of neutrality mechanism*

2. Therefore, the ~~TSO transmission system operator~~ shall pass to ~~Network Users~~ shippers:
  - (a) any costs ~~or and~~ revenues arising from ~~D~~aily imbalance ~~C~~harges, ~~and W~~ithin ~~D~~ay ~~C~~harges ~~and other charges related to its Balancing Activities;~~ and
  - (b) Efficiently Incurred Costs and Revenues any costs and revenues arising from the balancing actions undertaken by the transmission system operator pursuant to Article 10, unless the relevant national regulatory authority considers these costs and revenues as incurred inefficiently in accordance with the applicable national rules. This consideration shall be based upon an assessment which:
    - (1) shall demonstrate to what extent the transmission system operator could have reasonably mitigated the costs incurred when undertaking the balancing action; and
    - (2) shall be made with regard to the information, the time and the tools available to the transmission system operator at the moment it decided to undertake the balancing action.
  - ~~(b)~~(c) any other costs and revenues related to the balancing activities undertaken by the transmission system operator, unless the relevant national regulatory authority considers these costs and revenues as incurred inefficiently in accordance with the applicable national rules.
3. ~~Where National Rules prescribe the TSO's Balancing Actions or w~~here an incentives are implemented to promote efficient undertaking of ~~B~~alancing ~~A~~ctions is implemented, the aggregate financial loss shall be limited to the transmission system operator's inefficiently incurred costs and revenues. ~~then any such costs or revenues arising from such Balancing Actions shall be deemed to be Efficiently Incurred Costs and Revenues.~~

### 3. Other issues

#### a) Transitional measures for (re)nominations (Art. 25)

A two-year period to address IT delivery timescales given complexity and considerable interaction with operational systems and other European-wide network codes and Guidelines (the CAM Network Code, the CMP Guidelines and the Network Code on Interoperability and Data Exchange Rules) was a concern raised within ENTOSG. Many respondents to the formal consultation indicated that shippers would need time to adjust their systems to manage a continuous re-nomination regime. It has been, however, finally decided within ENTOSG to remove this transitional step in order to get to a timely finalisation of the Network Code and to secure an earlier implementation of a continuous within day (re-)nomination facility.

However, ENTOSG ask that ACER and NRAs acknowledge and duly consider that moves towards a continuous re-nomination regime will trigger substantial changes for both TSOs and shippers. As a consequence, due consideration needs to be given by NRAs with regard to whether the full two years to implement the Balancing Target Model should be allowed for those TSOs that have very limited or no within day (re-)nomination processes at present or would be required to implement a significantly different process than currently used.

Additionally, for those TSOs that will develop roadmaps for the implementation of interim measures ENTSOG notes that there may be merit for both TSOs and NRAs to consider approaches with regard to (re-)nomination rules in accordance with Article 47(4).

### **Changes to the Network Code**

Deletion of Article 25 and Article 46(3):

*Article 25-*

*Transitional measures for nominations (respectively re-nominations)*

- ~~1.— A TSO may propose transitional measures for nominations (respectively re-nominations) at Interconnection Points for a period not exceeding two (2) years as from the entry into force of this Network Code, to implement the rules set forth in Article 18 to 24. Any such transitional measures shall be subject to the prior approval by the competent national regulatory authority and the approval process for these measures shall be in accordance with the National Rules. For the avoidance of doubt, these transitional measures are not interim measures as described in Chapter XI.~~
- ~~2.— With respect to each Gas Day D, these measures shall provide the Network Users with:
 
  - ~~(a) the right to submit nominations on Gas Day D-1; and~~
  - ~~(b) at least one (1) Re-nomination Cycle on Gas Day D-1 and at least one (1) Re-nomination Cycle on Gas Day D.~~~~
- ~~3.— These measures shall be published by the TSO concerned within a reasonable period of time following the approval referred to in Article 25(1).~~

*Article 46-48.  
Implementation*

- ~~3. Notwithstanding Article 46(1), TSOs may apply transitional measures referred to in Article 25 for nominations (respectively re-nominations) at Interconnection Points as approved by the competent national regulatory authority.~~

### **b) Information provision on within-day obligations (Art. 32)**

ENTSOG notes that the introduction of within day obligations (hereafter the 'WDO') or the continuance of those already in existence will require TSOs to submit proposals in line with Article 35(2). The NRAs are then required to assess the proposals and provide a motivated decision with respect to its decision.

