

European Commission's proposal for a Regulation on the internal market for electricity

A EURELECTRIC position paper

April 2017

EURELECTRIC is the voice of the electricity industry in Europe.

We speak for more than 3,500 companies in power generation, distribution, and supply.

We Stand For:

Carbon-neutral electricity by 2050

We have committed to making Europe's electricity cleaner. To deliver, we need to make use of **all low-carbon technologies**: more renewables, but also clean coal and gas, and nuclear. Efficient electric technologies in **transport and buildings**, combined with the development of smart grids and a major push in **energy efficiency** play a key role in reducing fossil fuel consumption and making our electricity more sustainable.

Competitive electricity for our customers

We support well-functioning, distortion-free **energy and carbon markets** as the best way to produce electricity and reduce emissions cost-efficiently. Integrated EU-wide electricity and gas markets are also crucial to offer our customers the **full benefits of liberalisation**: they ensure the best use of generation resources, improve **security of supply**, allow full EU-wide competition, and increase **customer choice**.

Continent-wide electricity through a coherent European approach

Europe's energy and climate challenges can only be solved by **European – or even global – policies**, not incoherent national measures. Such policies should complement, not contradict each other: coherent and integrated approaches reduce costs. This will encourage **effective investment** to ensure a sustainable and reliable electricity supply for Europe's businesses and consumers.

EURELECTRIC. Electricity for Europe.

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KEY MESSAGES

- **EURELECTRIC supports the overarching legal coverage provided by the electricity regulation to further integrate wholesale markets.** Liquid and well-functioning wholesale markets where prices reflect the actual system situation will sustain RES integration, decentralised generation and empower consumers. Nevertheless, **the package does not fully recognize the need for longer-term price signals for investments to ensure system adequacy:** energy, flexibility and the availability of capacity shall be properly valued to ensure that price signals drive the necessary investments in demand response, storage and generation.
- **A wholesale market fit for the energy transition requires that all market parties are responsible for their imbalances.** We also welcome **non-discriminatory and competitive dispatch and re-dispatch.** In order to ensure a stable investment climate and to achieve market integration, the already granted exemptions should be respected and there should be **no new exemptions.**
- To underpin wholesale market integration, EURELECTRIC backs a **step-wise approach towards regional system operation** and a **more efficient use of the existing electricity infrastructure** based on non-discriminatory congestion management.
- A more regional approach to system adequacy will bring benefits and synergies. **Regional and European system adequacy assessments should complement national assessments** rather than being binding factors for Member States to introduce capacity mechanisms. The proposed European **framework for capacity mechanisms fails to recognize key principles such as market-based and technology neutrality.** A command and control approach through an Emission Performance Standard undermines the EU ETS and puts competitiveness and security of supply at risk.
- **We welcome the high-level principles proposed for both transmission and distribution grid tariffs** such as cost-reflectiveness, fair cost allocation and incentives for efficient grid usage as they provide a level-playing field for market players and minimise market distortions. While we welcome **further harmonization of transmission tariffs at European level,** we believe that **distribution tariffs are a matter of national regulation** as they are closely linked to local specificities and their impact on cross border trade is low.
- **EURELECTRIC welcomes the acknowledgement of the prominence of DSOs in the energy transition.** The EU DSO entity shall embrace all types of DSOs in Europe and its tasks should be carefully selected. We commit to take an active role in the establishment of such entity.
- **Innovation is key to support the transformation of DSOs' business models.** We welcome the provision of adequate incentives to DSOs to procure services from market operators for the operation and development of their networks and integrate new solutions in the distribution systems.

Markets Committee
DSO Committee

Contact:
Blandine MALVAULT, Advisor – bmalvault@eurelectric.org
Charlotte RENAUD, Advisor Market design and Market Integration
– crenaud@eurelectric.org

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1. General Rules for the Electricity Market

1.1. Principles regarding the operation of electricity markets

Topic	Article	Commission Proposal	EURELECTRIC's view
Principles regarding the operation of electricity markets	3	In operating electricity markets, Member States, NRAs, TSOs, TSOs and market operators shall ensure free price formation, active customer participation, free cross-border trade and efficient dispatch, level playing field for all technologies, free entry and exit of the market, promote decarbonisation, energy efficiency and innovation, incentivise regional cooperation, etc.	Agree

Comment:

EURELECTRIC welcomes the strong market orientation of the Clean Energy Package. High-level principles listed under Art. 3 of the Electricity Regulation are crucial to allow for an efficient functioning of wholesale electricity markets and promote further integration.

We welcome in particular the very clear provision (Art. 3.1.m) that will ensure an alignment of market entry and exit conditions across Europe. Such alignment is crucial if the European Commission (EC) wants to promote further market integration through cross-border energy trade, renewable support schemes or cross-border participation in capacity mechanisms.

1.2. Energy prices

Topic	Article	Commission Proposal	EURELECTRIC's view
Price Restrictions	9	The principle of prices shall be based on supply and demand. Cautioned against intervention on price.	Agree
Value of lost load ('VoLL')	10	There shall be no price cap unless it is set at the value of lost load (VoLL). There shall be no price floor unless it is set at a value of minus 2000 €/MWh or less and in case it is or estimated to be - set at a lower value for the following day.	Partly agree

Comment:

Energy prices should reflect market fundamentals, including scarcity in terms of time and location. EURELECTRIC welcomes the aim of the Regulation and Directive to progressively remove the price caps or, where they exist, set at VoLL.

In establishing VoLL Member States (MS) shall apply a pan-European methodology developed by ENTSO-E, which will require some degree of harmonisation, in line with EURELECTRIC's position. However, the degree of subsidiarity and level of harmonisation required should be further

discussed making sure that sufficient room is guaranteed to MS. This is particularly important because VoLL is not only used for the purpose of calculating price caps, but also for example to determine reliability standards: the effects of a full harmonisation of VoLL across Europe would therefore extend beyond the simple harmonisation of price caps.

Price floors might be necessary for technical reasons for the price coupling algorithms to find a result and to avoid distortions in the market coupling. However, the exact level of price restrictions should not be defined in the Regulation as this makes the price restrictions difficult to modify.

EURELECTRIC would also like to recall that energy, balancing services and capacity are all needed and should therefore be properly valued in a future-proof wholesale market design. Making sure that price caps do not restrict price formation on energy markets is therefore no substitute for well-designed capacity markets.

It should also be underlined that when energy markets are coupled (e.g. day-ahead, intraday and balancing markets), the price cap, if any, should be the same among all bidding zones and markets. A different price cap in coupled and strongly interconnected markets may generate unintended-effects, such as electricity flowing in opposite direction of the electricity system requirement thus not being able to meet consumers' demand.

1.3. Day-ahead and Intraday Markets

Topic	Article	Commission Proposal	EURELECTRIC's view
Day-ahead and intraday markets	6	Improvements in the DA and ID market formation. Market operators shall allow market participants to trade energy as close to real time as possible.	Agree
Trade on day-ahead and intraday markets	7	By 1 January 2025, the ISP period shall be set to 15 minutes in all control areas.	Agree, provided the alignment between ISP and metering intervals for existing smart-meters remains voluntary.

Comment:

The legal coverage provided to integrate all wholesale market timeframes, alongside with the network codes/guidelines provisions is welcome. We also support the principle that balancing responsible parties (BRPs) shall be able to self-balance as close as possible to real time.

