

# European Commission's legislative proposal on ACER Regulation

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A EURELECTRIC position paper

April 2017

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## KEY MESSAGES

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