Although ENTSOG is of the view that the concerns identified by ACER in the Reasoned Opinion are all adequately covered by the provisions of the Network Code submitted on 26 October 2012 (namely via the process of obtaining NRA's approval of a TSO's proposal regarding the WDO), ENTSOG notes the feedback received from the stakeholders and ACER on certain points, specifically the preference for information on WDOs being provided '*before a potential within day charge is applied*' rather than '*in a timely manner*'.

Thus, firstly ENTSOG notes that more explicit text about the provision of information will define a stronger threshold for NRA tests of appropriateness of WDOs. Secondly ENTSOG notes that TSOs should not stop providing information in absence of multiple applications from the shippers for information that is necessary to assist them to manage exposures arising from WDOs.

ACER's last point is that shippers already in receipt of information from other sources should be able to decline receiving the same information from the TSO. ENTSOG considers that this issue should be considered in the development of WDO proposals, and in particular in the necessary stakeholder consultations. ENTSOG does not believe that extensive and prescriptive rules in the Network Code would be helpful here as it may unduly limit the definition of requirements. In a WDO regime including extensive and varied information flows, it is unlikely to be cost efficient for shippers to be able to choose particular data items at particular periodic intervals. Addressing this concern of ACER might have adverse and unintended consequences, in particular incurring high costs from unwarranted sophistication of IT-systems. Effectively, the TSO would have to respond to any shipper's request via a customised IT-system.

It needs to be highlighted that all the criteria specified in Article 32(2) are to be used by the NRA as 'tests' and it is the NRA's task to check each TSO's proposal against the set of criteria, in particular whether information being provided has an adequate scope and does not result in any negative implications and undermine TSO's obligation to operate the transmission network in an economic and efficient way. Also, the portion '*are provided with*' is open to interpretation since it may refer either to the TSO or to other entity as the source of provision to the shippers. All in all, each proposal needs to be assessed by the NRA on a case-by-case basis in the context of all the criteria enlisted in Article 32(2). Hence, ENTSOG does not see the necessity of adding new text in the rules regarding WDO approval.

#### **Changes to the Network Code**

New Article 31(4) and changes to Article 32(2)(b):

*Article ~~31-27~~  
General provisions*

4. Where the transmission system operator is required to provide information to shippers to enable them to manage their exposures, it shall be provided to them regularly. Where applicable, this information shall be provided based upon a request submitted by each shipper once.

*Article ~~32-28~~  
~~TSO~~Transmission system operator's ~~W~~within ~~D~~day ~~O~~bligations requirements and procedure of approval*

2. Any ~~W~~within ~~D~~day ~~O~~bligation shall meet the following criteria:
  - (b) a ~~W~~within ~~D~~day ~~O~~bligation shall only be applied where the ~~Network Users-shippers~~ are provided with adequate information in a timely manner before a potential within day charge is applied regarding their ~~i~~inputs and/or ~~O~~ff-takes and have reasonable means to respond to manage their exposure;

#### **c) Definitions related to 'paper traders' (Annex 1(45))**

It should be noted that ENTSOG did not have the intention to exclude paper traders (i.e. non-physical players) from trading gas and where appropriate submitting trade notifications to the balancing settlement system. ENTSOG's understanding is that any bi-lateral OTC trades or transactions on anything other than the balancing and/or trading platforms would be underpinned by contractual terms and conditions so that (unless they are financially settled entirely outside of the TSO's trading system including addressing any non-zero trading position ('open' position) then the resultant notifications (or their aggregate effect in a settlement between parties) will be delivered to the settlement party (TSO or its agent). Therefore, those that might submit such notifications must have a contract with the TSO (or

its agent) to duly face, for example, any resulting imbalance exposure within the TSO's gas balancing settlement system.

In its discussion with ENTSOG and ACER, EFET indicated its specific concern that if a network user does not wish to book capacity and only wishes to trade at the virtual trading point, it will want to be subject to the rules of the Network Code, for example doing OTC trades, having an imbalance during the gas day, etc. Although it was admitted that the definition of a shipper does ensure that anyone *'holding with a transmission system operator a legally binding agreement defining the respective rights and obligations related to at least balancing'* will be party to the balancing regime, EFET suggested providing for the explicit obligation on the TSO to offer a legally binding contract for balancing to paper traders.

Having noted ACER's concerns, ENTSOG prefers to retain the original definition of *'portfolio'* since the portfolio is effectively a grouping of points associated with entry and exit points at the periphery of the balancing zone and the virtual trading point (by virtue of the trade notification and allocation rules). The various elements of the portfolio are then subject to the relevant rules (e.g. for nominations, information provision, allocation, imbalance calculation based upon the difference between inputs and off-takes).

