

Adapted text for Energy Community

COMMISSION IMPLEMENTING REGULATION (EU) No 1348/2014

of 17 December 2014

on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency

CHAPTER I GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down rules for the provision of data to the Agency implementing Article 8(2) and (6) of Regulation (EU) No 1227/2011. It defines the details of reportable wholesale energy products and fundamental data. It also establishes appropriate channels for data reporting including defining timing and regularity of data reports.

Article 2

Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EU) No 1227/2011 and in Article 3 of Commission Regulation (EU) No 984/2013 as adapted by PHLG Decision [xxx] shall apply.

In addition, the following definitions shall apply:

- (1) 'fundamental data' means information related to the capacity and use of facilities for production, storage, consumption or transmission of electricity and natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities;
- (2) 'standard contract' means a contract concerning a wholesale energy product admitted to trading at an organised market place, irrespective of whether or not the transaction actually takes place on that market place;
- (3) 'non-standard contract' means a contract concerning any wholesale energy product that is not a standard contract;
- (4) 'organised market place' or 'organised market' means:

Commented [A1]: CAM NC gas – depending on whether adopted for the CPs at the time of the adoption of the present Regulation: PHLG reference to be added or otherwise list relevant definitions here

- (a) a multilateral system, which brings together or facilitates the bringing together of multiple third party buying and selling interests in wholesale energy products in a way that results in a contract,
- (b) any other system or facility in which multiple third-party buying and selling interests in wholesale energy products are able to interact in a way that results in a contract.

These include electricity and gas exchanges, brokers and other persons professionally arranging transactions, ~~and trading venues as defined in Article 4 of Directive 2014/65/EU of the European Parliament and of the Council (4).~~

- (5) 'group' ~~means a parent undertaking and all its subsidiary undertaking shall have the same meaning as in Article 2 of Directive 2013/34/EU of the European Parliament and of the Council (5)~~
- (6) 'intragroup contract' is a contract on wholesale energy products entered into with a counterparty which is part of the same group provided that both counterparties are included in the same consolidation on a full basis;
- (7) 'over-the-counter' (OTC) means any transaction carried out outside an organised market;
- (8) 'nomination' means,
 - for electricity: the notification of the use of cross zonal capacity by a physical transmission rights holder and its counterparty to the respective transmission system operator(s)(TSOs),
 - for natural gas: the prior reporting by the network user to the TSO of the actual flow that the network user wishes to inject into or withdraw from the system;
- (9) 'balancing energy' means energy used by TSOs to perform balancing;
- (10) 'balancing capacity (reserves)' means the contracted reserve capacity;
- (11) 'balancing services' means,
 - for electricity: either or both balancing capacity and balancing energy,
 - for natural gas: a service provided to a TSO via a contract for gas required to meet short term fluctuations in gas demand or supply;
- (12) 'consumption unit' means a resource which receives electricity or natural gas for its own use;
- (13) 'production unit' means a facility for generation of electricity made up of a single generation unit or of an aggregation of generation units;

Commented [A2]: Definition from 2013/34/EU

CHAPTER II

REPORTING OBLIGATIONS ON TRANSACTIONS

Article 3

List of reportable contracts

1. The following contracts shall be reported to the Agency:

- (a) As regards wholesale energy products in relation to the supply of electricity or natural gas with delivery in the Union Energy Community:
 - (i) Intraday or within-day contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,
 - (ii) Day-ahead contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,
 - (iii) Two-days-ahead contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,
 - (iv) Week-end contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,
 - (v) After-day contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,
 - (vi) Other contracts for the supply of electricity or natural gas with a delivery period longer than two days where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,
 - (vii) Contracts for the supply of electricity or natural gas to a single consumption unit with a technical capability to consume 600 GWh/year or more,
 - (viii) ~~Options, futures, swaps and any other derivatives of contracts relating to electricity or natural gas produced, traded or delivered in the Union.~~
- (b) Wholesale energy products in relation to the transportation of electricity or natural gas in the Union:
 - (i) Contracts relating to the transportation of electricity or natural gas in the Union between two or more locations or bidding zones concluded as a result of a primary explicit capacity allocation by or on behalf of the TSO, specifying physical or financial capacity rights options or obligations,
 - (ii) Contracts relating to the transportation of electricity or natural gas in the Union between two or more locations or bidding zones concluded between market participants on

secondary markets, specifying physical or financial capacity rights options or obligations, including resale and transfer of such contracts,

