ACER regulation

Commission's legislative proposal on ACER Regulation ✓

ACER tasks and role: towards more regional cooperation

- **Strengthening of ACER's role**

EURELECTRIC **supports that ACER's tasks have been updated in the field of wholesale market supervision and cross-border infrastructure.** Indeed the 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**. ACER should be granted the appropriate resources and powers to carry out its tasks effectively. ACER should continue to focus on the preparation for monitoring the national implementation of the Network Codes/Guidelines and facilitate stakeholder involvement.

- **A more regional and clear role**

EURELECTRIC fully **supports the new provisions for more regional and European cooperation as well as for a stronger role of ACER**. This is since the **role of ACER should be to realise seamless cooperation of NRAs regarding cross-border issues.** EURELECTRIC **supports,** for example, 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** (Art 5.1.(c), Art 5.3 and Art 55 of the Electricity Regulation). However, for a balanced representation of interests, **stakeholders should be involved in the process**.

Independence of ACER is key

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**. Therefore, 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.

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.

However, ACER should also be **subject to sufficient checks and balances** and EURELECTRIC does not believe it is necessary 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.

Capacity Mechanisms

European Commission proposal	eurelectric	
Article 21.1 Mechanisms other than strategic reserves shall be open to direct participation of capacity providers located in another MS.	Electricity Regulation	≈
Article 23.4 An EPS of 550 g CO_2/kWh applies for new generation capacity and existing generation capacity.	Electricity Regulation	✗
Article 24 Existing capacity mechanisms shall be adapted to comply with the regulation.	Electricity Regulation	≈

Energy, flexibility and availability of capacity need to be valued

To make the market design fit for the low-carbon transition, energy, flexibility and the availability of capacity need to be valued adequately in the market. Well-designed capacity mechanisms should ensure that the firm capacity needed (generation, storage, demand response) for security of supply is maintained or invested in.

Well-designed capacity mechanisms to ensure security of supply in a cost-efficient way

To facilitate a European coordinated approach, the Regulation should establish principles for the implementation and design of capacity mechanisms: they should be **market-based** (e.g. valuing availability of capacity) **technology neutral** (open to generation, demand response and storage), **open to existing and new assets**, as well as **open to cross-border participation**. While existing contracts should be respected to avoid negative impact on investment decisions, Member States should be encouraged to adopt transitional measures to adapt capacity mechanisms towards a design compatible with the State Aid Guideline.

Capacity mechanisms are a tool in themselves for regional adequacy assessment

Where they exist, capacity mechanisms are also a tool in themselves for the regional adequacy assessment. Indeed, they contribute to revealing the adequacy situation by explicitly valuing the capacity that is needed to ensure the adequacy target and by identifying the capacity that is not needed. For instance, if enough capacity is economically viable in the system and able to ensure the adequacy target, the capacity price will tend towards lower levels.

A CO_2 Emission Performance Standard will not deliver a cost-efficient low-carbon transition

The power sector is committed to achieve carbon-neutral electricity supply by 2050 and **does not intend to invest in new-build coal-fired power plants after 2020**[1]. **The CO_2 EPS in capacity mechanisms should be removed** as it **weakens the EU ETS and could have unintended consequences on competitiveness, decarbonisation and security of supply**. Such market interventions also **undermine investors' confidence**. The impact of an EPS will not be limited to baseload coal and lignite. In some countries, the CO_2 EPS will impact peaking plants, including flexible gas-fired power plants.

[1] The reference to the sector's intention not to invest in new-build coal-fired power plants after 2020 is not supported by the Polish and Greek member associations.

Key proposed amendments

Article 21.1

Capacity mechanisms ~~***other than strategic reserves***~~ shall be open to direct participation of capacity providers located in another Member State provided there is a network connection between that Member State and the bidding zone applying the mechanism

Electricity Regulation

Justification

Cross-border participation should apply to all types of mechanisms aimed at ensuring security of supply, including strategic reserves.

Article 23.4

~~***Generation capacity for which a final investment decision has been made after [OP: entry into force] shall only be eligible to participate in a capacity mechanism if its emissions are below 550 gr CO2/kWh. Generation capacity emitting 550 gr CO2/kWh or more shall not be committed in capacity mechanisms 5 years after the entry into force of this Regulation.***~~

Electricity Regulation

Justification

Market-based mechanisms such as carbon markets are the most cost-effective and efficient tool for mitigating greenhouse gas emissions and stimulating investments in low carbon technologies and energy efficiency. Only the combination of an effectively reformed EU ETS and improved EU electricity market design can lead to sustainable and credible carbon price signals to drive investments to mature low carbon technologies. The CO2 EPS for capacity mechanisms should therefore be removed from the Electricity Regulation.

Article 23.6 (new)

Where implemented, capacity mechanisms shall be well designed: market-based, open to generation, demand response and storage, technology-neutral, open to existing and new assets and open to cross-border participation

Electricity Regulation

Justification

The Regulation should rather establish principles for the implementation and design of capacity mechanisms as part of the electricity market design. This would facilitate a European coordinated approach on capacity mechanism as demonstrated in the DG COMP final report on the sector enquiry.

Article 24

Member States applying capacity mechanisms on [OP: entry into force of this Regulation] shall ***publish a timeline for adopting measures*** to adapt their mechanisms to comply with Articles 18, 21 and 23 of this Regulation.

Electricity Regulation

Justification

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.

Consumer Processes

European Commission proposal	eurelectric	
Switching		
Articles 12.1 Switching has to take place within 3 weeks	Electricity Directive	✓
Article 12.2-3 Distinction being made between switching related fees (forbidden) and early termination fees (which may still be charged)	Electricity Directive	✓
Article 12.3 Suppliers to prove demonstrable advantage from fixed term supply contracts before being allowed to charge early termination fees	Electricity Directive	✗
Comparison Tools		
Article 14 and Annex I Comparison tools	Electricity Directive	✓
Billing		
Article 18.1 Billing presentation has to enable comparison by consumers	Electricity Directive	✗
Article 18.7 Bills and request for payment	Electricity Directive	✗
Annex II.1 Billing - new list of minimum requirements	Electricity Directive	✓
Annex II Billing - requirements from former EED	Electricity Directive	✗
Annex II. 2 Billing - price breakdown into energy, network and taxes/levies	Electricity Directive	✓
Annex II.4 Disclosure of energy sources	Electricity Directive	✗

The distinction made between switching fees and early termination fees is welcome

We fully agree that **switching has to be free** and **we welcome the distinction made between switching fees (forbidden) and early termination fees for fixed term contracts (allowed).** Early termination fees need to be allowable for fixed term deals - provided they are transparent and clearly communicated to customers up-front - 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.

A certified comparison tool in each Member State will enhance transparency and choice

Be they public or private**, comparison tools will only be effective and used if they are trusted by consumers**. They should provide clear, impartial and transparent information about offers. They should not just compare prices but also the main features of products (e.g. contract duration, payment options, source of electricity, availability of value added services, etc.). They should always disclose the potential fees/payments they receive from suppliers in case of a switch. We therefore **welcome the certification criteria proposed by the Commission.**

Consumer satisfaction with bills won't improve if regulation is not made more flexible

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 that is not useful to consumers** and can even be confusing. Instead of making rules more flexible and principle based, the Commission proposes additional, more stringent, rules for bills. **Consumer needs are different and we think more room should be given to suppliers to tailor bills and test innovative ideas.**

Key proposed amendments

Switching

Article 12.2-3

Member States may choose to permit suppliers to charge contract termination fees to customers willingly terminating fixed term supply contracts before their maturity. Such fees may only be charged if ~~***customers receive a demonstrable advantage from these contracts***~~ ***they are clearly communicated to customers upfront and as part of their contract***. In addition, such fees shall not exceed the direct economic loss to the supplier of the customer terminating the contract, including the cost of any bundled investments or services already provided to the customer as part of the contract.

Electricity Directive

Justification

Proving 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. 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, and be controlled ex-ante and ex-post by the national authorities.

Billing

Art 2.13-14 (new)

"Billing" means* a *written statement of the money owed for goods or services and containing the minimum information defined in Annex II.1

"Billing information" means separate additional information about consumers' consumption and rights, as defined in Annex II.2 and II.5, and shall not constitute a request for payment.

Electricity Directive

Justification

Clarifying the difference between billing and billing information is crucial for legal purposes and to facilitate the implementation of the Directive at national level.

Article 18.1

Member States shall ensure that ***billing and billing information*** fulfil the minimum requirements ~~***for billing and billing information as***~~ set out in Annex II. The information contained in bills shall be correct, clear, ***and*** concise ~~***and presented in a manner that facilitates comparison by consumers.***~~

Electricity Directive

Justification

Bills are not intended to facilitate comparison by consumers, other tools such as Comparison tools are meant for this. However if bills contain minimum requirements in a clear and concise way, consumers will easily find the information they need to compare their existing tariff with other offers available on the market.

Article 18.7

~~***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. In such cases, Member States shall ensure that suppliers offer flexible arrangements for payments***~~

Electricity Directive

Justification

This provision is very confusing; it contradicts Article 18.3 and the broader goal of energy efficiency. A bill is a request for payment.

Annex II.2

2. Billing information

Where appropriate, the following ***billing*** information shall be ***made available*** ~~***prominently displayed***~~ to final customers ~~***in or with their bills and periodical settlement bills***~~:

(a) current actual prices and actual consumption of energy;

(b) comparisons of the customers' current energy consumption with consumption for the same period in the previous year in graphic form;

(c) contact information for consumer organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, ***wherever possible and useful***, comparisons with an average normalised or benchmarked customer in the same user category shall be made available to final customers ~~***in, with or signposted to within, their bills and periodical settlement bills***~~**.**

Electricity Directive

Justification

It is crucial to make a clear distinction between billing and billing information to simplify the current regulatory framework and to increase consumer satisfaction with bills.

- *Billing should only contain key information (e.g. consumption, price to pay, etc.) as defined in Annex II par1;*
- *Billing information should be distinct from the bill. It should contain separate additional information about consumers' consumption and rights, as defined in Annex II.2 and II.5.*

Bills are not intended to facilitate comparison by consumers, other tools such as Comparison tools are meant for this. However if bills contain minimum requirements in a clear and concise way, consumers will easily find the information they need to compare their existing tariff with other offers available on the market.

