

Agreement for the incorporation of the Council of European Energy Regulators

## TITLE I - INCORPORATION

The undersigned:

- **AUTORITÀ PER L'ENERGIA ELETTRICA E IL GAS (ITALY)**, an independent statutory body established by Law no. 481/95 as of 14 November 1995, with registered office at Piazza Cavour 5, 20121 Milano, Italy, validly represented by Mr. Pippo Ranci in his capacity of President;

- **COMISIÓN NACIONAL DE ENERGÍA (SPAIN)**, an independent regulator, established by Law no. 34/1998 as of 7 October 1998, with registered office at Calle Alcalá, no. 47, 28014 Madrid, Spain, validly represented by Mr. José Sierra López in his capacity of Commissioner;

- **COMMISSION DE REGULATION DE L'ENERGIE (FRANCE)**, an independent public body established under the Law No. 2000-108 of 10 February 2000, with registered office at rue du Quatre-Septembre, no. 2, 75084 Paris Cedex 02, France, validly represented by Mr. Jean Syrota in his capacity of President;

- **COMMISSION FOR ENERGY REGULATION (IRELAND)**, an independent public body established under the Electricity Regulation Act 1999 and the Gas (Interim) (Regulation) Act, 2002, with registered office at Plaza House, Belgard Road, Tallaght, Dublin 24, Ireland, validly represented by Mr. Tom Reeves in his capacity of Commissioner;

- **DIENST UITVOERING EN TOEZICHT ENERGIE (THE NETHERLANDS)**, a chamber of the Competition Authority, established by Law no. 1998-427 (Netherlands Government Law Gazette) as of August 1st 1998, with registered office in Wijnhaven 24, 2511 GA Den Haag, The Netherlands, validly represented by Mr. Gert J. L. Zijl in his capacity of Director;

- **ENERGIAMARKKINAVIRASTO (FINLAND)**, a public body subordinate to the Ministry of Trade and Industry, with registered office at Lintulahdenkatu 10, 00500 Helsinki, Finland, validly represented by Mrs. Asta Helena Sihvonon-Punkka in her capacity of Director;

- **ENERGIE-CONTROL GESELLSCHAFT FÜR DIE REGULIERUNG DES ELEKTRIZITÄTS- UND ERDGASMARKTES IN ÖSTERREICH MIT BESCHRÄNKTER HAFTUNG MBH (AUSTRIA)**, a limited private company established under the Energy Liberalization Act with registered offices at Rudolfsplatz 13a, 1010 Wien, Austria, validly represented by Mr. Walter Boltz in his capacity of Managing Director (Geschäftsführer);

- **ENERGITILSYNET (DENMARK)**, an independent public body, established by the Electricity Act no. 375 of June 2nd, 1999, with registered offices at Nørregade 49, 1165 København K., Denmark, validly represented by Mr. Hans Henrik Høgsbro Østergaard in his capacity of Chairman;

- **ENTIDADE REGULADORA DOS SERVIÇOS ENERGÉTICOS (PORTUGAL)**, an independent public body), established by Decree Law nr. 187/95, as of July 27, and Decree no. 97/2002, as of April 12, with registered office at Edifício Restelo, Rua Dom Cristóvão da Gama no. 1, 1400-113 Lisboa, Portugal, validly represented by Mr. António Jorge Viegas de Vasconcelos in his capacity of President;

- **NORGES VASSDRAGS-OG ENERGIDIREKTORAT (NORWAY)**, a department within the energy directorate with registered office at Middelthunsgate 29, 0301 Oslo, validly represented by Mr. Jan Moen in his capacity of Director;

- **ΡΥΘΜΙΣΤΙΚΗ ΑΡΧΗ ΕΝΕΡΓΕΙΑΣ (REGULATORY AUTHORITY FOR ENERGY OF GREECE)** (ΡΑΕ Greece), an independent administrative authority (public body) established under the Greek Law No. 2773/1999 (Official Gazette A 286) and the Presidential Decree No. 139/2001 (Official Gazette A 121), with registered office at Panepistimiou 69, 105 64 Athens, Greece, validly represented by Mr. Pantelis Capros in his capacity of President;

- **STATENS ENERGIMYNDIGHET (SWEDEN)**, an independent authority established under regulation 1997:868 with registered office Kungsgatan 43, 631 04 Eskilstuna, Sweden, validly represented by Mr. Håkan Per Hjalmar Heden in his capacity of Deputy Director General;

have met in Brussels on 10 June 2003 and decided to incorporate a not-for-profit association named Council of European Energy Regulators, of which the statutes have been drafted as follows in accordance with the Belgian Act of June 27, 1921 and with effect as from the date of publication of this agreement of incorporation in the Annexes to the Belgian State Gazette.