ENTSOG notes that there is a tension between the definition of a *'network user'* in the Regulation (which makes reference to a potential customer of the TSO) and that used in the Network Code (which assumes that the network user has a legally binding agreement with the TSO). Thus, ENTSOG recognises the necessity to amend reference to a *'network user'* to *'shipper'* in the Network Code in order to avoid any problems arising from different definitions of a *'network user'* in the Regulation and in the Network Code.

#### **Changes to the Network Code**

No change to the definition of *'portfolio'* and new Article 7(3):

*Article ~~7.4~~  
General principle*

3. Under this Regulation, any network user shall have the right to gain access to the transmission network, pursuant to the provisions of Directive 2009/73/EC and Regulation (EC) No 715/2009, subject to the terms and conditions of:

- (a) a transport contract; or
- (b) a legally binding agreement which enables this network user to submit trade notifications in accordance with Article 5.

#### **d) Minimum information provision in (re)nominations (Art. 19)**

ENTSOG support the principle and intent expressed in the Reasoned Opinion. However, it is clear that precise implementation rules for bundled and unbundled will be necessary when the CAM Network Code is implemented. These detailed procedures may affect congestion management procedures, capacity allocation mechanisms and balancing rules. Indeed many of the detailed rules associated with the necessary processes will be defined via implementation: given the complexity of the interactions, it would not have been possible to achieve such detail in the Guidelines or network codes.

Article 18(3) addresses the issue of how nomination rules should be implemented to take account of both situations where bundled and unbundled capacity might be used by shippers. The clause contains

the expression '*mutatis mutandis*' which stands for '*with necessary changes*' and does confer the idea that the rules specified in the Chapter on nominations for unbundled capacity products do apply, subject to the necessary changes having been made, to bundled capacity products. To improve clarity of the current text, ENTSOG proposes to amend this clause. However, taking account of this Article 18(3), ENTSOG does not deem necessary to include an explicit reference to 'destination' identification in Article 19. This explicit addition might describe another very specific, but unnecessary, requirement that might have significant IT-system implications, and therefore costs, to deliver the intent and objectives of bundled capacity.

#### **Changes to the Network Code**

No change to Article 19(1)(d) and changes to Article 18(3):

*Article ~~18-15~~*  
*General provisions*

3. Provisions of Article ~~1916~~ to ~~2219~~ regarding ~~the timings and deadlines shall apply to single~~ nominations (respectively re-nominations) for unbundled capacity products shall apply to single, as well as the nominations (respectively re-nominations) for ~~un~~bundled capacity products, *mutatis mutandis*. [...]

#### **e) NRA decision making (Art. 33)**

Although ENTSOG has taken on board the changes per ACER request, the following explanations of the original wording in the Network Code should be noted.

The original wording of Article 33(4) to (6) aimed to describe for legal certainty a consistent process involving the resort of ACER as foreseen in the FG and potential request to an NRA to amend its decision in the process set forth under the Network Code. The deletion of Article 33(6) may create a doubt regarding, firstly, the link between the procedures (WDO approval and ACER review) and secondly, the consequences for the TSO. However, ENTSOG would expect the competent NRA to inform and support the TSO for any potential impact.

#### **Changes to the Network Code**

Changes to Article 33(4), (5) and deletion of Article 33(6)

*Article ~~33-29~~*  
*National regulatory authority decision making*

4. Where ~~during the process of approval~~ the national regulatory authority of an adjacent Balancing Zone has a concern that the Within Day Obligation proposed by the TSO transmission system operator may adversely impact on cross-border trade, it may seek an opinion or a recommendation from ACER the Agency, based on the provisions of the Agency Regulation (EC) No 713/2009.
5. ~~Where Article 33(4) applies, ACER~~ The Agency shall monitor the balancing provisions, including Within Day Obligations, and may request the competent national regulatory authority to review any obligation it approved that does not comply with the criteria referred to in Article ~~3228~~(2).
6. ~~The competent national regulatory authority shall notify the TSO concerned as soon as reasonably possible of such request and potential consequences incurred on the proposal, in particular should the Within-Day Obligation affected by ACER's request be already implemented by the TSO.~~

**f) Balancing neutrality cash flows: Level of detail of neutrality provisions (Art. 36)**

ENTSOG remains of the view that the implementation of separate neutrality pots where variant 2 applies is a justified position given:

