

European Commission's legislative proposal on ACER Regulation

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.

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KEY MESSAGES

- ACER is the appropriate body for NRAs to fully work together and cooperate in order to discuss and build a European vision of what a consistent energy regulation should be in order to accompany the evolution of the electricity market.
- In order to accelerate the progress towards a single market, the independence of the Internal Electricity Market's governance framework needs to be strengthened with a view to promoting a more integrated and European approach. In this respect, the move to open ACER's membership to third countries which have concluded agreements with the European Union in the area of energy, environment and competition is welcome.
- EURELECTRIC fully supports the new provisions for more regional and European cooperation and for a stronger role of ACER within this framework.
- EURELECTRIC supports that ACER's tasks have been updated in the field of wholesale market supervision (including the increased regulatory oversight of Nominated Electricity Market Operators) and cross-border infrastructure as coordination of national regulatory actions will increase in the coming years. Coordinated regional decisions would mean faster and more effective decision-making on cross-border issues.
- The role of ACER should be to realise seamless cooperation of NRAs regarding especially cross-border issues. EURELECTRIC does however believe that ACER should also act upon objectively observed disagreements among NRAs. Market players should be entitled to notify observed disagreements among NRAs to ACER where these are detrimental to their interests. EURELECTRIC supports that ACER is given more responsibility in elaborating and submitting the final proposal for Network Codes to the Commission and that ACER is given the competence to revise and approve methodologies and algorithms for the implementation of the Network Codes (Article 5.1.(c), Article 5.3 and Article 55 of the Electricity Regulation). For a balanced representation of interests, stakeholders should be involved in the process.
- EURELECTRIC further argues for stakeholder involvement in Article 5.3 where ACER approves and amends methodologies and assumptions used in the bidding zone review process.
- EURELECTRIC also believes that ACER should be subject to sufficient checks and balances and considers it unnecessary to change the voting rule of the Board of Regulators (Article 23) and the Administrative Board (Article 19.55) from two-thirds majority to simple majority. Furthermore, a robust agreement among NRAs on the decisions taken by ACER is necessary to ensure a consistent and stable regulatory framework across Europe.
- ACER should be made sufficiently independent from the European Commission, so not to reduce the level of independence of regulators (ACER and NRAs together) in relation to both national governments and European institutions.
- ACER should continue to focus the preparation for monitoring the national implementation of the Network Codes and facilitate stakeholder involvement.
- Finally, ACER should be granted the appropriate resources and powers to carry out its tasks effectively.

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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
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European Commission legislative proposal to amend the Energy Efficiency Directive

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- Unlocking the market potential for energy efficiency in the EU is of critical importance to enable a strong, sustainable and competitive economy. As a key actor in this field, the electricity sector is committed to develop and deliver economic efficiency and energy services for European customers. Measures to enhance energy efficiency make most sense in the non-ETS sectors and the Energy Efficiency Directive (EED) is a key pillar to achieve this.
- The EED has been largely successful because it allows Member States to address their national challenges and pursue tailored strategies. Member States must retain full flexibility as to how they set and meet energy efficiency targets, as is the case now.
- Flexibility must also be maintained in Article 7 of the Directive. As Member States struggle to meet the annual savings targets in a cost-efficient manner, a prolongation of the binding target (provided it is agreed), must not go hand in hand with less tools to meet it.
- While the electricity sector is decarbonising under an ever decreasing ETS-cap, the sectors with enormous potential for energy efficiency improvements with real impact on climate, energy security and competitiveness lie outside of the ETS (such as buildings and transport). Achieving deep decarbonisation and efficiency through electrification provides a powerful pathway for these sectors. EURELECTRIC calls on policymakers to strongly recognise the role of electromobility and highly efficient electric technologies, such as heat pumps, to unlock greenhouse gas reductions. This recognition must also feature in the Energy Union Governance framework and should go hand in hand with the relevant financing tools.
- EURELECTRIC welcomes the attempt by the Commission to review the Primary Energy Factor (PEF). While the proposed new factor of 2.0 is a step in the right direction, it still incentivises electricity savings over direct fossil savings to meet the targets. As the electricity sector continues to add large amounts of renewable generation, an increased coupling of electricity with the transport and heating sectors could greatly help to reduce RES curtailment.
- The electricity sector reiterates its call for proper recognition and management of the impact of EU energy efficiency policy on the EU ETS. EURELECTRIC is concerned by the Commission Impact Assessment's estimated 2030 price levels for ETS allowances under the increased ambition scenarios, which decrease significantly with higher target levels. This would weaken the ETS instrument right after its current reform.
- In the discussion on a potential increase of the EU energy efficiency target EURELECTRIC's primary concerns are ensuring sufficient flexibility in setting and achieving the target as well as the proper management of the inherent impact on EU climate policy. In this context, EURELECTRIC is not convinced of the economic or environmental advantages of an increased energy efficiency target. The power sector further calls for the continuation of an indicative target, as currently successfully implemented.

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General Assessment of the Proposal

Unlocking the market potential for energy efficiency in the EU is of critical importance to enable a strong, sustainable and competitive economy. As a key actor in this field, the electricity sector is committed to develop and deliver economic efficiency and energy services for European customers. Measures to enhance energy efficiency make most sense in the non-ETS sectors and the Energy Efficiency Directive (EED) is a key pillar to achieve this.

The Energy Efficiency Directive has been largely successful because it allows Member States to address their national challenges and pursue tailored strategies. With the revision of the Directive, EURELECTRIC believes Member States must retain full flexibility as to how they set and meet energy efficiency targets, as is the case now. Flexibility must also be maintained in Article 7 of the Directive. As Member States struggle to meet the annual savings targets in a cost-efficient manner, a prolongation of the binding target (provided it is agreed), must not go hand in hand with less tools to meet it.

While the electricity sector is decarbonising under an ever decreasing ETS-cap, the sectors with enormous potential for energy efficiency improvements with real impact on climate, energy security and competitiveness lie outside of the ETS (such as buildings and transport). Achieving deep decarbonisation and efficiency through electrification provides a powerful pathway for these sectors. EURELECTRIC calls on policymakers to strongly recognise the role of electromobility and highly efficient electric technologies, such as heat pumps, to unlock greenhouse gas reductions.

EURELECTRIC also underlines the need for proper recognition and management of the impact of EU energy efficiency policy on the EU ETS. EURELECTRIC is concerned by the Commission Impact Assessment's estimated 2030 price levels for ETS allowances under the increased EE ambition scenarios, which decrease significantly with higher target levels. This would weaken the ETS instrument right after its current reform.

Detailed Assessment of the Proposal

I. Target setting & achievement

Topic	Article	Commission Proposal	EURELECTRIC's view
Energy efficiency targets	Articles 1 and 3	<p>The Commission proposes a 30% binding energy efficiency target at EU level by 2030.</p> <p>Target binding at EU level.</p> <p>Each Member State to set an indicative national energy efficiency target for 2020.</p> <p>The Commission may propose appropriate measures if not on track.</p> <p>When setting indicative national energy efficiency targets for 2020, and 2030 Member States shall take into account that the Union's 2020 energy consumption has to meet both a primary and a final energy target.</p>	<p>EURELECTRIC is not convinced of the presented economic or environmental advantages of an increased target.</p> <p>Disagree.</p> <p>Clarification required.</p> <p>Clarification required.</p> <p>Disagree.</p>

Comment:

EURELECTRIC notes the Commission's proposal for a binding EU-wide target of 30% for energy efficiency in 2030, which is an increase compared to the 27% indicative target that was agreed by the European Council in October 2014. We believe that this increase must be justified by a significant economic benefit of the target and the investments required for meeting it.

On the basis of the Commission's Impact Assessment which accompanied this proposal, EURELECTRIC is not convinced of the economic and the environmental advantages of an increased energy efficiency target. However, more important than the target level itself, we believe that related policy instruments should not be negatively affected and sufficient flexibility must be ensured to achieve the set targets. Specifically, EURELECTRIC is concerned about the interactions between energy efficiency and other energy and climate related targets and instruments, which are of key importance. The electricity sector has repeatedly called for careful consideration and management of the impact of the energy efficiency target on the EU ETS.

EURELECTRIC continues to call for a strong EU ETS as the cornerstone of the EU's energy and climate policy and supports the EU ETS as a key driver for market-based investments in low-carbon electricity generation. It will be essential to ensure that the functioning of the EU ETS is not undermined by other energy policy targets or measures. EURELECTRIC is concerned by the Commission Impact Assessment's estimated 2030 price levels of ETS allowances (EUAs) under

the increased ambition scenario, which are 35% lower compared to what they would be under a 27% energy efficiency target.¹ While lower EUA prices might allow for lower compliance costs, they would in this case not reflect a reduction in costs, but a reduction in demand due to the transfer of costs to other, less transparent mechanisms. Subjecting the ETS to such changes would undermine the stability of investing in low carbon measures in the ETS sectors.

A coherent approach which takes properly into consideration the interplay with the ETS, but also with the new Effort Sharing Regulation and the revised Renewable Energy Directive is essential. Any overlaps must be addressed while at the same time ensuring that potential synergies are unlocked. In this regard, EURELECTRIC believes that the ETS Directive should be complemented with provisions on an agreed methodology to transparently assess the impact of other policies on the ETS, as well as a methodology to appropriately recalibrate the supply side to overcome a negative impact of measures which reduce demand for allowances, such as an ambitious energy efficiency target.

Furthermore, it is important for the reviewed energy efficiency framework to recognise and encourage the environmental benefits and system synergies of increased electrification in sectors such as transport, heating and cooling, when considered in parallel with the ongoing decarbonisation of the electricity sector that is subject to the decreasing ETS-cap. The electricity sector's commitment to deliver carbon-neutral electricity by 2050 makes utilities a key enabler in delivering efficiency and decarbonisation in the downstream sectors. Electric engines and products often provide significant efficiency improvements while at the same time allowing for great decarbonisation potential. If this is not taken sufficiently into account in the development of the current framework for 2030, Europe runs the risk of not properly managing policy overlaps, which can undermine the cost-effective pathway to the decarbonisation of the EU economy by 2050, and be counter-productive in terms of European security of energy supply, with negative consequences for customers and environment.

We also note the Commission's proposal on Article 3(1)(a) which states that when setting indicative national energy efficiency targets for 2020, Member States shall take into account that the Union's 2020 energy consumption has to meet both a primary and a final energy target. Proposal is made for the setting of the 2030 target in Article 3(4). This clearly represents a significant change and reduction of flexibility for Member States, which is not supported by EURELECTRIC.

EURELECTRIC maintains its view that an indicative 2030 energy efficiency target at the EU level remains the best choice. This echoes the Commission's evaluation that the current indicative EU level target for 2020, together with the mix of binding EU measures and national action, including indicative targets set by Member States, has proved to be effective in driving strong progress by the Member States.

Going forward we believe that the focus at EU level must be on the areas with the highest potential for energy efficiency, which means primarily targeting the non-ETS sectors. Finally, we believe that the target should be delivered in a way that promotes investment and innovation through competitive energy services markets which reflect real costs and benefits, as well as the potential for the customers to have an active, positive role.

¹ According to the Commission's Impact Assessment on revision of the Energy Efficiency Directive (2016), the 2030 EUA price would fall from €42 to €27 if the target is increased from 27% to 30%. Higher targets are expected to depress the prices further.

A properly set ambition level of energy efficiency will further enable the development of energy service markets, create jobs and allow for new business models, a field in which European utilities have become increasingly active and invested.

II. Building Renovation

Topic	Article	Commission Proposal	EURELECTRIC's view
Long terms strategies for mobilising investment in the renovation of their national building stock	4	The Article is moved from the EED to the EPBD.	Agree.

Comment:

The scope of this Article fits better under the Energy Performance of Buildings Directive (EPBD). The changes proposed are addressed in [EURELECTRIC's position paper published in response to the EPBD review proposal](#).

III. Energy Efficiency Obligation Schemes

Topic	Article	Commission Proposal	EURELECTRIC's view
Energy Savings Obligations , Obligation schemes and alternative measures	7	<p>Extend the obligation period beyond 2020 to 2030</p> <p>1.5% annual saving target extended until 2030.</p> <p>The annual end use saving target to automatically extend for 10 years at a time until 2050 unless cancelled by the Commission.</p> <p>As part of the 25% which may be excluded from the calculation of the energy savings requirement Member States now able to take into account the installation of new RES on or in buildings.</p> <p>Annex V amended with regard to how energy savings are calculated and which savings are eligible for Article 7.</p> <p>Energy savings achieved after 31 December 2020 may not count towards the cumulative savings amount required for the period from 1 January 2014 to 31 December 2020.</p>	<p>Flexibility must be maintained.</p> <p>Flexibility must be maintained.</p> <p>Disagree.</p> <p>Clarification required.</p> <p>Flexibility must be maintained.</p> <p>Must count toward 2030 target</p>

Comment:

EURELECTRIC believes that Article 7 has been a successful tool for promoting energy efficiency, given the flexibility it provides in terms of identifying and addressing specific challenges for each country. The Article's revised structure under the current proposal is more streamlined and welcomed by EURELECTRIC. However, the cost-efficient delivery of energy savings must remain the key principle within this Article.

EURELECTRIC welcomes that with the new Articles 7a and 7b the obligation schemes and alternative policy measures are put on equal footing in the structure of the Directive. In order to underline that energy efficiency policy aims to improve the input-output ratio of energy, we call on policymakers to change the title of Article 7 to 'Energy efficiency obligation schemes & alternative measures'.

Following this, an equal recognition and treatment of both policy options in Article 7 is critical, also to ensure sufficient flexibility for Member States, which is of pivotal importance. This relates, on the one hand, to the way in which Member States are to set and meet the target either in terms of primary or final energy consumption, but it also relates to the specifics of Article 7 and the use of alternative measures. We also maintain our view that the strongest driver for energy efficiency should be competition. When reviewing Article 7 we therefore call on policymakers to ensure that energy service markets are not curbed or limited.

Keeping in mind that the proposal stipulates a ten year prolongation of the binding 1.5% savings target, EURELECTRIC does not support the Commission's proposal to automatically prolong the target beyond 2030. A regular review of the Directive is sufficient in this regard. Evidence from national implementation has shown that pursuing the 1.5% annual level of energy savings is very challenging for some Member States in view of increasing marginal costs. This is due to long-term measures being more costly and the decreasing potential for improvements due to efforts that have already been carried out. It further illustrates that a one-size-fits-all target for Member States is not flexible enough in view of the different situations and maturities across Europe. In some Member States this annual target has even shown to be disproportionate to the overall national energy efficiency target. These costs should not become disproportionate. Therefore, the review must ensure at least the same level of flexibility in theory and in practice.

Any change in the requirements on measures allowed under Article 7b should not weaken Member State options to pursue their efficiency strategies, making it even harder to meet ambitious targets. In this regard, keeping the 1.5% annual energy savings target in combination with a reduction in flexibility on meeting this target would represent a de-facto increase in ambition for most countries, which EURELECTRIC does not support.

Flexibility must also be maintained in Annex V of the Directive. While it is important to provide clear guidelines on which savings are eligible, it is crucial that such requirements ensure continuity for Member States in their strategies and implemented systems. The overarching goal must be better accountability for savings calculations without adding disproportionate administrative burden that would undermine the cost-effectiveness of the instrument or may lead to further delays in the proper implementation of the Directive. In this regard, there is a risk that the proposed approach to the concept of additionality and causality of savings would in effect undermine Member States' flexibility to implement efficiency measures which have proven to be useful and cost efficient. It is necessary to elaborate more clearly how existing measures would be affected under the proposed text.

EURELECTRIC also highlights that sectors which rely heavily on fossil fuels should be placed in special focus regarding decarbonisation, but also on energy efficiency. The transport sector is

such an example. It is therefore vital to explicitly recognise the replacement of internal combustion engine vehicles with electric vehicles as a measure to achieve energy efficiency, as electric motors are about 3 times more energy efficient. Furthermore, the installation of charging infrastructure for electric vehicles, which is a necessary precondition for electric mobility, must also be valued in this regard. EURELECTRIC calls on the Commission to issue a Guidance document on tapping the energy efficiency potential in the transport sector, while also recognising the additional important benefits of fuel switching, such as improvements in air quality, decentralised storage etc.

EURELECTRIC recognises the Commission’s intention to provide more flexibility to Member States under this Article which seeks to allow on/in building RES to be excluded from the calculation of the energy savings requirement. While we support the flexibility afforded to Member States under Article 7 it is necessary to stress that the introduction of on-building RES in this context should not lead to mixing the concepts of energy savings and decentral renewable generation in the future.

Another important point is to allow savings which result from actions undertaken before 31 December 2020 and which will still have an effect after this date to be included towards the 2030 target. It is crucial that specifically profound and long-term efficiency measures are not disincentivised. Without this provision, energy service and efficiency markets would be significantly curbed towards 2020.

Topic	Article	Commission Proposal	EURELECTRIC’s view
Energy efficiency obligation schemes	7a	Energy poverty provisions in obligation schemes. Control and verification system. Member States to publish the energy savings achieved by each obligated party.	Disagree. Clarification required. Should also measure effectiveness.

Comment:

EURELECTRIC notes an increased emphasis on energy poverty in the new Articles 7a and 7b. While EURELECTRIC agrees that energy efficiency financing schemes can be an effective long-term solution for tackling energy poverty (as those customers do not have the financial resources upfront to make such investments) we believe that support granted to people suffering from poverty should come from the general income of the State (i.e. through general taxation).

Given the constraints on resources across Member States, we agree that available assistance for energy efficiency should be focused on those who are most in need. However, supplier obligations are not the best way to fund and deliver energy efficiency measures. We must transition to using more progressive sources of funding (other than levies on energy bills), which takes into account customers’ ability to pay. More focus should be given to removing existing barriers to energy efficiency policies. Measures such as regulatory tools in the housing sector or financial incentives including tax exemptions should be considered.

In the context of Member States publishing the savings achieved by each obligated party, EURELECTRIC further suggests that this publication should be accompanied by a feedback on the effectiveness of the obligation scheme.

Furthermore, EU funding programmes such as the Structural Funds or the European Fund for Strategic Investments could also be used more systematically by Member States to improve energy efficiency in the housing sector, in particular for low-income families. Such an approach would also be more consistent with the Electricity Directive which states that Member States shall ensure the protection of energy poor or vulnerable customers in a targeted manner by means other than public interventions in the price-setting for the supply of electricity.

Topic	Article	Commission Proposal	EURELECTRIC's view
Alternative policy measures	Article 7b	Energy poverty to be addressed in alternative measures.	Disagree.
		Requirement list for alternative measures altered.	Flexibility must be maintained.

Comment:

The same comments made under Article 7a regarding energy poverty and flexibility apply here.

Topic	Article	Commission Proposal	EURELECTRIC's view
Determining energy savings under Article 7	Annex V para. 2(c) and (e)	Policies that accelerate the uptake of more efficient products or vehicles, full credit may be claimed provided the uptake takes place before the end of lifetime of the product or vehicle.	Flexibility must be maintained.
Requirements for alternative measures	Annex V para. 3(h)	The activities of the participating party or implementing public authority need to be shown to have caused the savings.	Flexibility must be maintained.

Comment:

As mentioned above, transport represents an important area for energy efficiency measures. EURELECTRIC therefore welcomes the fact that energy savings in transport are explicitly included under the energy savings obligation. However, we believe that products or vehicles which are replaced with more energy efficient products or vehicles at the end of the lifetime should be at least partly credited. This is especially true in the case of an internal combustion engine vehicle that is replaced by an electric vehicle. Since electric vehicles still tend to be more expensive in terms of purchasing costs, one cannot assume that the switch to an electric car would have taken place anyway at the end of the lifetime.

A further point of concern is the proposal in Annex V to show direct causality as it might not always be possible to achieve. For example, the installation of charging infrastructure for electric vehicles is central to the uptake for electric vehicles, which are about 3 times more efficient than

internal combustion engine (ICE) vehicles. However, it is hard to show that the installation on one certain charging station has caused a certain number of vehicle owners to replace their ICE vehicle with an electric one. Therefore, EURELECTRIC proposes to revert to the wording of the current Directive and state that the party’s activities must be demonstrably material to the archived savings.

IV. Metering and Billing

Topic	Article	Commission Proposal	EURELECTRIC’s view
Metering	9	Made applicable only to gas.	Agree.
	9a	New Article applicable to heating, cooling and domestic hot water from central sources.	Clarification required.
Billing	10	Made applicable only to gas.	Agree.
	10a	Complemented with new provisions applicable to heating, cooling and domestic hot water from central sources.	Clarification required.

Comment:

On individual meters: Considering lower heating demands from these buildings and their specific features, as well as the EU ambition for nearly zero energy buildings (NZEBs), the installation of meters will not lead to energy efficiency but to an increase of overall higher costs for consumers. EURELECTRIC believes that the deployment of meters in new buildings should follow the same conditions as for existing buildings and be subject to the fulfilment of economic and technical feasibility in order to exclude rising costs for the consumer.

On remote readability: EURELECTRIC supports the Commission’s proposal to move toward remote readability of meters. It is however important to ensure that the implementation of such a provision is technically feasible and cost effective. Member States should not be forced to impose such measures if they are technically impossible or even if they are financially unreasonable in relation to the potential energy saving.

On the Commission’s proposal relating to the scope of the term ‘final user’: The proposed scope appears to foresee obligations for the energy company even if there is no contractual relationship between the two actors. Such an impact should be clarified in more detail by the Commission.

V. Cost of Access to Metering & Billing Information for Gas, Heating and Cooling

Topic	Article	Commission Proposal	EURELECTRIC's view
Cost of access to metering and billing information	11	<p>Billing information and bills to be free of charge.</p> <p>Distribution of costs for individual consumption shall be on non-profit basis. Costs incurred may be passed to final customer.</p>	Agree.

VI. Energy Transformation, Transmission, Distribution

Topic	Article	Commission Proposal	EURELECTRIC's view
Energy transformation, transmission, distribution	15	<p>The sub-paragraphs relating to electricity (including transmission guarantee for electricity from high-efficiency cogeneration & priority or guaranteed access to the grid for electricity from high-efficiency cogeneration) are deleted. The provisions are moved to Article 11 of the Electricity Regulation.</p> <p>Member State obligation to ensure that “national regulatory authorities encourage demand side resources to participate alongside supply in wholesale & retail markets” deleted.</p> <p>New equivalent provisions to be included in the legislative proposals made under the Market Design Initiative.</p>	Agree.

