GIE answer to the European Commission consultation on the "Establishment of the priority list for the development of network codes for 2012 and beyond"

Introduction

Article 6(1) of Regulation 715/2009/EC states that the European Commission has to establish an annual priority list identifying the areas to be included in the development of Network Codes. In setting the priorities, the European Commission has to consult the Agency for the Cooperation of Energy Regulators, the responsible European Network of Transmission System Operators and other relevant stakeholders.

GIE welcomes the opportunity to provide comments on the proposal of the European Commission for the priorities for the year 2012 and beyond – at least on the gas part thereof. This document provides general comments on the network code development process as well as the GIE answers to the questions of the consultation.

Who is GIE?

Gas Infrastructure Europe (GIE) is an association representing the sole interest of the infrastructure industry in the natural gas business such as Transmission System Operators, Storage System Operators and LNG Terminal Operators. GIE has currently 66 members in 26 European countries.

One of the objectives of GIE is to voice the views of its members vis-à-vis the European Commission, the regulators and other stakeholders. Its mission is to actively contribute to the construction of a single, sustainable and competitive gas market in Europe underpinned by a stable and predictable regulatory framework as well as by a sound investment climate.

General comments on the Network Code development process

The proposed timeline is ambitious and probably pushed forward to comply with the conclusions of the European Council on 4 February 2011 that set 2014 as a target for the completion of the internal market for electricity and gas. However the progress experienced since the start-up of the pilot process in 2009 shows that it will be challenging.[1] It is more important to deliver good quality Framework Guidelines and Network Codes that contribute effectively to the completion of the internal gas market.

The whole Framework Guidelines / Network Code process should be supported by a sound Target Model in line with the requirements of the Madrid Forum.[2] For GIE, the Target Model should be a vision and a tool unified into one; it should contain successive steps leading to the ultimate goal designed. It should facilitate a consistent design of Framework Guidelines and Network Codes and should not endanger the existing timeline of the whole process. The proposed measures should be underpinned by a serious cost/benefit analysis. It should also foster investments, because investments in cross-border capacity, LNG regasification and storage facilities are key for the good functioning of the internal gas market. Most importantly, a wide consensus amongst stakeholders for the Target Model will be key to its success.

There are currently two parallel development tracks regarding Capacity Allocation Mechanisms: the consultation recently launched by ACER on Framework Guidelines may impact the development of the corresponding Network Code by ENTSOG – as requested by the European Commission in January 2011 – in line with the Framework Guidelines of 7 December 2010.[3] This parallel track may impact the target date for delivering the Network Code if the new process launched by ACER leads to changes with respect to the original process lead by ERGEG.

Operators and investors of natural gas infrastructure need clarity on the scope of the Target Model and coherency between all European – and national – initiatives aiming at introducing new access rules. The current situation with several parallel initiatives is detrimental to operators and investors as it could possibly impact the present and future economic value of natural gas infrastructure, increasing thereby the risk of these activities.

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[1] The establishment of Framework Guidelines on Capacity Allocation Mechanisms lasted about 18 months instead of the 6 months foreseen in article 6(2) of Regulation 715/2009/EC.

[2] Point 4 of the conclusions of Madrid Forum XVIII states: "*The Forum invites the Commission and the regulators to explore, in close cooperation with system operators and other stakeholders, the interaction and interdependence of all relevant areas for network codes and to initiate a process establishing a gas market target model. The regulators are ready to chair this process and to present by end 2010 an outline on the definition and the scope of the model to be developed*".

Point 5 of the conclusions of Madrid Forum XIX states: "[…] *The Target Model would serve as a tool for streamlining the development of Commission guidelines as well as framework guidelines that are the foundations of the broader network codes. The Gas Target Model (i) should provide support for the guidelines and network code development work in view of reaching the 2014 target to complete the internal market and (ii) should also provide an outlook on the framework for the development of the EU gas market beyond that date.* […]"

[3] ERGEG, "Revised Pilot Framework Guideline on Capacity Allocation Mechanisms", ref. E10-GWG-71-03, 7 December 2010.

