

European Commission legislative proposal for a Regulation on Risk-Preparedness in the electricity sector

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 welcomes the European Commission's proposal for a Regulation on Risk-Preparedness in the electricity sector. We recognise the importance of this proposed Regulation which addresses how Member States should prepare themselves and co-operate with each other in order to identify and manage risks relating to security of electricity supply.
- EURELECTRIC supports the establishment of a common framework of rules on how to prevent and manage electricity crisis situations across Europe.
- EURELECTRIC supports the clear statement saying that measures for crisis management may only be used when all market-based instruments are exhausted.
- The proposed Regulation puts an emphasis on transmission grid operators and consumers' issues. However, little focus is given to power generators. EURELECTRIC believes that generators are the first frontier in the prevention and management of crises. EURELECTRIC therefore considers that there should be specific requirements on ENTSO-E to consult directly with the generators, as well as with suppliers and other market participants.
- The proposal stipulates that a number of new entities are to be established, while some existing ones will be reinforced. Further information is therefore needed regarding who will be responsible for the establishment of these new entities as well as their relevant level of competence and who will bear the corresponding costs and be responsible for providing resources. Defining competences, role and responsibilities of stakeholders and new entities should be clear in order not to create overlaps/conflicts between entities. Their added value and necessity should also be assessed as to not overcomplicate the structure.
- It should be noted that detailed rules on emergency arrangements have recently been agreed in the Emergency & Restoration Network Code. EURELECTRIC therefore proposes to introduce a review mechanism to ensure that the Regulation and the Emergency & Restoration Network Code are fully consistent and do not overlap, as well as ensuring appropriate cross-references to the Code.
- It is important that prevention is the key focus and Member States are encouraged to take all possible provisions to avoid crisis situations: the mitigation of the consequences of a crisis should be considered as a last resort solution.

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1. General Assessment

EURELECTRIC welcomes the Commission's proposal for a Regulation on Risk-Preparedness in the electricity sector, which repeals the Directive 2005/89/EC (the Security of Supply Directive). In a time where the European power system is undergoing significant changes and is faced with uncertainties, it is important that current legislation reflect and take into account the reality of today's interconnected electricity market. EURELECTRIC therefore recognises the importance of this Regulation which addresses how Member States should prepare themselves at national level, and co-operate with each other at regional level, to identify and manage risks relating to security of electricity supply.

EURELECTRIC supports the establishment of a common framework of rules on how to prevent and manage electricity crisis situations across Europe. The common framework would build upon an increase in transparency throughout the preparation phase, and, during an electricity crisis, enhance co-operation at regional level between Member States, as well as effective monitoring of security of supply in Europe via the Electricity Coordination Group. Nevertheless, EURELECTRIC believes that some elements of the Regulation still need to be better addressed.

The proposed Regulation puts an emphasis on transmission grid operators and consumers' issues. However, little focus is given to power generators, suppliers and other market participants such as balancing responsible providers and storage providers. This is the case, for instance, in the proposals provisions relating to the ENTSO-E consultations on the methodology to identify crisis scenarios (Article 5(4)), on the methodology for short-term adequacy assessments (Article 8(2)) and on the establishment of risk-preparedness plans. Generators and other market participants are either not included or not explicitly mentioned in such provisions. These are all key stakeholders for the supply of electricity to end-users and EURELECTRIC therefore calls to revise the list of stakeholders and to include them.

The proposed Regulation refers to the establishment of a number of new entities, actors, authorities (Regional Operation Centre (ROC), competent authority, crisis manager or team) as well as the reinforcement of existing entities (Electricity Coordination Group, ENTSO-E, Commission, Energy Community Contracting Parties). However the proposal does not contain information regarding who will be responsible for verifying the establishments of these new entities, as well as their relevant level of competence, and who will bear the corresponding costs and be responsible for providing resources. EURELECTRIC would therefore welcome additional information in this regard, and emphasises that the definition of any new entities' competences should be clear in order not to create overlaps/conflicts between entities. Their added value and necessity should also be assessed as to not overcomplicate the structure.

Detailed rules on emergency arrangements have recently been agreed in the Emergency & Restoration Network Code and EURELECTRIC proposes to establish a review mechanism to ensure that the two texts are fully consistent and do not overlap, as well as ensuring appropriate cross-references to the Code.

EURELECTRIC strongly supports increasing regional cooperation to prevent and manage crisis. However Member States should be allowed the necessary flexibility to ensure national security of supply.

