



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 2 July 2013**

**11091/1/13  
REV 1**

**ENER 295**

**REVISED "I/A" ITEM NOTE**

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from: General Secretariat of the Council

to: Coreper/Council

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No. Cion prop.: 9817/13 ENER 200

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Subject: Commission Regulation (EU) No 000/00 of XXX establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No 715/2009  
- Decision not to oppose adoption (regulatory procedure with scrutiny)

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1. The measure envisaged being in accordance with the opinion of the relevant committee, the Commission has submitted the above draft measure<sup>1</sup> to the Council for scrutiny in accordance with the procedure in Article 5a(3)(a) of Council Decision 1999/468/EC<sup>2</sup>. The Commission having presented the draft measure on 21 May 2013, the Council has until 21 August 2013 to decide to oppose the adoption.

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<sup>1</sup> 9817/13 ENER 200

<sup>2</sup> Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23), as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

2. The Working Party on Energy has examined the draft measure and agreed that there are no grounds for the Council to oppose its adoption.<sup>1</sup>
  
3. It is therefore suggested that Coreper recommend that the Council confirm that there are no grounds for opposing the draft measure. This implies that, unless the European Parliament opposes it, the Commission may adopt the proposed measure in accordance with Article 5a(3)(d) of Council Decision 1999/468/EC.

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<sup>1</sup> Article 5a(3)(b) provides that the Council may, acting by qualified majority, oppose the adoption of such measures on the grounds that they exceed the implementing powers provided for in the basic instrument, are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality. It is noted that the Czech Republic objects to the adoption of the measure on grounds of it not respecting the principle of proportionality.