VII. Exercise of the Delegation

Topic	Article	Commission Proposal	EURELECTRIC's view
Delegation	23	<p>Proposal deletes the current time limit on the delegation.</p> <p>Replaced by five year period set out in the common understanding of the European Parliament and the Council on delegated acts.</p>	Clarification from Commission required.

Comment:

EURELECTRIC believes that important policy decisions must be taken with the proper involvement of all European institutions. We therefore call for more explanation from the Commission as to the reason why such an extended delegation of power is necessary.

VIII. Review and Monitoring of the Implementation

Topic	Article	Commission Proposal	EURELECTRIC's view
Review and monitoring	24	Regular review clause added. First review by February 2024, and every five years thereafter Review report may include additional measures. Article 24 will be amended by the legislative proposal for a Regulation on Energy Union Governance.	Agree.

IX. Primary Energy Factor

Topic	Article	Commission Proposal	EURELECTRIC's view
Primary Energy Factor	Annex 4	The PEF footnote with its 2.5 PEF is replaced by the following: '(3) Applicable when energy savings are calculated in primary energy terms using a bottom-up approach based on final energy consumption. For savings in kWh electricity Member States may apply a default coefficient of 2.0. Member States may apply a different coefficient provided they can justify it.'	Supportive of change, but more changes required.

Comment:

While often seen as a technical detail, the Primary Energy Factor (PEF) will continue to have a profound impact on whether Europe's future fuel of choice in the downstream sectors will be fossil fuel based or carbon-neutral (e.g. RES, nuclear). Specifically in the Energy Efficiency Directive, the PEF will determine whether, and to what extent, Member States are incentivised to save fossil fuels or electricity (which, in 2014, was on average already 55% carbon-neutral in the EU).

The Commission's Discussion Paper for the review of the default Primary Energy Factor (May 2016) was a first step in the right direction. However it does not do enough to avoid a fossil fuel lock-in effect as it does not adequately recognise the impact of the PEF on the achievement of the EU's climate change targets and its security of energy supply. We believe that this would not only hinder the EU's decarbonisation agenda, but would also prolong the EU's energy import dependence on fossil fuels.

We believe that the revised PEF must be forward-looking and take more into account the quickly increasing share of low carbon electricity in the EU's power generation mix as well as its advantages in terms of security of supply. In this regard, we strongly advocate applying a factor 0 to all RES sources, as well as a factor of 1 to nuclear sources, in the overall PEF calculation methodology.

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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&id=4271427696-87)

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April 2017

KEY MESSAGES

-)] **We welcome a future-oriented and market-based directive for European electricity consumers.** Market-based energy prices, low market entry barriers and protection of consumers through social policy are building blocks for well-functioning retail markets.
-)] **The proposals will generally bring about better protection and increased engagement of energy consumers in the market.** A certified comparison tool in each Member State will enhance transparency and choice. The clear distinction made between switching-related fees (forbidden) and early termination fees (allowed) is another positive step forward. However the directive is unlikely to improve consumer satisfaction with bills as the key issue of information overload due to regulation is completely overlooked.
-)] **The right level of subsidiarity should apply for the sake of retail markets' efficiency.** The Commission therefore rightly leaves it up to Member States to define criteria and policies to combat **energy poverty**. However, we do not support defining a common **EU data format** without prior CBA. It could indeed prove very costly in countries where a national data hub was already implemented as market actors would be required to upgrade all core IT systems, such as billing. Furthermore, on **smart metering** different countries are at different stages in the roll-out and any retroactive requirements must be avoided.
-)] **We regret that the 'elephant in the room' – rising retail prices due to increased taxes and levies - is not addressed.** Whilst the EC's cost & prices study recognised that taxes and levies are a major driver for rising retail prices, the package does not offer any tangible solution to address this crucial problem. It is urgent to make taxes and levies less of a burden on the final electricity bill. In addition, the current structure of network charges and levies needs an overhaul to mitigate further price increases and avoid unfair cross-subsidisation between consumers.
-)] **A stable regulatory framework providing a level playing field for all market players is key to stimulate sustainable innovation.** We support the right for consumers to generate and sell their electricity both individually and collectively. We also agree they should be able to have a smart meter and to ask for dynamic prices contracts. However, suppliers should not be obliged to offer such contracts. In addition, exempting demand response aggregators from their balancing responsibility and from paying sourcing costs is not consistent with the market principles outlined in the Clean Energy Package. Similarly, active consumers and members of energy communities should not be exempted from market obligations such as balancing responsibility and from paying cost-reflective network charges.
-)] **We support a regulatory framework that allows and incentivises DSOs to procure flexibility services through the market** and permits ownership and operation of storage only under certain circumstances. Similarly, NRAs should decide whether or not non frequency ancillary services should be market-based and we support the inclusion of this and flexibility solutions more generally in the network development plan to be produced on a cycle determined by the NRA.

) **Electrification is the key for transport decarbonisation.** We agree with the EC that the ownership and operation of electric vehicles' charging infrastructure is a market activity, while DSOs should be allowed to own, develop, manage or operate it for a limited time and under certain conditions. Furthermore, we welcome the fact that electro-mobility is considered as a load which may be taken into account by DSOs when developing their network development plans.

Retail Customers Committee
DSO Committee

Contact:
Sébastien Dolige, Advisor Retail Markets & Consumer Issues
sdolige@eurelectric.org

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Retail Pricing

The Electricity Directive addresses a number of highly relevant subjects that need to be tackled in order to ensure well-functioning electricity market and customer empowerment. Nevertheless, EURELECTRIC feels the urgency to underline a key issue that remained out of the scope of the Directive and the whole package: retail pricing.

The Commission's study on cost & prices study recognises that taxes and levies have been a major driver for retail prices while the energy component of the bill has been steadily declining. Between 2008 and 2015, policy support costs (levies) increased on average by 71% for households across Europe¹. Today, the weight of the taxes and levies' component equates the energy and supply's component on the bill of a residential consumer (about one third of the bill).

Moreover, another issue has been left unaddressed: the way regulated costs (network charges and levies) are charged to consumers is exacerbating the price increase. Most of these charges are volumetric: they are linked to the amount of energy consumed by consumers – despite the fact that the amount that needs to be recovered grids and policy costs is largely “fixed” (i.e. unrelated to consumption).

If these two issues are not tackled by the EU and Member States, retail prices will continue to rise and aggravate the customer vulnerability problem as well-off customers will decrease their demand from the grid. Furthermore, the deemed demand-side flexibility potential of 160 GW may not be tapped. It will not be able to materialise if customers are discouraged to invest in electric appliances with high “shiftable load potential” such as heating, cooling and electric vehicles. The uptake of those technologies is still uncertain. The fact that consumers in most European countries pay regulated charges mainly based on their consumption, i.e. kWh, even though the costs underlying these charges are largely independent of the volumes consumed, discourages consumers from investing in electric heating and cooling appliances. In addition, this contributes to increasing electricity prices for consumers who cannot cover part of their consumption, e.g. by self-generation. The continuously increasing tax burden, coupled to the fact that a number of other policy costs are financed by electricity, creates incentives to switch to other forms of energy at the expense of decarbonisation goals, and it blurs the benefits of dynamic pricing.

EURELECTRIC believes that addressing these regulatory inefficiencies is a prerequisite for a cost-efficient decarbonisation of the power sector and that this should become a priority of the EU energy policy reform. This reform should incorporate the following objectives:²

1. **Bring down the share of policy support costs in the electricity bill and finance decarbonisation in a less distortive way.**
2. **Charge regulated costs in an efficient way, progressively removing cross-subsidisation.**
Determining a detailed charging structure for both network tariffs and policy support costs that may still remain in the bill is a matter of subsidiarity. However, the EU legislation should allow suppliers to make alternative offerings to consumers that will provide flexibility to adapt to the changing uses of electricity, following these principles:
 -) A “tiered approach” to regulated charges: the NRAs shall define a set of tariff structures with different shares of capacity-based (KW) and energy-based (KWh) components based on consumers contracted capacity, consumption level and patterns.

¹ EC study on energy prices and costs in Europe, Staff working document (2016) 420 final

² See [‘Retail Pricing for a cost-effective transition to a low carbon power system’](#), EURELECTRIC 2016.

-) Different levels of granularity for regulated charges: these regulated charges may be conveyed with flat, time of use, peak pricing or dynamic options, depending on consumers' choice.

End-User Energy Prices

Topic	Article	Commission Proposal	EURELECTRIC's view
Market based supply prices	Art. 5 par. 1	Electricity prices have to be market-based and freely determined by suppliers.	Agree

Comment:

Phasing out regulated prices has been a long-standing policy request of EURELECTRIC and we welcome this provision. Indeed, retail price regulation is a serious obstacle to competition among electricity supply companies. It may reduce the incentive on companies to become more efficient and stifle the development of value-added services, including dynamic pricing³. In addition, regulated prices impede consumers from realising the true value of the energy they consume, therefore undermining the potential of demand response.

Well-functioning competitive markets are better equipped than top-down regulation to deliver cost-reflective and fair prices to consumers. We agree that it is crucial to come up with a clear roadmap to end-regulated pricing and are ready to provide feedback and lessons learned from countries where our members have successfully participated in implementing such phase out roadmaps, e.g. Ireland, Great Britain, Latvia etc.

Topic	Article	Commission Proposal	EURELECTRIC's view
Market based supply prices	Art.5 par. 2 and 3	Member States shall ensure the protection of energy poor or vulnerable customers in a targeted manner by other means than public interventions in the price-setting for the supply of electricity.	Agree
		Member States can maintain price regulation for energy poor or vulnerable consumers for 5 years after the entry into force of the Directive.	Disagree
		Such public interventions have to meet a number of criteria: pursue a general economic interest, be clearly defined, transparent, non-discriminatory, guarantee equal access for electricity companies to customers, etc.	Agree

³ Please refer to the 20162015 ACER Market Monitoring report

Comment:

We fully support the European Commission’s proposal to end regulated prices for vulnerable consumers. Protecting those consumers through price regulation is counterproductive as it does not take people out of broader poverty; the pricing methodology often lacks transparency; and it may increase energy costs for vulnerable and non-vulnerable consumers alike.

That said, we think the 5 years transition period could be shortened. Other more sustainable and targeted measures (e.g. via social policy) could be put in place or extended more quickly. In addition, suppliers shall be adequately compensated for any additional costs and obligations linked to public intervention in price setting during this transition period.

Last but not least, it seems important to recall that phasing-out regulated prices does not imply the end of flat prices or fixed payments, which suppliers can still propose to their customers.

Energy Poverty

Topic	Article	Commission Proposal	EURELECTRIC’s view
Energy poverty	Art. 28	The 3 rd package provision requiring Member States to define the concept of vulnerable Consumers - which may refer to energy poverty and to the prohibition of disconnection in critical times – is kept.	Agree
	Art. 29	Member States shall define a set of criteria for the purposes of measuring energy poverty.	Agree

Comment:

We are pleased to see that the European Commission leaves it up to Member States to define criteria and policies to combat energy poverty. Indeed, Member States’ situations differ greatly as far as employment, social security systems, climatic conditions, electricity consumption, building stock (structure, age, insulation), or energy retail prices are concerned. National governments are therefore in the best position to assess and address (energy) poverty with their own tools.

Topic	Article	Commission Proposal	EURELECTRIC’s view
Energy poverty	Art. 5 par 2	Member States shall ensure the protection of vulnerable customers in a targeted manner by other means than public interventions in the price-setting for the supply of electricity.	Agree

Comment:

We fully agree that the protection of energy poor or vulnerable customers should be done in a targeted manner by other means than public interventions in the price-setting for the supply of electricity. Protecting vulnerable consumers through price regulation is counterproductive as it does not take people out of broader poverty; the pricing methodology often lacks transparency; and it may increase energy costs for vulnerable and non-vulnerable consumers alike. In addition, as consumers who have energy debts are likely to have other debts (for instance water, rent, insurance), the best way to tackle the root cause of debt is via social – not energy – policy.

Specific measures can also be taken in the energy sector. For instance, energy efficiency investments can be a long-term effective solution for tackling energy poverty. However, such investments - or any other supportive measure like the prohibition of disconnection - should be financed through general taxation or public/private partnership and not be imposed to utilities

without a formal way of recovering these costs (including administrative costs). If financed through energy bills – as it is currently the case in several Member States - then the costs are distributed among consumers regardless of their ability to pay.

Topic	Article	Commission Proposal	EURELECTRIC's view
Energy poverty	Art. 28	Member States shall continuously monitor the number of households in energy poverty and shall report on the evolution of energy poverty and measures taken to prevent it to the Commission every 2 years.	Agree

Comment:

We support introducing a reporting from Member States to the European Commission every two years as this is in line with the need to guarantee support to (energy) poor customers while leaving the issue under national competency. Such a framework should however not lead to any excessive administrative burden for companies.

Basic Contractual Rights

Topic	Article	Commission Proposal ⁴	EURELECTRIC's view
Basic contractual rights	Art. 10 par.1b	<u>Suppliers</u> (it used to be “service providers”) shall notify their customers directly of any adjustment in the <u>supply price</u> (instead of “charges” previously) as well as of <u>the reasons and preconditions for the adjustment and its scope</u> (new), at an appropriate time no later than one normal billing period <u>before</u> (it used to be “after”) the adjustment comes into effect in a transparent and comprehensible manner (...). Member States shall ensure that customers are free to withdraw from contracts if they do not accept the new contractual conditions or adjustments in the supply price.	Partially agree

Comment:

We generally support the European Commission’s intention to streamline existing provisions on consumer protection. However, some of the proposed changes would in our view deserve clarification:

- We are not sure to understand why the obligation to notify customers directly of any adjustment in the supply price would apply to suppliers only, as they are just one type of service providers. EURELECTRIC believes that information obligation towards consumers should be equally applicable to any service provider, be they supplier, aggregator, ESCO, etc. This is key in order to ensure a level playing field among market players and a high degree of protection to customers.
- Regarding the difference between “supply price” and “charges”, we believe there should be a clearer distinction between general consumer information and the consumer’s right to dissolve a contract: the latter should only apply when price changes are due to the supplier/service provider (and not in case of tax changes or network tariff evolution).

⁴ This new provision is in fact former Annex I on consumer protection of the 3rd directive with a few amendments

Furthermore, the right to dissolve the contract should not apply when the price change is the result of a formula which was agreed upon by the consumer when signing the contract, e.g. dynamic pricing offer.

- We do not think that the notification should be linked to the billing frequency. Invoice frequency varies between and within countries, depending on national regulation and consumer preferences. Besides, a price change could well occur in the middle of a billing period. What is key is that the notification is timely enough to allow consumers to switch if they wish to and that suppliers are free to decide how to communicate the notification (mail, app, bill...).

Topic	Article	Commission Proposal	EURELECTRIC's view
Basic contractual rights	Art. 10 par. 1d	Any difference in <u>charges related to payment methods</u> (it used to be "terms and conditions") shall reflect the relevant costs incurred by the supplier.	Partially agree

Comment:

We are not sure to understand the reasons for highlighting that "charges related to payment methods shall reflect the relevant costs incurred by the supplier". Indeed this is a general principle which does not apply only to payment methods.

Topic	Article	Commission Proposal	EURELECTRIC's view
Basic contractual rights	Art. 10 par. 1i	Member States shall ensure that customers are given adequate information on alternatives to disconnection sufficiently in advance before the planned disconnection. These alternatives may refer to sources of support to avoid disconnection, alternative payment plans, debt management advice or disconnection moratorium and should not constitute an extra cost to customers.	Partially agree

Comment:

We are not sure to understand what it is meant by saying that alternatives to disconnection should not constitute an extra cost to customers. Suppliers should have the right to charge the costs they incur for alternative payment plans. Otherwise, all other consumers would be paying for the costs caused by those who are not paying their bills.

Last but not least, we would like to highlight that, whilst any sector has its own characteristics, consumer protection legislation should - whenever possible - be horizontal rather than sector specific. Provisions on contract terms and complaint handling for instance are to a large extent already covered by Directive 93/13/EEC on Unfair Contract Terms and Directive 2013/11/EU on Alternative Dispute Resolution. Other detailed provisions on consumer protection stem from Directive 2011/83/EC on Consumer rights and Directive 2005/29/EC on Unfair Commercial Practices. We think there would have been merit to further link this article with the on-going Refit exercise of EU Consumer Law and ensure that all existing rules on consumer protection are consistent and fit for purpose. Indeed, the regulatory framework should not just cover all relevant issues, it should also make sure that regulatory interventions are introduced at the appropriate level, i.e. horizontal or sectorial, EU-wide or national.

Switching

Topic	Article	Commission Proposal	EURELECTRIC's view
Switching	Art. 12 par 1	Switching has to take place within 3 weeks (provided consumers respect contractual conditions).	Agree

Comment:

In a well-functioning retail electricity market, switching is a key tool in the hands of consumers. By shopping around for the best offer, consumers can exert competitive pressure on suppliers. It is therefore crucial to ensure that they are aware of this right and are not afraid of switching: consumers should e.g. have trust that they will not be cut off when changing supplier and will receive the right opening and closing bill.

We agree that the three week switching period is an appropriate timeframe at EU level. Most Member States comply with this requirement - some even decided to make it shorter – and we think it is high time that the European Commission takes legal action against those Member States that still fail to comply with it. It is important to bear in mind that the length of the switching period is linked to a number of safeguards that have been put in place specifically to protect customers, such as the 14-day cooling off period⁵. Shortening the switching period to less than 2 weeks whilst keeping the 14 day cooling off period – especially when smart meters are not yet rolled out (as this is the case in some countries) - can only lead to a low degree of system efficiency, creating consumer confusion and unnecessary administrative costs for companies.

Topic	Article	Commission Proposal	EURELECTRIC's view
Switching	Art. 12 par 2 and 3	The Commission introduces a distinction between switching related fees – which are forbidden – and contract termination fees – which Member States may allow suppliers to charge to customers willingly terminating fixed term supply contracts before their maturity.	Agree

Comment:

We fully agree that switching should be free and we welcome the distinction made between switching fees and termination fees for fixed term contracts. Many customers are on variable tariffs with no end date and these do not have termination fees. In contrast, early termination fees need to be allowable for fixed short term deals as they help cover the costs suppliers face when customers leave early. Such contracts can be cheaper because suppliers have more certainty about how many customers they have and how much energy to buy in advance. If early termination fees were banned or if their implementation was made more burdensome, it would create additional risks for suppliers (for instance clients, possibly through third-parties and automation, could switch contracts very often, thereby creating high administrative costs for suppliers). As a result, the prices of fixed term deals would be likely to go up to the detriment of customers.

⁵ Article 9 of DIRECTIVE 2011/83/EU

Topic	Article	Commission Proposal	EURELECTRIC's view
Switching	Art. 12 par 3	Such contract termination fees may only be charged if consumers receive a demonstrable advantage from these contracts.	Disagree
		In addition, fees shall not exceed the direct economic loss to the supplier of the customer terminating the contract.	Partially agree

Comment:

Demonstrating that a consumer receives a “demonstrable advantage” from a given fixed term supply contract will be very complex in practice. Indeed, suppliers do not know the future cost of electricity nor do they know the future consumption of customers. In our view, what is key is that, where fees may apply, they must be proportionate to the costs incurred by the current supplier, be clearly communicated to customers up-front, be included in the contractual conditions signed by the customer and be monitored/controlled ex-ante and ex-post by the national authorities.

Comparison Tools

Topic	Article	Commission Proposal	EURELECTRIC's view
Comparison tools	Art. 14,59(1z) and Annex I	Member States have to ensure that consumers have access, free of charge, to at least one tool comparing the offers of suppliers that meets the certification criteria, namely be operationally independent; clearly disclose their owners and those operating the tool; set out clear, objective criteria on which the comparison will be based; use plain and unambiguous language; provide accurate and up-to-date information and state the time of the last update; include an as complete a range of energy offers as practicable, etc.	Agree
		Comparison tools may be operated by any private or public entity.	Agree
		Member States shall appoint an independent competent authority responsible for certifying comparison tools.	Agree

Comment:

We fully support the obligation to establish comparison tools and the proposed certification criteria. Comparison tools (CT) exist in most markets, sometimes run privately, sometimes by a public authority like the NRA. Irrespective of the ownership of the tool, CTs will only be effective and used if they are trusted by consumers. This means that they should provide clear, impartial and transparent information about offers. They should be as exhaustive as possible and not just compare prices but also the quality of service and the main features of products (e.g. contract duration, payment options, source of electricity, availability of value added services, etc.). They should not mislead consumers, e.g. by hiding information, and should always disclose the potential fees/payments they receive from suppliers in case of a switch.

Regulatory oversight is crucial to guarantee that CTs comply with these principles. We agree that certifying CTs with e.g. a trust mark from the regulator can be a good solution to enhance

consumer's trust and incentivise them to use such tools. Such trust mark could be based on a code of conduct on key requirements for CTs to be elaborated by regulators in consultation with interested stakeholders. Monitoring and verification must be undertaken by a body such as the NRA, a statutory consumer body, the relevant Ministry or an external auditor. A key principle is that such verification should be carried out by a body that is structurally and financially independent from the CTs.

Finally, we want to remind that many CTs operate across several sectors: energy, financial services, telecoms, etc. The proposed criteria should therefore not be imposed on the energy sector alone. In our view, horizontal regulation should be preferred to – or at least aligned with - sector specific regulation.

Billing

Topic	Article	Commission Proposal	EURELECTRIC's view
Billing	Art. 18 and Annex II	Provisions from the Energy Efficiency Directive and the 3 rd Directive on billing and billing information are merged in the revised Electricity Directive.	Agree

Comment:

We welcome the European Commission's intention to streamline the existing provisions on billing and billing information from the Energy Efficiency Directive and the Third Electricity Directive. Merging them in a single article will certainly help clarify the current framework.

Topic	Article	Commission Proposal	EURELECTRIC's view
Billing	Annex II par. 2	The customers' price shall be broken down into three main components: energy and supply; network; and taxes, levies, fees and charges	Agree

Comment:

We fully agree that bills should be transparent, with a breakdown of cost components, including taxes and levies.