Finally, EURELECTRIC emphasises that prevention should be the key focus of risk-preparedness and Member States should take all possible provisions to avoid crisis situations. The mitigation of

the consequences of a crisis should be considered as a last resort solution, while procedures for crisis management should be settled as much as possible in an ex-ante manner.

2. Detailed Assessment of the Proposal

I. General Provisions

Topic	Article	Commission Proposal	EURELECTRIC's view
Definitions	Article 2	Definitions including "crisis manager or team" and "electricity crisis".	Further clarification required including additional definition

Comments:

- EURELECTRIC requires further clarification on the definition of "electricity crisis". Does "crisis" exclusively refer to an electricity shortage (vs. potential of risk of interruption)? What is the exact definition of a significant electricity shortage? Would this also cover a black out or customer disconnection? Does the duration of the shortage and the number of customers affected have an impact?? Does it cover only transmission or also distribution system customers?
- EURELECTRIC proposes to add an additional definition for the concept of "regional crisis".

Topic	Article	Commission Proposal	EURELECTRIC's view
Competent authority	Article 3	Member States to designate competent authorities to carry out tasks set out in the Regulation and co-operate with other competent authorities. This shall be done three months after entry into force of the Regulation.	Agree, with reservations

Comments:

- EURELECTRIC believes that a maximum of three months to designate a competent authority is too short, especially if a new entity is to be created. EURELECTRIC would therefore prefer this period to be longer.
- System operators, such as TSOs and DSOs are ultimately liable for safe and reliable operation of the system at national level. Competent authorities established as part of this Regulation should involve them in the process. EURELECTRIC therefore proposes to amend Article 3(1) as follows:

"As soon as possible and by ... at the latest, each Member State shall designate a national governmental or regulatory authority as its competent authority in charge of carrying out tasks set out in this Regulation, taking into account the transmission system operator and distribution system operator responsibility for the reliable power system

operation. Competent Authorities shall cooperate with each other for the purposes of this Regulation.”

II. Risk Assessment

Topic	Article	Commission Proposal	EURELECTRIC's view
Security of supply assessment	Article 4	Member States to assess all risks related to Security of Supply regularly (cooperate with ENTSO-E and Regional Operation Centres)	Agree
Development of common methodology by ENTSO-E	Article 5	ENTSO-E to develop a common methodology for identifying the most relevant regional crisis scenarios. ENTSO-E to consult at least the industry and consumer organisations, distribution system operators, national regulatory authorities and other national	Agree with reservations Amendment of stakeholder list, scarce timing and confidentiality issue.

Comments:

- In Article 5, EURELECTRIC considers that a two month period for holding a consultation exercise, analysis of the results, developing and submitting the proposed methodology, is insufficient and would prefer this period to be longer.
- EURELECTRIC believes that Article 5 should take into account confidentiality requirements required of some scenarios, both regarding their identification and dedicated plan, such as for instance, the one related to malicious attack (see Article 10(7)) and other scenarios involving safety rules. EURELECTRIC therefore proposes to add to Article 5(1): *“The methodology shall describe specific procedure for scenarios involving sensitive information”*. Sensitive information can refer to nuclear and hydraulic safety rules, IT security systems etc.
- The TSOs, DSOs and power generators have an essential role to play in maintaining secure electricity supply and network operability, and seamless cooperation between them is necessary. In this light, EURELECTRIC believes that there should be a specific requirement in Article 5(4) on TSOs to consult directly the generators, suppliers and other market participants (such as balancing responsible providers, storage providers etc.) and not simply “the industry” (they should be explicitly mentioned). In fact, EURELECTRIC believes that they would provide valuable contributions regarding the development of scenarios and a methodology for short-term adequacy assessments.

Topic	Article	Commission Proposal	EURELECTRIC's view
Regional crisis scenario identification	Article 6	Identification of crisis scenario at regional level (by ENTSO-E), following the common methodology developed by ENTSO-E. To be completed ten months after entry into force of the Regulation.	Agree with reservations – Confidentiality issue
National crisis scenario identification	Article 7	Identification of crisis scenario at national level (by Member States), ensuring consistency with the regional scenarios identified. To be completed ten months after entry into force of the Regulation.	Agree with reservations – Timing inconsistency

Comments:

- The same concerns regarding confidentiality to the ones explained above in the context of Article 5 and for consistency, EURELECTRIC proposes to add the following to Articles 6(1) and Article 7(1): *“Scenarios involving sensitive information shall be defined according to the specific procedure defined in Article 5(1)”*.
- Article 7 states that national electricity crisis scenarios should be consistent with the regional scenarios and completed within 10 months of entry into force of the Regulation. However the proposal states that the regional scenarios should also be completed within 10 months of entry into force of the Regulation. This therefore highlights a timing inconsistency as it does not allow time for the regional scenario to be used as input data for a national one. Furthermore, some national scenarios should reflect the national implementation of regional scenarios. EURELECTRIC therefore proposes to reconsider the timing of these two Articles.
- EURELECTRIC proposes the following alternative wording for Article 7(1): *“Member States shall identify the most relevant electricity crisis scenarios at the national level with the direct involvement of national distribution and transmission system operators”*.