Annex II.5

~~4.~~ 5. Disclosure of energy sources

Suppliers shall specify in bill***sing information***:

(a) the contribution of each energy source to the overall fuel mix of the supplier ~~***(at national level i. e. in the Member State where the supply contract has been concluded, as well as at the level of the supply undertaking if the supplier is active in several Member States)***~~ over the preceding year in a comprehensible and clearly comparable manner; ***and/or***

(b) the contribution of each energy source to the electricity purchased by the customer in accordance with the supply contract (product level disclosure);

Electricity Directive

Justification

It would be much clearer for consumers to receive information about one mix only. This should be the product mix and/or the supplier mix depending on national circumstances. In addition, we think such information should primarily be communicated as billing information and not through the bill itself.

Data management and data format

European Commission proposal	eurelectric
Articles 23.2 and 23.3 The EC does not recommend any specific data management model at EU level. However, MS have to authorise/certify the party managing data	Electricity Directive ✓
Article 34 Eligible parties to have non-discriminatory access to data	Electricity Directive ✓
Articles 23.1 and 23.2 Eligible parties to access data after consumer's explicit consent	Electricity Directive ✓
Article 24.1 MS have to define at national level a common data format and a transparent procedure for eligible parties to have access to the data	Electricity Directive ✓
Article 24.2 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 MS	Electricity Directive ✗
Article 24.3 Data access for customers has to be free of charge and Member States are responsible for setting the relevant costs for access to data by eligible parties	Electricity Directive ✓

No specific data management model should be defined at EU level, only key principles

There is **no 'one size fits all' data management model applicable in all European countries**. Decisions on the **best approach to follow should be taken at national level by NRAs**. However, it is fundamental to **set common principles at EU level** to ensure that data handling is done in a secure, transparent, neutral, non-discriminatory and cost-efficient way.

Provisions on customer consent need to be in line with the EU Data protection regulation

DSOs and suppliers should have access to their customers' metering and consumption data in order to guarantee a secure network management and basic supply services (billing, switching etc.), as per their contractual obligations. For any other additional service, access to metering and consumption data should only be possible after the **explicit consent of the customer**. The General Data Protection Regulation (EU 2016/679) introduces precise rules and obligations on these aspects and we think the Electricity Directive should be aligned.

A common EU Data framework is much more appropriate than a common EU Data format

It is worth recalling that **several Member States have just implemented a national data format and data hub** (e.g. Denmark, Italy) or are about to do it (e.g. Finland, Sweden, Norway, Belgium, France, etc.). **Introducing a new data format would require market actors and DSOs to upgrade all core systems** (such as billing, customer relationship management, etc.) thus creating high costs for the system and for consumers. However, we do think that **there is merit in establishing a set of principles for a common data framework at EU level to facilitate convergence of national data format and procedures.**

Key proposed amendments

Article 23.2

Member States shall organise the management of data in order to ensure ***secure, transparent, neutral, non-discriminatory and cost-***efficient data access and exchange. Independently of the data management model applied in each Member State, the party or parties responsible for data management shall, ***in accordance with Regulation (EU) 2016/679,*** provide to any eligible party with the explicit consent of the final customer, access to the data of the final customer. Eligible parties should have at their disposal in a non-discriminatory manner and simultaneously the requested data. Access to data shall be easy, while relevant procedures shall be made publicly available.

Electricity Directive

Justification

Whilst we agree that there is no 'one size fits all' data management model applicable in all European countries, it is however fundamental to set common principles at EU level to ensure that data access and exchange is done in a secure, transparent, neutral, non-discriminatory, and cost-efficient way.

DSOs and suppliers should have access to their customers' metering and consumption data in order to guarantee a secure network management and basic supply services (billing, switching etc.), as per their contractual obligations. For any other additional service, access to metering and consumption data should be possible only after the explicit consent of the customer. The General Data Protection Regulation (EU 2016/679) introduces very precise rules and obligations about consumer consent and we think the Electricity Directive should be aligned.

Article 24.2

The Commission~~***, by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 68, shall***~~ ***may*** determine ***a set of principles for*** a common European data ***framework*** ~~***format***~~ ***to support*** ~~***and***~~ non-discriminatory and transparent ~~***procedures for***~~ access~~***ing***~~ ***to*** the data, listed under paragraph 1 of Article 23. ***Such principles*** ~~***European common data format***~~ ***should be taken into account*** ~~***that, will***~~ ~~**replace national data format and procedure adopted**~~ by Member States ***when developing their national data format and procedure*** in accordance with paragraph 1.~~***Where it is positively assessed,***~~ ~~**Member States shall ensure that market participants apply a common European data format.**~~

Electricity Directive

Justification

It is 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.). Introducing a new data format would require market actors and DSOs to upgrade all core systems (such as billing) thus creating high costs. However we do think there is merit in establishing a set of principles from a common data framework at EU level to facilitate convergence of national data format and procedures.

Demand response aggregation

European Commission proposal	eurelectric
Article 13 Consumers rights to contract with aggregators	Electricity Directive ✓
Article 13.4 Demand response data on supplied and sold electricity to be received at least once per year	Electricity Directive ✗
Article 17.1-2 Encourage final customers to participate in a non-discriminatory manner in all organised markets TSO & DSO to treat DR providers in a non-discriminatory manner when procuring ancillary services	Electricity Directive ✓
Article 17.3 Aggregators should not pay compensation to suppliers or generators	Electricity Directive ✗
Article 17.4 Imbalances compensation payment between BRP and aggregators only as an exception	Electricity Directive ✗

Demand Response aggregation benefits consumers

The development of innovative demand response services **incentivises consumers to be more active and empowers them, giving them more control over their electricity consumption**. Next to dynamic pricing, **aggregation offers an opportunity to exploit the flexibility potential of consumers** and to facilitate **their access to the market**. Demand-response aggregation can be done by different actors such as suppliers or aggregators and should first benefit consumers.

All aggregators should compete on a level playing field in the market

- ***Balancing responsibility***

The current **market model is based on the central principle of balance responsibility**: an obligation for anyone connected to the grid to balance its position or to be exposed to the financial consequences of imbalance. This **principle would be violated if one category of market participants was exempted from being charged by the TSO the cost of its energy imbalances**. Therefore, **aggregators should be responsible for their imbalances as a rule, not as an exception**.

- ***Payment of sourcing costs***

Any market participant willing to trade electricity must bear the costs related to procuring this electricity. A fair market-based remuneration of the energy that has been sourced by the supplier of the involved customers and is allocated to an aggregator should be required. Omitting this payment adds distortions to free price formation and has negative impacts on consumers' bills. As stated in the EC own impact assessment *"the exclusion of any compensation mechanism introduces a possibility of demand aggregators being free riders in the markets and therefore creating inefficiencies. This is not in line with the EU target model and generally not in line with creating a level playing field for competition."*[1]

[1] Impact Assessment, Annexes, end of section 3.1.5.

Key proposed amendments

Article 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~~ **on a regular basis.**

Electricity Directive

Justification

As the action of aggregators will have an impact on 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 sent on a regular basis.

Article 17§3(d)

Aggregators shall ~~***not be required to***~~ pay ~~***compensation to***~~ suppliers ~~***or***~~ ***and*** generators **the market value of the energy transacted as a result of a demand response action.**

Electricity Directive

Justification

In order to be sold by the third-party aggregator, the electricity related to the demand response action has to be sourced by the supplier of the activated customer. Therefore, this electricity has to be paid for. The re-routing of electricity through a demand response action and its subsequent sale on the electricity markets by aggregators should not be confused with a simple decrease of electricity consumption.

Article 17§4

In order to ensure that balancing costs and benefits induced by aggregators are fairly assigned to market participants, Member States ~~**may exceptionally**~~ ***should*** allow ~~**compensation**~~ payments between aggregators and balancing responsible parties. Such ~~**compensation**~~ payments must be limited to situations where one market participant induces imbalances to another market participant resulting in a financial cost.

Such ~~**exceptional**~~ ~~**compensation**~~ payments shall be subject to approval by the national regulatory authorities and monitored by the Agency.

Electricity Directive

Justification

The current market model is based on the central role of Balance Responsible Parties that are financially responsible for keeping their own position balanced over a given timeframe (the imbalance settlement period). The Internal Market Regulation (art. 4.1) clearly states that all market participants must take financial responsibility for the imbalances they cause in the system. Aggregators should therefore always be balance responsible, on a level playing field with other market participants.

DSO Entity

European Commission proposal		eurelectric
Articles 49, 50 & 52 DSOs which are not part of a VIU or which are unbundled shall cooperate at EU level through the so-called DSO entity. DSOs who wish to participate need to be registered and the cost will be borne in the tariff	**Electricity Regulation**	≈
Article 51 Tasks of DSO entity: 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	**Electricity Regulation**	✓
Article 55.2 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.	**Electricity Regulation**	✓

EURELECTRIC welcomes the acknowledgement of the prominence of DSOs in the energy transition and the establishment of a EU DSO entity. The EU DSO entity must 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

The scope of responsibilities of the DSO entity has to be carefully defined

MS must retain final responsibility for DSO activities within their national borders and markets. The DSO entity **should be an expert organisation and should not engage in lobbying**. The 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**.

Extending the membership criterion

DSOs that are not obliged to comply with the unbundling rules are not eligible for membership in the EU DSO entity (unless they elect to voluntarily comply). Since the decisions of the DSO entity apply to all DSOs, we suggest ensuring **inclusivity of all DSOs in Europe**. Therefore, we recommend that the **membership criteria are widened to include all type of DSOs in Europe.** We also recommend that members can choose to **send a representative or proxy to DSO entity gatherings.**

Voting right

Voting rights have to be defined carefully. EURELECTRIC believes that a fair way to represent the interest of all participants in the EU DSO entity is needed. We are therefore going to work closely with other stakeholders to produce a proposal, which will be included in the statutes in the coming period.