## TITLE II - STATUTES

## CHAPTER 1 – NAME, REGISTERED OFFICE, PURPOSE, DURATION

Article 1 - Name

A not-for-profit association is constituted under the name “*Council of European Energy Regulators*”, abbreviated “*CEER*” or the “*Council*”.

Article 2 - Registered office

The registered office of the association is established in the judicial district (“arrondissement judiciaire”) of Brussels, rue de l’Industrie 26-38, 1040 Bruxelles, Belgium.

Article 3 - Purpose

3.1 The association does not seek to make profits. The objectives of the association are to:

- promote the development of efficient and competitive internal markets for electricity and gas in Europe through the establishment of appropriate mechanisms;
- set up co-operation in order to achieve competitive internal markets for electricity and gas in Europe, in which the principles of transparency and non-discrimination are ensured;
- set up co-operation, information exchange and assistance amongst the Members, with a view to establishing expert views for discussion with the institutions of the European Union and, in particular, with the European Commission, and representative international organizations of other sectors which may be involved;
- contribute to the advancement of research on regulatory issues;
- establish coherent and expert knowledge and analysis such that the institutions with which Members wish to hold discussion naturally consult the Members at a formative stage in policy development;
- provide a framework for the discussion of regulatory issues and exchange of experience;
- provide the necessary elements for the development of regulation in the fields of electricity and gas;
- develop joint approaches vis-à-vis transnational energy companies that operate in, or can exert influence on, separated regulated utility markets;
- promote training of staff;
- cultivate relations with similar associations outside the EU area;
- work together, where possible, to establish common policies among Members towards agreed issues.

3.2 In order to meet these objectives, the association will

3.2.1 advise and assist the European Commission on regulatory issues arising on electricity and gas either at the European Commission’s request or on its own initiative;

3.2.2 respond within appropriate time limits to the mandates given by the European Commission in respect of the preparation of implementing measures;

3.2.3 foster co-operation, information exchange and assistance among Members with a view to providing a framework for discussion, establishing expert views and exchanging experience, on all aspects falling within the scope of the internal markets for electricity and gas in Europe. Such co-operation should include where possible work to recommend common policies towards agreed issues;

3.2.4 foster and review common and uniform day to day implementation and application of Community legislation. It will examine and propose guidelines, recommendations and best practices that the Members will introduce in their regulatory practices on a voluntary basis;

3.2.5 contribute to the creation of effective and efficient mechanisms to enhance consistent monitoring, development and enforcement of the internal markets for electricity and gas within the European Union (EU) and the European Economic Area (EEA);

3.2.6 observe and assess the evolution of electricity and gas markets in the EU and the EEA and the global tendencies in energy regulation and their impact on the regulation of one single market for electricity and gas;

3.2.7 use the appropriate process to consult, *inter alia*, market participants, consumers and operators.

3.3 In the fulfilment of its objectives, the association may carry out any act or activity in accordance with the law, in particular any legal provisions with respect to not-for-profit associations. This includes, among others, the recruitment of staff, the acquisition, lease or rent, production, transfer or exchange of all movable and immovable properties, to contract, to borrow and lend money, provide mortgages, pledges or any other form of guarantee on its possessions.

#### Article 4 - Duration

The duration of the association is unlimited.

## CHAPTER 2 – MEMBERS

### Article 5 - Membership

5.1 The conditions to be Member are:

- to be an Energy Regulatory Authority designated by a Member State of the EU or by a Member State of the EEA adhering to the Directives and Regulations of the EU on electricity and/or gas; or
- to be a senior representative of an Energy Regulatory Authority designated by a Member State of the EU; or
- to be a senior representative of an Energy Regulatory Authority designated by a Member State of the EEA adhering to the Directives and Regulations of the EU on electricity and/or gas.

Any natural person or legal entity which fulfils one of the above conditions may become a Member provided it is admitted by the General Assembly pursuant to Article 7 of these statutes.

5.2 Any Member which does no longer fulfil at least one of the conditions listed under Article 5.1 above automatically loses its capacity of Member of the association. The General Assembly may grant derogations (e.g. for honorary members).