Topic	Article	Commission Proposal	EURELECTRIC's view
Methodology for short-term adequacy assessments	Article 8	ENTSO-E to develop a methodology for assessing short-term adequacy, namely seasonal adequacy as well as week-ahead to intraday adequacy. The methodology will need to consider the regional and Union wide context, including to the extent possible non-EU countries within synchronous areas of the Union.	Agree with reservations – Minimum requirements for non-EU countries and amendment of stakeholder list.

Comments:

- EURELECTRIC believes that minimum requirements are needed for non-EU countries located within synchronous areas of the Union and which could be considered in the development of the short-term adequacy assessment methodology. These requirements would be useful, for instance, when contracting with these countries. EURELECTRIC believed that ENTSO-E is the appropriate body to define and communicate requirements for non-EU countries.
- In Article 8(1) (b) and (c), EURELECTRIC requires further clarification regarding the usage of term “critical situation” and whether it has the same meaning as “crisis scenario”.
- The TSOs, DSOs and power generators have an essential role to play in maintaining secure electricity supply and network operability, and seamless cooperation between them is necessary. In this light, EURELECTRIC believes that there should be a specific requirement, in Article 8(2) on TSOs, to consult directly with the generators, suppliers and other market participants (such as balancing responsible providers, storage providers etc.) and not simply “the industry” (they should be explicitly mentioned). In fact, EURELECTRIC believes that they would provide valuable contributions regarding the development of scenarios and a methodology for short-term adequacy assessments.

Topic	Article	Commission Proposal	EURELECTRIC’s view
Short-term adequacy assessment	Article 9	Seasonal adequacy by ENTSO-E, week-ahead to intraday adequacy by Regional Operation Centres. All assessment to follow a common methodology developed by ENTSO-E	Agree

III. Risk-Preparedness Plans

Topic	Article	Commission Proposal	EURELECTRIC’s view
Establishment of risk-preparedness plans	Article 10	On the basis of regional and national electricity crisis scenarios, the competent authority of each Member State will be required to establish a risk-preparedness plan, following consultation with relevant stakeholders. The plans will need to set out national and regional measures planned or taken to prevent or mitigate the electricity crisis scenarios identified.	Agree, with reservations

Comments:

- In Article 10(1) EURELECTRIC would welcome further clarity regarding the meaning of the phrase “organisations representing the interests of household and industrial electricity customers”.

- EURELECTRIC believes that the power generators, suppliers and other market participants (such as balancing responsible providers, storage providers etc.) should be explicitly mentioned as key stakeholders that must be consulted in the development of risk-preparedness plans.
- In Article 10(1), EURELECTRIC proposes to add for confidentiality and consistency: *“Plans involving sensitive information shall be defined according to the specific procedure defined in Article 5(1)”*.

Topic	Article	Commission Proposal	EURELECTRIC's view
Content of risk-preparedness plans as regards national measures	Article 11	Risk-preparedness plans shall set out all measures planned or taken to prevent, prepare for and mitigate electricity crisis situation. The Article lists what should be included in the content of the plan.	Agree, with reservations

Comments:

- EURELECTRIC would like to propose additional elements added to the content of the risk-preparedness plans:
 - An explicit definition of the steps and timeline to be taken by power generators in order to produce the energy required by the plan.
 - Information on compensation schemes for such energy produced, notably in the case of recourse to solidarity measures (such as paragraph (g) on non-market based measures and paragraph (h) on load-shedding plans and special protection against disconnection some end-users may benefit from) and for other non-economic factors affecting generators (start-up times, non-optimised unit use, impact on maintenance schedules etc.), as well as compensation rules for the solidarity delivered (to be defined ahead of the delivery of the solidarity).