Proposed amendments

Article 49

Distribution system operators ~~***which are not part of a vertically integrated undertaking or which are unbundled according to the provisions of Article 35 [recast of Directive 2009/72/EC as proposed by COM(2016) 864/2],***~~ shall cooperate at Union level through a European Entity for Distribution system operators ("EU DSO entity"), in order to promote the completion and functioning of the internal market in electricity, and to promote optimal management and a coordinated operation of distribution and transmission systems. Distribution system operators who wish to participate in the EU DSO entity shall become registered members of the entity ***or choose a proxy of EU or other Associations of their choosing.*** The EU DSO entity shall ***deal only with issues which require Union regulations; all others will be handled on national level. The EU DSO entity shall deal only with issues which require Union regulations; all others will be handled on national level.***

Electricity Regulation

Justification

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 recommending that the membership criteria is also widened to include all DSOs in Europe.

Article 51

1. The tasks of the EU DSO entity shall be ***selected appropriately and can include*** the following:

-(a) coordinated operation and planning of transmission and distribution networks;

(b) integration of renewable energy resources, distributed generation and other resources embedded in the distribution network such as energy storage;

(c) development of demand response;

(d) digitalisation of distribution networks including deployment of smart grids and intelligent metering systems;

(e) data management, cyber security and data protection

(*f*) participation in the elaboration of network codes pursuant to Article 56.

2. In addition the EU DSO entity shall:

(a) cooperate with ENTSO for electricity on the monitoring of implementation of the network codes and guidelines which are relevant to the operation and planning of distribution grids and the coordinated operation of the transmission and distribution networks and which are adopted pursuant to this Regulation;

(b) cooperate with ENTSO for electricity and adopt best practices on the coordinated operation and planning of transmission and distribution systems including issues such as exchange of data between operators and coordination of distributed energy resources;

~~***(c) work on identifying best practices on the areas identified in paragraph 1 and for the introduction of energy efficiency improvements in the distribution network;***~~

(d) adopt an annual work programme and an annual report;

(e) operate in full compliance with competition rules.

Electricity Regulation

Justification

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. EU DSO entity should not engage in lobbying activities, therefore modify the tasks accordingly.

DSO Storage ownership & operation

European Commission proposal	eurelectric
Articles 36 DSOs shall not be allowed to own, develop, manage or operate energy storage facilities. 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	Electricity Directive ≈

The benefits of storage

Storage has **potential to help promote active consumption and realise other forms of value for market participants, grid operators and retailers**. Storage is a key part of the new active DSO's '**toolkit' which can be used to assist DSOs to operate and plan their networks more 'flexibly'.** A stand-alone business case for DSOs' ownership of storage can be constructed from a synthesis of these benefits and a market based deployment would be the usual course once the technology becomes mature.

The need of commercial arrangements for storage

It is important to recall that DSOs are under strict regulatory supervision and required to adopt new technology as it becomes proven and cost competitive. DSOs have also urgent operational issues presently on-hand due to the growth of mainly variable distributed generation connecting at the distribution level. Over time **we foresee that 'flexibility' will be conceptualised as a fungible service with storage and other technologies can make offerings**. Such **commercial arrangements do not yet exist** and will have to be designed, tested and integrated into the DSOs' regulatory framework.

Ownership of storage facilities

EURELECTRIC favours a tendering procedure to assess whether DSOs should be allowed to own, develop, manage or operate energy storage facilities because **in principle energy storage facilities shall be owned, developed, managed or operated by markets participants.** Nevertheless **a mandatory tendering procedure could be both costly and time consuming and not appropriate for every situation.** EURELECTRIC therefore proposes that DSOs should be allowed to own, develop, manage or operate energy storage facilities if 1) following an assessment of the market the NRA concludes that no tendering procedure is needed and gives its approval or 2) if following a tender/market test performed in an open and transparent manner under NRAs' supervision, no parties have expressed interest to own, develop, manage or operate the storage facilities. This is a **simple adjustment to the normal regulatory process between the DSOs and the NRA** and does not require derogation from EU law.

Key proposed amendments

Article 36

1. Energy storage facilities shall be owned, developed, managed or operated by markets participants.

2. Distribution system operators ~~***shall not***~~ ***may*** be allowed to own, develop, manage or operate energy storage facilities ***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***

~~***2. By way of derogation from paragraph 1, Member States may allow distribution system operators to own, develop, manage or operate storage facilities***~~ only if the following conditions are fulfilled:

(a) other parties, following an open and transparent tendering procedure ***(under NRA supervision)***, have not expressed their interest to own, develop, manage or operate ***cost-effective*** storage facilities ***or for alternatives flexibility services;***;

~~***(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;***~~

~~***And***~~ ***Or***

(b) the ~~***regulatory authority***~~ ***NRA*** has assessed ~~***the necessity of such derogation taking into account the conditions under points (a) and (b)***~~ ***that there is no necessity to apply the condition under point (a)*** of this paragraph and has granted its approval.

3. Articles 35 and Article 56 shall apply to distribution system operators engaged in ownership, development, operation or management of energy storage facilities.

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 ***with compensation on fair and reasonable terms.***

Electricity Directive

Justification

Storage is a key part of the new active DSO's 'toolkit' which can be used to assist DSOs to operate and plan their networks more 'flexibly'. A tendering procedure is to assess whether DSOs should be allowed to own, develop, manage or operate energy storage facilities because in principle energy storage facilities shall be owned, developed, managed or operated by markets participants. Nevertheless a mandatory tendering procedure could be both costly and time consuming and not appropriate for every situation.

It 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 Member States to provide derogation from EU law.

Dynamic Pricing

European Commission proposal	eurelectric	
Article 11.§1 Right for customer to choose a dynamic pricing contract	Electricity Directive	✓
Article 2.§11 Dynamic pricing defined as a contract reflecting prices at the spot or day-ahead market	Electricity Directive	✗
Article 11.§1 Obligation for suppliers to offer dynamic pricing	Electricity Directive	✗

What is dynamic pricing in electricity supply?[1]

Dynamic pricing is a form of demand side response; it is an evolving **field of innovation in retail markets.** Dynamic pricing is made possible by the development of efficient wholesale markets and the availability of smart meter data**. Through dynamic pricing consumers can make use of their flexibility by consuming at different points in time. Dynamic pricing refers to retail electricity prices that pass through at least part of the wholesale price volatility to final consumers.** This can be achieved **not only through spot based/real time pricing** but also with **advanced forms of time-of-use and critical peak pricing**. Consumers can be interested in dynamic pricing if they are well informed and if the schemes are designed in an easy-to-use way to allow them to save on their bill. **To maximise the flexibility potential of consumers, appropriate retail pricing structures are needed to incentivize consumers' investment** in electric heating, cooling and transport as well as for their consumption decisions [see our fiche on "Retail pricing"].

Smart meters are a key enabler for dynamic pricing

Consumers should be able to ask for a dynamic pricing contract and to have a smart meter. **Smart meters are a key enabler for dynamic pricing.** Their functionalities should **allow the reliable reading of consumption in specific time intervals that match electricity markets intervals**. If metered individual consumption load curves based on smart meter readings are used, retail and wholesale markets can be better linked, thus allowing consumers to be more active and to value their flexibility. Nevertheless, we find that a clear **link between consumers' rights to smart meters and dynamic pricing should be introduced in the electricity Directive**.

Dynamic pricing should be market based – not an obligation on suppliers

Companies in the liberalised market shall have the freedom to design their offers for consumers. They should also have the freedom to decide whether and how to offer dynamic pricing contracts. Whilst retailers should be allowed to offer dynamic pricing options, they should be able to decide if and how to do so. **No retailer should be obliged to offer dynamic pricing to consumers**. Offering **dynamic pricing contracts is also interesting for retailers to manage their portfolio** as it gives them the **opportunity to reduce their hedging and sourcing costs**. **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 create **entry barriers for small suppliers**.

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[1] *See Dynamic pricing in electricity supply, EURELECTRIC 2017*

Key proposed amendments

Article 2.11

'dynamic electricity price contract' means 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**~~ **wholesale price volatility.** — Electricity Directive

Justification

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.

Article 11.1

Member States shall ensure that **there are no barriers for suppliers to offer** every final customer ~~**is entitled, on request, to**~~ a dynamic electricity price contract ~~**by his supplier**~~**.** — Electricity Directive

Justification

Member States should remove any barriers that would prevent suppliers dynamic electricity price offers. But imposing an obligation on some or all retail offerings contradicts various parts of the proposed directive, and could be detrimental to competition and innovation, as it could create entry barriers for small suppliers. Coherence with the broader framework that advocates for complete market liberalisation should be ensured and freedom of contract respected.

Energy Poverty

European Commission proposal	eurelectric	
Article 28 MS to define the concept of vulnerable customers which may refer to energy poverty and to the prohibition of disconnection of electricity to such customers in critical times	**Electricity Directive**	✓
Article 29 MS to define criteria to measure energy poverty MS to monitor number of households in energy poverty and report to the Commission every 2 years	**Electricity Directive**	✓
Article 5.2 MS to tackle energy poverty in a targeted manner by other means than intervention in price-setting	**Electricity Directive**	✓
Article 5.3 MS can maintain price regulation for energy poor or vulnerable consumers for 5 years after the entry into force of the Directive	**Electricity Directive**	✗
Article 7a.5 Requirement to tackle energy poverty in energy efficiency obligation schemes	**EED**	✗
Article 7b.2 Requirement to take energy poverty into account when designing alternative policy measures	**EED**	✓
Article 2a MS to contribute to the alleviation of energy poverty through their long term renovation strategy	**EPBD**	✓
Article 21 MS to monitor number of households in energy poverty and report to the Commission every 2 years	**Governance**	✓

National governments are in the best position to assess and address energy poverty

The European Commission rightly leaves it **up to Member States to define criteria and policies to combat energy poverty whilst strengthening their reporting obligations at EU level**. Indeed, Member States' situations differ greatly in terms of employment, social security systems, climatic conditions, electricity consumption, building stock, or energy retail prices. Tackling the issue should be done at the level where it is most efficient to do so, in line with the **subsidiarity and better regulation principles**.