The proposal to harmonise ISP to 15 min by 2025 in all control areas at wholesale and retail level is welcome as it will ensure a level playing field between all market parties.

However, like any integration project, ISP harmonisation will trigger adaptation costs for the concerned MS across the whole value chain (generation, trading, retailing, distribution), and special attention should be placed on changes needed in metering, IT and commercial infrastructures.

In this sense, the timeline proposed by the EC is ambitious and needs to allow for an adequate transition period in order to manage this process in the most cost-efficient way. In particular, a transition will be needed for MS where smart metering is positively assessed as a result of cost-benefit assessment, or systematically rolled out.

Attention should also be paid to how to handle the metering and settlement for consumers currently measured at a different time interval vis-a-vis the one proposed, in particular in terms of eventual additional costs. Excessive costs increase for smart meters and related communication system upgrade must be avoided. While EURELECTRIC in principle supports ISP harmonisation, the costs incurred in countries that have already rolled out smart meters and adjacent settlement systems by that date need to be considered. In particular, this provision should take into account the functionalities already implemented in smart metering systems to avoid inefficient additional costs for smart metering and related communication system upgrade.

Therefore, MS should decide on a voluntary basis to apply the SM functionality defined in Art. 20(g) of the Electricity Directive, when rolling out smart meters for retail consumers. The current roll-outs will already substantially improve the link between wholesale and retail markets:

- Where smart meters for customers with another metering interval are already rolled out, it is more cost-efficient to ‘split’ the metered values into 15 min. intervals (i.e. mostly splitting hourly data from smart meters in four intervals) than to replace the smart meters before the end of their lifetime.
- In any case, in countries where smart meters are not rolled out, adapting the 15 min ISP at wholesale level into retail settlement period with longer intervals will require to profile the annual/monthly/etc. electricity consumption to allow linking wholesale and retail markets.

For further details, see EURELECTRIC response on the Electricity Directive.

1.4. Forward Markets

Topic	Article	Commission Proposal	EURELECTRIC's view
Forward Markets	8	<p>Long-term transmission rights shall be allocated in a transparent, market based and non-discriminatory manner via a single allocation platform. Long-term transmission rights shall be firm and be transferable between market parties.</p> <p>Market operators shall be free to develop forward hedging products.</p>	Agree

Comment:

Forward markets provide cross-zonal hedging opportunities ensuring full firmness of long-term transmission rights (LTTR), in line with the adopted Network code (NC) on Forward Capacity Allocation. EURELECTRIC points out that forward markets provide such benefits for all market participants, and not only for RES. Therefore, the current focus on the importance of RES to have hedging abilities should be generalized towards all market participants.

All market participants should be able to enter into long term contracts on a voluntary basis. Such contracts however mainly serve as a tool to hedge volumes and prices.

1.5. Balancing markets

Topic	Article	Commission Proposal	EURELECTRIC's view
Balancing market	5	<p>All market participants shall have access to the balancing market in a non-discriminatory way. Different technical capability of generation from variable renewable sources, DSR and storage should be taken into account.</p> <p>Marginal pricing shall be used for the settlement of balancing energy for each standard product. Market participants shall be allowed to bid as close to real time as possible, and at least after the intraday cross-zonal gate closure time.</p> <p>Maximum use and efficient allocation of cross-zonal capacity across timeframes.</p> <p>The imbalances shall be settled at a price that reflects the real time value of energy.</p>	Agree

Comment:

BRPs shall be able to self-balance close to real time, whilst guaranteeing that TSOs can safely operate the system. Furthermore, intraday and balancing markets shall ideally not overlap. For instance, at least the cross-border Gate Closure Time for balancing energy should be after the cross-border ID Gate Closure time.

Imbalance settlement price should correctly reflect the real-time value of the energy: price caps and floors should be removed and marginal pricing should be established, accompanied by a pay-as-cleared principle for BSP remuneration, as a target. When different products are used, the imbalance settlement price can be set at the volume weighted average of the individual marginal prices of the activated products.

Topic	Article	Commission Proposal	EURELECTRIC's view
Balancing market	5.7	The dimensioning of reserve capacity and the amount of balancing capacity procurement shall be done on a regional level.	Agree
Reserve capacity	Annex 1 point 7.1 b, 8.1a and 8.2a	Regional sizing of reserve capacity to be performed only at the day-ahead and/or intraday timeframe.	Disagree

Comment:

Procurement of balancing capacity shall ensure:

- Sufficient visibility in the long-term (even years ahead) for market players developing investments in balancing-oriented technologies, or making decisions on mothballing or decommissioning;
- While allowing some flexibility in the shorter term to adapt to the needs and enhance competition by including participation of capacities that may struggle to guarantee availability for a longer time.

Such flexibility could at least partially be ensured by allowing the transfers of obligations in a secondary market. Procurement on several auctions with various contracting periods seems therefore to be the most relevant design.

More coordination is needed in the way balancing capacity is sized and procured. A move towards regional procurement and dimensioning of reserve capacity by ROCs is welcome to allow the system to grasp the potential economic benefits of exchanging reserves. However, for this benefit to materialise, reservation of cross-border balancing capacity is necessary. EURELECTRIC is opposed to the possibility for TSOs to reserve cross-border capacity for balancing purposes. If any reservation of cross-border capacity for balancing purpose is deemed necessary, it should be the result of a market-based process.

In addition, we oppose the proposal that procurement is to be performed only during DA and/or ID timeframes. Procurement on multiple auctions with various lead times seems to be the most relevant design.

2. Integration of Renewable Energy

Topic	Article	Commission Proposal	EURELECTRIC's view
Balancing responsibility	4	<p>All market participants shall be financially responsible for imbalances.</p> <p>Installations benefitting from support approved by the Commission under state aid rules and commissioned prior to 1 Jan 2020, demonstration projects and small RES or high-efficiency cogeneration are exempted.</p> <p>MS may incentivize market participants which are fully or partly exempted to accept full balancing responsibility against appropriate compensation.</p>	We disagree with additional exemptions
Priority of dispatch	11	<p>Priority of dispatch for all generation should be market based and non-discriminatory.</p> <p>Installations benefitting from support approved by the Commission under EED2012 / RED2009 and commissioned prior to 1 Jan 2020, demonstration projects and small RES or high-efficiency cogeneration are exempted</p>	We disagree with additional exemptions and to extend priority of dispatch to new markets
Re-dispatching and curtailment	12	<p>The resources curtailed or redispatch shall be selected amongst generation or demand facilities submitting offers using market-based mechanisms and be financially compensated</p> <p>Where non-market based measures are used, RES and high-efficiency cogeneration should only be subject to downward regulation/curtailment if no other alternative exists, or if alternatives result in disproportionate costs or risks to network security</p>	Agree, but more focus should be made on market mechanisms and on compensation for non-market decisions.

Comment:

EURELECTRIC shares the overarching principles included in the proposal that all market participants, as defined in Regulation 1227/2011 (including third party aggregator and Flexible Service Providers), shall be responsible for their imbalances and that dispatch and re-dispatch should be market-based. We agree with the position of the EC according to which market-based and non-discriminatory dispatching of all generation facilities and the demand response shall be the rule.

