

Public consultation on the planned Commission Decision setting the ACER REMIT fees

A Eurelectric response paper

August 2020

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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Eurelectric contribution to the public consultation on the Commission Decision setting the fees due to the Agency for the Cooperation of Energy Regulators for collecting, handling, processing and analysing of information reported under Regulation (EU) No 1227/2011 of 25 October 2011 on wholesale energy market integrity and transparency

Outline of the planned fee scheme with indicative questions to stakeholders

Comment regarding “4.1. General principles”

Eurelectric welcomes the general principles for the REMIT fee scheme that these fees should:

- be proportionate to the costs of the relevant services as provided in a cost-effective way;
- be non-discriminatory; and
- avoid placing an undue financial or administrative burden on market participants or entities acting on their behalf.

In this context it is very important to find the right balance between these principles.

Furthermore, in the view of market participants it is very important to also ensure that the fee scheme is transparent and verifiable for them. Thus, market participants need to be able to verify the reported messages sent to ACER by the respective RRM as well as to reproduce the corresponding REMIT fees (possibly being charged by the RRM) attached to them. Furthermore, market participants expect that specific services are also offered for them including reconciliation and post-trade transparency services.

Answer to question related to “4.2. How to define the overall amount to be covered by REMIT fees each year?”

Questions for consultation: *Do you agree with the methodology proposed for defining the overall amount to be covered by REMIT fees each year? If not, what alternative methodology would you propose? Please provide explanations.*

In general, we agree with the proposed methodology for defining the overall amount to be covered by REMIT fees for each year. Certainly, we expect that the scope of the proposed budget must be in line with the respective provisions of the ACER Regulation with regard to collecting, handling, processing and analysing reported information. We also agree that the basis for the calculation of the total annual REMIT fees in a particular year shall be the estimate of REMIT-related expenditures as included in ACER's budget for that year (as set out in the Programming Document). We certainly expect that the fees will be subject to budgetary control in line with common EU principles.

Furthermore, it is important, that there is a correction mechanism to avoid potential over- and under-budgeting, as mentioned in the Commission's proposal.

On the specific budget proposal, we would still like to ask for a more detailed explanation how the estimated € 8.8 million are derived. In this context it may be worthwhile to also consider the changes that will occur due to the potential “no-deal Brexit” at the end of the transitional period.

Furthermore, we would like to see a specific description of the scope of activities that is planned to be covered by the REMIT fees, as we think that some of the respective ACER activities should still be covered by EU budget and not via fees. This is, because in respect to the proportionality principle, we believe that certain activities are for the benefit of the entire market and are not constrained to the benefit of RRM and reporting market participants.

Lastly, the fees will also contribute to improving the ARIS functionalities. As an example, RPMs and MPs should be given the possibility to verify and monitor the transactions reported to the ACER as well as the details of the invoicing of REMIT fees.

Answer to question related to “4.3. Who should pay REMIT fees be calculated?”

Questions for consultation: *Do you agree that reporting parties registered with ACER should be charged with paying the fees? If not, from whom and how should the fees be collected?*

We agree that the fees should be charged to and collected from the RRM(s) which are directly registered with ACER, as these are the entities to submit data to ACER and have a direct contractual relationship with ACER. The collection of REMIT fees by ACER directly from the more than currently registered 10,000 market participants would not be a cost-effective solution and would significantly increase the implementation costs of the REMIT fee scheme.

As set out in the general principles (Article 4.1.) it is important that the implementation is easy and simple. Furthermore, for market participants it is key that they have the possibility to verify the final costs they may be charged via their RRM(s). Since only ACER can calculate due amounts to be paid by RRM(s) and possibly passed through to market participants, a high level of transparency of the calculation basis for the fees to be paid by RRM(s) and passed through to market participants must be provided to ensure certainty, fairness and proportionality of costs for market participants. ACER should provide this level of transparency also to market participants (e.g. by providing a regular list of relevant messages to the individual market participant).

Answer to question related to “4.4. How should REMIT fees be calculated?”

Questions for consultation: *Do you agree that these are the key considerations for defining the methodology for calculating REMIT fees? Are there additional elements? How should the different cost drivers be weighted in the methodology? Do you have preferences or specific proposals as regards the methodology? Please provide explanations.*

We agree that the outlined considerations are the key ones for defining the methodology for calculating REMIT fees. Furthermore, we support the mixed RRM-OMP-MP model, including a RRM enrolment fee, as presented during the EU Commission stakeholder workshop of 15 July 2020. In this respect, we believe that these enrolment fees should not be passed on to market participants as it is part of the general service (and technical access) offered by the RRM.

We welcome in particular the proposed stable records-based fee based on clusters of number of records of transactions per RRM per market-specific data set per MP as this ensures in practice a necessary fee cap. A fee cap is absolutely key for our membership to avoid undue financial burden, prevent potential negative impacts on liquidity and competitiveness of the EU commodity markets and to avoid market entry barriers. Also, this fee cap avoids that market participants have to pay more REMIT fees than for reporting under the EMIR reporting regime, which would not be justified.

As regards to fundamental data, we are not convinced why these should not be considered. They are also building block of the monitoring/analyzing task. If ACER keeps the current approach not to include fundamental data, we propose to have a review clause on this matter to evaluate it once some experience has been made with the fee scheme.

Furthermore, the consideration of gas and power derivatives as well as emission allowances and derivatives thereof (which is explicitly mentioned in the consultation (page 2, 6th bullet point) as a

basis for the REMIT fee calculation) remains unclear, in particular as they are already reported under EMIR (and this is also already being paid by market participants) and thus would lead to a double charging..

Finally, we do not support the proposal that consists in taking into account the diversity and the complexity of the transactions, as a criterion for the calculation of the variable fee invoices to the RPMs.

Answer to question related to “4.5. When and how should the REMIT fees be paid?”

Questions for consultation: *Do you agree with the proposed way when and how REMIT fees should be charged? If not, what process would you propose? Please provide explanations.*

In general, we agree with the ex-ante based fee collection and the annual invoicing based on the records of the previous year. In this context, we see the need for a correction mechanism in addition to the foreseen pro-rata reduction in order to avoid potential over-budgeting. Under-budgeting on the other hand should not be borne by the RRM and consequentially by the MP, but could be compensated out of the EU budget, for example.

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

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability



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