Topic	Article	Commission Proposal	EURELECTRIC's view
Billing	Art. 18 par. 7	Member States may lay down that, at the request of the final customers, the information contained in these bills shall not be considered to constitute a request for payment.	Disagree
	Annex II	The Commission presents a new list of minimum requirements for billing and billing information, including tariff name, duration of the contract, date of end of contract, deadline for sending an advance notice of cancelation if fixed contract, etc.	Disagree

Topic	Article	Commission Proposal	EURELECTRIC's view
	Annex II	Comparison of customers' current energy consumption with consumption for the same period in the previous year in graphic form; contact information for consumer organisations, energy agencies or similar bodies; comparisons with an average normalised or benchmarked customer in the same user category etc. have to be prominently displayed in or with bills.	Disagree

Comment:

We regret that the new framework lacks concrete proposals to improve consumer satisfaction with their bills. It is a fact that existing EU requirements on billing are extensive and often complemented by stricter provisions at national level. Because of this, the bill can be overloaded with information (several pages in some Member States) that are not necessarily useful to the consumer and may even be confusing. Such a prescriptive approach also has the unintentional effect of preventing innovative forms of communication with consumers that fully leverage what digital technologies can now deliver.

With this new article, the European Commission only proposes additional minimum requirements for bills. Some, in our view, are not even justified. For instance, bills are not meant to facilitate comparison by consumers, as implied in Art. 18 par.1. and foreseen in Annex II (where the current provision of the EED regarding the possibility to include comparisons wherever possible and useful has been transformed into an obligation). Customers should be enabled to make this kind of comparison through other tools than bills.

In addition, it completely misses the opportunity to amend several unclear and/or unnecessary provisions from the Energy Efficiency Directive. For instance:

- We do not think that “comparison of customers' current energy consumption with consumption for the same period in the previous year in graphic form, contact information for consumer organisations, energy agencies or similar bodies, etc.” should be prominently displayed in or with bills; it could also be provided through other channels and signposted with bills.
- Art 18 par.7 (“Member States may lay down that, at the request of the final customers, the information contained in these bills shall not be considered to constitute a request for payment (...)”) is confusing and contradicts par.3 and the broader goal of energy efficiency.
- Art 18.3 par.3 is unclear and would need some clarification: “Only when the final customer has not been provided a meter reading for a given billing interval may billing be based on estimated consumption or a flat rate”. By “flat rate”, do we mean a “fixed amount” or “the applicable contractual price”?

If we truly want to improve billing, we should:

- Keep in mind that the bill must remain clear and easily understandable;
- Understand that consumer needs are different and therefore give more room to suppliers to tailor bills and test innovative ideas;
- Acknowledge the potential of innovative forms of communication through digital technologies;

- Acknowledge that most complaints about bills are linked to rising prices (which are largely due to rising taxes and policy support costs) and estimated consumption (which will end once smart meters are rolled-out)⁶.

To allow this, regulation should be more principle-based and less prescriptive on what - or how - information is to be provided in energy bills. Regulation should also make a clearer distinction between a bill (which should only contain key information such as consumption and price to pay) and any other type of (billing) information (which could be much more detailed and be given at a different frequency than bills depending on consumer preferences). This confusion could have important consequences. For example, art. 18.4 requires that “billing information based on actual consumption shall be provided at least once a month”. There could be a risk to interpret this requirement as an obligation to send a paper bill at least once a month, which we understand is not the intention of the European Commission.

Moreover, consumers should always be allowed to choose the type of media they like best (e.g. paper, apps, email, personal webpage) to receive their billing information. Paper invoice should not be mandatory. We would thus suggest rephrasing art. 18.6 in a more general way to state that suppliers should be free to propose any type of media, while ensuring that the final customers are offered the option of a paper bill.

Member States and NRAs have room to learn from each other on good billing practices. General guidelines of Good Practice on billing by CEER would be way more helpful than building up additional EU standards. Competition should be allowed to operate in this field.

Disclosure of Energy Sources

Topic	Article	Commission Proposal	EURELECTRIC's view
Disclosure of energy sources	Annex II	<p>The provision from the 3rd Directive requiring suppliers to specify in bills the contribution of each energy source to their overall fuel mix is kept and strengthened.</p> <p>The Commission clarifies that the overall fuel mix means the fuel mix at national level, i.e. in the Member State where the supply contract has been concluded, but also <u>at the level of the supply undertaking if the supplier is active in several Member States</u>).</p> <p>On top of it, the Commission wants suppliers to specify in bills the contribution of each energy source to the electricity purchased by the customer in accordance with the supply contract (product level disclosure)</p>	Disagree

Comment:

In our view, the current system for providing consumers with information on the sources of electricity that they consume (or rather that they pay for through their bill since electrons cannot be physically tracked) could be improved, for instance by merging and streamlining rules defining

⁶ Evidence from countries where smart meters have been rolled-out and consumers are billed on actual consumption show a sharp decrease of complaints on billing.

guarantees of origin (RES Directive) and Electricity Disclosure (Electricity Directive)⁷. We regret that the European Commission did not use the opportunity to do it. This would indeed have clarified and simplified the legal framework.

The proposed model of including information about the product mix as well as the overall fuel mix of the supplier at national level (i.e. in the Member State where the supply contract has been concluded), and at the level of the supply undertaking (if the supplier is active in several Member States) is too complex and can only be misleading for consumers. In some Member States (e.g. Italy), suppliers are also obliged to include the national fuel mix (every four months) which means that four energy mixes would have to be included on all bills.

We think it would be much clearer for consumers to receive information about one mix only. This would be the product mix for green offers (backed by GOs) – and for any offer in general in those countries which have implemented full disclosure. Otherwise the supplier mix would be most adequate. We also think the European Commission should consider harmonising rules for calculating the residual mix across Europe.

In addition, whilst we agree that providing consumers with information about energy mixes is fundamental, we do not think that this should always be done through energy bills. Such information would primarily be part of the energy contract and could also be communicated as billing information through other means (e.g. digital apps) to those consumers who are interested in knowing more about them.

It is a fact that in most EU countries, bills are already overloaded with information which is not always useful to the consumer. Piling up always more information elements on the bill can only lead to consumer confusion and disengagement. This has recently been acknowledged by ACER: *“Presenting too many different pieces of information on the bill might make it less accessible to the consumer, because of the plethora of details which are all presented at once at long intervals. When communicating with consumers, other communication channels may be at least as efficient as the bill, such as regular email or the consumer’s ‘my page’ on the supplier and/or DSO website”*⁸.

⁷ Today rules are split under three different Directives - 2009/28/EC, 2009/72/EC and 2012/27/EC.

⁸ ACER/CEER Annual Report on the Results of Monitoring the Internal Electricity and Gas Markets in 2015, Consumer Protection and Empowerment volume, November 2016, p. 33.

Dynamic Pricing

Topic	Article	Commission Proposal	EURELECTRIC's view
Dynamic pricing	Art. 2(11), 11	<p>“Dynamic electricity price contract” is defined as an electricity supply contract between a supplier and a final customer that reflects the price at the spot market or at the day ahead market at intervals at least equal to the market settlement frequency.</p> <p>Member States shall ensure that every final customer is entitled, on request, to a dynamic electricity price contract by his supplier and that final customers are fully informed by the suppliers of the opportunities and risks of such dynamic electricity price contract.</p> <p>Member States, through their National Regulatory Authorities, shall monitor and report annually, for at least a ten-year period after such contracts become available, on the main developments of such contracts including market offers, the impact on consumers' bills and specifically the level of price volatility, and on consumers' sensitivity to the level of financial risk.</p>	Agree with customer entitlement but disagree with supplier's obligation

Comment:

Dynamic pricing refers to retail electricity prices that pass through at least part of the wholesale price volatility to final end users. This can be achieved not only through real time pricing but also with advanced forms of time-of-use and critical peak pricing. Therefore, the definition of dynamic pricing should be extended accordingly. The “dynamism” of these options depends on the price interval and on how prices are set within each price interval. Dynamic pricing is possible as long as smart meters with minimum requirements that allow reliable consumption readings in specific time slots matching with market intervals are available. If metered individual consumption load curves based on smart meter readings (see section on smart meters) are used, a cohesive link between retail and wholesale markets can be established, thus allowing for active consumers' behaviour.⁹

As it is already the case in a number of markets (mostly Nordic and some Baltic countries), advanced forms of dynamic pricing are likely to further develop in other parts of the EU in the near future. They will be more suitable/ necessary as the system moves to higher shares of RES with limited predictability and as smart metering roll-outs move forward. Offering dynamic electricity prices is also interesting for retailers as it provides them opportunity to reduce their hedging costs. There should not be any legal barriers to offer every final customer a dynamic electricity price contract if a customer chooses so, neither any obligation on all suppliers to offer such a product. In the same way, as it should be left to customers to choose a dynamic pricing offer or not, retailers should also be able to decide if and how to include those offers in their product portfolio. Imposing an obligation on some or all retail offerings contradicts various parts of the proposed directive, and will be detrimental to competition and innovation, as it could

⁹ Dynamic pricing in electricity supply, EURELECTRIC 2017 See [“Dynamic pricing in electricity supply”](#), EURELECTRIC 2017

create entry barriers for small suppliers. Any such obligation should be avoided to ensure coherence with the broader framework that advocates for complete market liberalisation.

Freedom of contract should be respected as a fundamental principle. Member States should remove any barriers that would prevent suppliers dynamic electricity price offers.

The directive should also clarify that only customers who already have a smart meter installed or have requested an installation according to art. 21 (i.e. not as a part of national deployment) are eligible for a dynamic pricing contract.

Last but not least, the proposed annual NRA report should also analyse the combined impact on consumers' bills of dynamic pricing and sales and purchases from an aggregation contract that customers may sign in parallel.

Smart Metering

Topic	Article	Commission Proposal	EURELECTRIC's view
Smart metering	Rec. 31, 40, 42, 43 – Art. 2(18-19), 19 - 21 – Annex III	Member States shall ensure the implementation of smart metering systems. Their cost-benefit analysis shall consider the methodology recommended by the EC. Member States that proceed with the deployment of smart meters shall adopt and publish the minimum functional and technical requirements for smart metering, in line with the EC recommendation for minimum functionalities, ensuring interoperability and connectivity with consumer energy management platforms. When Member States proceed with smart metering deployment, they shall ensure that all final customers contribute to the associated costs of the roll-out, for example by reflecting these expenses in the network tariffs.	Agree
	Art. 2(20) & 20(a)	Smart meters should accurately measure the actual consumption and provide customers with information on actual time of use. That information shall be made easily available and easy to understand to final customers at no additional cost and at near real time. Art.2 (20) defines “near real time” as “usually down to seconds”.	Disagree

Comment:

European countries are at different stages of deployment of smart meters for residential electricity customers. Where the national CBA is positive, their installation will further improve efficiency, quality of service, dynamic pricing offers and other services. The proposal implies that Member States having rolled-out smart meters that do not comply with the outlined functionalities (defined in art. 20 and Annex III) by the time the legislation comes into force will need to upgrade them. We believe however that as long as the meters deployed corresponded to the rules in application at the time of their deployment, no stranded costs should arise.

Parties rolling out smart meters (DSOs in the majority of Member States) have already selected and purchased their systems for the delivery and visualisation of information to be provided to customers and other market parties designated by the customer. There are two types of data:

-) “Raw” consumption data: this consists only in real time consumption data (kWh) that can be read straight from the meter and not (yet) processed or validated by the meter management system. It can be used for in-home displays, home energy management systems, smart devices installed by service providers but also e.g. for triggering and measuring demand response actions etc. It does not include any historical data, price information etc. This data can be provided to customers close to real-time, but it cannot be provided in a matter of seconds without any additional cost.
-) Validated data: this data is provided to the customer’s supplier, the BRP and other market parties designated by the customer (for billing, balance settlement for demand response actions and other purposes related to energy markets) via nationally decided communication channels. This can include historical data and other relevant data. Based on the characteristics of the meter, the transmission technology and the data management model in place, this data cannot usually be provided near to real time as now defined in Art. 2(20). This data can currently be provided one day after the delivery of electricity. Shortening this time period would require an extremely fast and costly data exchange and communication system and processes which could as a result lead to a negative CBA. In countries where the roll-out will be finalised when the Directive enters into force and where the meters are not in line with the new provisions, this requirement will potentially create significant extra costs for final consumers.

If the cost for a systematic, large scale, roll-out of smart meters that allows close to real time reading resolution and transmission is considered prohibitive, the market should be allowed to provide alternative solutions **beyond-the-meter** to empower the customers and foster the development of demand side response. Multiple service providers have developed hardware for this purpose and have already offered it to customers as an additional service in most European markets. If grid companies have to offer real time information on electricity use to customers for free, there will be no market for this kind of services. A free of charge service will likely be very basic and will not necessarily be customer/user friendly. Therefore, we believe that article 20 (a) is inefficient.

Topic	Article	Commission Proposal	EURELECTRIC’s view
Smart metering	Art. 20(g)	Smart meters shall enable customers to be metered and settled at the same time as the resolution of the imbalance period in the national market takes place.	Disagree

Comment:

This provision is closely linked to the requirement for ISP harmonisation, foreseen for 1 January 2025 (art. 7(4) of the Electricity Regulation). While EURELECTRIC in principle supports ISP harmonisation by this deadline (see our response to the Electricity Regulation for more details), 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, Member States should decide on a voluntary basis to apply this functionality 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 a different 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/... electricity consumption to allow linking wholesale and retail markets.

Topic	Article	Commission Proposal	EURELECTRIC's view
Smart metering	Art. 20(b)	Smart meters and data communication should comply with relevant EU security legislation having due regard of the best available techniques for ensuring the highest level of cybersecurity protection.	Agree

Comment:

Ensuring the highest level of cyber security, as requested by art. 20 (b), is possible at the time of meter setting, which will normally be in operation for 10-20 years. As a consequence, it will prove to be very costly to keep the meter systems at the highest up-to-date level of cyber security protection, and metering operators should recover these costs. Therefore, the level of cyber security of the metering system should be set at a level that takes into account both the consumers' interest for a constantly updated level of protection and the costs of the updates.

Topic	Article	Commission Proposal	EURELECTRIC's view
Entitlement to a smart meter	Art. 21	Where smart meters are not rolled out, every customer is entitled to have a smart meter with the same functionalities as above. Customers should be informed about the benefits that it can realistically help attain and any associated costs that he would bear. The installation should be completed no later than 3 months after the customer's request.	Partially agree

Comment:

For the above mentioned reasons, EURELECTRIC supports that in case of a selective roll-out based on consumer entitlement (art. 21), the functions and interoperability of smart meters installed on an individual basis shall reflect technical and economic feasibility at the moment of installation. For example, among the other functionalities required by art. 21 (that apply by analogy to art. 22), costly updates of IT systems for selective smart meters roll outs would not be realistic and would discriminate against customers who have not asked for this option. However, it has to be clarified that in a selective roll-out, the same functionalities as in massive roll outs cannot all be available to customers at reasonable costs. Furthermore, a 3 months' timeframe is rather short. In addition, the text/interpretative note should clarify what happens if a customer who required an installation or an upgrade of a smart meter moves house.

Aggregation and Demand Response

Topic	Article	Commission Proposal	EURELECTRIC's view
Aggregation	Art. 2(15 & 16), 13	'Aggregator' is defined as a market participant who combines multiple customer loads or supplied electricity for sale, purchase or auction in any organised energy market. 'Independent aggregator' is an aggregator that is not affiliated to a supplier or other market participant.	Generally agree, but provisions should be amended.
Aggregation	Art. 13 (4)	Member States shall ensure that final customers are entitled to receive all relevant demand response data or data on supplied and sold electricity at least once per year.	Disagree

Comment:

EURELECTRIC fully supports the objective that generation, storage and demand response should compete on a level-playing field, including non-discriminatory participation of aggregators in the market.¹⁰

However, the newly introduced definitions in Art. 2 for "independent aggregator"/"aggregators" need clarification as the intention of this distinction and its consequences are unclear. As commented below, "aggregators" and "independent aggregators" should not be exempted from rules applicable to other market participants, including balance responsibility.

As the action of aggregators will have an impact in the customers' bill, customers should have this information as close to receiving their bill as possible. In order to encourage more participation of consumers in the market, this information should be more frequent.

¹⁰ See ["Designing fair and equitable market rules for demand response aggregation"](#), EURELECTRIC 2015.

Topic	Article	Commission Proposal	EURELECTRIC's view
Aggregation and demand Response	Art. 17	<p>(17.3) Member States have to ensure that, where a customer wishes to conclude a contract with an aggregator, he shall not need the consent of his supplier. National regulatory frameworks shall ensure (a) the right for each aggregator to enter the market without the consent from other market participants, (b) the existence of transparent rules that assign clear roles and responsibilities to all market participants, (c) the existence of transparent rules and procedures for data exchange between market participants to ensure easy, equal and non-discriminatory access to data while fully protecting commercial data, (d) the absence of any requirement that aggregators should pay compensation to suppliers or generators; (e) a conflict resolution mechanism between market participants.</p> <p>(17.4) To ensure that balancing costs and benefits induced by aggregators are fairly assigned to market participants, Member States may exceptionally allow compensation payments between aggregators and balancing responsible parties. This should limited to situations when one market participant induces imbalances on another market participant resulting in a financial cost and be subject to the approval of the NRA, followed by a monitoring by ACER.</p>	Disagree
	Art. 17.5	Member States shall ensure access to and foster participation of demand response.	Agree

Comment:

We observe a few inconsistencies that contradict the general objectives of the Directive (i.e. the establishment of a level playing field in the market) and are not objectively justified. Exempting independent aggregators from normal wholesale and retail market disciplines regarding imbalance settlement (art. 17.4) and deeming aggregators immune from claims for remuneration of energy following load shifting activation (art. 17.3 (d)) adds distortions to free price formation rather than removing them. This would mean that other participants in the market would bear the costs of demand-side response activation, with a danger to see end-consumer bills increase. It would also introduce regulatory uncertainty where a regulatory framework for third party aggregation has been already introduced.

In art. 17.4, imbalances compensation payment between Balance Responsible Parties (BRPs) and aggregators is phrased as an exception rather than a general rule. The current market model is based on the central role of BRPs. BRPs are financially responsible for keeping their own position (sum of their injections, withdrawals and trades) balanced over a given timeframe, the Imbalance Settlement Period (ISP). The remaining short and long energy positions in real-time are described as the BRPs' negative and positive imbalances, respectively. The draft Internal Market Regulation (Art. 4.1) clearly states that all market participants must take financial responsibility for the imbalances they cause in the system. Art. 5.2 of the draft Regulation insists that balancing markets must be organised in such a way as to not discriminate between market participants. That would not be the case if one category of participants in the provision of ancillary services to TSOs will be given special immunity rights for the cost of imbalances as proposed by art. 17.4.

Deeming aggregators immune from claims for compensation following load DSR activation, as proposed in art. 17.3 (d), risks misinterpretation and undermining the overall efficiency of the market. Any market participant willing to trade electricity must bear the costs related to procuring this electricity and bear the balancing responsibility. When generators sell electricity, they must produce it. When traders sell electricity, they must buy it from another market participant. When a consumer contracts a third-party aggregator to make use of its consumption flexibility, the third-party aggregator diverts energy through a demand response activation to make it available to the wholesale market (i.e. the TSO or another market participant). The energy that is not consumed by the end-customer but diverted by the third-party aggregator is still sourced by the supplier of the activated customer. Therefore, this electricity has to be paid for. If a third-party aggregator makes use of energy even though they did not produce or buy this electricity, other market participants are bearing the costs of demand-side response activation. This would represent a hidden subsidy for aggregators and would thus constitute a clear discrimination between market participants, in contradiction to the principle of property rights. The proposal should make clear that any such free-riding is avoided and ensure that the same rules apply to all market players, including active consumers, local energy communities or all aggregators.

Last but not least, transparent rules and procedures for data exchange, not only between market participants but also with system operators for reasons of security of supply should be considered, while fully protecting commercial data.

Active Consumers / Self-Consumption

Topic	Article	Commission Proposal	EURELECTRIC's view
Active consumers / self-consumption	Art. 2(6), 15	<p>Active customers are defined as a customer or group of jointly acting customers who consume, store or sell electricity generated on their premises, including through aggregators, or participate in demand response or energy efficiency schemes provided that these activities do not constitute their primary commercial or professional activity.</p> <p>Member States have to ensure that active consumers:</p> <p>(a) are entitled to generate, store, consume and sell self-generated electricity in all organised markets either individually or through aggregators without being subject to disproportionately burdensome procedures and charges that are not cost reflective;</p> <p>(b) are subject to cost-reflective, transparent and non-discriminatory network charges accounting separately for the electricity fed into the grid and the electricity consumed from the grid in line with article 59 .</p> <p>The energy installation required for the activities of the active customer may be managed by a third party for installation, operation, including metering and maintenance.</p>	Some provisions should be amended

Comment:

The definition of active customers (as well as that of 'renewable self-consumer' in art. 2(a) of the Renewables Directive) should be clarified. 'Their premises' could be interpreted as to mean that

the provisions apply to different assets owned by the same consumer in different locations and result in a positive discrimination. Instead, the definition should clearly refer to generation and consumption of electricity behind the grid connection point.

All new market actors (active consumers and also local energy communities) should participate in the market in a fair way, being responsible for the costs they contribute to induce, taking into account the timing of injections and withdrawals that should not be offset against each other. Any kind of positive discrimination at the expense of other parties must be avoided. Therefore, we welcome the requirement to charge network tariffs separately for the offtake from the grid and injection to the grid (art. 15) separately and the reference to cost-reflectiveness of such network tariffs. However, we think the provisions should be made clearer, so as to explicitly prevent net metering on any longer period than the settlement time, and not only for network charges but also for the remaining elements of the customers' bill, i.e. system costs & levies (policy support costs).

In addition, 'avoiding disproportionate charges that are not cost-reflective' should not be interpreted as to allow positive discrimination for prosumers. An amendment of the proposal and/or an interpretative note would help clarify these points. It should be noted that, in fact, the main charges that are not cost reflective in the electricity bill are taxes and levies financing public policies. The Directive should also clearly state that policy costs and levies charged on national energy consumers should be met by all consumers regardless of the network (public, private or a local energy community) they are connected to. In order to avoid social inequality, self-consumption should not lead to increased grid charges and levies for the remaining customers. Designing the requirements on active customers should be done in a way that does not constitute any state aid.

Finally, we agree that energy installation for the activity of active customers (beyond the meter) could be managed by third parties provided that it is clarified that metering activity should still be performed by the party that in each Member State is responsible for metering.