Using social policy to tackle energy poverty is more efficient than regulating prices

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 in the long run it may increase energy costs for vulnerable and non-vulnerable consumers alike. Customers who have energy debts are likely to struggle paying for other essential services too (e.g. housing, food, etc.). Wider social policy is the best mechanism to help consumers tackle the root causes of debt, including energy debts.

Energy efficiency is key to alleviate energy poverty but financing through the bill isn't sustainable

If energy efficiency measures are financed through energy bills, then the costs are distributed among consumers regardless of their ability to pay. We must transition to using more progressive sources of funding such as (i) financial incentives including tax exemptions, (ii) EU funding programmes like Structural Funds or the European Fund for Strategic Investments, (iii) financing tools which leverage private investment, including tools such as Energy Performance contracts (EPC), Energy Saving Agreement (ESA) or on-bill repayment.

Key proposed amendments

Article 7a.5

Member States ~~**shall**~~ **may** include requirements with a social objective in the saving obligations they impose, for example by requiring a share of energy efficiency measures to be implemented as a priority in households affected by energy poverty or in social housing.

Energy Efficiency Directive

Justification

Given the constraints on resources across Member States, we agree that available assistance for energy efficiency should be focused on those most in need. However, supplier obligations are not the best way of funding and delivering energy efficiency measures because costs are distributed among customers regardless of their ability to pay. Leaving sufficient flexibility for Member States is also crucial, as national circumstances are diverse. With this amendment we suggest to revert to the existing EED wording.

Article 5.3

By way of derogation from paragraphs 1 and 2, Member States who apply public interventions in price setting for the supply of electricity for energy poor or vulnerable household customers at the date of entry into force of this Directive may continue to apply such public interventions during five years from the entry into force of this Directive, **provided they are financed through the public budget.**

Electricity Directive

Justification

In most cases where customers have energy debts, they are likely to struggle paying for other essential services too (e.g. housing, food, etc.). Wider social policy is the best mechanism to help consumers tackle the root causes of debt, including energy debts.

Support granted to people suffering from poverty should come from general income of the state, i.e. through general taxation. Considering the progressive nature of taxation, this would allow for a fair burden-sharing without causing those on lower incomes to bear a disproportionally higher burden (meaning when a contribution is levied on the bill, all customers pay the same).

Enhanced short term markets

European Commission proposal	eurelectric	
Article 9 The principle of price formation shall be based on supply and demand. Cautioned against intervention on price.	Electricity Regulation	✓
Article 10 There shall be no price cap unless it is set at the value of lost load (VoLL).	Electricity Regulation	≈
Article 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.	Electricity Regulation	✓
Article 7 By 01/01/2025, the ISP period shall be set to 15 minutes in all control areas.	Electricity Regulation	≈
Article 5 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.	Electricity Regulation	✓
Article 5.7 & 5.8 The dimensioning of reserve capacity and the amount of balancing capacity procurement shall be done on a regional level.	Electricity Regulation	≈
Annex 1 points 7.1 b, 8.1a and 8.2a Regional sizing of reserve capacity and capacity procurement to be performed only at the day-ahead and/or intraday timeframe.	Electricity Regulation	✗

Free formation of prices should reflect scarcity in terms of time and location

Barriers to free price formation should be removed, including price caps and floors. Where technical price limits are needed they should be harmonised. When energy markets are coupled, the technical price limit, if any, should be the same among all bidding zones and markets and across all timeframes. **A different technical price limit in coupled and strongly interconnected markets may generate unintended-effects.** While it is welcomed that Member States (MS) shall apply a pan-European methodology developed by ENTSO-E to determine the Value of Lost Load (VoLL), there should be no direct link between the VoLL of a country and the technical price limits of bidding zones, except to ensure that the technical price limit is not set below the VoLL.

Respecting real time value of energy is key

Balancing Responsible Parties 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. **Imbalance settlement prices should correctly reflect the real-time value of the energy**: price caps and floors should be removed for all timeframes (or at least aligned) and, as a target, marginal pricing should be established and accompanied by a pay-as-cleared principle for Balancing Service Providers' remuneration.

Imbalance Settlement Period: a level playing field for market parties and a better link between wholesale and retail markets

The proposal **to harmonise the Imbalance Settlement Period to 15min 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**, ISP harmonisation will trigger adaptation costs across the value chain** in Member States where smart meters for retail customers with a different metering interval have already been rolled out. Special attention should be placed on changes needed in metering, IT and commercial infrastructures. Therefore, **Member States should decide on a voluntary basis to apply the smart meter functionality defined in Art. 20** (g) of the Electricity Directive. (cf. dedicated fiche on smart meters).

Key proposed amendments

Article 9.1.

There shall be no maximum limit of the wholesale electricity price unless it is set at the value of lost load of each bidding zone as determined in accordance with Article 10. ***In strongly interconnected market, the level of the technical price limits should be the same among all bidding zones and markets to avoid market distortions.*** There shall be no minimum limit of the wholesale electricity price ~~***unless it is set at a value of minus 2000 € or less and, in the event that it is or anticipated to be reached, set at a lower value for the following day.***~~ This provision shall apply, inter alia, to bidding and clearing in all timeframes and include balancing energy and imbalance prices.

Electricity Regulation

Justification

Energy prices should reflect market fundamentals, including scarcity in terms of time and location. Barriers to free price formation, including price caps and floors, should be removed.

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

Electrification of transport

European Commission proposal	eurelectric	
Article 33 Ownership of recharging infrastructure	Electricity Directive	✓
Annex V Requirements for alternative measures	EED	✗
Article 8 Requirements on pre-equipment of parking spaces and the installation of EV recharging points in buildings	EPBD	✓
Article 25 Fuel supplier obligation, obligation transfer system and sub-target for advanced biofuels	RED II	✗

The use of electricity is a great opportunity for decarbonisation of transport. Indeed, **electric vehicles (EVs) do not emit CO2 or other pollutants at tailpipe**. Already today, as electricity is increasingly decarbonized, **EVs powered with the current European electricity mix "emit" 50% less CO2 than new internal combustion engine cars. Smart charging also allows for a lot of flexibility**, which limits the need to reinforce the electricity grid and helps integrate a higher share of intermittent renewable electricity into the system.

Towards a competitive market for electric vehicle charging infrastructure

EURELECTRIC agrees that the **ownership and operation of charging infrastructure is a market activity.** DSOs should be allowed to own, develop, manage or operate it for a limited time and under certain conditions. It should be clarified that DSOs can recover their costs, once their activity is phased out.

Energy savings in transport must be encouraged, not hampered

Transport represents an important area for energy efficiency. EURELECTRIC therefore welcomes the fact **that energy savings in transport can count towards the energy efficiency obligations**. EVs are 3 to 4 times more energy efficient than Internal Combustion Engine (ICE) vehicles. **The replacement of an ICE vehicle by an EV should be credited and recognized** even if the replacement takes place at the end of the lifetime of the vehicle. The provision of charging infrastructure is crucial for the uptake of electromobility and thus needs to continue to be credited against the obligation.

Recharging infrastructure is key for electricity vehicles market penetration/integration

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. **Pre-cabling or pre-tubing is a cost-effective measure to ensure easy installation of charging points** at a later point in time and should therefore be extended to non-residential buildings. **Every EV owner should have the right to install a charging point in a co-owned building**. Approval procedures have to be simplified accordingly.

Renewable electricity must be put at equal footing with other renewable transport fuels

The obligation to offer advanced biofuels should not apply to operators of electric vehicle charging infrastructure. As for other renewable transport fuels, renewable electricity used in all transport sectors should be counted towards the fuel supplier obligation. Furthermore, the calculation of renewable electricity needs to be streamlined.

Selection of key amendments

Annex V – Article 3h

the activities of the participating party, entrusted party or implementing public authority are ~~***shown to have caused***~~ ***demonstrably material to*** the achievement of the claimed savings

EED

Justification

Direct causality is better, as it might not always be possible to "show" the achievements. 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 impossible to show that the installation on one specific 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 achieved savings.

Article 8 (2)

Member States shall ensure that in all new non-residential buildings and in all existing non-residential buildings undergoing major renovation***, insofar as the renovation measures include the electric infrastructure or the car park*****,** with more than ten parking spaces, at least one of every ten is equipped with a recharging point within the meaning of Directive 2014/94/EU on the deployment of alternative fuels infrastructure, ***and*** which is capable of ~~***starting and stopping charging in reaction to price signals***~~ ***dynamically modulating the charging process in reaction to price or load signals.*** This requirement shall apply to all non-residential buildings, with more than ten parking spaces, as of 1 January 2025***, unless Member States show that this is not feasible. In any case, Member States shall ensure a « right to install a charging point » for tenants and co-owners. In all new non-residential buildings and in all existing non-residential buildings undergoing major renovation, insofar as the renovation measures include the electric infrastructure or the car park, with more than ten parking spaces, every parking space should be equipped with conduits allowing for the later installation of any standard normal power recharging point.***

EPBD

Justification

So-called smart charging is important for a reliable and cost-effective integration of electric vehicles with the electricity system. While Member States might need some flexibility for the equipment of existing non-residential buildings with recharging points, a "right to install a recharging point" can ensure that no citizen or company is prevented from switching to electrically propelled vehicles by the pure unavailability of a recharging point.

Article 25 (1)

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. ~~***Within this total share, the contribution of advanced biofuels and biogas produced from feedstock listed in part A of Annex IX shall be at least 0.5% of the transport fuels supplied for consumption or use on the market as of 1 January 2021, increasing up to at least 3.6% by 2030, following the trajectory set out in part C of Annex X.***~~

RES II

Justification

EURELECTRIC advocates for a technology neutral approach without sub-targets. In case the sub-target for advanced biofuels is kept, suppliers of electricity to the transport sector should be exempted from the obligation to offer advanced biofuels.

DSO Flexibility

European Commission proposal	eurelectric
Article 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.	Electricity Directive ✓
Article 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 5 to 10 years. It shall also demonstrate the use of demand response, energy efficiency, energy storage facilities or other resources that the DSO is using as an alternative to system expansion. The regulatory authority shall consult all current or potential system users on the network development plan.	Electricity Directive ✗

A welcoming step toward flexibility

EURELECTRIC **welcomes the initiative to propose a regulatory framework that allows and incentivises DSOs to procure flexibility services** which may complement or obviate the need to upgrade or replace electricity capacity and which support both the efficiency and secure operation of the distribution system. The EC should also recognise that DSOs may use flexibility not only produced from the market but, for example, accessed through network tariffs or connection agreements.

