



Outline of the 2014 Work Programme

This document presents an outline of the tasks that the Agency expects to perform in 2014. The content of this document, and any comment received on it, 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.

As always, the implementation of the Work Programme depends crucially on the continuous support of the NRAs through the Working Groups and on the Agency being assigned the human and financial resources on which the Work Programme is based. The performance of the activities proposed in this note is consistent with the preliminary draft budget for 2014 which was submitted by the Director to the Administrative Board and the Board of Regulators on 15 February 2013 and which served as the basis for the estimate of revenue and expenditure of the Agency for 2014 made by the Administrative Board, pursuant to Article 23(1) of Regulation (EC) No 713/2009. However, the subsidy to the Agency from the EU Budget and therefore the resources actually available to the Agency in 2014 will not be defined until the EU Budget is adopted by the Budgetary Authority. This will happen towards the end of 2013, and therefore after the Work Programme is finally approved by the Board of Regulators (by 1 September) and adopted by the Administrative Board (by 31 September). Such adoption is in any case without prejudice to the annual budgetary procedure. Therefore, it is only once the EU Budget is adopted and the resources available to the Agency finally defined that the Agency will be in a position to assess the feasibility of its Work Programme. At that stage, a revision of the content of the Work Programme may be proposed.

Legal basis

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

The tasks, organisation and operation of the Agency for the Cooperation of Energy Regulators (ACER) are set out in Regulation (EC) No 713/2009 (the "Agency Regulation")¹, as well as in the other legal acts forming the Third Legislative Package on the Liberalisation of the Energy Markets².

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

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;
- Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT)⁴; and
- Regulation on guidelines for trans-European energy infrastructure (TEN-E Regulation)⁵.

The Agency plays a key role in promoting the integration and 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 in areas laid down in the legislation;
- 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.);
- participates in the process for the identification of infrastructure Projects of Common Interest, by providing opinion on several methodological and procedural aspects;
- 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
- monitors 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.

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 Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.04.13, p.39).

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 provides 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 deliverables⁶:

Electricity:

- 1) Recommendation on the Network Code on forward capacity allocation;
- 2) Reasoned opinion and Recommendation on the Network Code on electricity balancing;
- 3) Reasoned opinion and Recommendation on the Network Code on HVDC connections;
- 4) Reasoned opinion and Recommendation on the Network Code on operational procedures in emergency;
- 5) Advice and support on Network Codes during the comitology process, as appropriate;
- 6) Preparation for and monitoring of the implementation of the adopted Network Codes.

Gas:

- 7) Reasoned opinion and Recommendation on the Network Code on rules regarding harmonised transmission tariff structures;
- 8) Advice and support on Network Codes during the comitology process, as appropriate;

⁶ The list of deliverables presented in this section takes into account the Tentative Annual Priority Lists for 2014 presented in the Public Consultation Paper by the Commission on the Establishment of the annual priority lists for the development of network codes and guidelines for 2014 and beyond, published on 2 April 2013.

- 9) Preparation for and monitoring of the implementation of the adopted Network Codes;
- 10) Drafting amendments for the relevant network codes related to incremental capacity⁷;
- 11) Scoping of rules for trading related to technical and operational provisions of network access services and system balancing.

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 shall 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.

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

- 12) A market monitoring report covering retail prices in electricity and natural gas, wholesale market integration, access to networks (including electricity produced or gas sourced from renewable energy sources), and compliance with consumer rights.

Regional Initiatives - Cross-sectoral (electricity and gas)

Since its formal establishment in March 2011, the Agency has been coordinating 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 deliverables:

- 13) Coordination and monitoring of activities for the early implementation of Network Codes;
- 14) Regional Initiatives Annual Status Review Report, reviewing developments in the Electricity and Gas Regional Initiatives;
- 15) On-line quarterly reports on the activities of the Electricity Regional Initiative and the Gas Regional Initiative.

