

DECISION 2018/07/PHLG-EnC OF THE PERMANENT HIGH LEVEL GROUP OF THE ENERGY COMMUNITY of 28 November 2018

on the implementation of Commission Regulation (EU) No 2017/460 establishing a network code on harmonised transmission tariff structures for gas

THE PERMANENT HIGH LEVEL GROUP OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community, and in particular Articles 24, 25, and 79 thereof,

Having regard to Energy Community Ministerial Council Decision 2011/02/MC-EnC on the implementation of Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009 and amending Articles 11 and 59 of the Energy Community Treaty;

Having regard to Regulation (EC) No 715/2009 as adapted by Decision 2011/02/MC-EnC and in particular Article 6 thereof;

Having regard to Procedural Act 2012/01/PHLG-EnC of the Energy Community Permanent High Level Group and Procedural Act 2012/02/ECRB-EnC of the Energy Community Regulatory Board laying down the rules governing the adoption of Guidelines and Network Codes in the Energy Community;

Recognising the importance of applying the same principles, legal requirements and methodologies for the establishment and operation of a single Energy Community gas market;

Acknowledging that the Energy Community should adapt its *acquis communautaire* on energy to recent changes in European Union law, taking into account its own institutional framework and the specific situation of each of its Contracting Parties;

Having regard to the proposal from the Commission;

Having consulted the Energy Community Regulatory Board;

Having discussed this Decision at its meeting of 21 June and 28 November 2018;

HAS ADOPTED THIS DECISION:

Article 1

Implementation of the energy *acquis*

- 1) Each Contracting Party shall transpose Commission Regulation (EU) 2017/460 as adapted by the present Decision by [9] months from the date of adoption of this Decision.
- 2) Each Contracting Party shall implement Regulation (EU) 2017/460, as adapted by this Decision, by [15] months from date of the adoption of this Decision except for chapters II, III and IV that shall apply as of 31 May 2021.
- 3) This Decision shall be made binding on all market participants. Implementation Transposition shall be made without changes to the structure and text of Commission Regulation (EU) 2017/460 other than translation and the adaptations made by this Decision.
- 4) Each Contracting Party shall notify the Energy Community Secretariat of completed transposition within two weeks following the adoption of such measures.
- 5) In transposing this Decision Contracting Parties shall task national regulatory authorities with the monitoring of and enforcing compliance with this Decision.

Article 2

General adaptations under Article 24 of the Energy Community Treaty

- 1) References to Directive 2009/73/EC and Regulation (EC) No 715/2009 shall mean the versions adapted by Ministerial Council Decision 2011/02/MC-EnC and PHLG Decision 2018/02/PHLG-EnC.
- 2) References to Regulation (EU) 2017/459 shall mean the version adapted by PHLG Decision 2018/07/PHLG-EnC.
- 3) Except where otherwise stated in this Decision, the text of the act referred to in Article 1 shall be adapted to the Energy Community as follows:
 - (a) the term 'Member State(s)' shall be replaced by 'Contracting Party(-ies)';
 - (b) the term '(European) Union' shall be replaced by 'Energy Community';
 - (c) the term 'within the Union' shall be replaced by 'between Contracting Parties';
 - (d) references to the European Parliament and the Council shall not be applicable;
 - (e) references to the Official Journal of the European Union shall be replaced by the expression 'a dedicated section of the website of the Energy Community';
 - (f) the term 'Commission' shall be replaced by '(Energy Community) Secretariat';
 - (g) the term 'Agency' shall be replaced by 'Energy Community Regulatory Board' (ECRB);
- 4) References to the obligations of the ENTSO for Gas are applicable upon the agreement of ENTSO for Gas.
- 5) The ECRB shall perform the duties under this Regulation in close coordination with the Agency for the Cooperation of Energy Regulators ('the Agency'). The ECRB shall take utmost account of relevant documents and acts developed by the Agency and may consult the Agency before taking a decision or issue opinions.

Article 3

Ad hoc adaptations concerning Article 3 of Regulation (EU) 2017/460

- 1) In the first sentence the word 'Commission' shall be inserted before 'Regulation (EU) 2017/459'.
- 2) In point (15) the words 'regulated by Regulation (EU) 2014/312' shall be replaced by 'related to the balancing of the transmission network'.