However, in order not to damage the investment environment in the sector, existing exemptions (including those granted by contractual terms) should be kept, even in cases where generation installations are subject to significant modifications and without extending the time horizon of the existing exemptions. Nevertheless, the “Clean Energy Package” should be amended in order not to incentivise the development of new exemptions from imbalance responsibility or new priority of dispatch provisions, specifically in markets or regions where it currently does not apply. Furthermore, there should be no new or additional exemptions, namely specific provisions based on the size of the projects or the type of technologies. Until the implementation of the new market design outlined by the Commission, the existing market rules for dispatching and balancing should prevail.

We support the fact that generation facilities currently exempted from balancing responsibilities or that were granted with priority of dispatch/access may require compensation to accept new roles in the electricity market. Therefore, EURELECTRIC encourages the development of these incentive schemes, where market participants may voluntarily accept new responsibilities.

EURELECTRIC is of the opinion that redispatch and curtailment management shall only be based on market mechanisms, and that there is no need to introduce positive discrimination for RES and CHP. A market-based mechanism would provide the relevant price signals to trigger flexibility solutions, including storage and demand response, thus potentially increasing market competition and system efficiency. Based on a bidding process, all market players shall be activated and paid accordingly (including any lost support). In addition, redispatch and curtailment management are not purely national concerns and should hence encompass a cross-border dimension.

Non-market based curtailment should be an exception where market-based mechanisms are not functioning. In the meantime it is opportune to reinforce the network structure in order to avoid non-market based curtailment.

Market-based mechanisms must ensure that all commercial offers are exhausted before any form of non-market based measures is used. EURELECTRIC understands that a lack of competition could in theory justify the use of non-market-based measures as a last resort. Particular attention should be paid on how to carefully and transparently define how to measure the correct level of competition and suitable generation and demand facilities to provide such services.

In non-market based decision making processes, generation or demand shall be fully financially compensated for the lost revenues opportunity (incl. energy component and incentives) and for any additional costs, while making sure the compensation framework is sufficiently well-defined and controlled to avoid the risk of manipulation or counter-productive incentives.

In this regard, and provided the appropriate safeguards are created, EURELECTRIC favours that in the framework of the “Clean Energy Package” a full financial payment is ensured. All market participants that are used to remove grid congestion shall be financially compensated for any economic advantages or disadvantages, namely any costs incurred. We think that it is not opportune to penalize existing assets for congestion that occurred only after the investment decision was made. The EC should encourage the deployment of technologies (e.g. storage) by

market operators and infrastructure to reduce curtailment. In principle the network should be reinforced to accommodate generators as long as the global cost benefit analysis is positive. Where this is not the case or network reinforcement is not able to keep pace with RES development for non-economic reasons (e.g. acceptance), other options exist to provide locational signals to new assets (e.g. via connection agreements or market flexibility services).

3. Network Access and Congestion Management

3.1. Capacity Allocation and congestion management

Topic	Article	Commission Proposal	EURELECTRIC's view
Definition of Bidding Zones ("BZ")	13	BZ borders shall be defined on the basis of long-term structural congestions in the transmission network so that bidding zones do not contain these congestions. The configuration of BZ shall maximise economic efficiency and cross-border trading while maintaining security of supply.	Agree
Definition of Bidding Zones ("BZ")	13.4	The Commission shall adopt a decision whether to amend or maintain the existing BZ configuration.	Partly agree

Comment:

Capacity allocation and congestion management should be tackled in the Regulation in a more holistic manner. All available solutions should be assessed on an equal basis to solve congestions and based on an informed debate between all relevant stakeholders. BZ configuration is just one of the available tools and its impact on market efficiency and liquidity as well as on the long-term value of existing assets whose revenues are price-based should therefore be considered with due care not to create undue uncertainty. Just the ongoing risk of repeated BZ changes in the short or medium term - even without these changes actually taking place - undermines investment signals as well as the forward market. Decisions to build new power plants, refurbish existing ones or whether or not to exit the market would be extremely risky in an environment where the BZ can change in the short or medium term. Market-based congestion management and higher-level of coordination between TSOs are other tools to address network congestions efficiently, through coordinated redispatching and countertrading. Grid planning should also be taken into account.

EURELECTRIC supports an improvement of the existing CACM procedure to review BZ, with increased power given to ACER. This should be coupled with 1) stronger requirements to avoid the preventive reduction of cross-border capacity to tackle internal congestion and 2) increased transparency on redispatch and other remedial actions used by TSOs, as proposed in Arts. 14 and 15 (see below). EURELECTRIC also considers that measures other than BZ delineation - such as increased counter-trading, cross-border redispatch and investments - should be included in the conclusions as options to be considered alongside the BZ review. The proposal to introduce a supranational decision-making process for bidding zone reconfiguration (ref. CACM) is welcome as it takes into account cross-border impact of bidding zone configuration by removing the political sensitivities around such decision. This could be further discussed whether an intervention from ACER instead of the European Commission would be more adequate given its scope of competence.

In any case, this supranational intervention should take place only if there is no agreement between the MS (and/or other relevant neighbours) on the capacity calculation region especially where there is an impact on cross-border trade. Furthermore, this intervention shall be based on 1) a clear identification of the issue at stake and 2) an assessment of all available solutions on an equal footing. The decision to go for a BZ reconfiguration should be duly justified given its strong implications on market liquidity and on the long-term value of existing assets.

Topic	Article	Commission Proposal	EURELECTRIC's view
General principles of capacity allocation and congestion management	14	Countertrading and redispatch, including cross-border redispatch, shall be used to maximise available capacities. TSOs shall not limit the volume of interconnection capacity to be made available to other market participants in order to solve internal congestion or to manage loop-flows, unless this is justified for maintaining operational security and economic efficiency.	Agree, provided this is complemented by a provision on sharing of redispatching and countertrading costs
Allocation of cross-zonal capacity across timeframes	15	TSOs shall recalculate available cross-zonal capacity at least after day-ahead market coupling and after intraday cross-zonal gate closures times.	Agree

Comment:

Coordinated, efficient, transparent and non-discriminatory congestion management procedures are a fundamental prerequisite for an efficient functioning of the internal electricity market.

An efficient market-based dispatch system to deal with congestions should consider internal redispatching measures and cross-zonal capacity reduction on equal footing to ensure non-discriminatory access to cross-zonal capacity. It should be based on regional capacity calculation/allocation methodology, speedy recomputations and a fair allocation of redispatching costs.

EURELECTRIC recognises, however, that in certain exceptional conditions, limitation of interconnection capacity could be justified when it has proven to be the most economically efficient solution at system level and the NRA has given its approval. In such cases, transparency and efficiency of TSOs' actions need to be ensured.

The principles included in Art. 14 of the Electricity Regulation - reflecting recent ACER's Recommendation¹ on the common capacity calculation - on redispatching and countertrading cost sharing methodologies are welcome. By forcing TSOs to explore the most efficient congestion management options from a system perspective, those principles should allow for a more efficient use of the existing electricity infrastructure. For instance, if TSOs allocate more cross-zonal capacity, they could effectively compare in the ID timeframe the cost of internal redispatching with the cost of countertrading). These principles should be implemented by TSOs and NRAs when developing those methodologies as part of CACM guideline implementation.

