

## DECLARATION

### BY NATIONAL REGULATORY AUTHORITIES OR, WHERE APPLICABLE, NATIONAL AUTHORITIES

ON THE APPLICATION OF NETWORK CODES ON INTERCONNECTION POINTS BETWEEN ENERGY COMMUNITY CONTRACTING PARTIES AND MEMBER STATES OF THE EUROPEAN UNION

#### Having regard to

1. Regulation (EC) 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks, and in particular network codes and guidelines adopted under Article 6(11) or Article 23 thereof;
2. The Treaty establishing the Energy Community ('the Treaty') and the subsequent legal acts forming the Energy Community *acquis communautaire*, and in particular Decision 2011/02/MC-EnC of the Ministerial Council of the Energy Community on the implementation of Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) 714/2009 and Regulation (EC) 715/2009;
3. The interpretation by the Ministerial Council of the Energy Community of 23 September 2014 under Article 94 of the Treaty No 2014/01/MC-EnC, and in particular Article 1(1) thereof;
4. Commission Recommendation of 29 October 2014 on the application of internal market rules between the EU Member States and the Energy Community Contracting Parties;
5. The conclusions of the Madrid Forum of 7 October 2016 and the conclusions of the Energy Community Ministerial Council of 14 October 2016 calling on national regulatory authorities of Member States neighbouring Energy Community Contracting Parties to commit to applying Gas Network Codes at common Interconnection Points provided the relevant Contracting Party has transposed the relevant Network Code and its national regulatory authority has equally committed to applying the Network Codes at said Interconnection Points.

#### Recognizing

1. the need to develop energy markets in South East and Eastern Europe in close cooperation between Energy Community Contracting Parties and Member States of the European Union;
2. the necessity of interconnected systems in South East and Eastern Europe to operate on common and reciprocally binding rules for the benefit of system security, security of supply and market functioning as well as to achieve the critical liquidity;
3. that treating interconnections, cross-border flows or network capacities equally and irrespectively whether the border to be crossed is situated between EU Member States and/or Contracting Parties paramountly contributes to the very idea of a single regulatory space for Network Energy and abolishment of barriers to trade;
4. that there is no legal obstacle to treating interconnection points between Member States and third countries that are Energy Community Contracting Parties equal to interconnection points between Member States and that in certain network codes and guidelines an explicit legal basis is already provided for, namely:
  - point 2.2.1.1 of Annex I to Regulation (EC) 715/2009 as amended by Commission Decision of 24 August 2012 (Guidelines for Congestion Management Procedures); and

- Article 1(2) of Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules; and
- Article 2(1) of Commission Regulation (EU) 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems.

**Declaring**

by signature of the present Declaration the commitment, to apply network codes and guidelines adopted based on Article 6(11) or Article 23 of Regulation (EC) 715/2009 including any amendments thereof on the points interconnecting the gas transmission system of [MS] with the gas transmission system of [CP] equally to points interconnecting the gas transmission system of [MS] with the gas transmission system of other Member States of the European Union, provided the Secretariat of the Energy Community has been notified by [relevant CP] of its transposition of the relevant network code(s) or guideline(s). More specifically this commitment relates to the interconnection point[s]: [list IPs].

In executing this commitment, national regulatory authorities or, where applicable, national authorities should coordinate and inform each other in taking their respective decisions.

For [NRA/where applicable, NA]

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[Date and place of signature]