



Publishing date: 21/06/2016

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**OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 05/2016**

of 15 June 2016

**ON THE ENTSO-E MONITORING PLAN IN ACCORDANCE WITH ARTICLE
82(3) OF COMMISSION REGULATION (EU) 2015/1222 OF 24 JULY 2015
ESTABLISHING A GUIDELINE ON CAPACITY ALLOCATION AND
CONGESTION MANAGEMENT**

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management¹ ('CACM Guideline'), and, in particular, Article 82(3) thereof,

WHEREAS:

- (1) On 12 February 2016, the European Network of Transmission System Operators for Electricity ('ENTSO-E') submitted its plan for the monitoring of the implementation of the single day-ahead and intraday coupling in accordance with Article 82(3) of the CACM Guideline ('ENTSO-E Monitoring Plan') to the Agency for its opinion.
- (2) For its assessment of the ENTSO-E Monitoring Plan, the Agency has taken into account the scope and purpose of ENTSO-E's monitoring duties regarding network codes and guidelines under Regulation (EC) No 714/2009, as well as the matters that the monitoring plan must cover pursuant to Article 82(2) of the CACM Guideline,

HAS ADOPTED THIS OPINION:

The Agency commends ENTSO-E's assessment of its monitoring obligations, pursuant to Regulation (EC) No 714/2009 and the CACM Guideline, and the submission of the ENTSO-E Monitoring Plan to the Agency within the required deadline. The Agency acknowledges ENTSO-E's efforts to coordinate with the Agency on an informal basis before the official submission of the ENTSO-E Monitoring Plan and to address the Agency's concerns raised during this informal process.

Given that the deadline for the submission of the ENTSO-E Monitoring Plan is well in advance of the actual start of the monitoring activities, the Agency understands that the ENTSO-E Monitoring Plan aims to provide a high-level overview of the monitoring obligations and deliverables, whereas a detailed substantial monitoring plan may be developed in the near future when actual monitoring

¹ OJ L 197, 25.7.2015, p. 24.

activities start. For this reason, this Opinion focuses on general aspects related to the ENTSO-E Monitoring Plan and does not evaluate the appropriateness of the scope and action plans for the reports listed therein. In the Agency's view, such an evaluation will be appropriate when more clarity and detail on these reports are available.

At this stage the Agency expresses two general concerns with regard to the ENTSO-E Monitoring Plan.

The first concern is related to the assumption, in the ENTSO-E Monitoring Plan, that the deliverables listed in Article 82(2) of the CACM Guideline constitute the only monitoring reports to be submitted by ENTSO-E to the Agency pursuant to Article 8(8) of Regulation (EC) No 714/2009. The Agency disagrees with such a narrow interpretation and considers instead that the list of deliverables in Article 82(2) of the CACM Guideline is non-exhaustive and does not limit ENTSO-E's reporting obligations under its general monitoring duties pursuant to Article 8(8) of Regulation (EC) No 714/2009. The ENTSO-E Monitoring Plan should therefore encompass the monitoring of all significant provisions of the CACM Guideline with regard to its implementation, as well as to its effect on the harmonisation of applicable rules aimed at facilitating market integration. Examples of monitoring obligations which ENTSO-E has not considered within the ENTSO-E Monitoring Plan include the monitoring of:

- (a) whether the specific provisions of the CACM Guideline have been implemented;
- (b) the application of coordinated redispatching and countertrading, including cost sharing;
- (c) the application of congestion income distribution.

The second concern of the Agency is related to the fact that ENTSO-E and the Agency have similar monitoring obligations according to Regulation (EC) No 714/2009. For this reason, the Agency sees the need for closer coordination between the Agency and ENTSO-E during the definition of, *inter alia*, the process, timing, scope and data collection procedures for the monitoring of the implementation of the network codes and guidelines. The Agency is of the opinion that the ENTSO-E Monitoring Plan should include a description of the general monitoring process under which the relevant requirements in Regulation (EC) No 714/2009 are fulfilled, taking into account that some obligations may overlap with those of the Agency. In particular, the Agency suggests that any future updates of the ENTSO-E Monitoring Plan include a general description of the monitoring process, which should contain the following:

- (a) the timelines for scoping, data collection and drafting of the reports;
- (b) the timelines for interactions and coordination with the Agency;
- (c) the timelines for interactions with stakeholders during the scoping and evaluation of reports;
- (d) data collection procedures with participation of TSOs and third parties;
- (e) quality control procedures;
- (f) an operational and management structure to implement the monitoring plan; and
- (g) a definition of the responsibilities and arrangements for data collection and archiving.

Apart from the above-mentioned general concerns, the Agency broadly supports the proposed high-level overview of the reports in the ENTSO-E Monitoring Plan. This includes:

- (a) the proposed scoping of these reports, which the Agency considers as preliminary and which will need to be updated in coordination with the Agency in future version(s) of the ENTSO-E Monitoring Plan;
- (b) the proposed timelines for the first report and the periodicity of the subsequent reports; and
- (c) the proposed interactions with the Agency, stakeholders and third parties, which may also be subject to updates when the overall monitoring processes are further developed.

Finally, the Agency emphasises that the ENTSO-E Monitoring Plan does not exempt ENTSO-E from the obligation to provide the results of ENTSO-E's analysis in the annual report, in accordance with Article 8(8) of Regulation (EC) No 714/2009.

Given the above considerations, the Agency invites ENTSO-E to address the above concerns and revise the ENTSO-E Monitoring Plan within a timeline established in cooperation with the Agency, but no later than 1 July 2017. During this period, ENTSO-E is invited to coordinate closely with the Agency on several important aspects of the ENTSO-E Monitoring Plan in order to establish efficient monitoring procedures to fulfil all the monitoring requirements of the CACM Guideline. The Agency considers well established monitoring procedures as essential to fulfilling the objectives of the CACM Guideline and of Regulation (EC) No 714/2009.

Done at Ljubljana on 15 June 2016.

For the Agency:


Alberto Pototschnig
Director



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