It should be also clarified that aggregating households which according to the RES directive (art. 21 (1c)) would not be subject to BRP obligations should not allow the aggregator to be exempted from the BRP responsibility (see also EURELECTRIC comments on the proposal for a Renewables Directive and on the proposal for an Electricity Regulation).

Energy Communities

Topic	Article	Commission Proposal	EURELECTRIC's view
Energy communities	Art 2(7),16	The text defines Local energy communities (LEC) Member States shall provide an enable regulatory framework for LECs.	Clarification is needed

Comment:

As for art. 15 on active customers, we believe that any kind of positive discrimination of energy communities at the expense of other consumers and actors in the energy system must be avoided. All market actors including customers of local energy communities should participate in the market in a fair way, being responsible for the costs they contribute to induce, taking into account the timing of injections and withdrawals. Network, policy costs and levies charged on national energy consumers should be met regardless of the network (public, private or a local

energy community) they are connected to. Energy communities' members should also not be exempted from their responsibilities with regard e.g. to balancing (as described above for active consumers) and discrimination between Local Energy Communities (LECs) and other parties in the energy system should be avoided. Where LECs are already acting as DSOs for historical reasons, they should face the same responsibilities and obligations as other DSOs.

Recital 30 notes that LECs *"should be allowed to operate on the market on a level-playing field without distorting competition"*. However, the text contains several ambiguities that could lead to misinterpretation during transposition to national legislation and positive discrimination of LECs at the expense of other customers and market participants:

- J According to the proposal, local energy community can buy, sell, generate, aggregate and store electricity while at the same time serving as a DSO following the provisions of Chapter IV, which cannot undertake these activities. While recognising that in some countries LECs already act as DSOs for historical reasons, we think that as a general principle, where customers are already served by the public grid, the creation of a new LEC should be deeply examined to avoid an inefficient duplication of network investments whose costs would be recovered from the existing customer base.
- J Furthermore, there are questions regarding the establishment of LECs: how can a LEC can be formed/constituted within what is effectively an existing DSO network? Would existing assets have to be transferred from the incumbent DSO to a constituting LEC? What provisions would be made to ensure cost recovery of existing assets and potential new assets to establish the connection point with the new LEC?
- J Art. 16 (2) (g) states that Member States shall provide an enabling regulatory framework to ensure that *"where relevant system users that are not shareholders or members of the local energy community connected to the distribution network operated by a local energy community shall be subject to fair and cost-reflective network charges (...)"*. Does this mean that customers will pay network charges only if they leave a LEC or that they pay lower charges as a member of a LEC? Similarly, according to art. 16(h) 'Member States shall ensure that *"where relevant LECs are subject to appropriate network charges at the connection point between the community network and the distribution network outside the energy community"*. This could be misinterpreted as that members of LECs may not be subject to cost-reflective network charges and it would create issues concerning system cost recovery and unfair cross-subsidisation. Members of LECs must pay network charges to the DSO they are connected to. Furthermore, consumers in LECs should also pay taxes and levies as all other customers connected to public networks.
- J While we agree that *"shareholders or members of a LEC shall not lose their rights as household customers or active customers"* (art. 16(2b)), the practical implications of these provisions need to be clarified. Even if a LEC remains a DSO for the customer who may be switching (i.e. no parallel networks), there will be a need for rules on the correct metering, billing etc. of the customer's connection point(s) and rules/regulatory framework upon the use of LEC infrastructure ("lease of last mile"). It should be clarified whether LECs cover a specified area (if they were virtual communities), in which case even more questions would arise. Additionally, could LECs, if having to act effectively as DSOs actually face less stringent obligations than incumbent DSOs?

The same concerns apply to ‘renewable energy communities’ defined by art. 22 of the Renewables Directive which by default are also LECs as per art. 16. Overall, the two concepts (and the differences between them) need important clarifications and possibly interpretative notes.

Data Management

Topic	Article	Commission Proposal	EURELECTRIC's view
Data management	Art. 23 par. 2 and 3	The Commission does not recommend any specific data management model. Member States shall authorise/certify the party(ies) managing data.	Agree
	Art. 34	In countries where DSOs are involved in data management, compliance programmes shall include specific measures to exclude discriminatory access to data from eligible parties. Member States shall also take all necessary measures to ensure that vertically integrated companies do not have privileged access to data for the conduct of their supply activity.	Agree

Comment:

We agree with the European Commission that there is no ‘one size fits all’ model applicable in all European countries for meter data management. This could be done in a centralised or decentralised way by different parties, e.g. DSOs, TSOs, or third parties. Decisions on the best approach to follow should be taken at national level by NRAs. However, we agree that it is fundamental to set common principles at EU level to ensure that data handling is done in a neutral, non-discriminatory, transparent, cost-efficient, and secure way.

Topic	Article	Commission Proposal	EURELECTRIC's view
Data management	Art. 23 par. 1 and 2	Eligible parties (incl. suppliers, TSOs/DSOs, aggregators, ESCOs) should have access to customer’s data after their explicit consent in a non-discriminatory manner.	Partially agree
	Art. 23 par. 1	Such data shall include metering and consumption data as well as data required for switching.	Agree

Comment:

Regardless of the data management model adopted, DSOs and suppliers - who respectively provide network services and supply electricity to customers - should have unrestricted access to their customers’ metering and consumption data. This is indeed necessary to guarantee a secure network management and fulfil their contractual obligations (billing, switching etc.). For any other purpose or any additional service, we fully agree that access to metering and consumption data should only be possible after the explicit consent of the customer.

It is important to remind that the General Data Protection Regulation (EU 2016/679) introduces significant obligations and compliance provisions for suppliers, distribution system operators and other entities controlling or processing personal data (metering and consumption data identifiable to a certain individual is considered as personal data). In our view, the Electricity Directive should not impose stricter obligations on energy companies than the GDPR without sound justification.

Topic	Article	Commission Proposal	EURELECTRIC's view
Data format	Art. 24 par. 1	Member States shall define a common data format and a transparent procedure for eligible parties to have access to the data.	Agree
	Art. 24 par. 2	The EC shall determine - by means of an implementing act - a common European data format together with non-discriminatory and transparent procedures to access the data that will replace the national data format and procedure adopted by Member States.	Disagree
	Art. 24 par. 3	No additional costs shall be charged to final customers for access to their data. Member States shall be responsible for setting the relevant costs for access to data by eligible parties. Regulated entities which provide data services shall not profit from that activity.	Agree

Comment:

The proposed allocation of responsibility between the Commission and Member States is not very clear to us. Why would Member States set up a national data format (par. 1) if they then have to adopt a common data format defined by the Commission (par. 2)? What is the proposed timeframe? If the aim of the Commission is to target those Member States which have not yet started to work on a national data format, then we think it should spell it out clearly.

We are also not sure to understand what the Commission is trying to achieve with a common EU data format. Whilst we fully support the data portability provision stemming from the General Data Protection Regulation (EU) 2016/679), we do not think that the Commission should try and regulate data exchange between market parties within Member States. If the aim is to facilitate cross-border retail markets, then many other issues would need to be looked at and harmonised, as experience from the Nordic countries and their project to create a common Nordic retail electricity market has shown: roles and responsibilities of market players, business processes, consumer rights, tax regimes, etc. Data format would come almost last in the list.

It is also worth recalling that several Member States have just implemented a national data hub (e.g. Denmark, Italy) or are about to do it (e.g. Finland, Sweden, Norway, Belgium, France, etc.). It would be very costly if a new data format would be introduced just after the implementation of a national data hub, requiring market actors to upgrade all core systems (such as billing, customer relationship management, etc.) once again.

Overall, we think that these provisions should not be introduced without sound and transparent cost/benefit analyses at both national and European level. Setting EU principles/guidelines could be as efficient as setting a common data format but at lower costs.

Last but not least, whilst we agree that where DSOs are responsible for managing data, they should not profit from that service, we would welcome further clarification as to what the Commission means with "data services" as this is not clearly defined. For instance, a DSO that makes available data to final customers through the metering infrastructure faces investments and operational costs that should be treated like investments and operational costs in other network activities.

Cyber Security

Topic	Article	Commission Proposal	EURELECTRIC's view
Cyber Security	Recital 38, Art. 20(1/b),	Independently of the data management model, it is important that Member States (...) ensure the highest level of cybersecurity and data protection (Rec. 38). The security of the smart metering systems and data communication is ensured in compliance with relevant European Union security legislation having due regard of the best available techniques for ensuring the highest level of cybersecurity protection.	Agree

Comment:

This proposal is in line with our position to foster the cyber security mind set and to ensure the highest level of cybersecurity and data protection.

Tasks of DSOs

Topic	Article	Commission Proposal	EURELECTRIC's view
Tasks of DSOs	Art. 31	Operating, maintaining and developing under economic conditions a secure, reliable and efficient electricity distribution; no discrimination; information to users; Member States to give priority to renewable generation; procurement of non-frequency ancillary services; this shall especially be market-based ensuring effective participation of all market participants including renewable energy sources, demand response, energy storage facilities and aggregators.	Partially agree
Tasks of DSOs	Art. 31.6	It has been deleted from the former article the point 6, concretely art 31(6) where it was stated that DSO is responsible for balancing the distribution system.	Disagree

Comment:

In general, the recast of the regulation and directive makes good progress towards reflecting the new and extended role of DSOs. The EC acknowledges an “increase of responsibilities” for DSOs. Such an increase of responsibilities should be codified in the directive, acknowledging that each DSO is responsible for the operation of its own distribution system. This is mentioned in art. 31 (1), however we would like to see the same proposal as we see for the task of TSOs in art. 40 (1) (d) of the same Directive. Therefore, we would welcome a more specific sentence for the secure, reliable and efficient operation of its distribution system, as it would strengthen and underline the role of DSOs as active system managers. Each DSO shall be responsible for managing electricity

flows on the system, taking into account exchanges with other interconnected systems. To that end, the distribution system operator shall be responsible for ensuring a secure, reliable and efficient electricity system.

EURELECTRIC notes that whereas some non-frequency ancillary services will (and should) be provided by the market, some others such as voltage control devices will likely not be. EURELECTRIC thus believes that it should be left to NRAs to decide ultimately what should be market-based or not, depending on local circumstances, taking into account technical and economic aspects. However, and in line with the emergency and restoration Network code for emergency situations and in order to not endanger the safety of the network, DSOs must act (in real time) in a way that prioritises the security of the network.

In general, we would like to stress the crucial role of DSOs for system stability and integrity, as well as market facilitator in the ongoing energy transition. Balancing the local grid becomes a focal point with the central grid as exchange, creating further complexity and affecting the overall coordination of the distribution system, which might impact operation, quality and cost of the service. Therefore, a more active and integrated management by the DSOs is key.

Topic	Article	Commission Proposal	EURELECTRIC'S view
Tasks of DSOs in flexibility	Art. 32.1	Member States to implement a regulatory framework including congestion management. Enable DSOs to procure services from resources such as distributed generation, demand response or storage and consider energy efficiency measures. DSOs shall define standardised market products for the services procured ensuring effective participation of all market participants including renewable energy sources, demand response, and aggregators.	Agree
	Art. 32.2	The network development plan shall be submitted every 2 years to the regulatory authority and shall contain the planned investments for the next five to ten years. It shall also demonstrate the use of demand response, energy efficiency, energy storage facilities or other resources that distribution system operator is using as an alternative to system expansion. The regulatory authority shall consult all current or potential system users on the network development plan.	Disagree

Comment:

We welcome the initiative to propose a regulatory framework that allows and incentives DSOs to procure flexibility services which may complement or obviate the need to upgrade or replace electricity capacity and which supports both the efficiency and secure operation of the distribution system. Similarly, we welcome the definition of standardised products by DSOs for the services procured. These services should be defined in such a way that electric vehicles can offer their flexibility services in this flexibility market – which also means that infrastructure able to modulate the charging process has to become the standard. We do also agree with the provision to foresee the adequate remuneration to DSOs for the procurement of flexibility services.

Regarding the network development plan, we welcome the initiative to describe the grid needs and how DSOs will address them, including through flexibility solutions when they are available and economically efficient. However, we do not agree with the 2 years cycle proposed for the submission of such a plan. EURELECTRIC considers that it is up to the Members States to decide about the period of time for the network development plan considering the situation of the already deployed distribution network infrastructure. We do not agree with an imposed consultation, conducted by the NRA, of all current or potential system users on the network development plan. In case of a consultation process, we wonder about the value of the responses considering that the network plan is a specific task of the DSOs and that they are better knowledgeable on their own network developments. However, we believe that the exchange of information between the DSO and market participants should be ensured. For example, DSOs should be encouraged to make information about the free capacity available to market participants: they then can invest in new loads (like for example charging stations) where no network reinforcement is needed. Where free capacity is scarce, market parties can try to contract customers. This can help DSOs to solve congestion management problems on a market-based solution.

Therefore, it is inappropriate to define a harmonised consultation process for DSOs' development plan at EU level given the large number of national specificities. The appropriate mode and standard of any such consultation should be decided by the NRA and national governments, and not imposed by the EC.

Electro-Mobility

Topic	Article	Commission Proposal	EURELECTRIC's view
Definition of a recharging point	Art. 2 (27)	'Recharging point' means an interface that is capable of charging one electric vehicle at a time or exchanging a battery of one electric vehicle at a time.	Agree, but the definition should include a reference to the AFI Directive, where recharging points are defined in greater detail.

Comment:

It is crucial to have a coherent and uniform definition of recharging points throughout all relevant legislation. The Electricity Directive shall be in line with the existing definition in the AFI Directive, which distinguishes between normal power charging (up to 22kW) and high power charging (offering electricity transfer to an electric vehicle with 22kW or more).

Furthermore, the AFI Directive makes it clear that "devices with a power less than or equal to 3,7 kW, which are installed in private households or the primary purpose of which is not recharging electric vehicles, and which are not accessible to the public" are not regarded as a recharging point. This clarification is important, because otherwise the definition given above ("interface that is capable of charging one electric vehicle at a time") would apply to almost any plug there is. Annex II of the AFI Directive also specifies a number of standards for connectors.

Topic	Article	Commission Proposal	EURELECTRIC's view
Ownership of Electro mobility; charging infrastructure	Art. 33	Member States may allow DSOs to own, develop, manage or operate recharging points for electric vehicles only if the following conditions are fulfilled: a) other parties, following an open and transparent tendering procedure, have not expressed their interest; b) the regulatory authority has granted its approval.	Agree, but clarification on cost recovery by DSOs needed.

Comment:

We support the European Commission's quest for opening up the EV charging market. However, in cases where DSOs are engaged in the roll-out of the necessary charging infrastructure, it should be guaranteed that they can recover the costs incurred, also and notably if the activity of the DSO on this field is phased out. This is especially of importance for DSOs in those countries that currently have opted for a roll-out of charging infrastructure with the help of DSOs.

It should be made clear that DSOs in any case are only owning and technically operating the charging infrastructure as an extension of their regulated role. The commercial operation of the charging stations should always be done by market participants.

Remuneration of DSOs

Topic	Article	Commission Proposal	EURELECTRIC's view
Remuneration of DSOs	Art. 32.1, 59.4	Member States shall provide the necessary regulatory framework to allow and incentivise DSOs to procure services in order to improve efficiencies in the operation and development of the distribution system. DSOs shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information and communication technologies expenses, including expenses which correspond to the necessary information and communication infrastructure.	Agree

Comment:

We must set the right regulatory framework for DSOs to become active network managers. DSOs must be granted the necessary financial resources to comply with the challenges arising from the development of the distribution system, characterised by a rise in distributed electricity generation, the increasing number of active customers (see Art. 15) and the appearance of new market participants such as aggregators (see Art. 13). All these players use the distribution grid, and the DSO has to ensure not only their "physical" integration but also the organisational management (allocating energy to balance groups, running business processes, etc.). This can be done by incentivising NRAs to give DSOs appropriate incentives to implement the necessary innovative initiatives that support the transformation of the DSOs' business models. Distribution remuneration should duly incentivise DSOs for the synergies offered by the distribution network with other services (e.g. telecommunications). The implemented specific regulatory mechanisms should deliver a predictable and stable outcome and should include incentives for both CAPEX

and OPEX aimed at guaranteeing adequate remuneration for investments and timely cost recognition, including for costs related to new activities required by regulation.

Unbundling of Distribution System Operators

Topic	Article	Commission Proposal	EURELECTRIC's view
Unbundling of distribution system operators	Art. 35	When the DSO is not part of a vertically integrated undertaking, it shall be independent at least in terms of its legal form, organisation and decision making from other activities not related to distribution.	Agree

Comment:

The current unbundling rules are fit for purpose and we support them. Therefore, we are pleased to see that the European Commission is not planning further changes to the unbundling requirements at this stage. This article will keep ensuring transparent and independent decision making and an equal treatment of all DSO stakeholders.

Ownership of Storage Facilities

Topic	Article	Commission Proposal	EURELECTRIC's view
Ownership of storage facilities	Art. 36	DSOs shall not be allowed to own, develop, manage or operate energy storage facilities. Member States may allow distribution system operators to own, develop, manage or operate storage facilities only if the following conditions are fulfilled: no other party is interested following an open and transparent tendering procedure, DSOs to fulfil its obligations under this regulation and NRA granted approval. Public consultation performed by the regulators in order to re-assess the potential interest of markets parties to invest, develop, operate or manage energy storage facilities. Member States shall ensure that DSOs activities in this regards are phase-out in case third parties are able to do it.	Partly agree

Comment:

Storage is one amongst the many new technologies which are approaching commercial and technical readiness for mainstream deployment in the grid. In this sense it is but one technology item of the potential new DSO's 'toolkit' which can be used to assist the DSO operate and plan more 'flexibly'. Storage also holds promise for promoting active consumerism and realising other forms of value for market participants, grid operators and retailers. It is likely that a stand-alone business case for storage would be constructed from a synthesis of these benefits and a market originated deployment would be the ordinary course when the technology becomes mature.

Focusing on the DSO's perspective, it is important to recall that DSOs are under regulatory supervision and required to adopt new technology as it becomes proven and cost competitive. It is also important to recall that DSOs have urgent operational issues presently on-hand due to the widespread incidence of mainly variable distributed generation. In the fullness of time – and the

DSOs are actively working on this – the DSO foresee that ‘flexibly’ would be conceptualised as a fungible service and storage and other technologies can make offerings. Such commercial arrangements do not yet exist and have to be designed, tested and integrated into the DSOs regulatory framework.

For this article, EURELECTRIC proposes an amendment below which is a simple adjustment to the normal course of the DSOs business in cooperation with the NRA and does not require a tender to be undertaken by the NRAs, nor does it require the Member State to provide a derogation from EU law. Any tender or market test would be undertaken by DSOs. There is a presumption that there would be a market test carried out but it is also practical and does not call for a market test on every occasion (which could be costly and time consuming in certain circumstances) but such an exception would require the explicit agreement of the NRA. It is worth nothing that all of the above would be conducted in an open and transparent manner and DSOs and NRAs could be held to account.

European Commission's proposal	EURELECTRIC proposal
<p>1. Distribution system operators <i>shall</i> not be allowed to own, develop, manage or operate energy storage facilities.</p> <p>2. <i>By way of derogation from paragraph 1, Member States may allow distribution system operators to own, develop, manage or operate storage facilities</i> only if the following conditions are fulfilled:</p> <p>(a) other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate storage facilities;</p> <p><i>(b) such facilities are necessary for the distribution system operators to fulfil its obligations under this regulation for the efficient, reliable and secure operation of the distribution system;</i></p> <p><i>And</i></p> <p>(c) the regulatory authority has assessed <i>the necessity of such derogation taking into account the conditions under points (a) and (b)</i> of this paragraph and has granted its approval.</p> <p>3. Articles 35 and Article 56 shall apply to distribution system operators engaged in ownership, development, operation or management of energy storage facilities.</p> <p>4. Regulatory authorities shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to invest, develop, operate or manage energy storage facilities. In case the public consultation indicates that third parties are able to own, develop, operate or manage such facilities, Member States shall ensure that distribution system operators' activities in this regard are phased-out .</p>	<p><i>1. Energy storage facilities shall be owned, developed, managed or operated by markets participants.</i></p> <p>2. Distribution system operators <i>may be allowed</i> to own, develop, manage or operate storage facilities <i>if such facilities are necessary for the distribution system operator to fulfil its obligations under this regulation for the efficient, reliable and secure operation of the distribution system</i> only if the following conditions are fulfilled:</p> <p>(a) other parties, following an open and transparent tendering procedure (<i>under NRA supervision</i>), have not expressed their interest to own, develop, manage or operate <i>cost-effective</i> storage facilities <i>or for alternatives flexibility services;</i></p> <p>() ;</p> <p>or;</p> <p>(b) the <i>NRA</i> has assessed <i>that there is no necessity to apply the condition under point (a)</i> of this paragraph and has granted its approval.</p> <p>3. Articles 35 and Article 56 shall apply to distribution system operators engaged in the ownership, development, operation or management of energy storage facilities.</p> <p>4. Regulatory authorities shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to invest, develop, operate or manage energy storage facilities. In case the public consultation indicates that third parties are able to own, develop, operate or manage such facilities, Member States shall ensure that distribution system operators' activities in this regard are phased-out <i>with compensation on fair and reasonable terms.</i></p>

Closed Distribution Systems

Topic	Article	Commission Proposal	EURELECTRIC's view
Closed distribution systems	Art. 38	This is a system which distributes electricity within a geographically confined industrial, commercial or shared services site and does not supply household customers, as a closed distribution system. There is a new statement: 'closed distribution systems shall be considered as distribution systems for the purpose of the Directive'.	Needs clarification.

Comment:

We need clarification on the new statement whose consequences are not clear.

EURELECTRIC agrees that closed distribution systems should be bound by the same responsibilities as DSOs their connected customer towards the system. In particular, it should be avoided that customers under closed distribution systems are given implicit advantages compared with the rest of the customers connected to the main network (not under closed distribution systems), such as tariff exemptions on network costs, taxes and levies based on net-metering.

Combined Operator

Topic	Article	Commission Proposal	EURELECTRIC's view
Combined operator	Art. 39	Art. 35(1) shall not prevent the operation of a combined transmission and distribution system operator provided that operator complies with Art. 43(1), or 44 and 45, or Section 3 or falls under Art. 66(2).	Needs clarification.

Comment:

The article needs some clarifications, it is not really clear whether a combined operator need to be ownership unbundled or not and whether it goes under the authority of an ITO as any TSOs.