5.3 For the purpose of these Statutes, Energy Regulatory Authority means a competent body with the function of a regulatory authority at least responsible for ensuring non-discrimination, effective competition and the efficient functioning of the market of electricity and/or gas and which is designated by a Member State of the EU or the EEA and is wholly independent of the interests of the electricity and/or gas industry. This definition has to be interpreted as defined in European legislation acts amending or replacing the Directives 96/92/EC (internal market in electricity) and 98/30/EC (internal market in gas). This definition applies *mutatis mutandis* for EEA Member States which are not EU Member States.

5.4 Only one Energy Regulatory Authority or one physical person designated by an Energy Regulatory Authority per Member State of the EU or of the EEA may be admitted as a Member of this association.

### Article 6 - Number

The number of Members is unlimited but may not be less than four.

### Article 7 - Admission

7.1 New Members are admitted as Members by decision of the General Assembly pursuant to Articles 16.1 to 16.5 of these statutes.

7.2 Even if the conditions of Article 5 are fulfilled, the General Assembly is free to decide whether to admit a new Member.

### Article 8 - Resignation

Any Member may resign from the association provided that it notifies the Secretariat thereof by a registered letter. The resignation becomes effective at the end of the financial year in which the Secretariat was notified.

### Article 9 - Exclusion

On the proposal of the Board of Directors, the General Assembly may decide to exclude any Member which does not conform to the statutes of the association, after hearing that Member's defence.

### Article 10 - Register

10.1 The Board of Directors shall keep a register of the Members at the registered office of the association.

10.2 This register records the name, legal form (if applicable), nationality and registered office or domicile of each of the Members. All decisions regarding admission, resignation or exclusion of the Members are recorded in this register by the Board of Directors within eight days of the Board of Directors having knowledge of the decision.

10.3 All Members may consult this register at the registered office of the association.

### Article 11 - Contributions

11.1 Members shall share the expenses of the association by means of contributions fixed annually by the General Assembly according to a system prior agreed by the General Assembly. As long as the General Assembly has not approved the budget and the contributions for the current financial year, the Board of Directors is authorised to ask Members for partial payments equivalent to their contributions for the previous financial year, *pro-rata temporis*.

11.2 When determining the contributions borne by each Member, the General Assembly has to take into account the weighting of Member's votes according to Article 16.4. Members' contributions should correspond to the weights of their votes (see Annex 1) and shall be amended accordingly when accession countries join the EU or the EEA.

11.3 The General Assembly may grant derogations (partly or fully) from the obligation to pay contributions by unanimous decision. These derogations are valid for the maximum period of one year and can be renewed by unanimous decision of the General Assembly.

11.4 The maximum contribution per Member and per year amounts to 200,000 Euro.

11.5 Contributions are due on the first day of the financial year or on another date determined by the Board of Directors. Members' voting rights are suspended if they have been in default with their contributions for more than 4 weeks.

Article 12 - Special duties

12.1 Members will keep the other national and regional energy regulators of their States informed about its discussions and, where necessary, make all appropriate national arrangements to be in a position to speak for the national competent energy regulators as a whole in the event that other national or regional regulators have an interest in the matter discussed.

12.2 Every Member will appoint a member of its staff or of the staff of the Energy Regulatory Authority of which he/she is the senior representative who will act as a communications officer. His task will consist in facilitating the relevant information exchange between his organisation and the other Members.

## CHAPTER 3 - GENERAL ASSEMBLY

### Article 13 - Composition

- 13.1 The General Assembly consists of all Members.
- 13.2 A representative of the European Commission may participate in all debates related to matters described under Articles 3.2.1 and 3.2.2. Such representative does not have voting rights.

### Article 14 - Powers

The General Assembly has the power to:

- take any decision to fulfil the objectives set forth in Article 3;
- approve position papers and official documents;
- take any decisions with respect to public relations strategies and the communication of the views of the association;
- take any strategic decisions and/ or decisions with a long term impact;
- admit and exclude Members;
- elect and dismiss Directors;
- elect and dismiss the Secretary;
- elect and dismiss statutory auditor(s);
- determine the annual contribution of each Member;
- approve the annual accounts and the discharge to give to the Directors;
- determine the budget of the association on a proposal from the Board of Directors;
- establish the internal regulations of the association;
- amend these statutes;
- wind up the association;
- take any decision reserved by law or these Statutes to the General Assembly.

The above powers are exclusively reserved to the General Assembly.