⁷ The legal instrument for the introduction of these rules will be defined at a later stage.

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, the implementation of TYNDPs and regional cooperation of TSOs.

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

Electricity:

- 16) Annual monitoring report on the implementation and management of the inter-TSO compensation fund;
- 17) Opinions on ENTSO-E's annual work programme and ENTSO-E's annual report;
- 18) Opinions on ENTSO-E's annual Summer and Winter supply outlooks;
- 19) Opinions on ENTSO-E's common network operation tools including a common incidents classification scale;
- 20) Opinion on ENTSO-E's research and development plan;
- 21) Opinion on the electricity Community-wide TYNDP;
- 22) Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators;
- 23) 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;
- 24) Opinion on ENTSO-E's draft Scenario Outlook & Adequacy Forecast.

Gas:

- 25) Opinions on ENTSG's annual work programme and ENTSG's annual report;
- 26) Opinions on ENTSG's common network operation tools including a common incidents classification scale and research plans;
- 27) Opinions on ENTSG's annual Summer and Winter supply outlooks;
- 28) Reviews and recommendations on national TYNDP regarding their (in)consistency with the Community-wide TYNDP;

- 29) Opinions on ENTSOG's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators;
- 30) Report on monitoring the implementation of the Community-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity.

The Agency will 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, using the deliverables (opinions and recommendations) listed above and other relevant Agency's acts, with additional comments where needed.

Guidelines for Trans-European Energy Infrastructure (activities in Regulation)

The TEN-E Regulation assigns new tasks to the Agency, mostly related to the process of identification of Projects of Common Interest (PCIs). Given the amount of deliverables envisaged in the TEN-E Regulation, a number of these may be consolidated into one document where appropriate. The Agency, where appropriate, may also consolidate some of the deliverables envisaged by the TEN-E Regulation and listed below with the deliverables related to TSO cooperation where these are complementary and thus could usefully be treated together.

Electricity and Gas:

- 31) Opinion on the (electricity and gas) methodologies and criteria for the cost-benefit analysis (CBA) of infrastructure projects;
- 32) Annual consolidated report on progress of projects of common interest and recommendations to facilitate the implementation and overcoming delays/difficulties in PCI implementation (if necessary);
- 33) Guidance on Cross-Border Cost Allocation methodology;
- 34) Sharing of good practices and recommendations on incentives on the basis of benchmarking of best practice by NRAs and common methodology to evaluate the incurred higher risks of investments in electricity and gas projects.

Wholesale Market Monitoring (REMIT)

In the REMIT area, the Agency expects to perform the following tasks in 2014:

- 35) Establishment and administration of a European register of market participants;
- 36) Further development and maintenance of IT solutions for market surveillance, data collection, and data sharing of wholesale energy markets;

- 37) Collection of trade, fundamental and other data, in connection with the REMIT implementing acts;
- 38) Establishment of appropriate mechanisms to access emission allowances data;
- 39) 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 in connection with the REMIT implementing acts;
- 40) Sharing of data with NRAs and other authorities and dissemination of information on the basis of transparent rules for such dissemination;
- 41) Ensuring operational reliability and professional secrecy concerning the information received by the Agency, 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;
- 42) Coordination of NRAs, including at the regional level, without prejudice to their responsibilities, aiming 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, and coordination of NRAs' investigation activities on cross-border market abuse instances;
- 43) Promotion of best practices for the implementation of REMIT;
- 44) Cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries;
- 45) 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;
- 46) Annual report on the Agency activities under REMIT according to Article 7(3) of REMIT.

Activities to be performed on request

In 2014 the Agency may be called to perform the following activities on request:

- 47) 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);

- 48) Decisions on investment requests including on cross-border cost allocation decisions and notifications to the Commission;
- 49) Opinions on preliminary decisions by NRAs on TSO certification when requested by the Commission;
- 50) 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

In 2014 the Agency may decide to issue:

- 51) 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.