Tasks of TSOs

Topic	Article	Commission Proposal	EURELECTRIC's view
Tasks of TSOs	Art. 40	<p>To that end, TSOs shall be responsible for ensuring a secure, reliable and efficient electricity system and, in that context, for ensuring the availability of all necessary ancillary services, including those provided by demand response and energy storage, <u>insofar as such availability is independent from any other transmission system with which its system is interconnected.</u></p> <p>TSOs shall ensure that the procurement of balancing services and, unless comforted by a CBA, non-frequency ancillary services, <u>ensures effective participation of all market participants including renewable energy sources, demand response, energy storage facilities and aggregators, in particular (...)</u>"</p>	

Comment:

TSOs should be allowed to procure demand response (DR) and storage connected to its own grid. However, TSOs can only procure DR and storage that are not connected to its own grid only after a validation procedure and an acceptance of the DSO (e.g. based on schedules to be accepted).

The procurement of balancing services and non-frequency ancillary services should be managed by DSOs and provided by distribution system connected agents through DSO management. Therefore, there must also be a reference to this possibility in the paragraph.

If a CBA is used to argue for the non-market based procurement of non-frequency ancillary services, the CBA must be based on socio-economic efficiency considerations. Further, the CBA shall be based on transparent principles creating a level playing field for potential bidders. The CBA and the resulting decision should be subject to regulatory approval.

It is important to ensure that the full demand of TSO is procured, without any possible exceptions. TSOs must establish market places where commercial market participants feel comfortable investing and where the prices can be discovered – they need to know that there will be an on-going procurement of the services and products they provide, even if prices are not known in advance. It corresponds to how the day-ahead market works: market participants invest in power stations because they know that there is a market for electricity, even if they do not know the price they can earn. Without certainty on the fact that the TSO will procure their full demand, it will be difficult for commercial market participants to invest in assets to deliver these products and services.

To implement the above, we suggest adding a new bullet (c) to Art. 40, 4: 'closely reflects the need for all products and services for the system.'

Topic	Article	Commission Proposal	EURELECTRIC's view
Decision-making powers regarding the connection of new power plant to the transmission system	Art. 42	The transmission system operator shall not be entitled to refuse the connection of a new power plant or energy storage facility on the grounds of possible future limitations to available network capacities, such as congestion in distant parts of the transmission system.	Agree

Comment:

We are in line with the proposal as power plants and storage sites might be connected to the DSO grid and the TSO has to handle the energy (flow).

Independence of the Transmission System Operator

Topic	Article	Commission Proposal	EURELECTRIC's view
Independence of the TSO	Art. 47.3	The vertically integrated undertaking and its subsidiaries performing functions of generation or supply shall not have any direct or indirect shareholding in the transmission system operator. The transmission system operator shall neither have any direct or indirect shareholding in any subsidiary of the vertically integrated undertaking performing functions of generation or supply, nor receive dividends or any other financial benefit from that subsidiary.	Disagree

Comment:

The proposed text redrafts the article about the ownership of TSOs. Our understanding is that this proposal should be a semantic clarification, but due to the proposed change the meaning of the text becomes equivocal (it can also be interpreted in a way that extends the ban on the ownership in the ITO to vertically integrated undertakings). In order to avoid an interpretation that is not coherent with the ITO model, we recommend keeping the original text. EURELECTRIC recommends keeping the wording "of the vertically integrated undertaking".

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

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.

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

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April 2017

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 financial 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	Mechanisms other than strategic reserves shall be open to direct participation of capacity providers located in another MS. 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. 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.	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.

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Environmental Leadership

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Social Responsibility

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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/?query=4271427696-87)

European Commission legislative proposal to amend the Energy Performance of Buildings Directive

A EURELECTRIC position paper

April 2017

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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**.

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KEY MESSAGES

- EURELECTRIC welcomes the European Commission's intention to streamline and simplify the Energy Performance of Buildings Directive. We also welcome the long term perspective, but stress that the European strategy for decarbonisation of buildings must reflect the importance of decarbonised electricity. Furthermore, it is important to explain clearly how milestones are set and how these will interact with the governance system of the Energy Union.
- The smartness indicator appears to be a promising tool but must be defined in more detail within this Directive and not at a later stage via delegated legislation. If implemented correctly, this tool could play an important role in the development of a market for flexible solutions and technologies. EURELECTRIC believes that its features should be discussed in more detail, and decided in a transparent manner in the context of discussions of the Directive, in order not to miss out on its potential.
- EURELECTRIC welcomes the Commission's initiative to address the need for electric vehicle recharging infrastructure in both residential and non-residential buildings. This is crucial to speed up the market penetration of electric vehicles and thereby the decarbonisation of the road transport sector.
- Regarding the application of the Primary Energy Factor (PEF) in this Directive, EURELECTRIC welcomes the Commission's approach as it retains each Member State's right to set its own factor for buildings. We further welcome the decision to discount the share of renewable energy (RES) in energy carriers with equal treatment for onsite RES and RES from central sources.
- EURELECTRIC welcomes the increased emphasis on smart financing mechanisms for buildings as a means of accelerating the transition to cleaner energy in Europe's building stock.

WG Energy and Resource Efficiency

Contact:
Henning Häder, Advisor Energy Efficiency & Electrification -
hhader@eurelectric.org

General Assessment of the Proposal

EURELECTRIC welcomes the European Commission's intention to streamline and simplify the Energy Performance of Buildings Directive. We also welcome the long-term perspective, but stress that the European strategy for decarbonisation of buildings must reflect the importance of decarbonised electricity. Furthermore, it is important to explain clearly how milestones are set and how these will interact with the governance system of the Energy Union.

Detailed Assessment of the Proposal

I. Definitions

Topic	Article	Commission Proposal	EURELECTRIC's view
Definitions	Article 2	Replacement of the definition of "technical building system".	Agree. But clarification is required regarding the meaning of the phrase 'on-site infrastructure for electro-mobility'.

Comment:

It is crucial to have a coherent and uniform definition of recharging points throughout all relevant legislation. The revised Electricity Directive will be brought in line with the existing definition in the Alternative Fuels Infrastructure Directive (AFI). Similarly to the Electricity Directive, the AFI Directive defines "recharging point", but also includes further definitions which distinguish between a normal power recharging point (up to 22kW) and a high power recharging point (offering electricity transfer to an electric vehicle with 22kW or more).

Furthermore, the AFI Directive makes it clear that "devices with a power less than or equal to 3,7kW, which are installed in private households or the primary purpose of which is not recharging electric vehicles, and which are not accessible to the public" are not regarded as a recharging point. This clarification is important, because otherwise the definition given above ("interface that is capable of charging one electric vehicle at a time") would apply to almost any plug there is. Annex II of the AFI Directive also specifies a number of standards for connectors.

In order to have a consistent definitions and harmonised understanding across all EU legislation, the revised Energy Performance of Buildings Directive (EPBD) should include a clear link to the AFI Directive's definitions of recharging points. This may be done, for example, by stating that "on-site infrastructure for electro-mobility" includes recharging points within the meaning of the AFI Directive, as well as the pre-cabing that allows for the installation of such recharging points at a later point in time without interference into the buildings structure.

II. Building Renovation

Topic	Article	Commission Proposal	EURELECTRIC's view
Long-term building renovation strategy	2a	<p>New Article 2a: 'Long-term renovation strategy' to be submitted in accordance with the integrated national climate and energy plans under the Energy Union Governance Regulation.</p> <p>Consisting of:</p> <p>Article 4 of the Energy Efficiency Directive 'on building renovation' –</p> <p>Strategy to have roadmap with clear milestones and measures to deliver 2050 decarbonisation of national building stock, with specific milestones for 2030.</p> <p>Strategy shall 'contribute to the alleviation of energy poverty'.</p> <p>Member States to introduce mechanisms for financing.</p>	<p>Agree.</p> <p>Clarification required.</p>

Comment:

The scope of this Article fits better under the Energy Performance of Buildings Directive (EPBD). Therefore the proposed move of this Article from the EED is supported.

The importance of this Article however lies in what the long-term renovation strategy for building decarbonisation will actually entail, how milestones are set, and how the strategy and the milestones will interact with the governance structure of the Energy Union.

The specifics should not hinder but rather promote Member States' strategies to move toward increased electrification of energy use in buildings with the aim of decarbonising them. Overall, a strategy that has a 2050 perspective will provide investor certainty and is therefore welcome, whether such investment will be made directly by the owner or by a third party. A second milestone for 2030, consistent with the EU-wide 2030 targets for energy efficiency and renewables, would provide better insight regarding each Member State's strategy, and contribute to policy consistency and avoidance of overlap.

While EURELECTRIC agrees that energy efficiency financing schemes can provide effective solutions for tackling energy poverty (as those customers do not have the financial resources upfront to make such investments), we believe that support granted to people suffering from poverty should come from the general income of the State (i.e. through general taxation). Therefore, the reference to energy poverty in this Article is not supported.

The further emphasis on financing mechanisms is welcome. A more detailed position on triggering energy efficiency investments can be found on the [EURELECTRIC website](#).

III. New/Existing Buildings

Topic	Article	Commission Proposal	EURELECTRIC's view
New / existing buildings - simplification	6 and 7	<p>Several provisions are deleted which oblige checks and analyses for high-efficiency alternative system for new-build.</p> <p>Provisions are now limited to the general obligation for new buildings to meet the minimum energy performance requirements.</p> <p>The same provision is deleted for existing buildings.</p>	Agree.

Comment:

EURELECTRIC welcomes the Commission's intention to simplify and streamline the Directive. However, some of our members are concerned that this change could lead to a situation whereby some highly efficient systems would no longer be taken into account, particularly when based entirely or partially on energy from renewable sources **in the case of existing buildings**. This therefore requires further clarification.

IV. Technical building systems

Non-residential buildings

Topic	Article	Commission Proposal	EURELECTRIC's view
Recharging points in non-residential buildings	8(2)	<p>One in ten parking spaces in all new non-residential buildings and in all existing non-residential buildings undergoing major renovation to be equipped with a recharging points for EVs.</p> <p>This shall apply to all non-residential buildings, with more than 10 parking spaces, as of 1 January 2025.</p> <p>There is a possibility for Member States to choose to exempt buildings owned and occupied by small and medium enterprises from this obligation.</p>	<p>Generally agree.</p> <p>Additionally, pre-cabing should apply for all parking spaces.</p> <p>More flexibility for Member States is needed regarding existing buildings.</p>

Comment:

EURELECTRIC welcomes Commission’s proposal to equip at least one out of ten parking spaces in new non-residential buildings and in existing ones undergoing major renovation, with more than 10 parking spaces, with a recharging point which is capable of starting and stopping charging in reaction to price signals. In the Commission’s Impact Assessment on the revision of the EPBD these recharging points are referred to as “smart”.

Smart recharging points should have a specified definition in the Directive, including a) Standardised plug and real time communication between the car and the charging point; and b) real time communication between the charging point and the charging operator; and so enabling c) the real-time management of the charging event by means of upregulating and downregulating the power without interrupting the charging event. If Europe wants to tap the potential of integrating electric vehicles and the electricity system it will not be sufficient for recharging points to only be capable of starting and stopping in reaction to price signals.

Having said this, according to the Commission’s Impact Assessment, the proposed provisions will lead to around 810,000 smart recharging points being installed across Europe by 2030. This is indeed only a fraction of the estimated needs to reach a sufficient density of charging infrastructure across Europe.

Therefore, it is crucial to extent the provisions on pre-cabling to the non-residential buildings to allow easy installation of a charging point, where needed, at a later point in time in a cost-efficient manner.

For existing non-residential buildings to which the provision would apply as of 2025 the issue is slightly different. Requiring the installation of one charging point per ten parking spaces in all non-residential buildings with more than ten parking spaces as of 2025 might be practically not feasible. Member States should therefore be given the possibility to prove that this is unfeasible and negotiate derogations while in any case guaranteeing a "right to install a charging point" to tenants.

Residential Buildings

Topic	Article	Commission Proposal	EURELECTRIC’s view
Recharging points in residential buildings	8(3)	Newly built residential buildings and those undergoing major renovations, with more than ten parking spaces, to include the pre-cabling to enable the installation of recharging points for electric vehicles for every parking space.	Generally agree. Some clarification required.

Comment:

Pre-cabling in parking spaces in or belonging to new residential buildings and those undergoing major renovation should enable the installation of a recharging point within the meaning of the AFI Directive. Pre-cabling should be done in such a way to allow for future upgrade of capacity.

In order to ensure that European citizens in existing residential buildings can charge their EV at home, installing charging infrastructure in existing residential buildings should be possible for EV drivers with the least possible administrative burden. This could be formulated as a “right to install a charging point”, which translates into the obligation of building owners to enable the installation with the necessary construction measures.

This right to install a charging point needs to apply to all residential buildings, regardless of the number of parking spaces linked to them. This measure would support the Commission’s main

objective under the Clean Energy Package of empowering consumers and of increasing EU citizens' confidence in the EU project through consumer-oriented proposals and initiatives.

There are already positive examples of this across Europe. In the new Spanish apartment building regulation, for example, EV owners need only to notify other co-owners to be able to install a recharging point.

Additional Comments on EV Charging:

EURELECTRIC welcomes the Commission's initiative to address the need for charging infrastructure in both residential and non-residential buildings. This is crucial to speed up the market penetration of electric vehicles (EVs) and thereby the decarbonisation of the road transport sector. At the same time, a delicate balance between ambitious targets and cost-efficient action has to be met.

A valid alternative for pre-cabling in both residential and non-residential buildings may be pre-tubing, i.e. putting the plastic conduits in the ground and pull through the cable when the actual charging station is installed. In any case, the diameter of the conduits should be generous, in order to make it possible, to install large cables and thus higher capacity at a later point in time.

Buildings of mixed usage should also be accounted for under the Directive. EURELECTRIC suggests that such mixed usage buildings should be obliged to comply with the requirements for non-residential buildings.

Topic	Article	Commission Proposal	EURELECTRIC's view
Energy Performance assessment after technical building change	8(5)	Energy Performance assessment after technical building system is installed, replaced or upgraded.	Agree.

Topic	Article	Commission Proposal	EURELECTRIC's view
Electronic monitoring, automation and control		Reinforcing the use of building electronic monitoring, automation and control in order to streamline inspections.	Agree.

Topic	Article	Commission Proposal	EURELECTRIC's view
Smartness indicator for buildings	8(6)	The Commission will be empowered to adopt delegated acts to create a 'smartness indicator' as additional information to prospective new tenants or buyers.	Agree to introduce indicator, but a more transparent process on its creation required.

Smartness Indicator:

The smartness indicator appears to be a promising tool but must be defined in more detail within this Directive. Depending on its implementation, this feature could work in favour of

advanced technologies and enable a better rate of electrification, digitalisation and decarbonisation. Overall, we believe that there should be a more detailed description in the revised EPBD regarding the features of the smartness indicators and its purpose, particularly in light of the proposed delegation to the Commission.

EURELECTRIC’s members believe that a smartness indicator should play an important role in the development of a market for flexible solutions and technologies, but will also drive innovation and make the ‘smart’ concept a sales argument for a building. Developing a simple, standard icon or features could make it easier for building owners, investors and buyers to identify smart buildings with part or full flexibility from buildings without.

The Commission has indicated its intention to include “electro-mobility readiness” in the smartness indicator. EURELECTRIC supports this and urges the Commission to consider smart recharging infrastructure in this context.

V. Financial Incentives

Topic	Article	Commission Proposal	EURELECTRIC’s view
Provisions on the use of Energy Performance Contracts	10	Introduces new provisions on using Energy Performance Contracts (EPC).	Clarify

Comment:

Relating to the database for registering Energy Performance Certificates (EPCs), it is necessary to clarify that such a database would not provide information on the actual energy consumption of the building covered but rather on the energy demand of the users of the building. The database would not provide information on the actual energy consumption of buildings as this depends on the usage of the building. The proposed legislation would seem to suggest that buildings which are not used (such as summer cottages) would be considered as most efficient. Furthermore, it is necessary to understand how this would impact on the calculated vs actual savings.

Article 11 should be amended to include the availability of EV recharging infrastructure in the EPCs.

VI. Inspection of Heating & air-conditioning Systems

Topic	Article	Commission Proposal	EURELECTRIC's view
Inspection of heating and air-conditioning systems	14 and 15	Member States to establish measures to ensure regular inspections for heating systems in large non-residential buildings (250MWh use). For residential buildings threshold is 100kW. Some alternatives are provided if continuous electronic measuring is installed.	Agree.

VII. Exercise of Delegation

Topic	Article	Commission Proposal	EURELECTRIC's view
Commission delegation empowerment	23	The Commission is given power to adopt delegated acts referred to in Articles 5, 8, 22.	Disagree.

Comment:

EURELECTRIC believes that the smartness indicator should be defined in more detail within in the Annex of this directive, not only via a delegated act. This would add transparency to the exact functioning of the smartness indicator and allow for a political discussion on the matter. EURELECTRIC believes that its features should be discussed thoroughly, and decided in a transparent manner in the context of discussions of the Directive, in order not to miss out on its potential.

VIII. Annex

Topic	Article	Commission Proposal	EURELECTRIC's view
Energy performance of buildings calculation	Annex	Amended to improve transparency and consistency in the way energy performance is determined at national or regional level and to take into account the importance of the indoor environment. Text on Primary Energy Factor changed.	Generally agree.

Comment:

EURELECTRIC welcomes that the calculation of the PEF should equally treat and discount RES on-site and RES supplied from central sources.

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Boulevard de l'Impératrice, 66 - bte 2
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- The Energy Union Governance Regulation should provide for a robust system of tools and instruments ensuring the attainment of the Energy Union objectives, the 2030 climate and energy targets, as well as the EU's commitments to the Paris Agreement, while allowing flexibility to Member States in adopting national policies and measures to apply these tools.
- The Governance Regulation should not intervene in setting EU climate and energy targets. Its focus should be to ensure the achievement of the targets by guaranteeing effective implementation and monitoring, avoiding policy overlap with the EU ETS, exploiting synergies and facilitating the achievement of the internal energy market. This is essential in ensuring the protection of a cost-effective and market-based approach to decarbonise the European power sector and the wider EU economy.
- The Governance Regulation should maintain a delicate balance between a robust and yet flexible governance approach. It should ensure that the EU achieves the various objectives of the Energy Union and climate and energy targets, while allowing Member States the necessary flexibility to set their national policies, objectives, trajectories and tools to achieve such targets and objectives in a manner that reflects their national contexts and ensures cost-effectiveness.
- The Governance Regulation should be streamlined with a view to simplifying the planning and reporting processes it introduces. The potential positive effect of the level of regulatory and planning detail foreseen by the regulation should be further assessed and evidenced.
- Regional cooperation is of instrumental importance to the process of governing the Energy Union and the European Commission should engage further in establishing and steering regional cooperation on climate and energy policies.
- The proposal to issue recommendations to address inconsistencies and ensure attainment of the Energy Union targets contribute to investors' and operators' perception of regulatory stability, a central element of investment processes. Further clarification is however required on the additional instruments and measures proposed in Article 27 to address delivery gaps. Such measures should be carefully considered in view of their compatibility with other EU policy instruments, notably the EU ETS.
- The rate of electrification should be an important KPI to measure progress to decarbonised energy systems as part of the Member States' long term low emission strategies in view of the future increasingly decarbonised profile of electricity in the EU.
- Proposals on planning and reporting on the dimensions of energy security and research, innovation and competitiveness should be further elaborated.

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General Assessment

EURELECTRIC welcomes the European Commission's proposal for a Regulation on the Governance of the Energy Union. We believe that the governance system has the potential to help national policies and measures converge closer and quicker around the EU 2030 Climate and Energy targets and the shared Energy Union vision. An effective Energy Union Governance system is a much needed guidepost for the setting and further alignment of a common direction for long term national energy and climate policies. The Governance Regulation is the basis for a predictable EU policy framework that will be critical to unlock market-based investments in electricity infrastructure.

The Regulation will be tasked with elaborating a single mechanism to oversee the achievement of the 2030 energy and climate targets, the Energy Union objectives and the EU's Paris Agreement obligations, all the while ensuring a cost-effective transition and maximum investor predictability. The latter in particular will benefit greatly from a politically feasible and practically implementable EU-wide governance framework, rather than a set of overly-perspective EU rules.

The current proposal could be further enhanced by providing clarity and detail that would establish the planned Energy Union Governance system as a realistic and practical tool to deliver desired results. In this position paper EURELECTRIC highlights a number of key aspects that require further development and clarification, along with practical suggestions and recommendations.

EURELECTRIC has identified five key objectives we believe the Energy Union Governance Regulation should deliver:

1. Ensure a robust governance system facilitating the delivery of Energy Union objectives and providing investors' predictability
2. Spur regional cooperation
3. Ensure adequate compliance
4. Drive electrification and long term low emission strategies
5. Address the impact of policy overlap on the EU ETS

I. Ensure a robust governance system to facilitate the delivery of Energy Union objectives and provide investor predictability

The Energy Union Governance Regulation should maintain a delicate balance between a robust and yet flexible governance approach. It should ensure that the EU achieves the various objectives of the Energy Union and climate and energy targets, while allowing Member States the necessary flexibility to set their national policies, objectives, trajectories and tools to achieve such targets and objectives in a manner that reflects their national contexts and ensures cost-effectiveness.

The proposed system of Integrated National Energy and Climate Plans (INECPs), Integrated National Energy and Climate Progress Reports (INECPRs), European Commission monitoring tools and long-term low emission strategies should be further developed to guarantee sufficient flexibility in practice, based on national specificities, along with a robust monitoring and enforcement structure that would guarantee the attainment of the set targets and objectives.

We believe that the proposed timeline, which requires Member States to conduct and submit draft INECPs by January 1 2018, is ambitious but challenging. The level of planning and reporting complexity foreseen in the current proposal will test Member States' preparedness to mobilise national administrations and submit high quality INECPs and INECPRs, starting as early as 2019.

EURELECTRIC welcomes this ambition but would like to highlight the importance of ensuring effective engagement of stakeholders through the proposed national and regional consultations during INECs preparatory stage.

The decision to deploy linear trajectories for the EU-wide targets for RES and Energy Efficiency is aimed at improving predictability to investors, but should not lead to a *de facto* reintroduction of binding national RES and energy efficiency targets. Flexibility should be allowed to accommodate adjustments to unforeseen positive developments, such as innovative breakthroughs, thus resulting in efficient solutions and seized opportunities. EURELECTRIC therefore calls for an adequate degree of flexibility in the process of setting and reviewing Member States national trajectories as their contributions towards the EU-wide targets for RES and energy efficiency.