1. Whilst variant 2 is legitimised in the FG, it is not entirely consistent with some of the fundamental objectives of the Network Code (to minimise the TSO role, to place greater responsibilities on shippers for their own balancing, to create an environment for gas flexibility exchange in a (genuine two-sided) market and therefore a measure is necessary to avoid cross-subsidies proliferating in an unjustified manner if variant 2 is rolled-out in other countries).
2. The ACER reference to balancing neutrality charge being based on forecasted costs and revenues is not relevant in the context of a split neutrality pot. It is clear that variant 2 is essentially about balancing against a day ahead forecast of actual demand and that therefore the TSO will incur costs associated with managing this difference. Unless there is some attempt to attribute this cost to those that benefit from the arrangement then cross-subsidies will be created. A fundamental objective of the Network Code is to avoid cross-subsidies and this seems to be missed in the debate about this issue.
3. Given that the variant 2 option is legitimised in the FG and ACER positions have confirmed that it must be included in the Network Code, then it is essential that reasonable means are introduced into the Network Code to avoid further distortions arising from the application of variant 2.
4. The different neutrality pot mechanism is easily deliverable with very simple and cheap to implement IT solutions capable of providing at least some improved cost attribution: highly sophisticated cost-attribution approaches should only be implemented where benefits exceeding costs are demonstrated. NRAs have a power of approval over the methodology for balancing neutrality charges and so they are expected to establish the cost effectiveness of the level of cost attribution to be applied.

**Changes to the Network Code**

No changes to the Network Code.

## II. Changes made in response to the EC feedback on the Network Code and changes triggered by the EC feedback on the CAM Network Code

Further changes which have been made to the Network Code after its submission to ACER on 26 October 2012 can be split into the following categories: those made to align the drafting with the drafting proposal of the EC for the CAM Network Code submitted for the comitology procedure; those made to the definitions to deliver consistency with the definitions under the Third Energy Package; those made to improve the clarity of the original wording; and those which result in a change of effect.

### 1. Drafting

- Articles 1 to 6 have been adjusted to reflect a similar approach as taken by the EC for the CAM Network Code submitted for the comitology procedure and to be consistent with its drafting proposal:
  - Article 1, new Article 2 and Article 6: to address the EC concern regarding the scope of the Network Code, the drafting has been adjusted accordingly;
  - New Article 2 and recitals: to address the EC concern regarding the absence of necessity to state the issues that are out of the scope of the Network Code, the drafting has been adjusted accordingly;
  - Article 3 on principles: has been deleted since the principles are covered in Article 21 of the Regulation;
  - Article 4 on confidentiality: has been redrafted and moved into the recitals as it has been deemed necessary to protect the concerned parties on any confidentiality issues beyond the Third Energy Package which only considers the confidentiality of commercially sensitive information;
  - Article 5 on relationship with European and national law: has been substituted with a recital drafted in line with the drafting proposal of the EC for the CAM Network Code.
- The additional recitals have been drafted in line with the drafting proposal of the EC for the CAM Network Code.
- The following portions have been deleted since they have been considered as redundant:
  - Article 15(2): since the content is covered by Article 15 itself;
  - In Article 23(1)(i)(b) the portion '*or a party not entitled to act as or on behalf of a Network User*': since such third party acts on behalf of the shipper under a binding agreement which is to cover a potential assignment of the right to act on behalf;
  - Articles 27(4) and 36(7) referring to right of NRA to fix methodology: since this right is granted via the transposition of the Directive into the national law;
  - Article 39(8) on any further level of detail, breakdown and granularity of the information: since it states what is outside of the scope of the Network Code.

- Article 46(1) has been merged with Article 46(2) and amended in line with the drafting proposal of the EC for the CAM Network Code to ensure the alignment with the FG (the original '*after the expiration of*' has been substituted with '*within*').
- Article 50 has been amended in line with the drafting proposal of the EC for the CAM Network Code.
- The definition of '*National Rules*' has been deleted and the reference to it has been replaced with non capitalised '*the applicable national rules*' where relevant for legal certainty.
- All the instances of the expression '*for the avoidance of doubt*' have been removed from the Network Code since such formulation has been considered as superfluous by the EC.
- Formatting changes: the numbering format has been aligned with the drafting proposal of the EC for the CAM Network Code, the defined terms have been decapitalised and the long Articles (40, 43, 49) have been split into a few separate ones.