¹ No 02/2016 of 11 November 2016

As critical prerequisites for the effective implementation of such principles, it is crucial to:

- Include as part of Art. 14 a provision on sharing of redispatching and countertrading costs. This will ensure that TSOs get the right financial incentives and economic signals to maximise cross-border capacities and to ensure non-discrimination between internal and cross-border trade. We suggest this provision to use the “polluter pay principle” as mentioned by ACER in its Recommendation No 02/2016, even though additional work is required to define which TSO should be considered as “polluter”. Such development is already foreseen in the framework of the implementation of the CACM guideline;
- Guarantee full transparency in the market on the correspondence between Critical Branches with a Critical Outage (CBCO) (e.g. network elements that limit the exports/imports) and the physical assets (lines, Phase Shifters, ...), as requested by several Transparency regulations, such as the Access Regulation, the Transparency Regulation and REMIT;
- Ensure that TSOs have the i) tools to make such comparison between the costs of all remedial actions (in particular internal redispatching) and the costs of restricting cross-border capacities and ii) operational processes to use the most economical means to address potential congestions.

3.2. Network charges

Topic	Article	Commission Proposal	EURELECTRIC's view
Network charges – overarching principles	16	<p><u>Principles</u>: Network charges shall be transparent, cost-reflective, applied in a non-discriminatory manner and take into account the need for network security and flexibility.</p> <p><u>Incentives</u>: Tariffs shall grant appropriate incentives to TSOs and DSOs.</p> <p><u>Locational signal</u>: possibility to provide locational signal through network charges is maintained but network charges shall not be distance-related.</p>	Agree

Comment:

EURELECTRIC supports the overarching principles proposed. Both transmission and distribution grid tariffs must first and foremost provide a level-playing field and seek to minimise distortions on the development of the energy system and a) reflect network fixed and variable costs, b) be allocated in a fair way among grid users, c) grant appropriate incentives to network users (consumers and generators) for an efficient use of the grid. Grid tariffs should also not include unrelated costs supporting other policy objectives, such as taxes and levies, as this would distort production, consumption and investment decisions. Should this happen, such taxes and levies should not be scattered across the tariff components and be channelled to a single one in order to provide transparency to both markets and consumers.

We agree that transmission and distribution tariffs shall not be distance-related since distance of a consumer from the network is not a cost driver for the operation of the network. The same principle however is not valid for connection charges, since the cost to connect a customer depends on the distance to the network to a great extent: therefore it has to be clarified that only

connection charges, in order to be cost-reflective and give locational signals, may well be distance-related. As a side note, the title of Article 16 “Charges for access to networks” is misleading, given that the provisions refer to charges for connection to networks, use of networks and reinforcements.

Topic	Article	Commission Proposal	EURELECTRIC's view
Distribution tariffs	16	<p>Distribution tariffs 1) shall reflect the cost of use of the distribution network by system users including active consumers, 2) may be differentiated based on system users' consumption and/or generation profiles.</p> <p>Where smart metering systems exist, NRAs may introduce ToU time differentiated network tariffs.</p> <p>NRAs shall provide incentives to DSOs to procure services for the operation and development of their networks and integrate innovative solutions in the distribution systems.</p>	Agree

Comment:

Regarding distribution tariffs, we share the EC's views that distribution network tariffs shall be cost reflective, transparent and non-discriminatory and that the application of such tariffs should be differentiated between user consumption and generation profiles.

Topic	Article	Commission Proposal	EURELECTRIC's view
Harmonisation	16, 55	<p>By 3 months after entry into force, ACER shall provide a recommendation addressed to NRAs on the progressive convergence of transmission and distribution tariff methodologies.</p> <p>EC is empowered to adopt network codes as delegated acts on rules regarding harmonised transmission and distribution tariffs.</p>	Partly agree

Comment:

We agree with the provision stating that ACER should provide a recommendation assessing the need for progressive convergence of transmission and distribution tariff structures. We also believe that such recommendation should provide guidance to NRAs to ensure a homogeneous implementation of the high-level principles listed under Art. 16. However, it seems unrealistic to foresee only 3 months for ACER to issue such recommendation based on sufficient stakeholders' involvement.

Regarding the level of harmonisation:

- The harmonisation of the structure and ultimately the level of transmission tariffs are needed to ensure a level-playing field. For transmission tariffs applied to generators in particular, their level should be set as low as possible, in particular for the power-based charges (€/MW) which act as a fixed cost and distort investment and decommissioning decisions. EURELECTRIC welcomes the development of a network code on transmission tariffs to mirror those principles;
- Distribution tariffs are a matter of national regulation as they are closely linked to local specificities (urban vs. rural area, degree of decentralised generation, climate conditions, structure of customers, topology of the grid, etc.). Accordingly, an EU-wide harmonisation approach to distribution tariffs via a network code as proposed in Art. 55.1.k is not justified especially given their low impact on cross border trade. However, given the rapid technological evolution, which transforms the way distribution grids are used and the profound changes to the energy system, we do believe that distribution tariff structure should follow the high level principles defined in Art. 16.

Topic	Article	Commission Proposal	EURELECTRIC's view
Performance targets	16.8	NRAs shall introduce performance targets in order to incentivise DSOs to increase the level of efficiency (including energy efficiency) in their networks.	Agree

Comment:

We welcome the provision in Art. 16.8 that states that NRAs shall incentivise DSOs, through grid tariffs to increase the level of efficiency (including energy efficiency) in their networks. However, these incentives should be included also in the DSO remuneration schemes that sometimes are disconnected from the grid tariffs. This article incentivises in particular DSOs to procure services the market to respond to their flexibility needs. Those incentives shall be carefully calibrated and designed to ensure that well-functioning markets can be developed.

3.3. Congestion Income

Topic	Article	Commission Proposal	EURELECTRIC's view
Congestion income	17.2 and 17.3	Any revenues resulting from the allocation of interconnections shall be used for: 1) guaranteeing the actual availability of the allocated capacity; and/or 2) maintaining or increasing interconnection capacities through network investments, in particular in new interconnectors. If the revenues cannot be efficiently used for the purposes set out above, they shall be placed on an internal account line for future use as for 1) and 2). The use of congestion income shall	Partly agree

Topic	Article	Commission Proposal	EURELECTRIC's view
		be subject to a methodology proposed by ACER.	
Congestion income	17.4	Transmission system operators shall clearly establish beforehand how any congestion income will be used and report on the actual use of that income. On an annual basis, the national regulatory authorities shall publish a report setting out the amount of revenue collected for the 12-month period.	Agree

Comment:

EURELECTRIC shares the EC's objective of triggering an efficient use and a cost-efficient expansion of cross-border and internal transmission network in order to complete the Energy Union.

EURELECTRIC is in general supportive of increased transparency to ensure that the biggest bottlenecks are assessed, safeguarding the best deal for European consumers in the longer run. In particular, there should be more transparency and a stronger control of TSOs' expenses aimed at increasing (inter)connection capacity and redispatch/countertrade when economically efficient to do so.

We therefore welcome that:

- Any revenues resulting from the allocation of interconnections shall be used for: 1) guaranteeing the actual availability of the allocated capacity; and/or 2) maintaining or increasing interconnection capacities through network investments, in particular in new interconnectors. Each transmission infrastructure project should be assessed through a sound and transparent cost benefit analysis (CBA) to demonstrate if overall social welfare is maximised or not, as already foreseen in Regulation 347/2013, and should be treated on an equal footing as other capacity or flexibility options (generation, storage and demand response). However, if the revenues cannot be efficiently used for the purposes set out above and there is no foreseeable prospect to do so in the future, we believe that congestion income might still be used for the reduction of tariffs;
- TSOs shall report on the actual use of the congestion income. As a side note, it would be easier/more appropriate to use such a report if done on a calendar year basis rather than on a period 1st of July year N-1 / 30 June year N).

