

**RECOMMENDATION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 01/2013**

of 14 March 2013

**ON THE NETWORK CODE ON CAPACITY ALLOCATION AND
CONGESTION MANAGEMENT**

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, and, in particular, Articles 6(4) and 17(3) thereof;

HAVING REGARD to 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 1228/2003², and, in particular, Article 6(9) thereof;

HAVING REGARD to the favourable opinion of the Board of Regulators of 13 March 2013, delivered pursuant to Article 15(1) of Regulation (EC) No 713/2009,

WHEREAS:

- (1) On 27 September 2012, ENTSO-E submitted to the Agency the Network Code on Capacity Allocation and Congestion Management (the 'Network Code'), accompanied by a supporting document "Network Code on Capacity Allocation & Congestion Management (CACM), Explanatory Document" (the "supporting document").
- (2) On 12 December 2012 the Agency provided its opinion on the Network Code³ (the 'Opinion'). The Opinion, while acknowledging that the draft Network Code would help facilitate market integration as well as non-discrimination, effective competition and the efficient functioning of the market, concluded that in some specific areas the Network Code was not in line with the Framework Guidelines on Capacity Allocation and Congestion Management (CACM) for Electricity⁴ (the 'Framework Guidelines') of 29 July 2011. Those areas concerned entry into force, capacity calculation, redispatching and countertrading arrangements, regulatory approval procedures, assessment of bidding zones, intraday regional auctions, definition of common timetable for day-ahead market, compensation in case of force majeure and emergency situation, cost recovery,

¹ OJ L 211, 14.8.2009, p.1

² OJ L 211, 14.8.2009, p.15

³ Opinion on the Network Code on Capacity Allocation and Congestion Management, ACER Opinion No. 10/2012

⁴ FG-2011-E-002

objectives of the Network Code, as well as consultation and transparency. In the Opinion, the Agency invited ENTSO-E to address the specific concerns expressed in the Opinion and to resubmit an amended Network Code to the Agency.

- (3) In the Opinion, the Agency did not address the provisions of the Network Code, which are related to the governance of the day-ahead and intraday market coupling.
- (4) On 8 February 2013, ENTSO-E informed the Agency that, in the interest of delivering the Internal Energy Market as quickly as possible, it will not be using its right to resubmit the Network Code. While ENTSO-E acknowledged that in most areas addressed in the Opinion the Network Code might benefit from further refinements, it expressed concerns about the possible amendments in few other areas,

HEREBY RECOMMENDS:

The adoption of the Network Code by the European Commission after having:

1. introduced in the Network Code the amendments listed in the Annex to this Recommendation;
2. complemented the Network Code with the envisaged guidelines on the governance of day-ahead and intraday market coupling and reviewed accordingly the Network Code provisions that relate to the governance of day-ahead and intraday market coupling.

This Recommendation is addressed to the European Commission.

The Network Code and the supporting documents received from ENTSO-E are attached to this Recommendation for information purposes.

Done at Ljubljana on 14 March 2013.

For the Agency:


Alberto Pototschnig
Director