### Article 15 - Meetings

- 15.1 The General Assembly will be convened at least four times a year and more frequently when appropriate.
- 15.2 The General Assemblies will be convened by the Board of Directors, at the request of at least one fifth of its Members.
- 15.3 The date of each meeting, with the proposed agenda of the meeting, shall be fixed and communicated to the Members at least two weeks before the meeting.



15.4 The Board of Directors establishes an agenda for each meeting and includes each item on the agenda as requested by one or more Members.

15.5 The meetings of the General Assembly are chaired by the President, even if he or she is not a Member. If the President is not a Member, he or she shall have no voting rights.

#### Article 16 - Deliberations

16.1 The Members present or represented at the General Assembly shall use their best efforts in order to reach consensus.

16.2 In its working and/or deliberation and/or decisions, the General Assembly will respect the national and EU legislation regarding secrecy and confidentiality.

16.3 If consensus is not achieved, the matter must be put to vote and the decision of the General Assembly must be carried by qualified majority pursuant to Article 16.4.

16.4 Members' votes will be weighted in accordance with the voting principles of the Council of the European Union as foreseen in Article 205 (2) EC-Treaty. Members have as many votes as the Member State they represent. The weighting of the votes of EU Members, other EEA Members and Accession Countries (effective as of the joining date) is attached as Annex 1 to these Statutes. Unless the law or these statutes provide for a stricter majority, decisions are taken by a two thirds majority of the votes.

16.5 The General Assembly shall identify and report any dissenting opinions of individual Members and communicate these dissenting opinions together with the decision reached.

16.6 With respect to issues relating to Article 3.2, decisions are validly adopted in accordance with Articles 16.1 to 16.5 above, unless the majority of the Members from EU Member States voted against it (headcount).

16.7 With respect to issues relating to Articles 3.2.1 and 3.2.2 or to other recommendations or positions of the association, decisions which are taken by majority vote are not binding for the overruled Members and shall not prevent them to express a dissenting opinion vis-à-vis external third parties.

16.8 The General Assembly may deliberate on amendments of these statutes only if at least two thirds of the Members are present or represented. These decisions require a two thirds majority of Members present or represented except Article 3 which may be amended only at the unanimity of the Members present or represented. Notwithstanding Article 16.4, each Member has one vote.

If two thirds of the Members are not present or represented at the first meeting, at least 15 days after the first meeting a second meeting may be convened which may validly deliberate irrespective of the number of Members present or represented.

16.9 The General Assembly may deliberate on winding up the association and its liquidation only if at least two thirds of the Members are present or represented. These decisions require a four

fifths majority of the Members present or represented. Notwithstanding Article 16.4, each Member has one vote.

If two thirds of the Members are not present or represented at the first meeting, at least 15 days after the first meeting a second meeting may be convened which may validly deliberate irrespective of the number of Members present or represented.

The General Assembly shall decide upon the allocation of the surplus which would remain after the payment of the debts of the association.

16.10 If the law requires a majority or quorum which differs from and is stricter than the rules in these statutes, the standards set by law apply.

#### Article 17 - Register

Decisions of the General Assemblies are recorded in a special register that each Member may consult. In addition, its decisions may be published.

## CHAPTER 4 – BOARD OF DIRECTORS

### Article 18 - Composition

The Board of Directors (“conseil d’administration”) consists of three directors: the President and two Vice Presidents.

### Article 19 - President

19.1 The President is elected by the General Assembly pursuant to Articles 16.1 to 16.5.

19.2 The President will be designated by the General Assembly for a period of two years, which may be extended for a period of one year. In the case of a resignation of the President during the two year period, a new President will be appointed under the same terms for a period of up to two years.

### Article 20 - Vice Presidents

Two Vice Presidents are elected by the General Assembly on the same terms as for the President. One of the Vice Presidents shall replace and represent the President at the General Assembly in case of absence or impediment.

### Article 21 - Powers

21.1 Without prejudice to the powers reserved to the General Assembly pursuant to Article 14, the Board of Directors manages the association and represents the association externally. Decisions of the Board of Directors are taken at the simple majority of the votes. All directors must be present or represented.

21.2 The Board needs the prior consent of the General Assembly for the following:

- for any undertaking, commitment, agreement, deed, mortgage, bond, contract or other measure involving obligations or liabilities above 20,000 Euro, unless it has already been approved as part of the budget;
- for the appointment of new staff, unless it has already been approved as part of the budget. The termination of an employment agreement does not require the prior approval of the General Assembly;
- to delegate powers of representation and/or daily management to the Secretary and/or to members of the Board of Directors and/or to staff members and/or to third parties.