## 2. Definitions

- Definitions have been moved from Annex to Chapter I in line with the drafting proposal of the EC for the CAM Network Code.
- The definition of a '*Network User*' has been replaced with '*shipper*' where relevant in the Network Code in order to avoid confusion with the term '*network user*' defined in the Regulation. The definition from the Regulation includes '*potential*' customer of a TSO which is not always appropriate, therefore by introducing the term '*shipper*' the Network Code provides for a clarification between a potential and an actual customer.
- A few definitions have been deleted where no longer used or since they can be read in conjunction with other existing definitions under the Third Energy Package:
  - '*Distribution System*', '*DSO*' and '*TSO*': the terms '*distribution*', '*system*', '*distribution system operator*' and '*transmission system operator*' are defined in the Directive;
  - '*ACER*' (substituted with '*the Agency*'), '*Agency Regulation*' (substituted with '*Regulation (EC) No 713/2009*'), '*Directive*' (substituted with '*Directive 2009/73/EC*'), '*Network Code*' (substituted with '*the Regulation*'), '*Regulation*' (substituted with '*Regulation (EC) No 715/2009*'): as per the CAM Network Code;
  - '*Framework Guidelines*', '*Comitology Procedure*': not used in the text of the Network Code;
  - '*Daily Imbalance Charge Methodology*': not needed as a definition.
- A few definitions have been amended either at the explicit request of the EC or as a result of the EC request regarding some other portion of the Network Code:
  - '*Balancing Action*': the portion '*with the aim to keep it within its operational limits*' has been deleted since it is already covered in Article 12 of the Network Code;
  - '*Balancing Zone*': the portion '*which may consist of more than one system, as defined in Article 2(13) of the Directive*' has been replaced with '*or combination thereof*'.

- A few definitions, in full or in part, have been moved either in the Articles of the Network Code or in the section on definitions for better readability:
  - *'Base Case'*, *'Variant 1'* and *'Variant 2'* have been moved into the Article on definitions;
  - *'Default Nomination Rule'* has been moved into the Article on nomination procedure at IPs;
  - *'Efficiently Incurred Costs and Revenues'* has been deleted as definition and the content part has been redrafted to address ACER issue regarding the principles of neutrality mechanism;
  - *'Marginal Buy Price'* and *'Marginal Sell Price'*: the definitions have been deleted; the second sentence from these two definitions and from that of a *'Weighted Average Price'* (*'The related trades shall be made on Trading Platforms pre-identified by TSOs and approved by national regulatory authorities'*) has been moved into the Article on the applicable price; the first occurrence of these terms in the Network Code contains the relevant cross-reference.

### 3. Clarity issues

- Article 14(8): the portion *'pursuant to the applicable contractual arrangement in force'* has been added in order to clarify that the Network Code does not foster additional rights of TSOs.
- Article 41(1)(c): *'this'* has been substituted with *'an initial'* to avoid confusion.
- Article 48(1): has been redrafted to ensure that it is always *'appropriate'* to update roadmap and that it is only parts of the roadmap that it may be appropriate not to update.
- Article 48(6): *'if'* has been added before *'requested by the NRA concerned'* in order to make it clear that this is relevant for the NRA.

### 4. Change in effect

- Article 46(3): NRA's mandate to request an opinion from ACER has been changed from *'shall'* to *'may'*. Note that the proposed change is consistent with the Agency Regulation but is not in line with the FG.
- Article 10(9): to address the EC concern regarding the fact that a joint decision of NRAs is not foreseen as such under the Third Energy Package, the reference to *'joint'* decision has been substituted with *'coordinated and consistent'* decision consistently with the Directive and the Agency Regulation.

### III. Correlation table

Version submitted to ACER on 26 October 2012	Version re-submitted to ACER on 21 February 2013
–	Recital (1)
First page, para 6	Recital (2)
Article 5	Recital (3)
Article 1(5)	Recital (4)
Article 4	Recital (5)
Article 1(6)	Recital (6)
–	Recital (7)
Article 1	Article 1
Article 1(1) and (2)	Article 1(1)
Article 6(1)	Article 1(2)
Article 1(1), (3) and (4)	Article 2
Article 1(1)	Article 2(1)
Article 1(3) and (4)	Article 2(2)
Article 2	Article 3
Annex I	Article 3(1)
Article 39(4)	Article 3(1)(8), (43), (44)
Article 2(2)	Article 3(2)
Article 7	Article 4
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