- (iii) ~~Options, futures, swaps and any other derivatives of contracts relating to the transportation of electricity or natural gas in the Union.~~

2. In order to facilitate reporting, the Agency shall draw up and maintain a public list of standard contracts with delivery in the Contracting Parties and update that list in a timely manner. Such list should be included in the list of contracts with delivery in EU maintained by the Agency. In order to facilitate reporting, the Agency shall draw up and publish a list of organised market places that are active in the Contracting Parties upon the applicability entry into force of this regulation. The Agency shall update that list in a timely manner.

In order to assist the Agency to comply with its obligations under the first subparagraph, organised market places shall submit identifying reference data for each wholesale energy product they admit to trading to the Agency. The information shall be submitted before trading commences in that particular contract in a format defined by the Agency. Organised market places shall submit updates of the information as changes occur.

In order to facilitate reporting, final customers party to a contract as referred to in Article 3(1)(a)(vii) shall inform their counterparty about the technical capability of the consumption unit in question to consume 600 GWh/year or more.

Article 4

List of contracts reportable at request of the Agency

1. Unless concluded on organised market places, the following contracts and details of transactions in relation to those contracts shall be reportable only upon reasoned request of the Agency and on an ad-hoc basis:

- (a) Intragroup contracts,
- (b) Contracts for the physical delivery of electricity produced by a single production unit with a capacity equal to or less than 10 MW or by production units with a combined capacity equal to or less than 10 MW,
- (c) Contracts for the physical delivery of natural gas produced by a single natural gas production facility with a production capacity equal to or less than 20 MW,
- (d) Contracts for balancing services in electricity and natural gas.

2. Market participants only engaging in transactions in relation to the contracts referred to in points (b) and (c) of paragraph 1 shall not be required to register with the national regulatory authority pursuant to Article 9(1) of Regulation (EU) No 1227/2011 as adapted by Ministerial Council Decision [xxx].

Article 5

Details of reportable contracts including orders to trade

1. The information to be reported pursuant to Article 3 shall include:

- (a) in relation to standard contracts for the supply of electricity or natural gas the details set out in Table 1 of the Annex,
- (b) in relation to non-standard contracts for the supply of electricity or natural gas the details set out in Table 2 of the Annex,
- (c) in relation to standard and non-standard contracts for the transportation of electricity the details set out in Table 3 of the Annex,
- (d) in relation to standard and non-standard contracts for the transportation of natural gas the details set out in Table 4 of the Annex.

Details of transactions executed within the framework of non-standard contracts specifying at least an outright volume and price shall be reported using Table 1 of the Annex.

2. The Agency shall explain the details of the reportable information referred to in paragraph 1 in a user manual ~~and after consulting relevant parties make it available to the public upon entry into force of this Regulation.~~ The Agency shall consult relevant parties on material updates of the user manual.

Commented [A3]: ACER already has this obligation

Article 6

Reporting channels for transactions

1. Market participants shall report details of wholesale energy products executed at organised market places including matched and unmatched orders to the Agency through the organised market place concerned, or through trade matching or trade reporting systems.

The organised market place where the wholesale energy product was executed or the order was placed shall at the request of the market participant offer a data reporting agreement.

2. TSOs or third parties acting on their behalf shall report details of contracts referred to in Article 3(1)(b)(i) including matched and unmatched orders.

3. Market participants or third parties acting on their behalf shall report details of contracts referred to in Article 3(1)(a), and 3(1)(b)(ii) ~~and 3(1)(b)(iii)~~ which have been concluded outside an organised market.