EURELECTRIC also appreciates the proposal's goal to ensure consistency between the principles deployed by the Paris Agreement and the EU Energy Union Governance system. Applying the principle of ever increasing ambition of nationally determined contributions found in Article 4(3) of the Paris Agreement to the complex and layered nature of the INECs proposed by the Governance Regulation should be further assessed.

II. Spur Regional Cooperation

EURELECTRIC welcomes the proposal to introduce regional consultations as an important element of the process of drafting the INECs. The role of the European Commission in steering and guiding regional energy policy cooperation is crucial as it facilitates dialogue, pushes for policy convergence, ensures transparency of the processes, and guarantees that decisions are in line with the EU's energy and climate objectives.

We believe that industry representatives and concerned stakeholders should also be appropriately engaged in these processes. EURELECTRIC is prepared to support the Commission in further defining regional cooperation instruments as well as further enhancing the role of regional cooperation in the governance system of the Energy Union.

However, the current provisions on regional cooperation in the proposal should be detailed further to ensure that Member States deliver on their obligations to cooperate on planning and implementation, and that to ensure the European Commission can apply a robust and transparent framework to steer these processes.

In this context, the Regulation should define more clearly what is meant by regional cooperation and coordination in practical terms and outline the rights and responsibilities of Member States.

This should include a clear understanding of the tools that would be at Member States' disposal if neighbouring Member States fail to adhere to agreements reached under regional cooperation, the role for non-EU states neighbouring Member States; and the Commission's role in mediating regional cooperation.

III. Ensure Adequate Compliance

EURELECTRIC welcomes that the proposal sets an overall ambitious governance structure. The process whereby the Commission would issue recommendations to Member States to ensure achievement of the various agreed targets and objectives, while maintaining a flexible governance system, is of key importance. Planning gaps should be addressed through recommendations, which are simultaneously non-binding (as deviation upon justification is foreseen), but require Member States to show how they have been taken into account.

The proposed additional measures to address Union-level RES and energy efficiency delivery gaps with an adjustment of EU ambition levels in heating and cooling, transport, energy efficiency of buildings and products, and the RES projects financing platform, should also be seen in the context of other policy instruments, notably the EU ETS. In order to avoid distortive effects on the EU ETS, the European Commission would have to mainly focus on tackling emissions in non-ETS sectors and in parallel introduce corrective measures through the governance system to mitigate possible adverse effects on the EU ETS.

IV. Drive Electrification and Long-term Low Emissions Strategies

EURELECTRIC welcomes the provisions in the Governance Regulation proposal aimed at seeking long-term alignment and consistency on national energy and climate strategies with the broader Energy Union objectives. We believe that this will provide the policy clarity and stability which the sector needs to undertake low-carbon investment. The proposed 50 year horizon should be kept with the objective of providing a strategic vision on the sector development as foreseen by the Member States. However, this vision should be complemented with national climate and energy strategies for the next 30 years, and hence be brought in line with current Union-level long-term planning for the period up to 2050.

An important feature that is not explicitly identified as a component of the proposed long-term low emission strategies is the rate of electrification and the related infrastructure to facilitate it, such as charging infrastructure. This is a crucial element of ensuring progress to decarbonised energy systems given the future decarbonised profile of electricity, specifically regarding transport. The long-term low emission strategies could be the appropriate mechanism to commit to an electrification agenda and introduce key performance indicators (KPIs) to measure progress particularly in non-ETS sectors.

V. Address the impact of policy overlap on the EU ETS low emissions strategies

The Governance Regulation should ensure the achievement of the 2030 energy and climate targets by providing the necessary compliance mechanisms.

The Energy Union Governance Regulation should not be involved in setting EU climate and energy targets. Its focus should be to ensure the achievement of the targets by guaranteeing effective implementation and monitoring, avoiding policy overlaps, exploiting synergies and facilitating the achievement of the internal energy market. This is essential in ensuring the protection of a cost-effective and market-based approach to decarbonise the European power sector and the wider EU economy.

Policies which overlap and could have an impact on the effectiveness of the EU ETS should be properly monitored, reported, quantified and addressed. This is particularly important in ensuring that the potential effect of national and European policies overlap is not detrimental to the ability of the EU ETS to serve as the primary decarbonisation tool. Such impact quantifiers should become part of the biennial Integrated National Energy and Climate Progress Reports (INECPRs) and the Annual State of the Energy Union report.

The Governance Regulation should outline a methodology to assess the impact of other policies on the EU ETS in a transparent manner and a methodology to appropriately recalibrate the supply side to overcome the possible negative impact of measures which reduce the demand for allowances. Such methodology should define a set of criteria that would trigger a mechanism for practically and politically feasible measures, such as further strengthening of the MSR or adjusting the ETS, when these impact quantifiers signal negative impact on the ETS.

The binding EU-wide 40% greenhouse gas emission reduction target for 2030 is the cornerstone of the EU's 2030 climate and energy framework. The Governance Regulation should clearly recognise this as the key indicator to benchmark progress and measure Member States' ambition. This target, coupled with a strong carbon price, will provide a major incentive for investment in renewables and energy efficiency. This is why it is particularly important to monitor the risk of policy overlap, and examining whether progress on the renewables and energy efficiency targets complements the EU ETS and does not undermine the carbon price is one way of achieving this. It is a priority for EURELECTRIC to ensure that this is reflected in the Governance Regulation so that a technology-neutral and cost-effective approach to decarbonisation in the EU is pursued.

2. Detailed Assessment of the Proposal

I. General Provisions

Topic	Article	Commission Proposal	EURELECTRIC's view
Subject Matter, Scope and Definitions	1-2	The Energy Union governance system aims at streamlining Member States' reporting and planning obligations in line with the ambition of attaining Energy Union objectives, 2030 energy and climate targets and delivering on the EU's Paris Agreement obligations.	Agree.

Comment/Justification:

EURELECTRIC has called for streamlining Member States reporting obligations in order to ensure the achievement of the agreed EU 2030 energy and climate targets. The principal aim of this Regulation, to streamline Member States planning and reporting related to Energy Union objectives, 2030 targets and the Paris Agreement obligations, is in line with EURELECTRIC's views and to an extent exceeds initial expectations regarding the design of the Energy Union governance system.

II. Integrated National Energy and Climate Plans

Topic	Article	Commission Proposal	EURELECTRIC's view
Timeline and content of Integrated National Energy and Climate Plans (INECP)	3 to 9	Member States to submit draft INECP by 1 January 2018 (and every 10 years thereafter), INECP final version due on 1 January 2019 (and every 10 years thereafter) INECPs to include: - an overview of planned activities for regional and stakeholders' consultations; - national objectives, targets and contributions to the five Energy Union dimensions, elaborated after municipal and nation stakeholders' consultations as well as regional cooperation with other Member States, as specified in Section A.2. of Annex I; - linear trajectories and contributions setting process in the areas of RES and energy efficiency; - draft updates of INECPs due by 2023, final versions by 1 January 2024; - Member States shall take utmost account of any recommendations made by the Commission either on the final or updated INECPs (or justify deviations).	Further clarification needed.

Comment:

Timeline: We believe that the proposed timeline, which requires Member States to conduct and submit draft INECs by 1 January 1 2018, is ambitious but challenging. The level of planning and reporting complexity foreseen in the current proposal will test Member States' preparedness to mobilise national administrations and submit high quality INECs and INECPRs, starting as early as 2019. EURELECTRIC welcomes this ambition but would like to highlight the importance of ensuring effective engagement of stakeholders through the proposed national and regional consultations during INECs preparatory stage.

Content of the INECs: EURELECTRIC calls for further streamlining of reporting and planning obligations in the proposal. This will, in practice, simplify the planning and reporting processes it introduces. The potential positive effect of the level of regulatory and planning detail foreseen by the regulation should be further assessed and evidenced as necessary.

In particular, EURELECTRIC calls for flexibility and cost-efficiency (evidenced by sound economic and market signals) in the implementation of the 10% and 15% cross-border interconnectivity targets. In general, the level of legislative detail in the relevant Articles may indeed have an overall pervasive and paralysing effect on the Regulation's flexibility and adaptability to unforeseen future challenges.

The content of the INECs also addresses, to a lesser degree, issues relating to the Energy Union dimensions regarding energy security and research, innovation and competitiveness. Planning and reporting national measures and policies in these dimensions should be further elaborated to ensure that concerns and developments are taken into consideration appropriately. The Regulation should finally ensure that Europe proceeds towards the agreed 2030 targets without compromising other Energy Union objectives which include security of supply, competitiveness, cost efficiency and sustainability.

Article 5(2) of the proposed Regulation calls on Member States to collectively ensure the sum of their national RES contributions add up to at least 27% RES at gross final energy consumption at Union level by 2030. The role of the European Commission in addressing planning and delivery gaps identified in this process must be outlined in a clear, consistent and detailed manner in the Regulation.

Member States should also be allowed a degree of flexibility in adhering to non-binding trajectories set out in their INECs on RES and energy efficiency. The nature of trajectories should be clearly defined in the Regulation in order to ensure that the trajectories are applied to guide Member States' progress while also allowing for adjustments as may be necessary. The principle of technology neutrality should also be respected. Therefore, Member States' commitments to trajectories on the deployment of any specific technology (e.g. Article 4(a)(2)(iii)) should be explicitly non-binding and adjustable projection.

Finally, EURELECTRIC has previously called for a focus on a pragmatic analysis of the interactions between adopted EU and national policy measures rather than the creation of a system to execute and oversee the implementation of EU energy and climate policy. In this context, we are particularly concerned with the measures and policies planned under the INECs that will have an impact on the effectiveness of the EU ETS in delivering cost-efficient emission reductions.

Article 8 regarding the Analytical basis of the INECs (and Article 15 concerning the INECPRs), should be developed to, in a transparent manner, monitor and quantify the effects of policies overlap, analyse effects and propose corrective measures to mitigate possible negative impacts on the EU ETS. The Governance Regulation should outline a methodology to overcome negative impacts of measures that reduce the demand for ETS allowances. Such methodology should define a set of criteria that would trigger a mechanism for practically and politically feasible measures, such as amending additional policies, further strengthening of the Market Stability

Reserve (MSR) or adjusting the ETS, when these impact quantifiers signal a negative impact on the EU ETS.

Topic	Article	Commission Proposal	EURELECTRIC's view
Assessment and update of INECs	10-13	Public Consultations at national and municipal level as well as Regional cooperation.	General agreement on the principles, but further clarification needed.

Comment:

EURELECTRIC welcomes the European Commission's ambition to make the process of drafting the INECs as transparent and open to stakeholders as possible. More guidelines will have to be provided to Member States to ensure that public consultation and regional cooperation requirements are followed by national administrations in practice. In particular, the role of industry stakeholders and ensuring that they can engage and provide input to the process of drafting and updating INECs in line with tight timelines should be clarified.

With regard to regional cooperation (Article 11 of the proposal) EURELECTRIC is also very supportive of intensified cooperation between Member States on a regional level. In order for this cooperation to yield practical and implementable output, the European Commission should introduce and steer regional dialogues and operationalise consistent cross-border planning and policy coordination.

EURELECTRIC therefore calls for a more detailed description of the process of regional cooperation introduced in Article 11. Regional cooperation should be an indispensable element of the INECs and Member States should be incentivised to engage and consult with neighbouring states on the content of the plans and their progress.

EURELECTRIC sees a greater role for regional cooperation in the Energy Union governance system. The outcomes of such formal regional coordination and planning must be incorporated in the content of the INECs. The issues of energy security and cross-border RES cooperation should be identified explicitly as crucial elements of regional cooperation under the planning and implementation stages of the INECs, while preserving a necessary level of subsidiarity. The current proposal lacks detail on how this will be achieved and we expect the Guidelines on Regional Cooperation to address this.

III. Long-term Low Emission Strategies

Topic	Article	Commission Proposal	EURELECTRIC's view
Long-term Member States climate and energy strategies	14	Long-term low-emission strategies with 50 years perspective by 1 January 2020 and every 10 years thereafter	Agree with the principle, but further clarification needed.

Comment:

The exact content of the long-term low emission strategies should be further detailed in this Regulation to ensure that they offer the expected investor predictability in terms of long-term business planning, risk assessment and infrastructure investments. As mentioned above, these

strategies should also outline Member States level of ambition in implementing the electrification agenda.

The proposed 50 year horizon should be kept with the objective of providing a strategic vision on the sector development as foreseen by the Member States. However, this vision should be complemented by national climate and energy strategies for the next 30 years, and hence be brought in line with current Union-level long-term planning for the period up to 2050.

IV. Biennial Progress Reports and their Follow up

Topic	Article	Commission Proposal	EURELECTRIC's view
Biennial Reporting	15-22; 24	Member States to submit progress reports (Integrated National Energy and Climate Progress Reports, INECPRs) by 15 March 2021 at the latest, and every 2 years thereafter. The INECPRs' content to focus on Energy Union dimensions. Article 22 – Information on implementation of objectives relating to research, innovation and competitiveness	Agree with the general principles. Further clarification required.
Annual reporting	23	Member States to submit annually, by 15 March, GHGs inventories and progress towards the Paris Agreement obligations.	Agree.

Comment:

While the INECPR's focus is to assess the contribution of each Member State towards the Union-wide targets, Member States should also reflect on the cost-effectiveness of planned and implemented national policies and measures in support of these targets. The reporting process should foresee mechanisms for Member States to adapt national trajectories and contributions set out in the INECPRs, outside of the formal update process of the INECPRs, to ensure that previously unforeseen circumstances or adverse cost-effectiveness developments are addressed in a timely manner. Any such modifications that result in reduced contribution towards any of the EU targets should however be supported by robust justification and backed by close dialogue between Member States and the European Commission.

The exact content of the INECPRs, and in particular the performance indicators to assess progress, are yet to be defined. EURELECTRIC would expect to be consulted and actively engaged in this process. In addition to the information to be submitted by Member States biennially through their INECPRs, as outlined in the current proposal, EURELECTRIC proposes to include a rate of electrification in non-ETS sectors in absolute and percentage share values. Article 18 should refer to the sustainability standards applicable to biomass sourcing and whether such biomass is imported or sourced locally. Furthermore, reporting under Annex VII should be either voluntary or obligatory on all elements to ensure consistency. In general, reporting on all Energy Union dimensions and targets should not focus on merely listing national objectives, policies and measures, but also on defining the results of their implementation.

With regard to the issue of vulnerable customers, EURELECTRIC is pleased to see that the current proposal leaves it up to Member States to define the criteria and policies to combat “energy poverty”. Indeed, Member States’ situations differ greatly as far as employment, social security systems, climatic conditions, electricity consumption, home insulation, or energy retail prices are concerned. National governments are therefore in the best position to assess and address (energy) poverty with their own tools. We support introducing biannual reporting from Member States to the Commission, in line with the need to guarantee support to (energy) poor customers, while leaving the issue under national competency. Such framework should however not lead to any excessive administrative burden for companies.

V. Aggregate Assessment of National Plans and Union Target Achievement - Commission Monitoring

Topic	Article	Commission Proposal	EURELECTRIC’s view
Response to planning and delivery gaps	26	<p>If the European Commission detects inconsistencies between policy developments in a Member State and the Energy Union objectives, the Commission shall issue recommendations.</p> <p>In the case of Effort Sharing Regulation, the European Commission may issue opinions.</p>	Agree.
	28	<p>Commission to issue recommendations to Member States to ensure achievement of the objectives of the Energy Union.</p> <p>Member States shall take utmost account of recommendations and provide justification if they are to deviate from those.</p>	Agree.

Comment:

The proposal to issue recommendations to address inconsistencies and ensure attainment of the Energy Union targets contribute to investors’ and operators’ perception of regulatory stability, a central element of investment processes. We welcome that the Commission recommendations that may be issued in the context of this Regulation (Articles 5-9, Article 15 and Article 28) are of non-binding character. We expect that both the Commission and concerned Member States will be able to discuss any such recommendations that may be issued in a clearly defined consultation process.

Topic	Article	Commission Proposal	EURELECTRIC's view
Response to planning and delivery gaps	27	<p>This Article outlines the measures to be taken by the Commission in case its annual monitoring leads to conclusions that Member States are not on track to meet their national trajectories as well as assessment of the EU on the Union-level trajectories.</p> <p>Based on progress assessment in 2023, Member States shall ensure that any emerging gap is covered by additional measures such as: an adjustment of the share of RES targets in heating and cooling and transportation, a financial contribution to a financial platform set up at Union level, any other measure to increase the RES deployment.</p>	<p>Partly agree.</p> <p>To prioritise non-ETS sectors.</p>

Comment:

EURELECTRIC believes that predictability of the climate and energy policy making is enhanced by an indication of what would occur should evidence emerge that the targets are not going to be met at the European level. Such predictability contributes to industrial operators' perception of stability of the policy framework, a central element within investment decision processes.

EURELECTRIC however would like to see further clarity regarding the Article 27's ability to adapt to unforeseen developments. Questions arise regarding the enforcement role and exact set of instruments to be used by the European Commission in ensuring that Member States adjust their INECs to match the Energy Union objectives (planning gaps), what possible Union level measures are foreseen under Article 27(1), and later adhere to their national trajectories and contributions.

EURELECTRIC would support the prioritisation of non-ETS sectors measures under Article 27. At the same time the EU should prioritise deploying gap avoidance tools that are already available to help meet any shortfall from the target, such as the Connecting Europe Facility, to develop strategic cross-border projects, which encourage more renewables deployment.

EURELECTRIC also proposes the evaluation of the rationale to design a Union-level financing platform for RES projects. First of all, such measure should be carefully considered in view of its compatibility with other EU policy instruments, notably the EU ETS, but also in relation to mechanisms that promote immature renewable technologies like the ETS Innovation fund. Further explanation and detail is also requested regarding how the measures suggested in Article 27(4) and (5) will be operationalised, including how the platform will be implemented.

Topic	Article	Commission Proposal	EURELECTRIC's view
Commission Monitoring	25	<p>Commission to issue assessment of INECPRs by 31 October 2021 and every second year thereafter.</p> <p>The reports will review submitted INECPRs, status of progress towards the Energy Union indicators, overview of Member States' progress on achieving their targets and objectives in the INECPRs, assessment of the collective EU progress towards the Energy Efficiency and RES 2030 Union-wide linear trajectories, with a view to detecting and avoiding any emerging gaps.</p>	Agree.
Commission Monitoring	29	The State of the Energy Union report will be published annually by 31 October and will include the assessment carried out under Article 25, information on the functioning of the carbon market, any recommendations based on Article 28.	Agree.

Comment:

EURELECTRIC proposes the inclusion of additional elements to the information the Commission should report in the annual State of the Energy Union reports, such as an annual evaluation of the cost-effective potential of RES and energy efficiency per Member State, which would also indicate whether the INECPRs adequately reflect the ambition potential of a given Member State.

A further element that would contribute towards assessing 'sufficient progress' on Energy Efficiency or RES that should be included is whether the EU-wide GHG emissions reduction target for 2030 is being met, and whether the longer term GHG reduction trajectory is adequate. The annual State of the Energy Union Report should also include assessment of the effects of implemented climate and energy policies on the EU ETS.

Furthermore, the report should offer an indication of the use of indigenous energy resources per Member State and the EU at large, along with energy imports balance and instances of systemic security risks interrupting the balanced operation of the power systems.

The catalogue of indicators to be reported under Article 29(2) could be expanded to include other elements concerning: the level of utilisation of domestic energy resource in the final electricity consumption, the level of electricity prices for household and industrial users, number of created jobs in research and innovation in the electricity sector and number of events threatening the security of operation of the power systems.

VI. National and Union Systems on GHGs and Removals by Sink

Topic	Article	Commission Proposal	EURELECTRIC's view
GHGs and Removals by sink	30-33	By January 2021 Member States to establish national inventory systems to estimate anthropogenic emissions, removals by sink and registries to account for nationally determined contributions.	Agree.

VII. Cooperation and Support

Topic	Article	Commission Proposal	EURELECTRIC's view
Organisational structure	34	Member States shall cooperate and coordinate fully with each other with the support of the European Commission on: INECPs, INECPRs, addressing European Commission recommendations, UNFCCC obligations.	Agree, but further clarification is needed.
Organisational structure	35	The European Environment Agency to assist the European Commission in regards to the decarbonisation and energy efficiency dimensions.	Agree.

Comment:

See comments above regarding Articles 10-13.

It is of paramount importance that knowledge and information gathered in the process of drafting INECPs, submitting INECPRs and the various Commission reports is disseminated transparently to ensure that it is fully exploited, and can be openly shared with all stakeholders involved in the low carbon transition. For investors, such information plays a key role in assessing the attractiveness and credibility of the policy framework.

VIII. Final Provisions

Topic	Article	Commission Proposal	EURELECTRIC's view
Organisational structure	37	Energy Union Committee to assist the European Commission.	Agree.
Review	38	The Regulation will be subject to review in 2026.	Agree.

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/index.cfm?do=entity.entity_details&entity_id=4271427696-87)

European Commission legislative proposal to revise the Renewable Energy Directive

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.