Article 4

Ad hoc adaptations concerning Article 11 of Regulation (EU) 2017/460

- 1) In the title the term 'Member State' shall be replaced by 'Contracting Party or covering Contracting Party(-ies) and Member State(s)'.
- 2) In the article the words 'Contracting Parties or' shall be inserted before 'Member State'.

Article 5

Ad hoc adaptations concerning Article 13 of Regulation (EU) 2017/460

In paragraph 3, in the introductory part:

1. (a) the deadline of '1 April 2023' shall be replaced by '1 October 2025';
2. (b) the deadline of '1 April 2021' shall be replaced by '1 October 2023';
3. (c) the deadline of '31 May 2019' shall be replaced by '31 May 2021';
4. (d) the words 'in accordance with Regulation (EC) No 713/2009' shall be deleted.

Article 6

Ad hoc adaptations concerning Article 25 of Regulation (EU) 2017/460

In paragraph 1 (b) (ii) , point (2) shall be replaced by the following:

'(2) a project is included in the list of Projects of Energy Community Interest or Projects of Mutual Interest as set out in Article 3 of Regulation (EU) No 347/2013 as adopted and adapted by Ministerial Council Decision 2015/09/MC-EnC'.

Article 7

Ad hoc adaptations concerning Article 26 of Regulation (EU) 2017/460

Paragraph 5 shall be replaced by the following:

'5. For the consultation document referred to in paragraph 1 the template developed by the Agency for Cooperation of Energy Regulators may be used'.

Article 8

Ad hoc adaptations concerning Article 27 of Regulation (EU) 2017/460

In paragraph 5 the references to the deadline of '31 May 2019' shall be replaced by '31 May 2021'.

Article 9

Ad hoc adaptations concerning Article 28 of Regulation (EU) 2017/460

In paragraph 1:

- 1) in the first subparagraph the words 'and Contracting Parties' shall be inserted after 'Member States';
- 2) in the second subparagraph, the words 'and Contracting Parties' shall be inserted after 'Member States'.

Article 10

Ad hoc adaptations concerning Article 31 of Regulation (EU) 2017/460

1) In paragraph (1):

- (a) the words 'For the Contracting Parties whose TSOs are members or observers of ENTSO for Gas' shall be inserted at the beginning of the first subparagraph.
- (b) in the second subparagraph, in point (d) the words 'unless one of the official languages of the Member State is English' shall be deleted.

2) In paragraph 2:

- (a) the words 'For the Contracting Parties whose TSOs are members or observers of ENTSO for Gas' shall be inserted at the beginning of the first sentence;
- (b) after point (b), the following subparagraph shall be inserted:
'For other Contracting Parties such information shall be published on the website of the national transmission system operator(s) for gas.'

Article 11

Ad hoc adaptations concerning Article 34 of Regulation (EU) 2017/460

In paragraph 1 the deadline of '6 April 2019' shall be replaced by '1 October 2021'.

Article 12

Ad hoc adaptations concerning Article 35 of Regulation (EU) 2017/460

- 1) In paragraph 1 the deadline of '6 April 2017' shall be replaced by '1 October 2019'.
- 2) In paragraph 3 the deadline of '6 May 2017' shall be replaced by '1 November 2019'.

Article 13

Ad hoc adaptations concerning Article 36 of Regulation (EU) 2017/460

- 1) In paragraph 1 the first sentence shall be replaced by the following:
'In context of its implementation monitoring responsibilities the Secretariat shall monitor and analyse how transmission system operators have implemented this Regulation'.
- 2) In paragraph (2) :
 - 'ENTSOG' shall be replaced by 'the Energy Community Secretariat'.
 - In point (a) the deadline of '31 December 2017' shall be replaced by '1 July 2020' ;
 - in point (b) the deadline of '31 December 2019' shall be replaced by '31 December 2021';
- 3) In paragraph 4, 'ENTSOG' shall be replaced by 'the Energy Community Secretariat'.
- 4) In paragraph (5) the phrase 'entry into force' shall be replaced by the phrase 'deadline for transposition of this Regulation in the Energy Community'.

Article 14

Non-applicable provisions

The following provisions shall not be applicable:

- 1) Article 2(2);
- 2) the reference to Article 3 of Commission Regulation (EU) No 312/2014 in the first sentence of Article 3;
- 3) Article 36(1) (a) and (b), and (3);

Done in Skopje on 28 November 2018,

For the Permanent High Level Group

The President