At the same time, we welcome the definition of standardised products by DSOs for the services procured. These services should be defined in a non-discriminatory, technology-neutral way, reflecting the needs of DSOs. We also **agree with the provision to foresee the adequate remuneration of DSOs for the procurement of flexibility services**.

Need to ensure market actors participation

We believe **the exchange of information between the DSO and market participants should be fostered to contribute to network development plans,** instead of imposing NRA-led consultation on all current or potential system users. The value of stakeholders' responses may be suboptimal considering that the network plan is a specific technical task of DSOs. Instead, DSOs should be encouraged to make information on capacity available to market participants. Where capacity is scarce, market parties should try to contract customers. This **can help DSOs to solve congestion management problems** using market-based solutions.

Network development plans need to stay in the hands of Member States

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. Yet, we do not agree with the 2-year cycle proposed for the submission of such plans. EURELECTRIC considers **it is up to the MS to decide on the period of time for network development plan submissions.**

Key proposed amendments

Article 32

1. Member States shall provide the necessary regulatory framework to allow and incentivise distribution system operators to procure ***and use*** services in order to improve efficiencies in the operation and development of the distribution system, including local congestion management. In particular, regulatory frameworks shall enable distribution system operators to procure ***and use*** services from resources such as distributed generation, demand response or storage and consider energy efficiency measures, which may supplant the need to upgrade or replace electricity capacity and which support the efficient and secure operation of the distribution system. Distribution system operators shall procure these services according to transparent, non-discriminatory and market based procedures.

Distribution system operators shall define standardised market products for the services procured ensuring effective participation of all market participants including renewable energy sources, demand response, and aggregators. Distribution system operators shall exchange all necessary information and coordinate with transmission system operators in order to ensure the optimal utilisation of resources, ensure the secure and efficient operation of the system and facilitate market development.

Electricity Directive

Distribution system operators 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.

2. The development of a distribution system shall be based on a transparent network development plan that distribution system operators shall submit ~~***every two years***~~ to the regulatory authority. The network development plan shall contain the planned investments for the next five to ten years, with particular emphasis on the main distribution infrastructure which is required in order to connect new generation capacity and new loads including re-charging points for electric vehicles. The network development plan 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. The regulatory authority shall publish the result of the consultation process on the proposed investments.***~~

…

Justification

It is up to the Members States to decide on the review cycle of the network development plan considering the circumstances of the existing distribution network infrastructure.
It is inappropriate to define a harmonised consultation process for DSOs' development plan at EU level given the large number of national specificities. The consultation should be defined by Member States and should not be mandatory.

Local Energy Communities

Articles 2.7 & 16 The text defines Local energy communities (LEC) Member States shall provide an enable regulatory framework for LECs	Electricity Directive

LECs too have responsibilities

EURELECTRIC believes 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 be able to **participate in the market in a fair way, but also cover costs they are responsible for in the electricity system. Network, policy costs, and levies charged on national energy consumers should be covered regardless of the nature of their network** (public, private or LEC). **Members of energy communities should also not be exempted from their responsibilities** towards the electricity system. We would also caution against the discrimination between LECs and other parties in the energy system. **Where LECs are already acting as DSOs for historical reasons, they should face the same responsibilities and obligations as other DSOs.**

Need to avoid duplication of network investments

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 grid by a LEC, or the transfer of ownership of the existing grid, should be closely examined to avoid an inefficient duplication of network investments.** Such costs would be effectively recovered from the existing customer base and lead to increase in consumer bills.

There is a need for clarification on a variety of issues

There are multiple questions arising from this proposal. A vague definition may suit different circumstances in Member States, however**, the ownership structure of LECs should be defined more clearly** given LECs may have significant impacts on incumbent distribution system operators in some Member States.

Further details on how LECs may be established remain unclear. What impacts will a LEC have on an existing distribution system, and what compensation mechanisms should apply to cover any potential asset transfers? Should there be asset transfers at all? And would a parallel network contradict the efficiency prerogative for networks?

Some proposals (art 16(h) and 16.2(g)) could be misinterpreted as that members of LECs **may not be subject to cost-reflective network charges and this 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 not receive exemption from taxes and levies which are paid by all other customers connected to public networks.

Finally, 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, in which case additional questions would arise.

Key proposed amendment

Article 2.7

7. 'local energy community' means: ~~an association, a cooperative, a partnership, a non-profit organisation or other legal entity which is effectively controlled by local shareholders or members, generally value rather than profit-driven, involved in distributed generation and in performing activities of a distribution system operator, supplier or aggregator at local level, including across borders~~ ***an SME or a not-for-profit organisation, the shareholders or members of which cooperate in the generation, distribution, storage or supply of energy at local level, including across borders, fulfilling at least four out of the following criteria:***

> ***(a) shareholders or members are natural persons, local authorities, including municipalities, or SMEs;***
> ***(b) at least 51% of the shareholders or members with voting rights of the entity are natural persons;***
> ***(c) at least 51% of the shares or participation rights of the entity are owned by local members, i.e. representatives of local public and local private socio-economic interests or citizen having a direct interest in the community activity and its impacts;***
> ***(d) at least 51% of the seats in the board of directors or managing bodies of the entity are reserved to local members, i.e. representatives of local public and local private socioeconomic interests or citizens having a direct interest in the community activity and its impacts;***
> ***(e) the community has not installed more than 5 MW of capacity for electricity, heating and cooling and transport as a yearly average in the previous 5 year.***

Electricity Directive

Justification

To provide clarity on ownership structures and size of such an enterprise, we suggest adopting an existing definition in the Renewable Energy Directive which provides guidelines and a clear framework for both community groups and other market stakeholders.

Article 16

1. Member States shall ensure that local energy communities:

[…]

(c) benefit from a non-discriminatory treatment with regard to their activities, rights and obligations as final customers, generators, distribution system operators, ***suppliers,*** or aggregators; […]

2. Member States shall provide an enabling regulatory framework that ensures that:

[…]

(b) ***system users***, shareholders, or members of a local energy community shall not lose their rights and obligations as household customers or active customers; […]

(e) ***Article 6 and the*** provisions of Chapter IV apply to local energy communities that perform activities of a distribution system operator;

Electricity Directive

Justification

For the sake of non-discrimination, a local energy community as defined in Article 2.7 must be subject to the same rights and obligations regarding the activities it performs as any other agent, including the supply of energy.

Network Access, Congestion Management & Bidding zones review

European Commission proposal	eurelectric	
Article 13 BZ borders shall be defined on the basis of long-term structural congestions in the transmission network so that BZs do not contain these congestions.	Electricity Regulation	✓
Article 13.4 The EC shall adopt a decision whether to amend or maintain the existing BZ configuration.	Electricity Regulation	≈
Article 14 General principles of capacity allocation and congestion management	Electricity Regulation	≈
Article 15 TSOs shall recalculate available cross-zonal capacity at least after day-ahead market coupling and after intraday cross-zonal gate closures times.	Electricity Regulation	✓

Capacity allocation and congestion management should be tackled in a more holistic manner

All available solutions to solve congestions should be assessed on an equal basis and based on an informed debate between all relevant stakeholders. **Bidding Zone configuration is just one of the available tools.** The impact on market efficiency and liquidity as well as on the long-term value of assets should therefore be considered with due care not to create undue uncertainty. **Market-based congestion management and higher-level of coordination between TSOs are other tools** to address network congestions efficiently, through coordinated re-dispatching and countertrading.

Decision on Bidding Zone configuration

The **decision of a Bidding Zone reconfiguration should be duly justified** given its strong implications on market liquidity and on the long-term value of existing assets. The proposal to **introduce a supranational decision-making process for BZ reconfiguration is welcome** as it takes into account cross-border impact of BZ configuration by removing the political sensitivities around such decision. Yet, this **supranational intervention should take place only if there is no agreement between the Member States** (and/or other relevant neighbours) on the capacity calculation region.

Coordinated, efficient, transparent and non-discriminatory congestion management procedures

An **efficient market-based dispatch system to deal with congestions should consider internal re-dispatching 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 re-computations and a fair allocation of re-dispatching costs. **To allow an effective implementation of such principles, it is indeed crucial to complement Art.14 with a provision on sharing of re-dispatching 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.

Efficient use and cost-efficient expansion of cross-border and internal transmission network

EURELECTRIC is in general supportive of increased transparency of TSOs' expenses aimed at increasing interconnection capacity and re-dispatch/countertrade when economically efficient to do so to ensure that the biggest bottlenecks are assessed. **Any revenues resulting from the allocation of interconnections shall be used for guaranteeing the actual availability of the allocated capacity and/or maintaining or increasing interconnection capacities** through network investments. However, if the revenues cannot be efficiently used for these purposes and if there is no foreseeable prospect to do so in the future, **congestion income might still be used for the reduction of tariffs**. We support that TSOs shall report on the actual use of the congestion income.

Key proposed amendments

Article 14 (new subparagraph)

The costs of remedial actions should be shared among TSOs based on the 'polluter-pays principle', where the unscheduled flows over the overloaded network elements should be identified as 'polluters' and they should contribute to the costs in proportion to their contribution to the overload.

Electricity Regulation

Justification

The principles included in Art. 14 of the Electricity Regulation on re-dispatching and countertrading cost sharing methodologies are welcome. They reflect the recent ACER Recommendation on the common capacity calculation. 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. However, to allow an effective implementation of such principles, it is crucial to complement this paragraph with a provision on sharing of re-dispatching 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".

Article 13.4

The TSOs participating in the BZ review shall submit a proposal to the Commission ***and Member States of the Capacity Calculation Region*** regarding whether to amend or maintain the bidding zone configuration. Based on that proposal***, where there is no agreement between Member States and/or Member State neighbours in the Capacity Calculation Region,*** the Commission shall adopt a decision whether to amend or maintain the bidding zone configuration, ***by clearly showing the issues at stake together with an assessment of all available solutions on an equal basis,*** [no later than 6 months after entry into force of this Regulation, specific date to be inserted by OP] or by six months after the conclusion of the bidding zone configuration launched in accordance with points (a), (b) or (c) of Article 32(1) of Regulation (EU) 2015/1222, whichever comes later.