European Commission legislative proposal to revise the Renewable Energy Directive

A EURELECTRIC position paper

April 2017

KEY MESSAGES

- EURELECTRIC supports the proposed EU-wide target of at least 27%, as the only binding target for renewables by 2030. EURELECTRIC fully supports elements in the Clean Energy Package aimed at integrating renewable energy sources (RES) in the market, including RES self-consumers, and at making RES support schemes, when needed, more market-based.
- The aim of the revised RES Directive to provide longer-term visibility and investment security to companies engaging in RES projects, including avoiding negative retroactive implications for existing installations, is positive. Fundamental design principles of financial support, when needed, should be known to investors well ahead of 2020. They should be fixed in the Directive. At the same time, EURELECTRIC calls for a quick revision of the State Aid Guidelines to ensure certainty and visibility for investors until 2030.
- EURELECTRIC calls for a strengthened EU ETS as the cornerstone of the EU's energy and climate policy and support the EU ETS as a key driver for market-based investments in low-carbon electricity generation. Interactions between the various energy and climate related targets and their impact on the EU ETS should be properly addressed.
- We support the right for consumers to generate and sell their electricity both individually and collectively. EURELECTRIC welcomes the recognition that remuneration for renewable self-consumers should be based on the market value of the electricity fed in (and not implicitly at the retail price). Moreover, in the future, RES self-consumers should become market participants, without any exemption.
- The heating, cooling and transport sectors have great and untapped potential to integrate larger shares of renewable and carbon neutral energy through increased electrification. The review of the RES Directive should have a balanced approach for RES in these sectors and electricity should not be penalised by bearing most of the renewable generation costs.
- EURELECTRIC supports the Commission's efforts to open up support schemes for cross-border participation, but is concerned by the impact of the differences between national regulatory framework conditions and the risk of oversupply in certain regions. A step by step approach, built on the existing rules in the State Aid Guidelines should prevail.
- EURELECTRIC does not support prohibiting the issuance of Guarantees of Origin (GOs) to RES producers that receive financial support as this will weaken the consumer link to specific RES facilities and reduce market-based RES revenues. There are other ways to address possible concerns over double compensation. Besides, market revenues from GOs will reduce the need for, and the level of, RES support.
- EURELECTRIC welcomes the introduction of sustainability criteria and GHG savings requirements for solid biomass. However, we are concerned that new national or contradictory sets of sustainability principles and criteria could be introduced and would impede biomass trade. Support to large-scale biomass without a CHP component but compliant with sustainability criteria should not be ruled out.

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General assessment

EURELECTRIC supports the proposal's ambition to provide better visibility to investors in renewable energy sources (RES) while aiming at their further integration into the electricity market, in conjunction with the Market Design Initiative (MDI). Together, these legislative proposals clearly underpin market integration and the removal of several regulatory interventions which distort the functioning of the European energy market. In this context, EURELECTRIC also welcomes the Commission's proposals to move towards an increasingly regional approach to renewables.

The European power sector considers the current legislative reviews as an invaluable opportunity to improve the EU's energy and climate regulatory framework and to ensure visibility for renewables investments up to 2030. In this regard, we believe that swift revision of the Environmental and Energy State Aid Guidelines (EEAG 2014), after the final adoption of the legislation under the Clean Energy Package (CEP), is necessary. The revised RES Directive should take additional steps towards market integration. The developments in the current proposal on self-consumption are positive but some of the concepts should be better defined and the integration of prosumers into the market could be further developed.

Against this background, EURELECTRIC stresses that the electrification of non-ETS sectors, such as transport, heating and cooling, are effective ways to improve the contribution of renewables towards the achievement of the EU climate and energy objectives. These proposals provide a key opportunity to ensure a coherent economy-wide approach to the efficient distribution of renewable assets and efforts.

Detailed assessment of the proposal

1. Meeting the EU RES target for 2030

Topic	Article	Commission Proposal	EURELECTRIC's view
2030 EU-wide RES target	Article 3(1)	EU binding target of at least 27% for 2030.	Agree
2020 RES targets	Article 3(3)	2020 national RES targets must be met. These form the baseline to achieve the 2030 EU-wide target.	Agree

Comment

The European power sector is committed to achieving a carbon-neutral power supply in Europe by 2050. RES is fundamental to the decarbonisation of the power sector. Meeting the EU's target of a 20% share of RES in final energy consumption by 2020 requires the power sector to contribute with a RES share of 35%. The 2030 climate and energy framework, with an at least 27% EU-wide target for RES and an at least 40% GHG reduction target, is estimated to imply a share of around 47-50% RES in the power sector by 2030. This represents a key investment opportunity for the power sector: our industry is and will remain a major investor in RES electricity generation.

The binding greenhouse gas emission reduction target of at least 40% should remain the centrepiece of the EU's 2030 climate and energy framework. The EU-wide targets on renewables

(and energy efficiency) should primarily be developed as instruments to achieve the overarching GHG reduction target. In this context, EURELECTRIC calls for a strong EU ETS as the cornerstone instrument of the EU's climate and energy policy, and supports a strengthened EU ETS being the key driver for market-based investments in low-carbon electricity generation. EURELECTRIC proposes strengthening the EU ETS by increasing the LRF to at least 2.4%, increasing the intake rate of the MSR to 24% per year from 2019 until at least 2023, and offering a mechanism to future-proof the MSR by lowering the applicable thresholds. At the same time, EURELECTRIC sees the necessity to mitigate increased costs for Member States with high carbon intensities and low GDP per capita ratios.

Therefore, the interactions between the various climate and energy targets and their impact on the EU ETS should be properly addressed.

While the current RES Directive has succeeded in motivating Member States to successfully increase the share of renewable electricity in the power mix, EURELECTRIC believes that Europe should now adopt a more regional approach which avoids uncoordinated national developments and further integrates RES into the market.

EURELECTRIC supports the proposed EU-wide target of at least 27%, as the only binding target for renewables by 2030. We believe that the Governance system of the Energy Union should offer a robust system of tools to ensure the attainment of the EU's climate and energy targets, including the EU-wide RES target, while allowing the necessary flexibility to Member States in the adoption of national policies and measures.

The post-2020 framework for RES must ensure a coherent economy-wide approach, enabling the efficient distribution of renewable assets and efforts. In this context, both the ETS and the non-ETS sectors should contribute in the most cost-effective way to achieve the 2030 EU-wide target for renewables.

The electrification of the non-ETS sectors (such as transport, heating and cooling) is a technically and economically effective way to further enhance the contribution of renewables to the EU's decarbonisation objectives. As electricity becomes increasingly decarbonised, under a decreasing ETS cap, replacing fossil based systems with technologies which utilise electricity will provide a promising pathway to decarbonise these sectors. *(More detailed comments can be found below on RES in Heating and Cooling, and in Transport).*

See [EURELECTRIC's position paper on the Commission's legislative proposal for a Regulation on the Governance of the Energy Union.](#)

2. Financial support for RES

Topic	Article	Commission Proposal	EURELECTRIC's view
Financial support and electricity market	Article 4(1)-(2)	<p>Subject to State aid rules, Member States may choose to apply support schemes for RES-E. If this is the case, the schemes should be designed so as to avoid unnecessary market distortions and ensure that producers take into consideration demand/supply and grid constraints.</p> <p>Support schemes shall also be designed in a way that integrates RES-E in the electricity market and ensures that RES producers respond to market price signals and maximise their market revenues.</p>	Agree

Comment

With the broad experience from significant deployment of RES in the European energy market over the last years, the technological development and market experiences have given the power industry confidence that renewables are becoming fully competitive with other power generation technologies. This will require that future RES deployment is sustainable, cost-efficient and based on market fundamentals.

EURELECTRIC welcomes the clear acknowledgment in the Commission proposal that financial support should be applied only when needed. We also welcome that the proposal clearly states that support schemes for RES should avoid unnecessary market distortions, ensure that producers take into consideration supply/demand of electricity and grid constraints, integrate renewable electricity in the market and ensure that producers respond to market price signals.

Topic	Article	Commission Proposal	EURELECTRIC's view
Level playing field	Article 4(3)	Support shall be granted in an open, transparent, competitive, non-discriminatory and cost-effective manner.	Agree, but needs to be further developed

Comment

While EURELECTRIC welcomes the express mention of these principles in the proposed Directive, we regret that the current text of the proposal remains rather vague.

Some fundamental design principles of financial support, when needed, should also be known to investors well ahead of 2020 and should be fixed in the Directive. We recommend that the RES Directive establishes basic criteria for the granting of financial support:

- EURELECTRIC supports technology neutral policy measures that do not seek to promote specific mature renewables technologies or projects. However, in justified cases, Member States should have the possibility to opt for technology-specific support, to accommodate

the level of maturity of technologies, the system impact of different technologies and other environmental aspects.

- When support is granted through tendering, it should be designed in a way that ensures high project realisation rates (pre-qualification requirements, penalties for delay/non-delivery, investment horizon) while not stifling competition. Member States should be allowed to deviate from tendering if this can be duly justified.

Against this background, EURELECTRIC urges the Commission to proceed quickly with the adoption of the revised EEAG for the period post-2020 after the final adoption of the legislation under the Clean Energy Package. This will ensure consistency with the current revision of the RES legislative framework and provide increased certainty and visibility for investors up to 2030.

Topic	Article	Commission Proposal	EURELECTRIC's view
Effectiveness of financial support	Article 4(4)	Member States shall assess the effectiveness of their support for renewable electricity at least every 4 years and on that basis decide on the continuation/prolongation of support and the design of new support.	Agree

Comment

EURELECTRIC welcomes the requirement for Member States to assess the effectiveness of support schemes. We believe that this should include an assessment of the opportunity to apply support schemes for future projects but should not affect the support already granted to existing installations.

Topic	Article	Commission Proposal	EURELECTRIC's view
Stability of financial support	Article 6	Revision of support for RES should not negatively impact the rights conferred and the economics of supported projects.	Agree

Comment

EURELECTRIC welcomes the explicit reassurance in the text of the proposal that new rules for the period after 2020 should not lead to negative retroactive implications for existing investments.

Topic	Article	Commission Proposal	EURELECTRIC's view
Predictability of the planned support	Article 15(3)	Member States shall publish a long-term schedule on support schemes for at least the following 3 years including for each scheme the indicative timing, the capacity, the expected budget and the consultation of stakeholders on the design of the scheme.	Agree

Comment

EURELECTRIC welcomes this provision that improves visibility for investors. We acknowledge that the proposal requests the publication of a schedule for *at least* the following 3 years and in this context we emphasise the importance of long-term visibility for investment.

3. Opening of support schemes for RES

Topic	Article	Commission Proposal	EURELECTRIC's view
Opening of support schemes for renewable electricity	Article 5	Member States shall open support for electricity generated from renewable sources generators located in other Member States. Between 2021 and 2025, at least 10% of newly supported capacity each year will be open to installations in other Member States. This increases to 15% between 2026 and 2030.	Partly Agree

Comment

Opening of the national support schemes for generators located in other Member States can, if implemented properly, promote the development of projects in locations where they provide the most value for money, in line with the principle of cost-effectiveness. It could also lead to more compatible support schemes based on common principles which would help to reduce regulatory complexity and uncertainty for investors. This could in turn contribute to higher investments, lower risk premiums and, ultimately, to a more cost-efficient deployment of renewables.

In this context, the opening of existing support schemes is a welcome development which may be easier than agreeing on a totally new joint scheme. EURELECTRIC supports the Commission's efforts to facilitate this bottom-up approach. However we are concerned that the mere requirement to open a certain amount of the national support schemes to operators located in other Member States will result in competition distortions due to differences between Member States' regulatory framework conditions.

Against this background, EURELECTRIC thinks that this should follow a stepwise approach, built on the existing rules in the EEAG. The Commission should regularly assess and report on the implementation of this Article. Furthermore, in view of the risk of oversupply in certain regions, especially where bottlenecks in transmission occur, EURELECTRIC proposes to introduce an exemption for Member States from the obligation to open up support schemes where insufficient interconnection occurs. Similarly, exemptions should be possible for countries where most good locations are already taken, as this could lead to one-sided results where winning RES projects will go abroad.

4. Permitting-Notification-Administrative barriers

Topic	Article	Commission Proposal	EURELECTRIC's view
Administrative barriers to corporate long-term power purchase agreements (PPA)	Article 15(9)	Removal of administrative barriers to corporate long-term PPAs to finance RES and facilitate their uptake.	Extend to regulatory and information barriers

Comment

EURELECTRIC welcomes provisions to facilitate corporate long-term contracts between RES operators and commercial/industrial consumers. We believe that all obstacles should be removed and that this provision should also cover regulatory and information barriers.

Topic	Article	Commission Proposal	EURELECTRIC's view
One-stop-shop	Article 16(1)	Introduction of single administrative contact points to coordinate the entire permit granting process, including associated transmission and distribution.	Agree

Comment

EURELECTRIC supports the proposal to establish single administrative contact points to coordinate the entire permit granting for RES and associated transmission and distribution.

The relevant provisions should not lead to the establishment of new permitting responsibilities in the future, especially for small installations or grid construction projects, where according to existing law no formal permitting process is required or which are subject only to a notification requirement. Furthermore, the provision should not result in moving away from the concept of local permitting authorities for the numerous local and spatially limited projects in the field of renewable energies.

Topic	Article	Commission Proposal	EURELECTRIC's view
Limited duration of permit granting process	Article 16(4)	The permit granting process should not exceed a period of 3 years.	Agree

Comment

EURELECTRIC welcomes the introduction of a maximum period of 3 years for the permit granting process. However, we would like to draw attention to the risk that, in practice, this provision could have the undesired effect of projects with long-term planning requirements (e.g. hydropower, on-shore and off-shore wind) possibly being rejected due to the 3 year permit granting time limit. The directive should adequately recognise that certain projects necessitate long-term planning requirements, and this provision should not act as a disincentive to such projects being proposed.

Topic	Article	Commission Proposal	EURELECTRIC's view
Simple Notification Procedures (Repowering)	Articles 16(5) and 17(2) (Article 2(z) for the definition)	The simple permit granting (notification) procedure should not exceed 1 year. Where no significant negative environmental or social impact is expected, repowering should be allowed following a notification to the single administrative contact point. The administrative contact point has 6 months to decide if notification is sufficient. If it decides that notification is sufficient, the repowering permit should be granted automatically. If not, the developer/operator will have to apply for a new permit and the process should not exceed 1 year.	Clarify conditions of repowering

Comment

Repowering is expected to play an important role in achieving the EU RES objectives in the coming years. EURELECTRIC would welcome more clarity on the concept of repowering whose definition in the current proposal is too vague. Article 2(z) of the proposal defines repowering as *“renewing power plants producing renewable energy, including the full or partial replacement of installations or operation systems and equipment, in order to replace capacity or increase efficiency”*.

The definition should allow for an increase in capacity. The Directive should also ensure that access and connection rights to the grid are maintained for the repowered project, at least for the capacity of the original project.

Repowering should be encouraged where feasible but overcompensation should be avoided. Repowering should not be done to optimise payments from support schemes.

In the case of repowering, the one-year notification procedure limit is only applied where *“no significant environmental or social impact is expected”*, a condition which significantly weakens the applicability of this provision. A transparent list of criteria for such impacts should be provided, and the assessment of whether a scheme can be fast-tracked should also be time-limited.

Topic	Article	Commission Proposal	EURELECTRIC's view
Connection to the grid of small installations (<50 kW)	Article 17(1)	Connection to the grid following a notification to the distribution system operator.	Disagree

Comment

EURELECTRIC is concerned that this provision, with the proposed threshold, will lead to an underestimation of the impact many small installations could have on the grid (e.g. need for grid reinforcement, operational risks). Distribution system operators should retain a strong role to assess the impact on the grid.

5. Guarantees of origin (GO)

Topic	Article	Commission Proposal	EURELECTRIC's view
Use of GOs for non-RES	Article 19(2)	Member States may decide that GOs can be issued for non-RES.	Agree

Comment

EURELECTRIC supports the proposal's provision to open the possibility to issue GOs for all types of energy sources, on a voluntary basis. Disclosure should be based on GOs, on residual mix, or on a combination of both.

Topic	Article	Commission Proposal	EURELECTRIC's view
No additionality	Article 19(2)	GOs are only for disclosure (1 GO = 1MWh) without additionality.	Agree

Comment

EURELECTRIC welcomes that the sole purpose of GOs is disclosure without any requirement of additionality.

Topic	Article	Commission Proposal	EURELECTRIC's view
Link with financial support	Article 19(2)	RES producers receiving financial support from a support scheme should not receive GOs. However member States shall still issue such GOs and transfer them to the market by auctioning them. The revenues raised as a result of the auctioning shall be used to offset the costs of RES support.	Disagree

Comment

EURELECTRIC is generally supportive of the proposed changes to the GOs system. However, the Commission's proposal to prohibit issuance of GOs to producers that receive financial support blurs the existing clear distinction between support and disclosure schemes, and this cannot be supported by EURELECTRIC.

There are ways to address possible concerns over double compensation. In case financial support is granted via competitive tenders or certificate systems, there is no risk of double compensation

since RES producers would take into account the value of GOs in their bids, which would lower the need for support payments. Also, in case the support level is decided administratively, ways can be found to deduct (e.g. a reference value of GOs from the support payments) in order to avoid double compensation.

The provision in the proposal is unclear and difficult to establish without distortions. It raises questions regarding how the auctioning of GOs is organised (whether at the national level or EU-wide). The provisions could also result in GOs being taken away from generators which have factored them into their investment case, which is in direct conflict with the investment stability and non-retroactivity provisions in Article 6.

Issuing some GOs to producers and other GOs to an auction will lead to two parallel systems, and the market for GOs will therefore not be transparent. Auctioning GOs will increase RES producers' as well as retailers' risks when marketing green electricity, as if they cannot be sure that they will be able to buy, for example, a certain amount of wind GOs from the auction, they cannot guarantee to their customers that an equivalent volume to their consumption has been produced with wind power even if they own wind production themselves. In practice, it would no longer be possible to link the RES production of a specific installation to a client who is interested in that specific RES production installation. It would stop a development where (corporate) clients or local communities enter into longer-term partnerships with energy companies in order to develop specific renewables projects together (e.g. via PPAs). In other words, the economic value of local production may be negatively affected, which seems to be in contradiction with the goal of promoting local/renewable energy communities as part of the Clean Energy Package. This measure is also problematic because it may hinder the development of public acceptance for renewable energy projects. We believe that it is crucial that the developers can continue to link the specific GOs of an installation to their clients.

Topic	Article	Commission Proposal	EURELECTRIC's view
Validity of GOs	Article 19(3)	GOs are valid with respect to the calendar year in which the energy is produced and expire 6 months after the end of the calendar year if they have not been cancelled.	Disagree

Comment

There are concerns that if the validity of the certificate is connected to the calendar year it could create market disturbances. This may create unnecessary high price fluctuation. For example, certificates issued for energy produced in January may have quite different values than those for December. Besides, the documentation for disclosure would be very difficult to establish, especially for suppliers where the financial year differs from the calendar year.

Topic	Article	Commission Proposal	EURELECTRIC's view
Transmission losses	Article 19(8)	Transmission losses should be taken into account when GOs are used to demonstrate consumption of electricity.	Disagree

Comment

EURELECTRIC does not support the provision in the proposal which states that transmission losses should be taken into account when GOs are used to demonstrate consumption of electricity (Article 19(8)). This would again blur the distinction between financial and physical aspects of the energy system, be unnecessarily complex, with unclear benefits.

Topic	Article	Commission Proposal	EURELECTRIC's view
Mandatory use of GOs	Article 19(13)	Mandatory to use GOs when suppliers market energy from RES or highly-efficient cogeneration to consumers with a reference to environmental or other benefit.	Agree

Comment

EURELECTRIC welcomes the fact that the proposal mandates the verification of electricity produced with RES with the GOs.

See detailed comments below on Article 25 regarding RES in transport and GOs.

See [EURELECTRIC's position paper on the proposal for an Electricity Directive](#).

6. Priority of dispatch

EURELECTRIC shares the overarching principles in this proposal and in the proposal on the Electricity Regulation to integrate RES, including RES self-consumers, in the market. However, while existing exemptions should be kept, the Clean Energy Package should not incentivise the development of new exemptions from imbalance responsibility or new priority of dispatch provisions in markets or regions where they currently do not apply. Furthermore, there should be no new or additional exemptions, namely specific provisions based on the size of the projects or based on types of technologies. Until the implementation of the new market design outlined by the Commission, the existing market rules for dispatching and balancing should prevail.

EURELECTRIC supports 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 is of the opinion that there is no need to introduce positive discrimination for RES and CHP.

Non-market based curtailment should, at best, be only a transitory regime until market-based mechanisms are established and functioning and non-market based curtailment should only be an exception where market-based mechanisms are not functioning. In the meantime it is opportune to reinforce 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.

See [EURELECTRIC's position paper on the proposal for an Electricity Regulation](#)

7. Renewable self-consumer

Topic	Article	Commission Proposal	EURELECTRIC's view
Definition of "renewable self-consumer"	Article 2(aa)	Active customer as defined in Directive [MDI Directive] who consumes and may store and sell renewable electricity which is generated within <u>his or its premises</u> (...);	Clarify definition in relation to "premises"

Comment

EURELECTRIC supports the introduction of a definition of the concept of renewable self-consumer in the Directive (Article 2(aa)). This is an opportunity to create a regulatory framework that enables the development of prosumers based on a level playing field, while avoiding hidden subsidies.

However, the definition of "renewable self-consumer", (as well as the definition of "active customer" in Article 2(6) of the Electricity Directive proposal) should be clarified. The phrase "*his or its premises*" could be interpreted to mean that these provisions could apply to different assets owned by the same consumer at different locations. Instead, the definition should clearly refer to generation and consumption of electricity behind the grid connection point.

Topic element	Article	Commission Proposal	EURELECTRIC's view
Proportionate procedures and cost-reflective charges	Article 21(1)(a)	Renewable self-consumers should not be subject to disproportionate procedures and charges that are not cost-reflective.	Agree but there should be no positive discrimination either

Comment

Prosumers should be subject to cost-reflective network charges like other consumers. "Disproportionate procedures and charges that are not cost-reflective" should be avoided but also positive discrimination for prosumers.

Topic	Article	Commission Proposal	EURELECTRIC's view
Remuneration	Article 21(1)(d)	Remuneration for self-generated renewable electricity fed into the grid reflects the market value of electricity.	Agree

Comment

EURELECTRIC is convinced that prosumers should be integrated in the market. We welcome the recognition that remuneration for prosumers should be based on the market value of the electricity fed in (and not implicitly at the retail price).

Non-market based net-metering schemes for prosumers are contrary to market integration and should be phased-out: in case of non-market based net-metering the grid is *de facto* used as storage for free, which provides disincentives for investment in flexibility solutions, such as batteries for example. Net-metering also risks going along with cross-subsidies through other consumers. The impact of phasing out net-metering on existing prosumers should however be limited by still guaranteeing them a fair return on investment.

Topic	Article	Commission Proposal	EURELECTRIC's view
Thresholds for renewable self-consumers vs energy suppliers	Articles 21(1)(c), 21(2) and 21(3)	<p>Renewable self-consumers are not considered energy suppliers in relation to the renewable electricity they feed into the grid <10MWh for households and <500 MWh for legal persons. Member States may set higher thresholds.</p> <p>In addition, according to paragraph (2), renewable self-consumers living in the same multi-apartment block, or located in the same commercial, or shared services, site or closed distribution system, are allowed to jointly engage in self-consumption as if they were an individual renewable self-consumer. In this case, the threshold set out in paragraph 1(c) shall apply to each renewable self-consumer concerned.</p> <p>Paragraph (3) allows for the renewable self-consumer's installation to be managed by a third party for installation, operation, including metering, and maintenance.</p>	Disagree

Comment

EURELECTRIC is concerned by the introduction of thresholds below which renewable self-consumers are not considered as energy suppliers (10 MWh for households and 500 MWh for legal persons on an annual basis) and their potential impact on balancing responsibilities.