21.3 The Board of Directors organises the General Assembly meetings and executes all other tasks which are not delegated to the General Assembly by these statutes or by law.

21.4 The Board of Directors is responsible for the supervision of the Secretariat. The Board of Directors must work within the scope of the decisions taken by the General Assembly and in its work the Board of Directors will always take the position of the General Assembly.

## CHAPTER 5 - SECRETARIAT

### Article 22 - Tasks

22.1 The Secretariat shall prepare and maintain the minutes of the meetings, assist the General Assembly, the Board of Directors and the expert groups in their functions and finally, execute all other functions assigned to it by the association.

22.2 The Secretariat will work under the responsibility of the Board of Directors.

### Article 23 - Secretary

23.1 The Secretariat will be headed by a Secretary who is responsible for the tasks assigned to the Secretariat.

23.2 The Secretary shall be appointed by the General Assembly on proposal by the President after consulting the Vice Presidents. He shall exercise the powers delegated to him by the Board of Directors, if any, and execute the tasks assigned to him by the Board of Directors.

## CHAPTER 6 - ACCOUNTABILITY

### Article 24 - Accounting year

The accounting year begins on January 1st and ends on December 31, except the first accounting year which begins on the date the association acquires legal personality and ends on December 31, 2004.

### Article 25 - Accounts

25.1 Each year and at the latest six months after the end of the accounting year, the Board of Directors will submit the annual accounts, established in accordance with the law, to the General Assembly.

25.2 Within thirty days of their approval by the General Assembly, the President will file the annual accounts as required by law.

25.3 If required by law, the General Assembly shall designate a statutory auditor.

### Article 26 - Budget

The President shall present a proposal for the budget to the General Assembly no later than the last meeting of the year preceding the budget year and no later than at the end of the third quarter of the year preceding the budget year.

## CHAPTER 7 – COMMUNICATION

Article 27 - Publications

27.1 Once a year, the association will publish an Annual Work Program, which will be widely diffused. The association may publish the result of its meetings. The association shall determine what information and which results shall be published regarding the conclusions of its meetings, decisions made and all other documents. The association shall also determine in what way the information and results shall be published.

27.2 The association will publish an Annual Report. The report will be sent to all Members, the European Commission, the European Parliament and the European Council.

Article 28 - Working language

The working language of the association shall be English. However, as long as the association keeps its registered office in Brussels, all documents which the law requires to be drafted in French or in Dutch shall be drafted in French.

## TITLE III - TRANSITIONAL AND FINAL PROVISIONS

After deciding the incorporation of the association, the General Assembly decided unanimously:

To appoint Mr. António Jorge Viegas de Vasconcelos, Rua Alto do Duque, no. 43, 1400-009 Lisboa, Portuguese, 13.06.59 Porto (Portugal), Doktor-Ingenieur, as President;

To appoint Mr. Callum McCarthy, 22 Shooters Hill Road, Blackheath, London, SE3 7BD , British, 29.02.44 Brentwood, Essex (Great Britain), Chairman of the Gas and Electricity Markets Authority, and Mr. Pippo Ranci, Via Tortona 86, Milan, Italian, 11.06.38 Milan (Italy), university professor, as Vice Presidents.

To appoint Dr. Thomas Loest, Rue Rodenbach 107, 1190 Brussels, German, 09.03.69 Stade (Germany), lawyer, as Secretary.

Each founder declares having received a copy of the present agreement for the formation of the association. One copy shall be kept in the Register of the association and the other one shall be used for publication in the Belgian State Gazette.

(signatures of founders)



Annex 1: THE WEIGHTING OF VOTES IN THE CEER

1. EU Member States

Member State	Weighted votes
Germany	29
United Kingdom	29
France	29
Italy	29
Spain	27
Netherlands	13
Greece	12
Belgium	12
Portugal	12
Sweden	10
Austria	10
Denmark	7
Finland	7
Ireland	7
Luxembourg	4

2. Other EEA Member States

Member State	Weighted votes
Norway	7
Iceland	4
Liechtenstein	4

3. Accession Countries (effective as of joining date)

Countries	Weighted votes
Poland	27
Romania	14
Czech Republic	12
Hungary	12
Bulgaria	10
Slovakia	7
Lithuania	7
Latvia	4
Slovenia	4
Estonia	4
Cyprus	4
Malta	3