

European Distribution System Operators for Smart Grids

REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL establishing a European
Union Agency for the Cooperation of Energy
Regulators (recast)

June 2017

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Key Messages

I. Introduction

The role of ACER and involvement of DSOs in the development of network codes

- When revising network codes, DSOs and other relevant stakeholders should be fully involved before ACER submits its proposal to the European Commission (Article 5)
- Enhancing the role of ACER in new DSO areas, including its oversight over the new DSO entity is positive insofar as it calls for a proper involvement and consultation of DSOs
- Involve member states in determining the boundaries of system operation regions (Article 8)
- Keep the old voting rule, i.e. decisions of the Administrative Board of ACER shall be adopted on the basis of a two thirds majority of the members present to guarantee representative decision-making (Article 19)
- EDSO has reservations about ACER's recommendations on distribution tariff harmonisation (Article 16 (9) Electricity Regulation)

II. Amendment proposals

Tasks of the Agency

Article 5 – Tasks of the Agency as regards the development and implementation of network codes and guidelines

| ORIGINAL TEXT | PROPOSED TEXT |
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| <p>1. The Agency shall participate in the development of network codes in accordance with Article 55 of [recast Electricity Regulation as proposed by COM(2016) 861/2] and Article 6 of Regulation (EC) No 715/2009. It shall in particular:</p> <p>(c) The Agency shall submit the revised network code to the Commission in accordance with Article 55(10) of [recast Electricity Regulation as proposed by COM(2016) 861/2] or pursuant to Article 6(9) of Regulation (EC) No 715/2009. The Agency shall prepare and submit a draft network code to the Commission where it is requested to do so under Article 55(11) of [recast Electricity Regulation as proposed by COM(2016) 861/2] or Article 6(10) of Regulation (EC) No 715/2009;</p> <p>2. In cases where the network codes and guidelines developed pursuant to Chapter VII of [recast Electricity Regulation as proposed by COM(2016) 861/2] provide for the development of proposals for terms and conditions or methodologies for the implementation of those network codes and guidelines which require regulatory approval by all regulatory authorities or by all regulators of the concerned region, the terms and conditions or methodologies shall be submitted for revision and approval to the Agency. Before approving the terms and conditions or methodologies, the Agency shall revise and change them</p> | <p>1. The Agency shall participate in the development of network codes in accordance with Article 55 of [recast Electricity Regulation as proposed by COM(2016) 861/2] and Article 6 of Regulation (EC) No 715/2009. It shall in particular:</p> <p>(c) The Agency shall submit the revised network code to the Commission, after consulting with the relevant stakeholders, including the EU DSO entity referred to in Article 49 of [recast Electricity Regulation as proposed by COM(2016) 861/2] , and in accordance with Article 55(10) of [recast Electricity Regulation as proposed by COM(2016) 861/2] or pursuant to Article 6(9) of Regulation (EC) No 715/2009. The Agency shall prepare and submit a draft network code to the Commission where it is requested to do so under Article 55(11) of [recast Electricity Regulation as proposed by COM(2016) 861/2] or Article 6(10) of Regulation (EC) No 715/2009;</p> <p>2. In cases where the network codes and guidelines developed pursuant to Chapter VII of [recast Electricity Regulation as proposed by COM(2016) 861/2] provide for the development of proposals for terms and conditions or methodologies for the implementation of those network codes and guidelines which require regulatory approval by all regulatory authorities or by all regulators of the concerned region, the terms and</p> |

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| <p>where necessary in order to ensure that they are in line with the purpose of the network code or guideline and contribute to market integration, non-discrimination and the efficient functioning of the market. The procedure for the coordination of regional tasks in accordance with Article 7 shall apply.</p> <p>3. In the context of the bidding zone review, the Agency shall approve and may request amendments to the methodology and assumptions that will be used in the bidding zone review process pursuant to Article 13 paragraph 3 of [recast Electricity Regulation as proposed by COM(2016) 861/2].</p> | <p>conditions or methodologies shall be submitted for revision and approval to the Agency. Before approving the terms and conditions or methodologies, the Agency shall, <i>after consulting with the relevant stakeholders, including the EU DSO entity referred to in Article 49 of [recast Electricity Regulation as proposed by COM(2016) 861/2]</i>, revise and change them where necessary in order to ensure that they are in line with the purpose of the network code or guideline and contribute to market integration, non-discrimination and the efficient functioning of the market. The procedure for the coordination of regional tasks in accordance with Article 7 shall apply.</p> <p>3. In the context of the bidding zone review, the Agency shall approve and may request amendments to the methodology and assumptions that will be used in the bidding zone review process pursuant to Article 13 paragraph 3 of [recast Electricity Regulation as proposed by COM(2016) 861/2].</p> |
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Justification:

The Commission wants the new EU DSO entity to take on a crucial role in the development of network codes, together with ACER and the TSOs. This new role should be formalised and explicitly mentioned here.