Such provision appears less appropriate for merchant interconnectors, which do not have regulated returns and rely on congestion income.

4. Resource Adequacy

4.1. Adequacy Assessment

Topic	Article	Commission Proposal	EURELECTRIC's view
Resource adequacy	18.1	<p>Member States shall monitor resource adequacy within their territory based on the European adequacy assessment carried out on a yearly basis by ENTSO-E.</p> <p>The European adequacy assessment methodology shall among other be based on appropriate scenarios of projected demand and supply, including an economic assessment of the likelihood of retirement and new build of generation assets, appropriate sensitivities on wholesale price and carbon price development.</p>	Disagree
Resource adequacy	18.2	In case of adequacy issues, MS shall identify any regulatory distortions that caused or contributed to the emergence of the concern and publish a timeline for adopting measures to remove those.	Agree
Resource adequacy	18.3	MS shall publish a timeline for adopting measures to eliminate any identified regulatory distortions. When addressing resource adequacy concerns MS shall in particular consider removing regulatory distortions, enabling shortage pricing, developing interconnection, energy storage, demand side measures and energy efficiency.	Agree

Comment:

A move towards a European/regional approach to security of supply is welcome as it will allow developing a common forecast of reliable and firm capacity provided by all assets (generation, demand response and storage) as well as potential cross-border contribution. The European mid-term adequacy assessment performed by ENTSO-E shall be factored in but shall however not be considered as a binding factor for MS to introduce security of supply measures (e.g. capacity mechanisms). On the contrary, several adequacy assessments with different geographical scope (European, regional, national) and granularity in the underlying assumptions should be taken into account by MS. For example, should the outcome of a national adequacy assessment substantially differ from the regional one, MS could be asked to explain these

differences. This allows a more informed decision making process to ensure system adequacy. Consistency in terms of methodology and assumptions between the different levels of assessments is what really matters.

The identification of the source/cause of the adequacy concerns by MS is a positive step. By improving the functioning of their markets and committing to a clear timeline, MS will positively contribute to adequacy and security of supply. However, Art. 18.2 implicitly assumes that adequacy issues could only be linked to regulatory distortions. The Regulation should recognise, as mentioned in the DG COMP sector inquiry, that adequacy issues can also arise when energy wholesale markets are well-designed and well-functioning (e.g. because the fixed costs of some assets needed to ensure security of supply are not covered and these non-economically viable assets could thus leave the system).

Art. 18.3 stipulates that, when addressing resource adequacy concerns, Member States shall in particular consider removing regulatory distortions, enabling shortage pricing, developing interconnection, energy storage, demand side measures and energy efficiency. It is important that all measures to address security of supply are considered on a level-playing.

Topic	Article	Commission Proposal	EURELECTRIC's view
Resource adequacy assessment	19	The European adequacy assessment methodology shall - among other - be based on appropriate scenarios of projected demand and supply, including an economic assessment of the likelihood of retirement, new build of generation assets, appropriate sensitivities on wholesale price and carbon price development.	Partly agree

Comment:

We support the fact that ENTSO-E is developing an improved European methodology building upon their experience on the mid-term adequacy forecast. On top of being publicly consulted and approved by ACER, such methodology should be developed by expert groups involving all relevant stakeholders, including market parties, member states, NRAs, system operators. Assumptions and results of the yearly adequacy assessment should also be discussed with all stakeholders (e.g. via consultations). Most importantly, the inclusions of sensitivities linked to the demand (e.g. GDP, demography growth rates, energy efficiency gains, prosumer development) and the supply side (e.g. economic viability of existing assets, or development of RES capacity, including decentralised generation, cross-zonal exchange capacities, etc.) is welcome. Last but not least, existing barriers to cross-border exchanges should be duly taken into account and full transparency shall be ensured on the assumptions taken regarding cross-border exchange capabilities.

Topic	Article	Commission Proposal	EURELECTRIC's view
Reliability standard	20	When applying CMs, MS shall have a reliability standard in place indicating their desired level of security of supply in a transparent manner.	Partly agree

Comment:

Regarding the provisions on reliability standards, all MS should define and publicly disclose their desired level of SoS target based on harmonised metrics - and not only the MS that apply for CM. While the choice of adequacy metrics should be harmonised, each country should be free to set its desired level of adequacy. We would also welcome more clarity on how the provisions of the electricity regulation on adequacy assessment and reliability standards on one side, and the provisions of the Risk Preparedness Regulation on the other side are interlinked.

4.2. Capacity Mechanisms**General comment:**

To make the market design fit for the low-carbon transition, three components need to be valued adequately in the market: energy, flexibility and the availability of capacity in order to ensure the price signals to drive the necessary investments in demand response, storage and generation. While we welcome the strong-market driven approach in the Clean Energy Package, the EC proposals lack consistency on market design and does not provide longer-term price signals which are needed to ensure system adequacy. Indeed, the valuation of energy and flexibility has been properly tackled but the valuation of the availability of capacity has been left aside.

Capacity mechanisms are not an alternative to the improvement of short-term markets functioning and to the removal of market distortions. Well-designed capacity mechanisms should ensure that only the capacity strictly needed for security of supply is maintained or delivered. They are market-based solutions that deliver long-term system adequacy by valuing reliable and firm capacity and thereby providing signals for necessary existing capacity to stay online or new capacity to be developed.

As already mentioned, the development of a European methodology for adequacy assessments is welcomed, but should not be considered as the only deciding factor for MS to introduce security of supply measures (e.g. capacity mechanisms).

The Regulation should rather establish principles for the implementation and design of capacity mechanisms in order to end with the current uncoordinated piece-meal approach that led to a patchwork of capacity mechanisms as demonstrated in the DG COMP final report on the sector enquiry.

Topic	Article	Commission Proposal	EURELECTRIC's view
Cross-border participation in capacity mechanisms	21	<p>Mechanisms other than strategic reserves shall be open to direct participation of capacity providers located in another MS.</p> <p>Capacity providers shall be able to participate in more than one mechanism for the same delivery period and be subject to penalties in case of non-availability.</p> <p>Any difference in the cost of foreign capacity and domestic capacity arising through the allocation shall accrue to TSOs and be shared between them according to a methodology to be developed by ENTSO-E.</p>	Partly agree

Comment:

EURELECTRIC strongly believes that cross-border participation should apply to all types of mechanisms aimed at ensuring security of supply, including strategic reserves. EURELECTRIC however appreciates that the foreign capacity providers shall be the ones participating and not the owner to the interconnector/transmission asset. The proposed standard framework for cross-border participation is promising and embeds elements that EURELECTRIC has constantly pushed forward. However, we are concerned by the following proposals:

- EURELECTRIC generally advocates for a principle of exclusivity (no double commitments or earnings) in capacity mechanisms targeting overlapping time frames for scarcity or overlapping periods of obligation. When capacity derating is not determined ex-ante, enabling multiple commitments could require developing a complex set of arrangements between national authorities to establish what capacity is committed where and the likelihood of contributing to security of supply in each. Penalties would need to be sufficient to avoid capacity providers “overcommitting” themselves and receiving overcompensation relative to their (lack of) actual contribution to security of supply in case of common scarcity in committed markets;
- Linked to this point, the proposal on cross-border participation overlooks operational aspects. An appropriate legal and operational framework for managing simultaneous scarcity events (e.g. handling of existing contracts and conduct of TSOs) – possibly completed by intergovernmental agreements - is needed;
- The provisions on the difference of capacity bid prices to be shared among TSOs should be assessed carefully: market-based revenues from cross-border exchange capacities (incl. through capacity mechanisms) should be allocated considering a global picture of the costs supported by network users of each bidding zone, and respective benefits. The methodology to be proposed according to Art. 21.10.b should thus be holistic and developed in a framework wider than the implementation of capacity mechanisms;
- Art. 21.2 should consider “effective contribution to security of supply” instead of “technical performance”; which is not relevant with respect to a mechanism dedicated to security of supply.