~~4. Information in relation to wholesale energy products which have been reported in accordance with Article 26 of Regulation (EU) No 600/2014 of the European Parliament and of the Council⁽⁶⁾ or Article 9 of Regulation (EU) No 648/2012 of the European Parliament and of the Council⁽⁷⁾ shall be provided to the Agency by:~~

- ~~(a) trade repositories referred to in Article 2 of Regulation (EU) No 648/2012,~~
- ~~(b) approved reporting mechanisms referred to in Article 2 of Regulation (EU) No 600/2014,~~
- ~~(c) competent authorities referred to in Article 26 of Regulation (EU) No 600/2014,~~
- ~~(d) the European Securities and Markets Authority,~~

~~as appropriate.~~

~~5. Where persons have reported details of transactions in accordance with Article 26 of Regulation (EU) No 600/2014 or Article 9 of Regulation (EU) No 648/2012 their obligations in relation to reporting those details under Article 8(1) of Regulation (EU) No 1227/2011 shall be considered as fulfilled.~~

~~6. In line with the second subparagraph of Article 8(3) of Regulation (EU) No 1227/2011 and without prejudice to paragraph 5 of this Article organised markets, trade matching or reporting systems shall be able to provide the information referred to in paragraph 1 of this Article directly to the Agency.~~

7. Where a third party reports on behalf of one or both counterparties, or where one counterparty reports the details of a contract also on behalf of the other counterparty, the report shall contain the relevant counterparty data in relation to each of the counterparties and the full set of details that would have been reported had the contracts been reported by each counterparty separately.

8. The Agency may request additional information and clarifications from market participants and reporting parties in relation to their reported data.

Article 7

Timing of reporting of transactions

1. Details of standard contracts and orders to trade, including for auctions, shall be reported as soon as possible but no later than on the working day following the conclusion of the contract or placement of the order.

Any modification or the termination of the concluded contract or order to trade shall be reported as soon as possible but no later than the working day following the modification or termination.

2. In the case of auction markets where orders are not made publicly visible, only concluded contracts and final orders shall be reported. They shall be reported no later than on the working day following the auction.

3. Orders placed in brokers' voice operated services and not appearing on electronic screens shall be reportable only upon request of the Agency.

4. Details of non-standard contracts including any modification or the termination of the contract and transactions referred to in the second subparagraph of Article 5(1) shall be reported no later than one month following the conclusion, modification or termination of the contract.

5. Details of contracts referred to in Article 3(1)(b)(i) shall be reported as soon as possible but no later than on the working day following the availability of the allocation results. Any modification or the termination of the concluded contracts shall be reported as soon as possible but no later than on the working day following the modification or termination.

6. Details of wholesale energy contracts which were concluded before the date on which the reporting obligation becomes applicable and remain outstanding on that date shall be reported to the Agency within 90 days after the reporting obligation becomes applicable for those contracts.

The reportable details shall only include data which can be extracted from market participants' existing records. They shall at least comprise of data referred to in Article 44(2) of Directive 2009/73/EC as adapted by Ministerial Council Decision 2011/02/MC-EnC of the European Parliament and of the Council (1) and in Article 40(2) of Directive 2009/72/EC as adapted by Ministerial Council Decision 2011/02/MC-EnC of the European Parliament and of the Council (2).

CHAPTER III

REPORTING OF FUNDAMENTAL DATA

Article 8

Rules for the reporting of fundamental data on electricity

1. The ENTSO for Electricity shall, on behalf of market participants, report information to the Agency in relation to the capacity and use of facilities for production, consumption and transmission of electricity including planned and unplanned unavailability of these facilities as referred to in Articles 6 to 17 of Commission Regulation (EU) No 543/2013 as adapted by PHLG Decision 2015/01/PHLG-EnC. The information shall be reported through the central information transparency platform as referred to in Article 3 of Regulation (EU) No 543/2013 as adapted by PHLG Decision 2015/01/PHLG-EnC.

2. The ENTSO for Electricity shall make the information referred to in paragraph 1 available to the Agency as soon as it becomes available on the central information transparency platform.

Information referred to in Article 7(1) of Regulation (EU) No 543/2013 as adapted by PHLG Decision 2015/01/PHLG-EnC shall be made available to the Agency in

disaggregated form including the name and location of the consumption unit referred no later than the following working day.

Information referred to in Article 16(1)(a) of Regulation (EU) No 543/2013 as adapted by PHLG Decision 2015/01/PHLG-EnC shall be made available to the Agency no later than the following working day.