Article 8 – Tasks of the Agency as regards regional operational centres

| <i>ORIGINAL TEXT</i> | <i>PROPOSED TEXT</i> |
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| <p>1. The Agency, in close cooperation with the national regulatory authorities and the ENTSO for Electricity, shall monitor and analyse the performance of regional operational centres, taking into account the reports provided for in [Article 43 paragraph 4 recast Electricity Regulation as proposed by COM(2016) 861/2].</p> | <p>1. The Agency, in close cooperation with the national regulatory authorities and the ENTSO for Electricity, shall monitor and analyse the performance of regional operational centres, taking into account the reports provided for in [Article 43 paragraph 4 recast Electricity Regulation as proposed by COM(2016) 861/2].</p> |

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| <p>2. To carry out the tasks referred to in paragraph 1 in an efficient and expeditious manner, the Agency shall in particular:</p> <p>(a) decide on the configuration of system operation regions pursuant to Article 33(1) of [recast Electricity Regulation as proposed by COM(2016) 861/2]</p> <p>(b) request information from regional operational centres where appropriate pursuant to Article 43 of [recast Electricity Regulation as proposed by COM(2016) 861/2];</p> <p>(c) issue opinions and recommendations to the European Commission, the Council and the European Parliament;</p> <p>(d) issue opinions and recommendations to regional operational centres.</p> | <p>2. To carry out the tasks referred to in paragraph 1 in an efficient and expeditious manner, the Agency shall in particular:</p> <p>(a) decide on the configuration of system operation regions pursuant to Article 33(1) of [recast Electricity Regulation as proposed by COM(2016) 861/2]. Member states shall be involved in determining the boundaries of those system operation regions.</p> <p>(b) request information from regional operational centres where appropriate pursuant to Article 43 of [recast Electricity Regulation as proposed by COM(2016) 861/2];</p> <p>(c) issue opinions and recommendations to the European Commission, the Council and the European Parliament;</p> <p>(d) issue opinions and recommendations to regional operational centres.</p> |
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Justification:

The Member States know best the geographical, demographical, economic and technical aspects of their regions and how they interact with neighbouring regions and countries. Therefore, they shall be involved in determining the boundaries of system operation regions.

Article 10 – Tasks of the Agency as regards generation adequacy and risk preparedness

| <i>ORIGINAL TEXT</i> | <i>PROPOSED TEXT</i> |
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| <p>1. The Agency shall approve and amend where necessary</p> <p>(a) the proposals for methodologies and calculations related to the European resource adequacy assessment pursuant to Article 19(2), (3) and (5) of [recast Electricity Regulation as proposed by COM(2016) 861/2].</p> | <p>1. The Agency shall, after consulting with stakeholders, approve and amend where necessary</p> <p>(a) the proposals for methodologies and calculations related to the European resource adequacy assessment pursuant to Article 19(2), (3) and (5) of [recast Electricity Regulation as proposed by COM(2016) 861/2].</p> |

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| <p>(b) the proposals for technical specifications for cross-border participation in capacity mechanisms pursuant to Article 21(10) of [recast Electricity Regulation as proposed by COM(2016) 861/2].</p> <p>2. The Agency shall approve and amend where necessary the methodologies</p> <p>(a) for identifying electricity crisis scenarios at a regional level as described in Article 5 of [Risk Preparedness Regulation as proposed by COM(2016) 862];</p> <p>(b) for short-term adequacy assessments as described in Article 8 of [Risk Preparedness Regulation as proposed by COM(2016) 862].</p> | <p>(b) the proposals for technical specifications for cross-border participation in capacity mechanisms pursuant to Article 21(10) of [recast Electricity Regulation as proposed by COM(2016) 861/2].</p> <p>2. The Agency shall, after consulting with stakeholders, approve and amend where necessary the methodologies</p> <p>(a) for identifying electricity crisis scenarios at a regional level as described in Article 5 of [Risk Preparedness Regulation as proposed by COM(2016) 862];</p> <p>(b) for short-term adequacy assessments as described in Article 8 of [Risk Preparedness Regulation as proposed by COM(2016) 862].</p> |
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Justification:

The relevant stakeholders need to be consulted when it comes to proposals for methodologies and calculations related to the European resource adequacy assessment as well as proposals for technical specifications for cross-border participation in capacity mechanisms. They should also be involved in identifying electricity crisis scenarios at a regional level and consulting on short-term adequacy assessment. This needs to be specified in the legislation in order to ensure proper generation adequacy and risk preparedness.

[Administrative Board](#)

Article 19 – Composition of the Administrative Board

| <i>ORIGINAL TEXT</i> | <i>PROPOSED TEXT</i> |
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| <p>5. Decisions of the Administrative Board shall be adopted on the basis of a simple majority of the members present, unless provided otherwise in this Regulation. Each member of the Administrative Board or alternate shall have one vote.</p> | <p>5. Decisions of the Administrative Board shall be adopted on the basis of a two thirds majority of the members present, unless provided otherwise in this Regulation. Each member of the Administrative Board or alternate shall have one vote.</p> |

Justification:

The energy landscape in Europe is quite diverse and differs per member state. Therefore, it is crucial to make sure that all voices are heard and that a small majority cannot decide for all the rest whose decisions might not be represented.



EDSO for Smart Grids is a European association gathering leading electricity distribution system operators (DSOs), cooperating to bring smart grids from vision to reality.
www.edsoforsmartgrids.eu