Electricity Regulation

Justification

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. The proposal to introduce a *supranational decision-making process 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. EURELECTRIC also considers that measures other than BZ delineation - such as increased counter-trading, cross-border re-dispatch and investments - should be included in the conclusions as options to be considered alongside the BZ review. This could also be further discussed whether an intervention from ACER instead of the European Commission would be more adequate given its scope of competence.*

Network Charges & Use of Congestion Income

European Commission proposal	eurelectric	
Article 16 Network charges shall be transparent, cost-reflective, applied in a non-discriminatory manner and take into account the need for network security and flexibility.	Electricity Regulation	✓
Article 16.2-8 NRAs shall introduce performance targets over both the short and long term to incentivise DSOs to increase the level of efficiency, foster market integration and security of supply and support investments and the related research activities	Electricity Regulation	✓
Article 16.9 By 3 months, ACER shall provide a recommendation addressed to NRAs on the progressive convergence of transmission and distribution tariff methodologies	Electricity Regulation	≈
Article 55 EC is empowered to adopt network codes as delegated acts on rules regarding harmonised transmission and distribution tariffs.	Electricity Regulation	≈
Article 17.2-3 If the congestion income cannot be efficiently used by TSOs for the purposes set out, they shall be placed on an internal account line for future use.	Electricity Regulation	≈

Distribution tariffs should be cost reflective, transparent and non-discriminatory

We share the European Commission's views that **distribution network tariffs shall reflect the network's fixed and variable costs**, be **allocated in a fair way** and **grant appropriate incentives for an efficient use of the grid** to all users and that the application of such tariffs may be differentiated based on users' consumption profiles. Grid charges should be borne by all users that contribute to raise network costs in a fair manner, in order not to create consumer divide.

Using grid tariffs to minimise distortions

Transmission and distribution grid tariffs must above all provide a **level-playing field and seek to minimise distortions** on the development of the energy system. Grid tariffs should also **not include unrelated costs supporting other policy objectives** as this would distort production, consumption and investment decisions. Such taxes and levies should not be scattered across the tariff components and be charged/collected via clearly defined and separate mechanisms in order to provide transparency to both markets and consumers.

Welcoming ACER's assessment of the need for progressive convergence of transmission and distribution tariff structures

We agree with the fact 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 by means of high-level principles in order to allow NRAs to account for specific national conditions. However, it seems **unrealistic to foresee only 3 months for ACER** to issue such recommendation based on sufficient stakeholders' involvement.

Transmission tariffs structure shall be harmonised to ensure a level-playing field

EURELECTRIC welcomes the development of a network code on transmission tariffs, should ACER Recommendation conclude that it is necessary. The **harmonisation of the structure and ultimately the level of transmission tariffs are indeed needed to ensure a level-playing field**. For transmission tariffs applied to **generators**, their **level** should be set **as low as possible.**

Respecting subsidiarity for distribution tariffs is the best way to respond to national specificities

Distribution tariffs are a matter of national regulation as they are closely linked to local specificities. An **EU-wide harmonisation approach to distribution tariffs** via a network code 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 believe that distribution tariff structure should be guided by the high level principles defined in Art. 16. In this sense ACER recommendation could be useful to provide high level guidance to NRAs, while respecting the principle of subsidiarity.

Enabling DSOs to procure flexibility and develop innovative solutions incentivizing an efficient and high-quality service

We **welcome** the fact **that NRAs shall incentivise DSOs, through grid tariffs to increase the level of efficiency** (including reduction of losses) in their networks, foster market integration and security of supply, and support investments and the related research activities. However, these **incentives should be included also in the DSO remuneration schemes that are often disconnected from the grid tariffs**. In fact, most remuneration schemes in Europe already include such incentives. Therefore, it is not necessary to require regulatory authorities to introduce performance targets to raise efficiencies. NRAs should be flexible in choosing the regulatory tools to increase the DSOs' efficiencies and incorporate them within their overall regulatory approach.

A more transparent use of congestion rent by TSOs is welcome

We welcome that any revenues resulting from the allocation of interconnections shall be used for guaranteeing the actual availability of the allocated capacity and/or maintaining or increasing interconnection capacities through network investments. Furthermore, **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 it should still be possible to use **congestion income for the reduction of tariffs.**

Key proposed amendments

Article 16.1

1. Charges applied by network operators for access to networks, including charges for connection to the networks, charges for use of networks, and, where applicable, charges for related network reinforcements, shall be transparent, take into account the need for network security and flexibility and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non-discriminatory manner. ***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.***

Electricity Regulation

Justification

Those principles should be complemented by the following key missing element: 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 charged/collected via clearly defined and separate mechanisms in order to provide transparency to both markets and consumers.

Article 16.3

3. ***Grid tariffs shall not be distance related and shall not provide locational signal. Only connection charges may be distance related in order to be cost-reflective and give locational signals.*** ~~***Where appropriate, the level of the tariffs applied to producers and/or consumers shall provide locational signals at Union level, and take into account the amount of network losses and congestion caused, and investment costs for infrastructure.***~~

Electricity Regulation

Justification

Grid tariffs shall not be distance related and provide locational signals since the distance of a consumer from the network is not a cost driver for the operation of the network. Only connection charges, in order to be cost-reflective and give locational signals, may be distance related.

Article 16.8

Regulatory authorities shall provide incentives to distribution system operators to procure ***and develop*** services for the operation and development of their networks and integrate innovative solutions in the distribution systems. For that purpose regulatory authorities shall recognise as eligible and include all relevant costs in distribution tariffs. ***These include, among others, Research and Development, pilot project implementation and the launch of new technologies, as well as service contracts that network operators award for the operation and development of their networks. The Regulatory authorities may*** introduce performance targets in order to incentivise distribution system operators to raise efficiencies, including energy efficiency, in their networks. ***The fundamental goal of innovative solutions is to improve efficiencies and quality of service. In the development phase of innovation, on the other hand, no cost efficiency requirements should apply.***

Electricity Regulation

Justification

The Commission's recognition of the innovation needs in the distribution networks in art. 16 (8) is welcome. To ensure that DSOs are able to cover the costs for innovation, such proposal should be complemented by an explanation of what it is meant by "relevant costs" incurred by DSOs to achieve those principles. NRAs should incentivise DSOs to raise efficiencies. Yet, NRAs should be flexible in choosing their regulatory tools as performance targets are only one possibility of many. In fact, most European NRAs already apply regulatory tools with the aim to raise efficiencies. The introduction of the last caption is based on the ground that regulators should acknowledge that innovative grids will necessarily invest in OPEX and CAPEX and that new technologies may not always be successful and fail. A regulation that burdens the risk of failure only on DSOs causes DSOs to avoid the risk of innovation. Therefore it is justified to share the risk of innovation, because in the end DSOs will also share the benefits of innovation with the customers.

Article 16.9

By [OP: please add specific date – ***twelve*** months after entry into force] ***and following stakeholder consultation,*** the Agency shall provide a ***non-binding*** recommendation addressed to regulatory authorities on the progressive convergence of transmission and distribution tariff methodologies.

Electricity Regulation

Justification

ACER should provide, respecting the principle of subsidiarity, a non-binding recommendation assessing the need for progressive convergence of transmission and distribution tariff structures. Such recommendation should provide guidance to NRAs to implement 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.

Article 17.2

Any revenues resulting from the allocation of interconnection capacity shall be used for the following purposes:

(a) guaranteeing the actual availability of the allocated capacity;

(b) and/or (b) maintaining or increasing interconnection capacities through network investments, in particular in new interconnectors***, or remedial actions such as cross-border or internal redispatching and countertrading***.

If the revenues cannot be efficiently used for the purposes set out in points (a) and/or (b) of the first subparagraph ***in the foreseeable future***, they ~~***shall be placed on a separate internal account line for future use on these purposes***~~ ***may be used for the reduction of tariffs.***

Electricity Regulation

Justification

Any revenues resulting from the allocation of interconnections shall be used for guaranteeing the actual availability of the allocated capacity and/or maintaining or increasing interconnection capacities through network investments. It should however be recognised that maintaining interconnection capacities can also be ensured through redispatching and countertrading. Furthermore, 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, congestion income may still be used for the reduction of tariffs. We support that TSOs shall report on the actual use of the congestion income.

Article 55.1

(k) rules regarding harmonised transmission ~~***and distribution***~~ tariff structures and connection charges including locational signals and inter-transmission system operator compensation rules; and

Electricity Regulation

Justification

Distribution tariffs are a matter of national regulation and as such they should not be subject for a network code.

RES market integration

European Commission proposal	eurelectric	
Article 4 All market participants shall be financially responsible for imbalances but there are exemptions	Electricity Regulation	≈
Article 11 Priority of dispatch for all generation should be market-based and non-discriminatory but there are exemptions	Electricity Regulation	≈
Article 12 Res-dispatching and curtailment on the basis of market mechanism and financially compensated	Electricity Regulation	≈

The package improves visibility for RES investors and RES market integration

EURELECTRIC supports the ambition to provide **better visibility to investors in renewable energy sources (RES)** while aiming at their further integration into the electricity market. The Clean Energy Package clearly underpins **market integration and the removal of several regulatory interventions which distort the functioning of the European energy market**.

Balance responsibility for all, market-based dispatch and curtailment

EURELECTRIC shares the overarching principles included in the proposal that all network users should name a balance responsible party and all **market participants shall be responsible for their imbalances.**

We support market-based and non-discriminatory dispatching and re-dispatching of all generation facilities and demand response.

EURELECTRIC also believes that there is **no need to incentivise the development of new exemptions from balancing responsibility or new priority of dispatch provisions** based on the size of the projects or the type of technologies.

