



Reference paper for the NC Implementation and Monitoring Group¹

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¹ This is a common paper of the European Commission, ACER and ENTSOs to serve as a reference paper for the future high level coordination through the NC Implementation and Monitoring Group.

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I. Background

With all of the Network Codes (NCs)/Guidelines (GLs) having been voted and most of them having entered into force or being applicable already, their timely and correct implementation constitutes a priority. While the NCs/GLs are directly binding European legislation, their implementation is far from guaranteed without the active involvement of Transmission System Operators (TSOs) and close monitoring by the European Commission (EC), ACER, NRAs and both ENTSO-E and ENTSOG (ENTSOs).

Implementation tasks need to be fulfilled at pan-EU, regional and national level and have different nature. In electricity, there is the concept of *GLs* – requiring for their implementation the development of methodologies by TSOs and Nominated Electricity Market Operators (NEMOs) and their approval by NRAs/ACER, within the established timelines – and the concept of *NCs*, with requirements already set therein or to be defined by the addressee of the obligation at national level. In gas, the NCs already provide the market rules to be directly implemented at national level, where necessary in coordination with adjacent Member States.

In addition, among the NCs/GLs, many tasks are technical, for which both the implementation and its monitoring require technical expertise on whether the rules are in place and applied in compliance with the legal framework. Some tasks require putting in place European functions (and methodologies in electricity) where special attention should be paid on whether the time-tables are kept and whether all relevant projects (European-wide, regional or national) deliver with sufficient quality.

Coordination is already taking place in several platforms between relevant parties (hereinafter referred to as "working groups"). In electricity, so called Coordination Groups have been voluntarily established² where ACER/NRAs on the one side and ENTSO-E/TSOs or NEMOs on the other side plan and exchange views on the development of mainly pan-EU tasks as well as the approval status. European Stakeholder Committees (ESC) are also in place for electricity NCs/GLs where stakeholders can express their views on the implementation progress. In gas, the joint ACER and ENTSOG functionality platform (so called Gas Network Codes Functionality Platform - FUNC) and process are established and dedicated stakeholder workshops are organised by ACER and ENTSOG where implementation matters are discussed. While maintaining the existing coordination at working level, a high level quadrilateral coordination forum, the "**NC Implementation and Monitoring Group**" (NC IMG) is established to ensure the objectives set herein.

This paper aims at (i) setting the objectives and (ii) establishing the way of working of the NC IMG.

II. Objectives

The NC IMG will focus on strategic issues concerning NC/GL implementation. It is not meant to replace but to complement existing implementation working groups. The latter and the relevant parties remain primarily responsible for the implementation of the rules contained therein based on the legal obligations provided for in the NCs and GLs. The NC IMG will in particular play its strategic role in the following ways:

² E.g. CACM/FCA Coordination Groups (CG), EB CG, NEMO CG and SO CG.

a) Taking stock of the progress in NC/GL implementation and implementation monitoring

The NC IMG will on a high level follow the general progress made on all tasks regarding NC and GL implementation which may have an impact on the integration of the European electricity and gas markets.

b) Discussion of strategic issues

The NC IMG is notably meant to provide for coordination and guidance on strategic issues that arise in the implementation process of the NC and GL, i.e. issues which are of particular importance for the further integration of electricity and gas markets or which raise an important procedural or legal question. If such issues are identified either by the NC IMG or by relevant third parties or working groups, they should be discussed in the NC IMG.

c) Non-binding implementation guidance to requesting parties

The NC IMG may issue informal non-binding implementation guidance where required as when a working group requests for high level guidance on a matter not resolved at working level or at its own initiative when the MC IMG members consider it necessary. The NC IMG implementation guidance will complement, and not replace, the legal obligations of all relevant parties in accordance with the NCs/GLs.

The NC IMG will define the governance and a process for the provision of such guidance to the relevant addressees and consult with relevant working groups for this purpose. The final governance and procedure will be made available to the relevant working groups. When such informal guidance is given, proper follow up will take place in the most appropriate platform/working group (e.g. NC IMG, CGs, ESCs, FUNC).

The NC IMG will ensure that transparent and efficient communication tools exist between all parties. The existing and any future tools for information exchange and provision of guidance to market participants will in no way restrict the right of any interested person to issue a complaint or question to the EC, ACER or ENTSOs directly.

d) Future NCs/GLs development and amendments

The NC IMG will focus on the implementation and implementation/effects monitoring of NCs/GLs which have been developed so far. To the extent necessary the NC IMG will reflect on possible future NC development and/or amendments of NCs notwithstanding the applicable legislative process for amendments.

III. Organisational matters

a) Chairmanship and membership

The EC at Director's level will chair the NC IMG meetings. The NC IMG will meet indicatively twice per year. Ad hoc meetings may be organised if needed.

The EC, ACER, ENTSO-E and ENTSOG are the members of the NC IMG at the Director or Secretary General level respectively. NRAs will be represented by the Chairman of the Board of Regulators of ACER and TSOs by the Secretary General/ General Manager of ENTSOs.

Other parties may be invited to attend where the members of the NC IMG consider it necessary to discuss specific issue on the agenda (i.e. NEMOs or specific ACER working groups' Chairs/NRAs/TSOs).

Members should aim to participate in person. The members of the NC IMG will only substitute their representatives under exceptional circumstances.

b) Location and preparation of the meetings

The meetings will take place in Brussels unless otherwise decided ad hoc by the members of the NC IMG.

The EC will organise and prepare the meetings in close cooperation with the other members of the NC IMG. The EC will provide meeting agendas and relevant material taking into consideration the input provided by the other members. Action points will be prepared for each meeting and followed up in a timely manner as agreed at the meetings by all participants.

c) Transparency and stakeholders' involvement

The NC IMG members will ensure transparency, effective coordination and reporting of the discussions of the NC IMG to the respective organisations represented therein and relevant stakeholders.

Stakeholders have an opportunity to participate in the implementation of NC/GLs by providing their comments via consultations, workshops or meetings. They can also provide input on the ACER/ENTSOs monitoring reports at a number of platforms³. Such issues, where necessary, will be discussed in the NC IMG meetings.

Stakeholders may address questions to the NC IMG through established platforms where existing (e.g. the ESCs in electricity and the FUNC platform in gas) and if matters are not resolved at these platforms. The NC IMG will take into account input provided by stakeholders and ensure transparency regarding issues discussed at the meetings which may be to the interest of stakeholders.

First experience from the early operation of the NC IMG will be gathered in Q3 2018 in order to further improve the way of working of the NC IMG or decide to dissolve it, as appropriate.

³ In gas this is mainly via consultations, dedicated workshops and the Madrid Forum. The FUNC is also a possibility for such involvement. In electricity, stakeholders are heard in public consultations, the Florence Forum and in the regular meetings of the ESCs.