3. Electricity TSOs or third parties on their behalf shall report to the Agency and, at their request, to national regulatory authorities in accordance with Article 8(5) of Regulation (EU) No 1227/2011 as adapted by Ministerial Council Decision [xxx] final nominations between bidding zones specifying the identity of market participants involved and the quantity scheduled. The information shall be made available no later than the following working day.

Article 9

Rules for the reporting of fundamental data on gas

1. The ENTSO for Gas shall, on behalf of market participants, report information to the Agency in relation to the capacity and use of facilities for transmission of natural gas including planned and unplanned unavailability of these facilities as referred to in points 3.3(1) and 3.3(5) of Annex I to Regulation (EC) No 715/2009 as adapted by Ministerial Council Decision 2011/02/MC-EnC of the European Parliament and of the Council. The information shall be made available through the Union-wide central platform of ENTSO for Gas as referred to in point 3.1.1(1)(h) of Annex I to Regulation (EC) No 715/2009.

The ENTSO for Gas shall make the information referred to in the first subparagraph available to the Agency as soon as it becomes available on the Union-wide central platform of ENTSO for Gas.

2. Gas TSOs or third parties on their behalf shall report to the Agency and, at their request, to national regulatory authorities in accordance with Article 8(5) of Regulation (EU) No 1227/2011 as adapted by Ministerial Council Decision [xxx] day-ahead nominations and final re-nominations of booked capacities specifying the identity of the market participants involved and the allocated quantities. The information shall be made available no later than the following working day.

The information shall be provided for the following points of the transmission system:

- (a) all interconnection points,
- (b) entry points of production facilities including of upstream pipelines,

Commented [A4]: point 3.1.1(1)(h) of Annex I to Regulation (EC) No 715/2009 not applicable in the CPs (yet) – CMP NC gas to be cross-checked at the time of proposal for adoption

- (c) for exit points connected to a single customer,
- (d) entry and exit points to and from storage,
- (e) for LNG facilities,
- (f) for physical and virtual hubs.

3. LNG system operators as defined in Article 2(12) of Directive 2009/73/EC as adapted by Ministerial Council Decision 2011/02/MC-EnC shall report to the Agency and, at their request, to national regulatory authorities for each LNG facility the following information:

- (a) the technical, contracted and available capacity of the LNG facility in a daily resolution,
- (b) send-out and inventory of the LNG facility in a daily resolution,
- (c) planned and unplanned unavailability announcements of the LNG facility including the time of the announcement and the capacities concerned.

4. The information referred to in point (a) and (b) of paragraph 3 shall be made available no later than the following working day.

The information including updates of it referred to in point (c) of paragraph 3 shall be made available as soon as that information becomes available.

5. Market participants or LNG System Operators on their behalf shall report to the Agency and, at their request, to national regulatory authorities for each LNG facility the following information:

- (a) in relation to unloading and reloading of cargos:
 - (i) date of unloading or reloading,
 - (ii) volumes unloaded or reloaded per ship,
 - (iii) the name of the terminal customer,
 - (iv) name and size of the ship using the facility.
- (b) the planned unloading or reloading at the LNG facilities in a daily resolution for the next month specifying the market participant and the name of the terminal customer (if different from the market participant).

6. The information referred to in point (a) of paragraph 5 shall be made available no later than the working day following unloading or reloading.

The information referred to in point (b) of paragraph 5 shall be made available in advance of the month to which it relates.

7. Storage system operators as defined in Article 2(10) of Directive 2009/73/EC as adapted by Ministerial Council Decision 2011/02/MC-EnC shall report to the Agency and, at their request, to national regulatory authorities for each storage facility or, where facilities operated in groups, for each group of storage facilities following information through a joint platform:

- (a) the technical, contracted and available capacity of the storage facility,
- (b) amount of gas in stock at the end of the gas day, inflows (injections) and outflows (withdrawals) for each gas day,
- (c) planned and unplanned unavailability announcements of the storage facility including the time of the announcement and the capacities concerned.

8. The information referred to in point (a) and (b) of paragraph 7 shall be made available no later than the following working day.

The information including updates of it referred to in point (c) of paragraph 7 shall be made available as soon as the information becomes available.