New rules for RES should not apply to existing assets

In order not to damage the investment environment in the sector, **the existing exemptions should be kept. In addition, the existing market rules for dispatching and balancing should prevail until the implementation of the new market design.** We support that **generation facilities currently exempted from balancing responsibilities or that were granted priority of dispatch/access may require compensation to accept new roles in the electricity market**. EURELECTRIC encourages the development of these incentive schemes, where market participants may voluntarily accept new responsibilities.

Proposed amendments

Article 4. "Balancing Responsibility"

2. Member States ~~*may*~~ ***shall*** provide for derogation from balance responsibility ***to*** ~~**in respect of:**~~

~~***(a) demonstration projects;***~~

~~***(b) generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 500 kW;***~~

~~***(c)***~~ installations benefitting from support approved by the Commission under Union State aid rules pursuant to Articles 107 to 109 TFEU, and commissioned prior to [OP: entry into force]. Member States may, subject to Union state aid rules, incentivize market participants which are fully or partly exempted from balancing responsibility to accept full balancing responsibility against appropriate compensation.

~~***3. From 1 January 2026, point (b) of paragraph 2 shall apply only to generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 250 kW***~~**.**

Electricity Regulation

Justification

While keeping existing exemptions, there should be no new or additional exemption from balancing responsibility.

Article 11 "Priority of dispatch"

~~**2. When dispatching electricity generating installations, transmission system operators shall give priority to generating installations using renewable energy sources or high-efficiency cogeneration from small generating installations or generating installations using emerging technologies to the following extent:**~~

~~**(a) generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 500 kW; or**~~

~~**(b) demonstration projects for innovative technologies.**~~.

Electricity Regulation

Justification

Market-based dispatching of all generation and demand response shall be the rule. However, in order not to damage the investment environment in the sector, EURELECTRIC welcomes Article 11.4 where existing exemptions (including those granted by contractual terms) are kept, and should include cases where generation installations are subject to significant modifications although without extending the time horizon of the existing exemptions. Nevertheless, a mechanisms may be developed where market participants accept opt out of priority dispatch against appropriate compensation.

Article 12 "Re-dispatching and curtailment"

6. Where non-market based curtailment or redispatching is (…) Financial compensation shall at least be equal to (…)

(a) additional operating costs (…)

(b): ~~***90% of***~~ the net revenues (…) the generating or demand facility would have generated without the curtailment

Electricity Regulation

Justification

Redispatch and curtailment management shall only be based on market mechanisms Non-market curtailment should be an exception. In non-market 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. Such compensation mechanism should however avoid the risk of manipulation or counter-productive incentives.

Adequacy Assessment

European Commission proposal	eurelectric	
Article 18.1 Member States shall monitor resource adequacy within their territory based on the European adequacy assessment	Electricity Regulation	✗
Article 18.2 and 18.3 Identification of the source of the adequacy concerns by MS and removing regulatory distortions	Electricity Regulation	✓
Article 19 The European adequacy assessment methodology shall be publicly consulted and approved by ACER	Electricity Regulation	≈
Article 20 **When applying CMs**, MS shall have a reliability standard in place indicating their desired level of security of supply	Electricity Regulation	≈
Article 23.5 Where the European resource adequacy assessment has not identified a concern, MS shall not introduce CMs	Electricity Regulation	✗

A European adequacy assessment to complement regional and national assessments

A move towards a regional & European approach to security of supply is welcome. The **European resource adequacy assessment 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. **This assessment shall be factored in** but shall however **not be considered as the only binding factor** for Member States to introduce security of supply measures. **Different geographical scopes** (European, regional, national) **and granularities should be considered** by Member States as they are liable for security of supply. **Consistency in terms of methodology and assumptions between the assessments should be ensured.**

To address security of supply concerns, improving market functioning is a no-regret option

Member States should identify the source of their adequacy concerns. **Improving markets' functioning and removing distortions will positively contribute to adequacy and security of supply**. Nevertheless, it should be acknowledged that **adequacy issues can also arise when energy wholesale markets are well-functioning.**

Stakeholders' involvement in the European adequacy assessment is key

We **support the fact that ENTSO-E is developing an improved European methodology building upon their experience on the mid-term adequacy forecast**. **All relevant stakeholders**, including market parties, member states, NRAs, system operators, should be involved and consulted on the methodology, assumptions and results. Most importantly, the inclusions of sensitivities linked to the demand and the supply side is welcome.

All Members States should define transparent reliability standards

All Member States should define and publicly disclose their desired reliability standard based on harmonised metrics, so as to ensure comparability. A pan-European methodology to determine the VoLL in each country is welcome although subsidiarity to set its level should be ensured.

Proposed amendments

Article 18.1

Electricity Regulation

Member States shall monitor resource adequacy within their territory based on ~~***the European resource adequacy assessment pursuant to Article 19***~~ ***a combination of different levels of resource adequacy assessments: European pursuant to Article 19, regional and national following the same methodology and assumptions.***

Article 23.5

Electricity Regulation

Should the outcome of a national resource adequacy assessment substantially differ from the European one, Member States shall explain these differences before~~. Where the European resource adequacy assessment has not identified a resource adequacy concern, Member States shall not~~ apply***ing*** capacity mechanisms.

Justification

Should the outcome of a national adequacy assessment substantially differ from the European one, Member States shall explain these differences.

Article 20.1

Electricity Regulation

~~***When applying capacity mechanisms***~~ Member States shall have a reliability standard in place indicating their desired level of security of supply in a transparent manner.

Justification

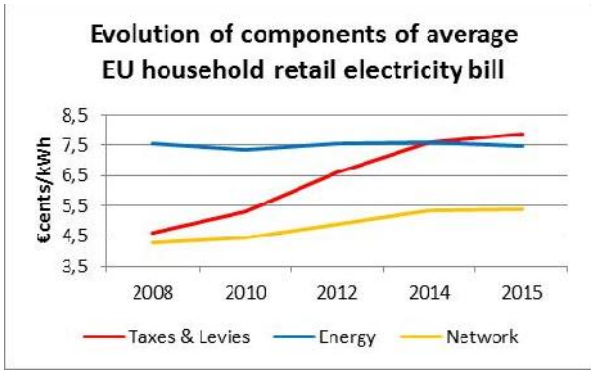
All Member States should define and publicly disclose their desired level of SoS target based on harmonised metrics - and not only the Member States that apply capacity mechanisms. While the choice of adequacy metrics should be harmonised, each country should be free to set its desired level of adequacy.

Electricity retail pricing

Commission's study on cost & prices (Staff Working Document)	✓
Electricity Directive	✗

The Commission acknowledges that taxes and levies drive retail prices up

The Commission's study on cost & prices recognizes 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 Europe. Today, the weight of the taxes and levies' component equates the energy and supply component on the bill of a residential consumer. Yet, the package does not offer any tangible solution to address this crucial problem. **It is urgent to encourage Member States to make taxes and levies less of a burden on the final electricity bill**.



Source: Eurelectric (2014)

Volumetric *vs* Fixed: the way regulated costs are charged to consumers can be discriminatory

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**" and unrelated to consumption.

These two issues have significant consequences on retail prices for consumers

If these issues are not tackled, retail prices will continue to rise and **aggravate energy poverty**. The fact that consumers in most European countries pay regulated charges mainly based on their consumption, (€/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 invest in self-consumption or energy efficiency solutions. This **creates incentives to switch to other forms of energy at the expense of electricity, which is increasingly decarbonized.**

What are the solutions?

Addressing these regulatory inefficiencies is a prerequisite for a cost-efficient decarbonisation of the power sector. This should become a priority of the EU energy policy reform. Member states shall **bring down the share of policy support costs in the electricity bill and finance decarbonisation in a less distortive way. The introduction of tax credits or spreading the costs over other energy carriers could be ways forward.**

Proposed amendments

Proposal for a new article

Member States shall ensure that electricity prices do not hamper cost-efficient decarbonisation and may enable that network charges and policy support costs evolve along the following principles in order to enhance demand side flexibility, while improving the system's efficiency:

a) A set of tariff structures with different shares of standing charges (€/client) capacity-based (kW) and energy-based (kWh) components may be defined by the NRA based on consumers contracted and absorbed capacity and consumption level and patterns.
b) These regulated charges may be conveyed by retailers to their customers with flat or more time-differentiated options
c) Policy costs and levies may be recovered through other means than the electricity price

Electricity Directive

Justification

Regulated costs must be charged 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 may 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.*
- *Different levels of granularity for regulated charges: these regulated charges may be conveyed with flat or more time-differentiated options, depending on consumers' choice.*

Article 16.1

Charges applied by network operators for access to networks, including charges for connection to the networks, charges for use of networks, and, where applicable, charges for related network reinforcements, shall be transparent, take into account the need for network security and flexibility and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non-discriminatory manner. **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.**

Electricity Regulation

Justification

Those principles should be complemented by the following key missing element: 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 charged/collected via clearly defined and separate mechanisms in order to provide transparency to both markets and consumers.

Smart Meters

European Commission proposal	eurelectric
Rec. 31, 40, 42, 43 – Art. 2(18-19), 19 - 21 – Annex III Minimum functionalities for MS rolling-out smart meters	Electricity Directive ✓
Article 2.20 & 20(a) Information on actual time of use shall be made easily available and easy to understand to final customers at no additional cost and at "near real time" (i.e. "usually down to seconds")	Electricity Directive ✗
Article 20(b) Smart meters and data communication should comply with relevant EU security to ensure the highest level of cybersecurity protection.	Electricity Directive ✓
Article 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.	Electricity Directive ✗
Article 21 In case of selective rolls out customers should be informed about benefits and costs. The installation should be completed no later than 3 months after the customer's request.	Electricity Directive ≈

Smart meters will allow consumer empowerment, but roll out should be cost-efficient

Where the national Cost Benefit Analysis is positive, smart meters installation will further improve efficiency, quality of service, dynamic pricing offers and other services. The proposal implies that MS having rolled-out smart meters that do not comply with the outlined functionalities 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**.

Thus, 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.** 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 these services.

Apply the Imbalance Settlement Period functionality to smart meters only if cost efficient

The **costs incurred in countries that have already rolled out smart meters and adjacent settlement systems need to be considered**. In particular, the provision enabling '**customers to be metered** and **settled at the same time resolution as the imbalance period in the national market'** 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 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**.