Topic	Article	Commission Proposal	EURELECTRIC's view
Design principles for capacity mechanisms	23	An emission performance standard of 550 g CO ₂ /kWh has been introduced for new generation capacity. The same cap applies to existing generation capacity five years after entry into force of the regulation.	Disagree
Design principles for capacity mechanisms	23	Where the European resource adequacy assessment has not identified a resource adequacy concern, MS shall not introduce CMs.	Disagree

Comment:

Europe strives to decarbonize its economy and the COP21 Agreement gives an unequalled momentum to take further action. According to the EC Communication “A Roadmap for moving

to a competitive low carbon economy in 2050” a reduction in European CO2 emissions of 80-95%² is needed by 2050.

To achieve this objective, EURELECTRIC is committed to a carbon-neutral electricity supply by 2050³. This mix will overall comprise of renewable energy, nuclear in some countries, together with storage and demand side response. The remaining thermal capacity will be marginal, limited to a peaking role with low utilization. The key low-carbon technologies at hand are well-known, while large scale deployment of demand response and storage are yet to happen.

Our priority as a sector is to invest in low-carbon and innovative technologies to achieve this carbon-neutral electricity supply by 2050, and this is already happening. For instance, nine out of the eleven biggest investors in variable renewables are European utilities with over 40 GW of installed capacity⁴. The power sector does not intend to invest in new-build coal-fired power plants after 2020.

The most cost-efficient way to deliver this transition and the needed investments is through a market-based approach. Command and control tools, such as an emission performance standard, should be avoided.

EURELECTRIC is strongly convinced that a CO2 EPS in capacity mechanisms is not an adequate tool for a cost-efficient low-carbon transition as it goes against the following four key principles:

1. **Investments require trust:** interventions in markets always undermine investors’ confidence as they give the signal that similar command and control tools could be implemented in the future. Investments to comply with environmental legislation based on the existing market framework will also be jeopardized;
2. **One policy, one tool:** a CO2 EPS in capacity mechanisms will undermine the EU ETS as a key tool to ensure the achievement of the EU decarbonisation objectives. Well-designed capacity mechanisms should not include additional criteria unrelated to the objective of achieving security of supply in a cost-efficient way;
3. **Technology-neutrality:** the CO2 EPS goes against the principle of technology neutrality of well-designed capacity mechanism;
4. **Subsidiarity:** each MS has the right to “determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply” (TFEU Article 194(2)).

In addition, a CO2 EPS could have unintended consequences on competitiveness, decarbonisation and security of supply. In this perspective, we believe that an impact assessment of this proposal, including the impacts on the functioning of the internal energy market and possible effects on the EU ETS, should be made available as soon as possible.

- **Cost-efficiency for consumers:** by de facto excluding some assets, a CO2 EPS will reduce liquidity in capacity mechanisms and increase the need for new investments, thus triggering a higher price for capacity which will ultimately translate into higher electricity prices for consumers.
- **Decarbonisation:** According to the EC’s proposals, a capacity mechanism should only be implemented when system adequacy is at risk. In such a situation all available assets are needed to ensure security of supply. As a consequence, any excluded asset shall be replaced by new additional assets providing the same level of firm capacity. This

² compared to 1990 levels

³ EURELECTRIC, CEO Declaration on Climate Change, Electricity Markets and Security of Supply, March 2009

⁴ Bloomberg New Energy Finance, 15 February 2016 (1. Iberdrola SA, 3. Enel SpA, 5. E.ON SE, 6. Engie SA, 7. RWE AG, 8. EDP Energias de Portugal SA, 9. EDF SA, 10. Vattenfall SA, 11. SSE PLC)

replacement will take different forms in different countries. They are nevertheless likely to be replaced in the short and mid-term by expensive investments in new thermal generation to back-up variable renewables as large scale deployment of demand response and storage is still to materialize. A CO2 EPS will therefore not foster decarbonisation as it will hamper the EU ETS. In addition, the introduction of an EPS risks locking in new thermal assets for a longer period. Indeed, in some countries with a tight security of supply situation, the assets excluded from capacity mechanisms would need to be replaced with more efficient new thermal plants. These new plants will have an expected lifetime of 30 years, while existing plants would anyway be phased out 5-10 years after entry into force of the Regulation. This pathway introduces the risk of locking in new thermal capacity for a longer period, which would likely close the door to new investments in storage and demand side response;

- **Security of supply:** the impact of an EPS will vary from one country to the other and will not be limited to baseload coal and lignite. In some countries, a CO2 EPS will mostly impact peaking plants, including flexible gas-fired power plants⁵ which are expected to operate increasingly in very flexible modes to cope with intermittent renewable generation. In practice, the EPS may push flexible plants out of the market while they are cleaner, produce for a limited number of hours and will still be useful in the transition period to ensure security of supply. In other cases, exclusion from a capacity mechanism could make investing in compliance with existing environmental legislation (such as the Industrial Emission Directive) more difficult, leading to early closure of some plants and short term environmental damage.

EURELECTRIC is concerned that, on several key aspects, the Clean Energy Package is increasingly moving towards a “command and control approach” instead of maintaining the commitment to a market-based decarbonisation policy. EURELECTRIC therefore calls for the removal of the CO2 EPS for capacity mechanisms from the Electricity Regulation. We are convinced that the most cost-efficient approach is to separate policy objectives as well as the tools to achieve them. A strengthened ETS should remain the key tool to ensure the achievement of the EU decarbonisation objectives.

Topic	Article	Commission Proposal	EURELECTRIC’s view
Existing mechanisms	24	Existing capacity mechanisms shall be adapted to comply with the regulation.	Partly agree

Comment:

Whereas existing capacity mechanisms implemented before or under the Energy and Environmental State Aid Guidelines (EEAG) must be respected to avoid negative impact on investment decisions, EURELECTRIC would welcome transitional measures by MS to adapt in a reasonable timeframe those mechanisms towards a design compatible with the EEAG.

⁵ They are often marginal units (not covering most of their fixed costs) or even only present to ensure security of supply (back-up capacity, at the right of the merit order).

5. Transmission System Operation

5.1. ENTSO-E governance and New Tasks

Topic	Article	Commission Proposal	EURELECTRIC's view
ENTSO-E governance	25, 26, 28	<p>ENTSO-E shall act for the European good, independently of individual national interests the interests of national TSOs. It shall contribute to the efficient and sustainable achievement of the 2020 to 2030 EU policy objectives.</p> <p>ENTSO-E shall make public minutes of its Assembly, Board and Committees meetings and ensure providing the interested public regular information on its decision-making and activities.</p>	Agree
ENTSO-E new tasks	27	<p>Carry out and adopt proposals related to the European resource adequacy assessment and on technical specifications for cross-border participation in capacity mechanisms.</p> <p>Adopt a framework for the cooperation and coordination between ROCs and report to ACER on shortcomings identified on the establishment and performance of ROCs.</p> <p>Adopt a proposal defining the system operation region covered by each ROC.</p>	Agree

Comment:

The proposals on ENTSO-E's governance support a more balanced IEM governance and increased transparency of ENTSO-E's activities. EURELECTRIC also welcomes the proposed new tasks allocated to ENTSO-E.

