

**RECOMMENDATION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 01/2014**

of 15 January 2014

**ON THE NETWORK CODE ON INTEROPERABILITY AND DATA
EXCHANGE RULES**

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 (hereinafter referred to as the 'Agency'), and, in particular, Articles 6(4) and 17(3) thereof;

HAVING REGARD to 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 1775/2005², and, in particular, Article 6(9) thereof;

HAVING REGARD to the favourable opinion of the Board of Regulators of 15 January 2014, delivered pursuant to Article 15(1) of Regulation (EC) No 713/2009,

WHEREAS:

- 1) After having received the European Commission's invitation on 31 January 2012, the Agency started its formal process for developing the Framework Guidelines on Interoperability and Data Exchange Rules for European Gas Transmission Networks (the 'Framework Guidelines'), that were adopted by the Agency on 26 July 2012³.
- 2) On 11 September 2012, the European Commission, in consideration of the Framework Guidelines' contribution to non-discrimination, effective competition and the efficient functioning of the gas market, invited the European Network of Transmission System Operators for Gas (ENTSOG) to establish a Network Code on Interoperability and Data Exchange Rules for European Gas Transmission Networks (the 'Network Code') within 12 months.
- 3) In drafting the Network Code, ENTSOG has endeavoured to extensively involve stakeholders in a transparent process by organising several "Stakeholders Joint Working Sessions" (SJWS), workshops, and public consultations.

¹ OJ L 211, 14.8.2009, p.1

² OJ L 211, 14.8.2009, p.36

³ Decision No 02/2012 of the Agency for the Cooperation of Energy Regulators of 26 July 2012 adopting the Framework Guidelines on Interoperability and Data Exchange Rules for European Gas Transmission Networks

- 4) Throughout the whole process, ENTSOG has closely cooperated with the Agency. ENTSOG published a draft Network Code for public consultation on 27 February 2013. To assist ENTSOG in the finalisation of the Network Code, the Agency has evaluated the draft Network Code's compliance with the Framework Guidelines and informally submitted its detailed preliminary views to ENTSOG on 17 June 2013.
- 5) After having consulted a refined draft Network Code in a stakeholder support process in July 2013, on 10 September 2013 ENTSOG officially submitted to the Agency and to the European Commission the Network Code, in which most of the Agency's concerns expressed in the preliminary views of 17 June 2013 were addressed.
- 6) The Agency assessed and evaluated the Network Code regarding the degree of compliance with the Framework Guidelines and the fulfilment of the objectives as set out in Chapter 1. c. of the Framework Guidelines. These include the promotion of consistently harmonised technical, operational and communication rules for the operation of transmission systems in order to encourage and facilitate efficient gas trading and transport across gas transmission systems within the EU. The Framework Guidelines' objectives also refer to the overall objectives of the internal energy market, including security of supply, the achievement of greater internal market integration and delivering benefits to consumers.
- 7) In its Reasoned Opinion of 21 November 2013 addressed to ENTSOG (the 'Reasoned Opinion'), the Agency acknowledged a generally high level of conformity of the Network Code with the Framework Guidelines and a commendable stakeholder engagement process. The Agency also listed some deviations of the Network Code from the Framework Guidelines, which had been justified by ENTSOG and supported by stakeholders.
- 8) In addition, some structural and textual refinements as well as a few adaptations and clarifications were proposed in the Reasoned Opinion, in order to achieve legal consistency and to bring the Network Code further in line with the provisions and objectives of the Framework Guidelines, Regulation (EC) No 715/2009 and its annexes, as well as other network codes. Seven content related recommendations were provided, among others relating to a set of amendments on Interconnection Agreements, the scope and formats of Data Exchange, as well as the alignment of the TSO's cost recovery provisions.
- 9) ENTSOG officially submitted an amended Network Code on Interoperability and Data Exchange Rules for European Gas Transmission Networks (the 'amended Network Code') to the Agency on 18 December 2013.
- 10) The Agency concluded that the amended Network Code satisfactorily reflects most of the amendments proposed in the Reasoned Opinion and includes the revisions related to the legal drafting and further clarifications requested by the European Commission. In sum, the amended Network Code conforms to the Framework Guidelines and contributes to the respective objectives,

HEREBY RECOMMENDS:

The adoption of the amended Network Code by the European Commission.

The Agency invites the European Commission, when proposing the Network Code for adoption, to take the following considerations into account:

- 1) Article 20 on 'General provisions' (Chapter VI on 'Data Exchange'):
Although in recital 7 reference is made to the scope of data exchange solutions covering the gas transmission to and from interconnection points or virtual trading points, Article 20 (1) does not refer to virtual trading points. The latter could therefore be amended in the following way:
"In this Chapter the term 'counterparties' refers to network users active at interconnection points. This term equally refers to network users active at virtual trading points, who engage in transmission between such trading points."
- 2) Article 25 on 'Implementation' (Chapter VII on 'Final Provisions'):
Paragraph 2 on cost assessment and recovery is merely repeating the NRAs' tasks enshrined in the Third Package with reference to Article 41(6) of Directive 2009/73/EC, without providing any additional value, while emphasising a reference, which needs to be looked at in conjunction with other provisions. Therefore, this paragraph could be omitted.

This Recommendation is addressed to the European Commission.

The amended Network Code is attached to this Recommendation for information purposes.

Done at Ljubljana on 15 January 2014.

For the Agency:


Alberto Pototschnig
Director