9. Market participants or Storage System Operators on their behalf shall report to the Agency and, at their request, to national regulatory authorities the amount of gas the market participant has stored at the end of the gas day. This information shall be made available no later than the following working day.

Article 10

Reporting procedures

1. Market participants disclosing inside information on their website or service providers disclosing such information on market participants' behalf shall provide web feeds to enable the Agency to collect these data efficiently.

2. When reporting information referred to in Articles 6, 8 and 9 including inside information, the market participant shall identify itself or shall be identified by the third party reporting on its behalf using the ACER registration code which the market participant received or the unique market participant code which the market participant provided while registering in accordance with Article 9 of Regulation (EU) No 1227/2011 as adapted by Ministerial Council Decision [xxx].

3. The Agency ~~shall after consulting relevant parties will~~ establish procedures, standards and electronic formats based on established industry standards for reporting of information referred to in Articles 6, 8 and 9. ~~The Agency shall consult relevant parties on material updates of the referred procedures, standards and electronic formats.~~

Commented [A5]: This obligation already exists

CHAPTER IV FINAL PROVISIONS

Article 11

Technical and organisational requirements and responsibility for reporting data

1. In order to ensure efficient, effective and safe exchange and handling of information, the Agency ~~shall, after consulting relevant parties, will~~ develop technical and organisational requirements for submitting data. ~~The Agency shall consult relevant parties on material updates of these requirements.~~

The requirements shall:

- (a) ensure the security, confidentiality and completeness of information,
- (b) enable the identification and correction of errors in data reports,
- (c) enable the authentication of the source of information,
- (d) ensure business continuity.

~~The Agency shall assess whether reporting parties comply with the requirements. Reporting parties who comply with the requirements shall be registered by the Agency. For entities listed under Article 6(4) the requirements listed in the second subparagraph shall be considered as fulfilled.~~

2. Persons required to report data referred to in Articles 6, 8 and 9 shall have responsibility for the completeness, accuracy and timely submission of data to the Agency and, where required so, to national regulatory authorities.

Where a person referred to in the first subparagraph reports those data through a third party the person shall not be responsible for failures in the completeness, accuracy or timely submission of the data which are attributable to the third party. In those cases the third party shall be responsible for those failures, without prejudice to Articles 4 and 18 of Regulation (EC) No 543/2013 as adapted by PHLG Decision 2015/01/PHLG-EnC on submission of data in electricity markets.

Persons referred to in the first subparagraph shall nevertheless take reasonable steps to verify the completeness, accuracy and timeliness of the data which they submit through third parties.

Article 12

Entry into force and other measures

~~1. This Regulation and the reporting obligation shall apply as of 1520 June 2019. enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.~~

Commented [A6]: This paragraph can be deleted as it relates to RRM. For RRM EU REMIT applies anyway so this would duplicate it.

Commented [ecs7]: To be replaced by provision in the adopting decision – aligned with the last implementation step (reporting and monitoring) of REMIT Regulation

~~2. The reporting obligation of contracts, orders to trade and fundamental information as provided in Article 9(1) shall apply from 7 October 2015¹⁵ January 2019.~~

~~The reporting obligation as provided in Article 6(1) except in relation to contracts referred to in Article 3(1)(b) shall apply from 7 October 2015.~~

~~The reporting obligations as provided in Article 8(1) shall apply from 7 October 2015 but not before the central information transparency platform becomes operational pursuant to Article 3(3) of Regulation (EU) No 543/2013.~~

~~The reporting obligations as provided in Articles 6(2), 6(3), 8(3), 9(2), 9(3), 9(5), 9(7) and 9(9) shall apply from 7 April 2016.~~

~~The reporting obligation as provided in Article 6(1) in relation to contracts referred to in Article 3(1)(b) shall apply from 7 April 2016.~~

~~3. Without prejudice to the second and fifth subparagraphs of paragraph 2 the Agency may enter into agreements with organised marketplaces, trade matching or reporting systems to obtain details of contracts before the reporting obligation becomes applicable.~~

~~This Regulation shall be binding in its entirety and directly applicable in all Member States^{Contracting Parties}.~~