5.2. Regional System Operation

Topic	Article	Commission Proposal	EURELECTRIC's view
ROCs establishment	32	By 12 months after entry into force of this Regulation, all TSOs shall establish regional operational centres (ROCs) to establish operational arrangements for system operation functions of regional relevance.	Agree
ROCs geographical scope	33	By 6 months after entry into force of this Regulation, ENTSO-E shall submit to ACER a proposal defining the geographical scope of ROCs, to be adopted or reviewed by ACER. The size of the region shall cover at least one capacity calculation region.	Partly agree (clarifications needed)
ROCs tasks	34	<p>ROCs shall execute system operation functions of regional relevance detailed in Annex 1 and issue binding decisions and recommendations to the TSOs of the system operation region</p> <p>ROCS shall in particular issue binding decisions for the following functions:</p> <ul style="list-style-type: none"> • Coordinated capacity calculation • Coordinated security analysis • Regional sizing of reserve capacity • Calculation of the maximum entry capacity for cross-border participation in CRM 	Partly agree
Governance of ROCs	35-39	<p>The day-to-day operation of the ROCs shall be managed through cooperative decision-making.</p> <p>ROCs shall develop a procedure to organise the appropriate and regular consultation of TSOs and of relevant stakeholders.</p> <p>ROCs shall develop a procedure for the adoption of binding decisions or recommendations addressed to TSOs as well as their revision.</p>	Partly agree (clarifications needed)

Comment:

Given the transformation of the European electricity system, as well as the obligations stemming from Network Codes, a step-wise approach towards regional system operation is a prerequisite.

Building upon the tasks performed by existing TSO coordination initiatives (Regional Security Coordination Initiatives), a gradual allocation of the responsibility to regional entities is needed.

In our view, the most promising tasks for a regional and cooperative decision-making are the following:

- Coordination of capacity calculation;
- Coordination of security analysis/adequacy assessments;
- Planning and coordination of network investment decisions;
- Coordination of balancing capacity procurement.

The implementation of network codes will already contribute by itself to significantly increase regional TSO cooperation – this is a clear no regret option. In particular the Capacity Allocation and Congestion Management (CACM) and soon to be published System Operation (SO) Guidelines already introduce a strengthened cooperation framework between TSOs on several of these issues: including capacity calculation, redispatching and countertrading, operational planning and system operation, etc. The SO Guideline introduces in particular the obligation for TSOs to participate in Regional Security Coordinators (RSCs), which will provide five regionally coordinated services by 2018. Those are steps in the right direction: it should be ensured that the transition from RSCs to ROCs builds as much as possible on what already exists to allow for a linear/natural evolution.

EURELECTRIC supports the establishment of ROCs and their ability to adopt binding decisions or recommendations based on a cooperative decision-making with national TSOs and regular consultation of relevant stakeholders.

As national TSOs ultimately remain responsible and liable for the operational safety of the system, we welcome the possibility for national TSOs to:

- derogate from the ROC's decision in cases when the safety of the system would be negatively affected (Art. 38.2);
- follow a clear process for the revision of decisions and recommendations (Art. 39).

In any case, should a TSO decide to deviate or not implement a ROC's decision or recommendation, full transparency on this choice shall be ensured, not only towards the ROC and other TSOs of the system operation region, but also towards the relevant NRAs and the market.

Whilst we fully support the establishment of ROCs, we believe that the proposals require a number of clarifications/improvements in terms of governance, timeline and regional delineation. We are currently looking at the details of the proposals and will publish at a later stage more detailed input.

Regarding the proposed functions/tasks, we would already have the following comments:

- As already mentioned, the EC proposal on regional sizing of reserves and balancing capacity procurement needs to be carefully looked at. While more coordination in the way balancing capacity is procured and reserve capacity sizing is made is needed, the proposal to perform those tasks only in the DA/ID timeframe seems too extreme. Procurement on multiple auctions with various lead times seems to be the most relevant design;

- We are doubtful whether ROCs should be the entity determining the import capacity to be considered for cross-border participation in capacity mechanisms, as far as a ROC may not encompass all the neighbours of a single country. The geographical scope therefore needs to be carefully designed.

Furthermore, clarifications are also needed regarding the geographical scope of ROCs: some tasks listed in Art. 34.1 (e.g. regional sizing of reserve capacity or calculation of maximum entry capacity to be considered in capacity mechanisms) suppose that each control area can be in only one ROC, whereas others (e.g. cross-border capacity calculation) consider that each border can be in only one ROC. This overlap is likely to induce inconsistencies and would mechanically lead to a single ROC for Europe (if that is the case, it should at least be explicitly mentioned). We suggest that ENTSO-E shall consult stakeholders on the geographical scope of ROCs before submitting a proposal to ACER as described in Art. 33.

Last but not least, further harmonisation of policies and regulation as a key prerequisite for further regional TSO cooperation. Progress in this field should go hand in hand and this should be better reflected in the CEP proposals. In this sense, we support the establishment of an Enhanced Regional Coordination (ERC) framework as recently advised by the FTI-CL Energy’s study “Options for the future of power system regional coordination” (8 December 2016) commissioned by ENTSO-E.

5.3. Provision of information

Topic	Article	Commission Proposal	EURELECTRIC’s view
Provision of information	47	<p>Generation undertakings who own or operate generation assets, where at least one generation asset has an installed capacity of at least 250 MW, or has a portfolio comprising at least 400 MW of generation assets, shall keep at the disposal of NRAs, competition authorities and the EC for 5 years all hourly data per plant.</p> <p>TSOs shall exchange regularly a set of sufficiently accurate network and load flow data in order to enable load flow calculations for each TSO in their relevant area. The same set of data shall be made available to NRAs and EC upon request, ensuring their confidential treatment.</p>	Agree

Comment:

EURELECTRIC supports the data provision imposed on TSOs: increased transparency on redispatch and other remedial actions used by TSOs is crucial in order to allow for a more efficient use of the existing infrastructure.

Regarding the data provision imposed on generation undertakings, we wonder why it focuses only on “Generation” undertakings whereas the whole regulation aims at ensuring a level-playing field with other technologies (e.g. demand response). We therefore suggest substituting “generation” by “(decentralised) generation, storage, and demand response”.