First of all, we believe that the implications of being classified as an “*energy supplier*” need to be properly understood as this is not defined in the CEP. It may be better to talk about a “*producer*” in this case. Notwithstanding this, when combined with paragraphs (2) and (3), these thresholds could lead to very large exemptions: entities providing services to several customers “*living in the same multi-apartment block, or located in the same commercial, or shared services, site or closed distribution system*” could qualify as renewable self-consumers while selling big amounts of electricity to the grid as amounts mentioned in sub-paragraph (1)(c) would be multiplied by the number of customers. Moreover, Member States are allowed to increase these thresholds which could lead to even larger amounts.

EURELECTRIC shares the overarching principles in this proposal and in the proposal on Electricity Regulation to integrate RES in the market. This includes the integration of renewable self-consumers in the market (see comments above on Article 21(1)(a) and (d)).

However, while existing exemptions should be preserved, there should be no new/additional exemptions based on the size of the projects. This does not mean that prosumers must become Balance Responsible Parties (BRP) themselves but they can outsource this obligation e.g. to their supplier or aggregator (bearing in mind that the role of an aggregator can be fulfilled by a third party or the supplier who is aggregating several sources). Indeed, suppliers and aggregators will play an important role to facilitate market integration of prosumers and EURELECTRIC welcomes that their role is recognised in the proposal.

Therefore, EURELECTRIC can't support the exemptions proposed in Article 21 for renewable self-consumers.

See [EURELECTRIC's position paper on the proposal for an Electricity Directive](#) and the [position paper on the proposal for an Electricity Regulation](#).

8. Renewable Energy Communities (REC)

Topic	Article	Commission Proposal	EURELECTRIC's view
Renewable Energy Communities (REC) and Local Energy Communities (LEC)	Article 22(1)	The paragraph describes REC including the possibility for members to cooperate in the generation, distribution, storage or supply of energy from RES.	Clarify (level playing field and distribution)

Comment

According to Article 22(1) in the current proposal, members of REC (which are also LEC) can cooperate on generation, storage or supply but also distribution. However, when read in conjunction with Article 16 of the proposed Electricity Directive regarding Local Energy Communities (LEC), this raises a number of issues.

Indeed, while EURELECTRIC agrees that *“shareholders or members of a local energy community shall not lose their rights as household customers or active customers”* (Art 16(2)(b) of the Electricity Directive proposal on LEC), the practical implications of these provisions need to be further clarified. While the customer should keep the right to switch from LEC to another supplier, the network infrastructure is a natural monopoly and a potential DSO obligation to connect a member that decides to no longer take part in the LEC and switch back would require maintaining parallel network infrastructure or investing in parallel networks. That would not be efficient and charging the costs of maintaining the network infrastructure to the remaining customer base that is not a part of LEC would not be fair.

The concept of REC should be aligned with the provisions in the Electricity Directive in order to ensure that RECs do not benefit from special treatment in terms of generation connection requirements or that they are not used to widen the application of the renewable self-consumer concept.

Besides, as foreseen for the LEC, the regulatory framework shall ensure that: participation is voluntary; shareholders or members of a REC shall not lose their rights as household customers or active customers; shareholders or members are allowed to leave a renewable energy community.

See [EURELECTRIC's position paper on the proposal for an Electricity Directive](#)

Topic	Article	Commission Proposal	EURELECTRIC's view
REC and Local Energy Communities (LEC)	Article 22(1)	The paragraph describes the criteria to fulfil to be considered a REC.	The 18 MW threshold is too high

Comment

EURELECTRIC is concerned by one of the criteria under sub-paragraph (e) *“the community has not installed more than 18MW of renewable capacity for electricity, heating and cooling and transport as a yearly average in the previous 5 years”*.

We understand the specificities of REC and recognise that they should not face undue administrative barriers, but we believe that the threshold of 18 MW is too high, particularly in certain Member States.

Topic	Article	Commission Proposal	EURELECTRIC's view
Support schemes	Article 22(2)	Specificities of renewable energy communities should be taken into consideration in the design of support schemes.	Ensure level playing-field

Comment

EURELECTRIC is concerned that Article 22(2) could result in the preferential treatment of a market player. While we understand the specificities of REC and the role they play in local acceptance of RES, support schemes should ensure a level playing between companies independent of their size, ownership structure or legal form. Other options to reduce the risks for REC should be found, for example through a special form of insurance.

9. RES in heating and cooling

Topic	Article	Commission Proposal	EURELECTRIC's view
RES share in heating and cooling	Article 23	Increase in the share of renewable energy supplied for heating and cooling by at least 1% per year by Member State, expressed in terms of national share of final energy consumption. This may be done by physical incorporation, direct mitigation measures or indirect mitigation measures.	Agree, but should be limited to non-ETS sectors

Comment

The heating and cooling sector, like the transport sector, has a large potential to integrate larger shares of renewable and carbon neutral energy through increased electrification. The review of the RES Directive should have a balanced approach towards RES in heating and cooling, electricity and transport. Electrification enables decarbonisation (including through RES in transport, heating and cooling) and simultaneously helps to avoid overcapacity in the power sector. Effective measures should be taken to ensure that Member States progress with electrification, and other potential ways to increase RES penetration in these sectors.

With 75% of energy consumed for heating and cooling still causing greenhouse gas (GHG) emissions in 2014, decarbonising this sector presents a significant challenge. Under the 2030 climate and energy framework, Member States will also have specific binding, national targets for GHG emission reductions in the non-ETS sector. It is therefore important to recognise the key role that decarbonised electricity will play as the energy carrier of choice to achieve decarbonisation in these sectors.

Increased electrification of the sector will effectively shift emissions, *de facto*, from the heating and cooling sector (non-ETS) into the EU ETS, where, as emissions from the power sector, they are capped under the ETS. Renewables will make an important contribution to the decarbonisation of the heating and cooling sector. However, we believe that solutions to decarbonise buildings should be approached in a technologically neutral manner and that the costs borne by all energy sources should be balanced to ensure a level playing field.

Allowing renewable energy to fully penetrate the heating and cooling sector and to work alongside other decarbonised sources requires a holistic approach with a long term strategy. Conflicts between RES measures and energy efficiency measures should be avoided. EURELECTRIC is convinced that the success of the EU Strategy on Heating and Cooling is to a large extent dependent on ensuring buy-in from national, regional and local authorities, as well as the involved sectors. Designing a proper market for heating and cooling is essential in the decarbonisation of this sector.

Against this background EURELECTRIC suggests that the requirement proposed in Article 23 is limited to the non-ETS sectors.

See [EURELECTRIC's position papers on the proposal to amend the Energy Efficiency Directive and on the position paper on the proposal to amend the Energy Performance of Buildings Directive](#)

10. District Heating and Cooling

Topic	Article	Commission Proposal	EURELECTRIC's view
Third Party Access	Article 24(2)	Member States shall ensure that customers of district heating or cooling systems which are not highly efficient district heating and cooling can disconnect from the system in order to produce heating or cooling from renewable energy sources themselves, or to switch to another supplier of heat or cold.	Disagree

Comment

In light of the objective of the Directive, this provision goes one step too far by granting access for third parties to their customers via the network. Such an approach has been investigated by German and Swedish Authorities in the past with a view to assessing whether it would a) decrease heat prices and b) lead to an increase in the use of waste heat. In both cases, the option was discarded as it was found that a new complex regulatory regime would be necessary and would increase the costs of heat production (compliance costs and sub-optimisation of the network) and deterring the further use of waste heat. Instead, in line with the practice in some Member States, the Article should encourage the use of RES/waste heat without creating a disproportionate burden for operators.

11. RES in Transport

Topic	Article	Commission Proposal	EURELECTRIC's view
There is no target for a certain share for RES in transport anymore	Article 3	No national targets for RES in transport by 2030.	Agree

Comment

In the RED II proposal, the Commission proposes an EU-wide binding target for renewable energy consumption of at least 27% by 2030, in accordance with the European Council conclusions of October 2014. The proposal states that binding national targets for Member States will not be prolonged after 2020. It is therefore consistent to also not have a national sectoral target for renewable energy in transport. At the same time, we believe that it will be important to maintain a focus on decarbonising transport by using renewable energy.

Electric vehicles do not emit any tailpipe emission, nor do they emit pollutants (like NO_x) at tailpipe. The emissions resulting from generating of the electricity that powers electric vehicles are covered by the EU ETS and are subject to its cap. We therefore see the use of all electricity in transport as beneficial and should be encouraged.

Topic	Article	Commission Proposal	EURELECTRIC's view
Reducing share of bio-energy from food or feed crops in transport	Article 7(1)	The contribution from biofuels and bioliquids, as well as from biomass fuels consumed in transport, if produced from food or feed crops, shall be no more than 7% of final consumption of energy in road and rail transport in that Member State. This limit shall be reduced to 3.8% in 2030.	Agree

Comment

In its European Strategy for Low Emission Mobility the European Commission indicated that food-based biofuels have a limited role in decarbonising the transport sector due to concerns about their real contribution to the decarbonisation of such sector. A progressive reduction of food based biofuels and their replacement by more advanced biofuels will realise the potential for decarbonising the transport sector.

Furthermore, the continued use of conventional combustion engines will put increasing pressure on air quality, particularly in urban areas. Given these issues, we believe that a transformative shift in private transportation to electric vehicles is the most effective way to decarbonise the transport sector. This will also lead to additional benefits in terms of reductions in air and noise pollution, as well as related benefits to citizen's health and reductions in associated costs.

While it is positive that the share of biomass from food or feed crops that can be counted towards the target is limited, the maximum share of 7% of final energy consumption in road transport, is rather high when considered in comparison to both the 10% RES target for 2020, and certainly in comparison with the targets for 2021-2030 mentioned in Article 23 of the RED II proposal.

Topic	Article	Commission Proposal	EURELECTRIC's view
Increasing the share of advanced biofuels and other renewable energy in transport fuels	Article 25(1) and Annex X	<p>With effect from 1 January 2021, Member States shall require fuel suppliers to include a minimum share of renewable energy.</p> <p>The minimum share shall be at least equal to 1.5% in 2021, increasing up to at least 6.8% in 2030, following the trajectory set out in part B of Annex X.</p> <p>Renewable electricity can also be counted towards the target.</p> <p>Within this total share, the contribution of advanced biofuels and biogas produced from feedstock shall be at least 0.5% of</p>	<p>Generally agree, but the target should be aligned with decarbonisation needs of the transport sector</p> <p>Disagree</p> <p>There should be one overall target for all renewables</p>

		<p>the transport fuels supplied to the market as of 1 January 2021, increasing up to at least 3.6% by 2030.</p> <p>The greenhouse gas emission savings from the use of biofuels and biogas were increased.</p>	transport fuels
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Comment

The Directive should ensure that the share of renewable fuels in transport is aligned with the decarbonisation needs of the transport sector. Even though renewable transport fuels are not the only way to reduce transport emissions, they are an absolutely central aspect. EURELECTRIC doubts that the required 6.8% target share of RES in total fuel supplied by 2030 will be sufficient to ensure an adequate contribution of the transport sector to reach the overall non-ETS emission reduction goal of -30% by 2030 compared to 2005.

Although EURELECTRIC keeps a clear stance on electric vehicle as a viable alternative for clean mobility, fuel suppliers should be able to fulfil their obligation to include a certain share of renewable transport fuels by all renewable transport fuels available. In any case, operators of charging stations for electric vehicles should not be forced to offer advanced biofuels or similar fuels. Therefore, if such a target is kept, it has to be made clear that the target for advanced biofuels set out in Annex X shall not apply to charging station operators.

Topic	Article	Commission Proposal	EURELECTRIC's view
Transfer of obligation	Article 25(2)	Fuel suppliers can transfer their obligation to each other.	Agree

Comment

EURELECTRIC agrees as this provides for a flexible mechanism and rewards those fuel suppliers who over-achieve their obligation.

Topic	Article	Commission Proposal	EURELECTRIC's view
Calculation of the share of renewable electricity in transport	Article 25 (3)	To determine the share of renewable electricity they use to meet their obligations, fuel suppliers can either use the average RES share of the EU or the average RES share of the Member States, in each case a corresponding amount of GOs shall be cancelled.	Disagree

Comment

EURELECTRIC does not agree with the way that the national or EU-wide RES shares and Guarantees of Origins are mixed here. Entities that sell electricity at recharging points to electric vehicles are acting like other electricity retailers, which are obliged to disclose GOs when they are

marketing electricity as “renewable” to their customers. To prove that a certain share of electricity supplied to electric vehicles is renewable, charging point operators should cancel enough GOs to comply with the obligation set out in Article 25(1). This should be done without reference to any EU or Member State renewable electricity share. Renewable targets (be they national or EU-wide) should not be mixed with measures to certify renewable electricity to final customers.

Topic	Article	Commission Proposal	EURELECTRIC’s view
National Databases on transport fuels	Article 25(4)	Member States shall put in place a database tracing transactions of obligations on fuels suppliers as well as sustainability characteristics of transport fuels, including their life cycle greenhouse gas emissions.	Clarify

Comment

When reporting on life-cycle GHG emissions of transport fuels to these databases and under the Governance Regulation, average motor efficiencies per transport fuel should be taken into account.

12. Sustainability criteria for biomass

Topic	Article	Commission Proposal	EURELECTRIC’s view
Mandatory criteria	Article 26(1)	Biomass fuels need to fulfil the criteria set out in the proposal, irrespectively of the geographical origin of the biomass.	Agree

Comment

EURELECTRIC supports the overall approach taken by the Commission in its proposal on the sustainability criteria for biomass. The requirements endorse a risk-based approach and compliance can be assessed through voluntary schemes such as SBP, FSC or PEFC, or through national regulation, whether within or outside the EU. The adherence to EU-wide principles will provide reliable evidence to the general public that biomass is a sustainable energy source.

Topic	Article	Commission Proposal	EURELECTRIC’s view
Capacity threshold	Article 26(1)	The criteria apply for installations with fuel capacity above 20 MW. However, Member States may choose to apply the criteria to installations below this threshold.	Agree

Comment

EURELECTRIC also supports the capacity threshold of 20MW as it is in line with the EU ETS threshold and will help to minimise the overall administrative burden placed on plant operators.

Topic	Article	Commission Proposal	EURELECTRIC's view
Management systems	Article 26(5)(b) (and Articles 26(6)(iii) second sentence and 27(4))	When evidence based on national laws applicable in the area of harvest as well as monitoring and enforcement systems is not available, the biomass fuels produced from forest biomass shall be taken into account if management systems are in place at forest holding level.	Broaden level where verification and mitigation is carried out to biomass producers

Comment

According to Article 26(5)(b) *“when evidence ... is not available, the ... biomass fuels produced from forest biomass shall be taken into account ... if management systems are in place at forest holding level ...”*. The level in the value chain where the verification and application of mitigation measures takes place should be broadened and include biomass producers (e.g. pellet mill or sawmill level).

The objective of the paragraph is that feedstock for biomass production is legally and sustainably harvested. To achieve that goal it is important that management systems and procedures are in place to ensure that all respective indicators in the forest are at low risk - but the level in the value chain at which the verification and mitigation is carried out is irrelevant. An approach to include management systems at biomass production level would be more efficient and stringent: smaller forest owners who could not afford a single management system could become part of the management system of the biomass producer.

By broadening to the biomass production level, feedstock within a forest that is too risky may be excluded from the supply base for biomass production, whereby other parts may be certified. This approach would meet current business practice. Since it allows for risk mitigation schemes (certification) at forest and production level it may incentivise an overall increase of certification of feedstock for biomass production. This comment also applies to Article 26(6)(iii) second sentence and to Article 27(4).

Topic	Article	Commission Proposal	EURELECTRIC's view
Management systems	Article 26(5)(a) (i) and (b)(i)	Forest biomass must be harvested according to a legal permit	Ensure that harvest is legally allowed

Comment

In some Member States (e.g. Denmark) there are no harvesting permits as such. The Directive must ensure that evidence is provided that harvesting is legally allowed.

Topic	Article	Commission Proposal	EURELECTRIC's view
Carbon stocks	Article 26(6)(iii) - first	Ensure that carbon stocks are maintained or improved and this	Broaden level at which

	sentence	must be demonstrated	compliance can be demonstrated
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Comment

The goal of this paragraph is to ensure that carbon stocks are maintained or improved and this must be adequately demonstrated. There are various methods to demonstrate that carbon stocks are maintained. Demonstrating that management systems are in place at the forest holding level is one method. Other, more economical, methods are for example to use national forestry statistics to show that standing forest stocks are increasing over time. Against this background, the means through which compliance can be demonstrated should not be limited to management systems at forest holding level.

Furthermore, it must be noted that carbon stocks at an individual forest holding level, especially smaller holdings, can vary strongly over time due to individual harvesting events, while the carbon stocks considered in a larger region or the country as a whole remain stable or increase. Therefore carbon stocks should not be viewed at the individual forest holding level but rather at the national or regional level. We believe that the subparagraph would be in line with the NDCs referred to in subparagraph (ii) where the geographical scope is that of the country.

Also it should be noted that short term variations in regional carbon stocks (e.g. fire, diseases, harvest correction after an economic down-turn, etc.) are natural and must not be confused with a deviation from the long term trend of maintaining or increasing carbon stocks.

Topic	Article	Commission Proposal	EURELECTRIC's view
Revision clause	Article 26(6) (iii) last paragraph	Land criteria for forest biomass and LULUCF requirements will be reviewed by 31 December 2023.	Disagree

Comment

Article 26(6) foresees that by the end of 2023 the Commission will assess whether the sustainability criteria in paragraphs (5) and (6) of Article 26 effectively minimise the risk of using unsustainable biomass and address the LULUCF requirements.

EURELECTRIC supports a stable regulatory and investment framework up to 2030. Predictability is crucial for the power sector. With a 2023 deadline, assessment could start as early as 2021-2022, shortly after the expected entry into force of the Directive. We would rather prefer the review of Article 26 to be done as part of the general review of the Directive in 2026 (Article 30(3)).

Topic	Article	Commission Proposal	EURELECTRIC's view
GHG emission savings	Article 26(7)	The proposal sets out GHG savings thresholds for new installations using biomass to produce electricity or heating and cooling after 1 January 2021 (80%) and 1 January 2026 (85%).	Agree

Comment

Article 26(7) sets out a GHG savings thresholds for new installations using biomass to produce electricity or heating and cooling after 1 January 2021 and 1 January 2026. Consequently, the proposed Directive does not include any GHG savings threshold for existing installations using biomass. EURELECTRIC supports this provision as it avoids retroactive changes for existing plants (permit conditions, financial support) and preserves investor certainty, which is also in line with Article 6 of the proposal.

Topic	Article	Commission Proposal	EURELECTRIC's view
Efficiency of use	Article 26(8)	<p>Electricity produced from biomass in new installations exceeding 20MW will only be taken into account towards target counting or to receive financial support if it is produced using high efficiency co-generation technology from a date set 3 years after the adoption of the Directive.</p> <p>While Member States can make a specific notification to the Commission relating to system security, any waiving of the requirement is at the Commission's discretion.</p>	Disagree

Comment

If the biomass used meets sustainability criteria, it is unclear why these units should be excluded from targets or support. CHP installations are only suitable where there is a significant local heat load. This high efficiency criterion would therefore effectively rule out the use of biomass in new 'biopower only' plants that could be used to supply essential system services and flexible generation to complement intermittent and variable generating technologies. It would also effectively rule out the use of 'biopower only CCS' as a potential GHG negative technology should the economics of carbon capture and storage improve.

Member States should be able to choose from all renewable energy sources to produce electricity, either because it allows the best possible use of local biomass resources or because other renewable energy sources have a limited potential. Priority should be given to climate mitigation efforts.

EURELECTRIC therefore suggests broadening the scope of potential exemptions and allowing Member States to continue supporting large-scale biomass without CHP technology in case of security of supply concerns, but also if biomass can play an important role in providing flexibility and system services, or if it is needed to reach the EU-wide 2030 RES target.

Topic	Article	Commission Proposal	EURELECTRIC's view
Additional sustainability criteria	Article 26(10)	Member States may place additional sustainability requirements for biomass fuels.	Disagree

Comment

According to Article 26(10) of the proposal, Member States may place additional sustainability requirements for biomass fuels. EURELECTRIC believes that harmonised set of criteria should apply at the EU level. Additional criteria are explicitly prohibited for biofuels and bioliquids (Article 26(9)) and this rule should also apply to biomass fuels.

Establishing new national or contradictory sets of sustainability principles and criteria will impede biomass trade and deter investment in biomass cultivation, biomass-powered electricity (dedicated and co-fired plants) and heat generation, as this would give rise to a changing and less predictable regulatory environment.

Topic	Article	Commission Proposal	EURELECTRIC's view
GHG emission savings - default values	Article 28(1); Annex VI, Part A	In the absence of calculated emission savings, operators may use the default values included in Part A of Annex VI.	To clarify and elaborate

Comment

Article 26(1) states that energy from biomass fuels shall only be taken into account for:

- a) contributing to Member States' share in the overall EU-wide RES target;
- b) compliance with RES obligations;
- c) eligibility for financial support;

provided they fulfil the sustainability criteria and the GHG emission saving criteria set out in Article 26(7).

Article 26(7) sets out GHG emission savings criteria for electricity, heating and cooling installations starting operation after 1 January 2021 (80%) and after 1 January 2026 (85%). However, it does not state what these percentage GHG emission savings are to be compared with. The comparator should be included within the text of Article 26(7). For example: *“at least 80%.....and 85%... when compared with the EU-wide fossil fuel comparators of 183 gCO₂eq/MJ for electricity; and 80 gCO₂eq/MJ for heating or cooling; or 124 gCO₂eq/MJ for heat produced by the direct substitution of coal.”*

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/?id=4271427696-87)

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.

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

A EURELECTRIC position paper

April 2017

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



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/index.cfm?do=entity.entityDetail&entityId=4271427696-87)