

Regulation (EC) No 713/2009 of the European Parliament and
of the Council of 13 July 2009 establishing an Agency for the
Cooperation of Energy Regulators (Text with EEA relevance) (repealed)

CHAPTER II

TASKS

Article 8

**Tasks as regards terms and conditions for access to
and operational security of cross-border infrastructure**

1 For cross-border infrastructure, the Agency shall decide upon those regulatory issues that fall within the competence of national regulatory authorities, which may include the terms and conditions for access and operational security, only:

- a where the competent national regulatory authorities have not been able to reach an agreement within a period of six months from when the case was referred to the last of those regulatory authorities; or
- b upon a joint request from the competent national regulatory authorities.

The competent national regulatory authorities may jointly request that the period referred to in point (a) is extended by a period of up to six months.

When preparing its decision, the Agency shall consult the national regulatory authorities and the transmission system operators concerned and shall be informed of the proposals and observations of all the transmission system operators concerned.

2 The terms and conditions for access to cross-border infrastructure shall include:

- a a procedure for capacity allocation;
- b a time frame for allocation;
- c shared congestion revenues; and
- d the levying of charges on the users of the infrastructure referred to in Article 17(1)(d) of Regulation (EC) No 714/2009 or Article 36(1)(d) of Directive 2009/73/EC.

3 Where a case has been referred to the Agency under paragraph 1, the Agency:

- a shall provide its decision within a period of 6 months from the day of referral; and
- b may, if necessary, provide an interim decision to ensure that security of supply or operational security of the infrastructure in question is protected.

4 The Commission may adopt Guidelines on the situations in which the Agency becomes competent to decide upon the terms and conditions for access to and operational security of cross-border infrastructure. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 32(2) of this Regulation.

5 Where the regulatory issues referred to in paragraph 1 include exemptions within the meaning of Article 17 of Regulation (EC) No 714/2009 or Article 36 of Directive 2009/73/EC, the deadlines provided for in this Regulation shall not be cumulated with the deadlines provided for in those provisions.