6. Distribution System Operation

Topic	Article	Commission Proposal	EURELECTRIC's view
EU DSO entity	49,50,52	DSOs which are not part of a Vertically Integrated Utility (VIU) or which are unbundled according to Art. 35 of the Electricity Directive shall cooperate at EU level through the so called DSO entity. DSOs who wish to participate need to be registered and they will suffer the cost of this body's activities through the tariff.	In principle, we agree i.e. that a DSO cooperation can be institutionalised in a DSO entity. We have conditions, questions and caveats.
Tasks of DSO entity	51	TSO/DSO coordination, integration of RES, Decentralised Generation, storage in the DSO grids; development of DR, deployment of smart grids and smart metering; data management, cyber security and data protection; development of network codes, cooperation with ENTSO-E.	Partly agree
Cooperation DSO-TSO	53	In planning and operating their networks.	Agree

Comment:

The EC has identified electricity DSOs as key enablers of EU energy goals – e.g. renewables and storage are mostly being connected at the distribution level. It is therefore justified for the DSOs to engage in institutional cooperation in the development of any new EU rules, when action at EU level is needed. The creation of a DSO entity may be beneficial for DSOs cooperation which can be brought to a new level in the interest of the improved functioning of the entire sector.

MS must always retain final responsibility for DSO activities within their national borders and markets.

The scope of responsibilities of the DSO entity has to be carefully defined. The DSO entity should be comprised of national DSO technical experts focused purely on technical legislative drafting and providing advice to the European institutions. Its main objective would be to ensure harmonisation of national rules at EU level where there are verifiable efficiency gains for the operation of the distribution networks and benefit for consumers.

The principle of subsidiarity should be strictly respected in defining the fields of activity that should be covered. Moreover, any new rule should only be adopted based on evidence and following a detailed and solid Cost-Benefit Analysis.

The EU DSO entity could also have a role in the PCI selection process as defined in Regulation 347/2013, as it would help the Smart grids projects – currently underrepresented – to participate in the selection process and benefit from the tools created by the Regulation.

This entity should be an expert organisation and should not engage in lobbying, which will continue to be done by the existing associations who will bring forward their members' positions, regardless of the conclusions or findings from the experts in the new DSO entity.

The governance of the DSOs entity must address the differences among DSOs across Europe. By governance we mean the ways in which the DSO entity conducts its business with integrity and fairness, being transparent with regards to all transactions, making all the necessary disclosures and complying with all laws.

Some DSOs are not obliged to comply with the unbundling rules according to the provisions of Art. 35 [recast of Directive 2009/72/EC as proposed by COM (2016) 867/2] and therefore, they have decided not to unbundle and bear the associated cost and burdens. Those DSOs are not eligible for membership in the EU DSO entity. Moreover, some DSOs are so small that even though they are eligible for membership will be unable to participate in practice.

Since the decisions of the DSO entity apply to all DSOs (also smaller ones) EURELECTRIC suggests to ensure inclusivity of all DSOs in Europe, therefore recommends that the membership criteria is widened to include all type of DSOs in Europe. We also assume that it will be possible and permitted that members can choose to send a representative or proxy to gatherings of the DSO entity as is ordinarily the course. The ways in which the members of the DSO entity come to a decision (voting right) also have to be defined carefully. EURELECTRIC believes that a proportional representation of all participants in the EU DSO entity is most appropriate. We are therefore going to work closely with stakeholders to produce a proposal in this regards to be included in the statute in the coming period.

7. Network Codes and Guidelines

Topic	Article	Commission Proposal	EURELECTRIC's view
Adoption of NCs and guidelines as delegated acts	54	The EC may adopt NCs or guidelines as delegated acts.	Partly agree
New proposed NC areas	55	NCs to be developed in new areas.	Partly agree
And NCs drafting process	55.9	ENTSO-E or EU DSO Entity (where relevant) shall convene a drafting committee, consisting of representatives including a limited number of the main affected stakeholders.	Agree
NCs amendment process	56	EC is empowered to adopt delegated acts concerning the amendment of NCs.	Agree
New proposed guideline areas	57	EC may adopt or amend binding guidelines as delegated acts in new areas.	Agree

Comment:

We welcome the fact that the EU DSO entity will be able to co-develop new NCs with ENTSO-E and ACER, where there is a clear and justified reason for NCs that have a DSO impact. We further emphasise that the EU DSO entity should be part of developing the priority list for the NCs together with ACER and ENTSO-E.

EURELECTRIC welcomes the improvement of transparency and the will to involve stakeholders during the development phase of the NCs and guidelines. However, we believe that the obligation to involve stakeholders in the drafting teams for NCs should be strengthened (the proposed Regulation only mentions “a limited number of affected stakeholders”). This is essential to ensure importance and efficiency of the provisions as well as an overall support for these texts for their adoption.

EURELECTRIC supports the EC to adopt or amend new NCs and guidelines through delegated acts. However, EURELECTRIC emphasises the importance of involving stakeholders in the Expert Groups as part of a balanced comitology process with the aim to duly take into account the potential impact of the proposed delegated acts on the functioning of electricity markets and systems. The opinion of the Expert Groups should be highly considered by the Commission when adopting NCs and guidelines.

Efforts should be made on the adoption and implementation of existing NCs and guidelines at national level.

EURELECTRIC also questions whether addressing the new areas actually requires a brand new set of NCs and guidelines, or if an expansion of the current NCs and guidelines would be sufficient. Some of the proposed NCs go very much into MS's competencies, for example on harmonised distribution tariff structures and connection charges on distribution level. Furthermore, EURELECTRIC opposes development of technology specific NCs such as non-

frequency ancillary services and demand response. The relevance of the proposed NC area on cyber security should be assessed in line with the existing European framework for cyber security.. In any case, the national implementation process of existing NCs and the consistency between existing and potential future codes should be ensured.

EURELECTRIC also argues for the establishment of a NC on transmission tariff structures and connection charges (see assessment in "3.2 Network charges"). However, given the fast paced evolution of energy systems, NC on distribution tariff structure is not justified given their low cross-border impact and their strong interlink with local specificities.

A key addition should be the development of a clear and timely amendment process. NCs need to be kept up-to-date to reflect the rapidity of market and technical change and to deal with issues raised during implementation. Clear processes with set timescales and roles for all parties should be established and all industry stakeholders should be placed on an equal footing, e.g. in proposing amendments. Furthermore, the role of stakeholders should be clarified. In particular, the role of the European Stakeholder Committees should be empowered in the amendment process (both in the existing amendment process and in the future amendment process).

8. Third Country Participation

Comment:

In an earlier leaked draft of the Electricity Regulation, there was an article (Art. 64) setting the requirements for third country participation in the Internal Electricity Market (IEM) provided that they have concluded agreements with the EU. This article was subsequently removed from the final text adopted by the EC. EURELECTRIC supports the development of a larger, more integrated European electricity market, as harmonised rules will ensure that existing and new electricity connections to third country markets do not lead to distortions that have adverse effects on wholesale electricity prices or security of supply in the IEM.

The leaked article contained the main elements of what would be required to ensure the free and fair electricity between the EEA and third countries. However, there may need to be some changes to the article to ensure that both the EU and neighbouring markets are comfortable with the rules proposed including a comprehensive definition of third countries.

EURELECTRIC pursues in all its activities the application of the following sustainable development values:

Economic Development

▶ Growth, added-value, efficiency

Environmental Leadership

▶ Commitment, innovation, pro-activeness

Social Responsibility

▶ Transparency, ethics, accountability



Union of the Electricity Industry - EURELECTRIC aisbl
Boulevard de l'Impératrice, 66 - bte 2
B - 1000 Brussels • Belgium
Tel: + 32 2 515 10 00 • Fax: + 32 2 515 10 10
VAT: BE 0462 679 112 • www.eurelectric.org
EU Transparency Register number: [4271427696-87](https://ec.europa.eu/transparency/regexp1/?table=ENREG1_1&id=4271427696-87)