Cyber security is a major issue, and costs need to be taken into account

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**.

Conditions for consumers' entitlement to smart meters

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 the technical and economic feasibility at the moment of installation**. 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 to get smart meters installed after the customer's request is rather short**.

Key proposed amendments

Article 2

20. ~~***'near-real time' means, in the context of smart metering, the time, usually down to seconds, that elapses between data recording and their automated processing and transmission for use or information purposes;***~~

Electricity Directive

Justification

The specification of the resolution "down to second " is considered excessive.

Article 20.2

(a) the metering systems accurately measure actual electricity consumption and provide to final customers information on actual time of use. That information shall be made easily available ~~**and visualised**~~ to final customers ~~***at no additional cost and at near real time***~~ in order to support automated energy efficiency programmes, demand response and other services;

(b) 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 ***taking into consideration the customers interest for a constant level of protection and the costs of the upgrades involved;***

Electricity Directive

(…)

(g) smart metering systems ~~***shall***~~ ***may*** enable final customers to be metered and settled at the same time resolution as the imbalance period in the national market.

Justification

a) *Deletion of specification "near real time" as shortening the time period to get data (raw and validated) cannot be provided without any additional costs and will inevitably make the cost benefit analysis negative. Furthermore, since some member states already began the smart-meter roll-out, technical requirements should not cause a readjustment of already developed technology.*

Also mandating this functionality as mandatory will negatively impact the development of energy services (at no additional costs).

b) *It will be almost technically impossible and expensive to maintain the security of the system at the highest level of cyber security protection throughout the entire system life time: this would mean in practice a continuous update of the software.*

g) *Addition proposed to avoid inefficient cost and related communication upgrades which are inefficient for certain type of customers*

Article 21

Electricity Directive

(b) ensure that it is installed within a reasonable time ~~***and no later than three months***~~ inside the roll-out planning after the customer's request;

Justification

Deletion of a strict timeline "no later than three months" as not feasible in cases where smart meter deployment is selective and on request.

Regional Operational Centers (ROC)

European Commission proposals	eurelectric	
Article 32 All TSOs shall establish ROCs to establish operational arrangements for system operation functions of regional relevance.	Electricity Regulation	✓
Article 33 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.	Electricity Regulation	≈
Article 34 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.	Electricity Regulation	≈
Articles 35-39 The day-to-day operation of the ROCs and procedure for adoption and revision of binding decisions and recommendations shall be managed through cooperative decision-making.	Electricity Regulation	≈
Article 5.7 & 5.8 The dimensioning of reserve capacity and the amount of balancing capacity procurement shall be done on a regional level.	Electricity Regulation	≈
Annex 1 points 7.1 b, 8.1a and 8.2a Regional sizing of reserve capacity and capacity procurement to be performed only at the day-ahead and/or intraday timeframe.	Electricity Regulation	✗

Current framework is insufficient to ensure regional welfare optimisation

With wholesale markets getting increasingly interconnected and coupled, **a regional approach to system operation** (i.e. an approach where the goal is to maximise regional welfare) **is one of the prerequisites to build the IEM. Achieving an integrated energy market indeed depends on the ability to maximise the cross-border transmission capacity released to the markets** in order to ensure an efficient dispatch of units across Europe. Today, **cross-border capacity limitations are used as a non- costly way to deal preventively with potential congestions.** As a consequence, maximum social welfare is not captured.

Such regional approach to system operation should build upon and expand on the existing TSO coordination initiatives (Regional Security Coordination Initiatives) **and network code implementation**, which will already contribute when fully implemented to significantly increase regional TSO cooperation. These are **no regret solutions and shall form a basis to move towards a regional approach to system operation. However, some system operation tasks could benefit from more coordination at regional level, in particular:**

- Coordination of capacity calculation;
- Coordination of security analysis/adequacy assessments;
- Planning and coordination of network investment decisions;
- Coordination of risk preparedness plans.

Indeed, the framework (network codes + RSCs) to be implemented still foresees iterative processes where RSCs only have an advisory role and where the guarantee to optimise the regional welfare is not ensured. Keeping network access tasks at national level with some level of regional coordination is

not sufficient. An example of such inefficiencies is the speed of the capacity calculation processes: modelling the network jointly would avoid long iterative processes between TSOs and RSCs.

The ROC proposal is a good framework to implement this regional approach to system operation

All IEM stakeholders share the goals of an efficient and safely operated power system and want to find the relevant system operation framework to achieve them. EURELECTRIC is not dogmatic about the ROC proposal and open to a constructive dialogue: we believe that the EC proposal on ROC is **is one way to implement the regional approach to system operation we are promoting and is overall a good framework for discussion.** To make the ROC efficient, 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**. A **step-wise allocation of the responsibility to regional entities is also needed**.

How to improve the Commission's proposal?

First, enhanced regional cooperation at regulatory level (MS, NRAs) is a 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 particular in the ACER Regulation.

Second, real progress is conditional to the SoS and quality of service liability being moved from national to the regional level to allay the concerns of TSOs with regard to their responsibilities and liabilities.

Last but not least, **the proposals require clarifications 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. Stakeholder engagement should be ensured on this.

ROCs and national TSOs, a cooperative decision-making

As under the current proposal, 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).

Yet, **should a TSO decide to deviate or not implement a ROC's decision or recommendation, full transparency and reporting on this choice shall be ensured**.

Where regional balancing capacity procurement is in place, cross border capacity allocation must be the outcome of the markets.

A move towards regional procurement and dimensioning of balancing reserve capacity by ROCs is welcome to allow the system to grasp the potential economic benefits of exchanging balancing reserves. However, for this benefit to materialise, reservation of cross-border transmission capacity is necessary. EURELECTRIC is opposed to the possibility for TSOs to reserve cross-border transmission capacity for balancing purposes. **Regional procurement of balancing reserves should therefore be done only when proven to be cost-efficient and when it does not require reservation by TSOs of cross-border transmission capacity**. Furthermore, performing those tasks only at the day-ahead and intra-day time frame is too ambitious given current practices. **Procurement on multiple auctions with various lead times seems to be the most relevant design** (cf. art. Article 5.7 & 5.8)

Key proposed amendments

Article 38.2

Regional operational centres shall adopt binding decisions addressed to the transmission system operators in respect of the functions referred to in points (a), (b), (g) and (q) of Article 34(1). Transmission system operators shall implement the binding decisions issued by the regional operational centres except in cases when the safety of the system will be negatively affected. ***Should this be the case, the involved TSO(s) shall systematically report on the motivations for this decision and the alternative measure. This report shall be publicly disclosed no later than one week after declining the recommendation. Every 6 months, TSOs shall publish a comprehensive report presenting all cases where recommendations of the ROC where not applied, and detailing proposals for improving the procedures of the ROC.***

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Justification

While we support the fact that TSOs may derogate from ROC recommendation/binding decision in cases when the safety of the system will be negatively affected, full transparency and reporting on this choice shall be ensured. Such justification is already foreseen under Art. 39.4 in the case of the revision of a recommendation that is not followed by a TSO.

Article 43.2

Regional operational centres shall submit to the Agency and to the regulatory authorities of the system operation region the data resulting from their continuous monitoring at least annually. ***Upon request of the Agency or any of the regulatory authorities of the system operation region, the regional operational centres shall submit a report of the outcomes of binding decisions. Regional operational centres shall submit a report to the Agency and the regulatory authorities of the system operation region whenever a binding decision negatively affected system security.***

Electricity Regulation

Justification

While we support the fact that TSOs may derogate from ROC recommendation/binding decision in cases when the safety of the system will be negatively affected, full transparency and reporting on this choice shall be ensured towards the market and the NRAs.

Annex 1 7.1.b

Regional operational centres shall determine the reserve capacity requirements for the system operation region. The determination of reserve capacity requirements shall:

a) pursue the general objective to maintain operational security in the most cost effective manner;
~~***b) be performed at the day-ahead and/or intraday timeframe;***~~
c) determine the overall amount of required reserve capacity for the system operation region;
d) define minimum reserve capacity requirements for each type of reserve capacity;
e) take into account possible substitutions between different types of reserve capacity with the aim to minimise the costs of procurement;
f) set out the necessary requirements for the geographical distribution

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of required reserve capacity, if any.

Justification

Performing sizing of balancing capacity reserves only at the day-ahead and intra-day time frame is too ambitious given current practices and should rather be performed on various lead times.

Annex 1 8.1

Regional operational centres shall support the transmission system operators of the system operation region in determining the amount of balancing capacity that needs to be procured. The determination of the amount of balancing capacity shall:

a) be performed ***according to the rules as referred in Art. 32, 33 and 34 of the Electricity Balancing Guideline*** ~~***at the day-ahead and/or intraday timeframe;***~~

b) take into account possible substitutions between different types of reserve capacity with the aim to minimise the costs of procurement;

c) take into account the volumes of required reserve capacity that are expected to be provided by balancing energy bids, which are not submitted based on a contract for balancing capacity.

d) ***Be performed in a way ensuring that cross-border capacity allocation is always the result of a market based process.***

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Annex 1 8.2

Regional operational centres shall support the transmission system operators of the system operation region in procuring the required amount of balancing capacity determined in accordance with point 8.1. **The procurement of balancing capacity shall:**

~~***a)***~~ be performed ***according to the rules as referred in Art. 32, 33, 34 of the Electricity Balancing Guideline*** ~~***at the day-ahead and/or intraday timeframe;***~~

b) take into account possible substitutions between different types of reserve capacity with the aim to minimise the costs of procurement.

c) Be performed in a way ensuring that cross-border capacity allocation is always the result of a market based process.

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Justification

Where economically relevant, a move towards regional balancing capacity procurement is welcome to allow the system to grasp the potential economic benefits of exchanging balancing reserves. Performing regional balancing capacity procurement only at the day-ahead and intra-day time frame is too ambitious given current practices. Those tasks should be performed according to the rules already defined in Electricity Balancing guideline.

In addition, where regional balancing capacity procurement is in place, cross border capacity allocation must be the outcome of the markets and should not involve reservation of cross-border transmission capacity by TSOs.