Topic	Article	Commission Proposal	EURELECTRIC's view
Content of risk-preparedness plans as regards regionally coordinated measures	Article 12	In addition to the measures listed in Article 11, the risk-preparedness plan of each Member State shall include regional measures to ensure that crisis situation with a cross-border impact are properly prevented and managed. These measures shall be agreed at the regional level.	Agree, with reservations

Comments:

- EURELECTRIC requests additional information concerning the procedures for carrying out annual tests of the risk-preparedness plans, as mentioned in Article 12(1)(d). Would such tests comprise simulations, such as the ones referred to in paragraph 6(a) of the Annex

which mentions ‘real time response simulation’, or would they include real testing? Also further information, on who would bear the cost of such testing would be welcome.

- In addition to the “procedures for carrying out annual test of the plans” (Article 12(1)(d)), EURELECTRIC believes that it is important to institutionalise “stress tests”. These could include, for instance, training exercises every second year for “what-if crisis situations”, blackouts, cyberattack simulations, etc.
- EURELECTRIC believes that the Regulation should explicitly state that risk-preparedness plans should not offer any scope for market distortion or optimisation.

IV. Managing Electricity Crisis Situations

Topic	Article	Commission Proposal	EURELECTRIC's view
Early warning and declaration of crisis	Article 13	When confronted with an electricity crisis situation, the competent authority of the Member State in question shall declare the electricity crisis and inform the competent authorities of the neighbouring Member State and the Commission without undue delay.	Agree
Cooperation and assistance	Article 14	Member States shall act and cooperate in a spirit of solidarity and offer each other assistance (which shall be subject to compensation).	Agree, with reservation - compensation mechanism
Observance of market rules	Article 15	Measures to prevent and mitigate electricity crisis situations shall comply with the internal electricity market and system operation rules. Non-market measures may be activated in a crisis situation only if all options provided by the market have been exhausted.	Agree, with reservation

Comments:

- In Article 14, EURELECTRIC proposes that the Regulation states clearly that any compensation mechanism should be determined upfront or at least in the early stage of a crisis.
- Regarding Article 15(2), EURELECTRIC believes that, in the event of a crisis, the procedures and rules for suspension of market rules should be clearly defined and in line with the Market Interactions Chapter in the Network Code on Emergency and Restoration. Such non-market measures, if activated, shall be subject to compensation. EURELECTRIC supports a clear statement in the Regulation that measures for crisis management may only be used when all market-based instruments are exhausted.

VI. Evaluation and Monitoring

Topic	Article	Commission Proposal	EURELECTRIC's view
Ex-post evaluation	Article 16	Ex-post evaluation report to be provided by the competent authorities to the Commission and Electricity Coordination group no later than 6 weeks after declaring electricity crisis situation.	Agree with reservations
Monitoring	Article 17	The Electricity Coordination Group will be responsible for monitoring the performance of Member States in the area of security of supply.	Agree

Comments:

- Article 16 describes the list of what should be included in the evaluation report of the competent authorities. EURELECTRIC proposes two amendments to this list:
 - EURELECTRIC believes that point subparagraph 16(2)(d) regarding the documentation of the assistance provided or received by neighbouring countries should be extended to include also include assistance 'prepared' without effective activation.
 - Subparagraph 16(2)(e) focuses primarily on the consumer impact of an electricity crisis. EURELECTRIC believes that the economic impact on power generators also needs to be fully assessed. This does not only refer to the price of energy but also the impacts related to the unforeseen start-up of generation units, dis-optimisation of production or maintenance programs.

V. Final Provisions

Topic	Article	Commission Proposal	EURELECTRIC's view
Cooperation with the Energy Community Contracting Parties	Article 18	Member States and the Energy Community Contracting Parties are invited to closely cooperate in the process of the identification of electricity crisis scenarios and the establishment of risk-preparedness plans	Agree with reservations – Amendment provided

Comments:

- EURELECTRIC supports the development of a larger, more integrated European electricity market, as harmonised rules will ensure that existing and new electricity connections to very well interconnected third countries will contribute to a higher degree of security of supply in the Internal Energy Market (IEM). The Regulation should therefore foresee the possibility for very well interconnected third countries to maintain the current status of integration in order to ensure the highest degree of risk-preparedness possible in Europe. EURELECTRIC therefore proposes the following amendment to the Article:

“Cooperation with the Energy Community Contracting Parties and Third Countries

Member States and the Energy Community Contracting Parties are invited to closely cooperate in the process of the identification of electricity crisis scenarios and the establishment of risk-preparedness plans so that no measures are taken that endanger the security of supply of Member States, Contracting Parties or the Union. In this respect, Energy Community Contracting Parties may participate in the Electricity Coordination Group upon invitation by the Commission with regard to all matters by which they are concerned; the same should apply to very well interconnected non-EU countries within synchronous areas of the Union.”

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



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