The European Commission envisages pursuing some network code development through comitology instead of the Framework Guidelines / Network Code process.[4] GIE is of the opinion that the Framework Guidelines / Network Code process should be followed for the Network Codes listed in Article 8(6) of Regulation 715/2009/EC, because this process is more likely to achieve a wide acceptance by stakeholders. The process proposed by ENTSOG for the establishment of Network Codes enjoys such wide acceptance: it is inclusive, open and transparent and could ensure a high degree of acceptability of the proposals. In any case, other legislative developments – i.e. the CMP proposal through comitology – should be consistent with the Target Model: there should not be overlapping scope and/or conflicting provisions with the Framework Guidelines / Network Codes.

Answers to the consultation questions

1. Are the priorities proposed for 2012 the correct ones ?

The Framework Guidelines / Network Codes currently under development – capacity allocation mechanisms, balancing, harmonised transmission tariff structures and interoperability – deal indeed with the most pressing issues to improve the functioning of the internal gas market. Therefore their completion should have the highest priority.

In addition, data exchange is also have a high priority because improved harmonisation of data exchange will facilitate network access and reduce transaction costs.

GIE is of the opinion that no other priority work should be introduced in 2012: the 4 current Framework Guidelines / Network Code processes will require a lot of resources from stakeholders and it is of utmost importance to deliver good quality documents on these key building blocks for the good functioning of the internal gas market. Therefore we would prefer that security and reliability rules, network connection rules, operational procedures in an emergency,[5] and energy efficiency regarding gas networks should be dealt with in next year's consultation.

The proposed timeline indicates a review of the Target Model in 2012. For GIE the Target Model should be a vision and a tool unified into one; it should contain successive steps leading to the ultimate goal designed. It should provide stability in the Framework Guidelines / Network Code development process. Therefore, if the first version will be finalised by late 2011, it should not be reviewed already in 2012.

2. What should be the longer-term priorities for 2013 and beyond? Please also specify in your response the expectations you have for the scope of these priorities.

See answer to question 1. GIE would prefer that security and reliability rules, network connection rules, operational procedures in an emergency, and energy efficiency regarding gas networks should be dealt with in next year's consultation and that the decision to include them in the priority list should be made taking into account of the status of the 4 network codes already under development.

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[4] Point 12 of the conclusions of Madrid Forum XIX regarding the Framework Guidelines on Tariffs: "*The Commission considers pursuing the work underway by ERGEG on harmonizing tarification structures in the context of Commission guidelines.* […]"
[5] This topic will also be handled in the Emergency Plans foreseen by the Gas Security of Supply Regulation 994/2010/EU. Overlapping and/or conflicting work should be avoided.

The remaining network codes listed in Article 8(6) of Regulation 715/2009/EC could be then discussed, depending on the already developed Framework Guidelines / Network Codes.

3. In the 3-year-plan for electricity, several network codes are proposed for a single framework guideline. In gas, only one network code per framework guideline is foreseen. The Electricity and Gas Regulations do not specify whether a framework guideline has to be mirrored by a single network code or whether the issue can be divided into several sub-issues. Do you agree that keeping both options, as used by ENTSO-E on the one hand and ENTSOG on the other hand, are viable? Do you agree with the order in which the sub-issues in electricity will be tackled under the framework guidelines for capacity allocation and congestion management, network connection and system operation? Do you agree that the sub-issues marked red in the 3-year-plan for electricity in Annex 1 are the essential ones to ensure completion of the single market by 2014?

Regarding Framework Guidelines and Network codes for natural gas – and without stating an opinion on the electricity process –, we believe that the development process is easier if the scope of the Network Code is consistent with the scope of the Framework Guidelines. However we would like to stress that the scope of each Network Code should be defined in such a way that there is no overlapping between Network Codes – i.e. the Network Code on CAM should not deal with tariff issues or data exchange issues; that will be dealt with in the relevant Network Codes.