

European Commission's consultation on the establishment of the annual priority lists for the development of network codes and guidelines for 2017 and beyond

A EURELECTRIC response paper

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EURELECTRIC is the voice of the electricity industry in Europe.

We speak for more than 3,500 companies in power generation, distribution, and supply.

We Stand For:

Carbon-neutral electricity by 2050

We have committed to making Europe's electricity cleaner. To deliver, we need to make use of **all low-carbon technologies**: more renewables, but also clean coal and gas, and nuclear. Efficient electric technologies in **transport and buildings**, combined with the development of smart grids and a major push in **energy efficiency** play a key role in reducing fossil fuel consumption and making our electricity more sustainable.

Competitive electricity for our customers

We support well-functioning, distortion-free **energy and carbon markets** as the best way to produce electricity and reduce emissions cost-efficiently. Integrated EU-wide electricity and gas markets are also crucial to offer our customers the **full benefits of liberalisation**: they ensure the best use of generation resources, improve **security of supply**, allow full EU-wide competition, and increase **customer choice**.

Continent-wide electricity through a coherent European approach

Europe's energy and climate challenges can only be solved by **European – or even global – policies**, not incoherent national measures. Such policies should complement, not contradict each other: coherent and integrated approaches reduce costs. This will encourage **effective investment** to ensure a sustainable and reliable electricity supply for Europe's businesses and consumers.

EURELECTRIC. Electricity for Europe.

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KEY MESSAGES

- Rules on capacity allocation and congestion management, forward capacity allocation (FCA), requirements for generators (RfG), high voltage direct current (HVDC) and demand connection code (DCC) have already been adopted, published and are going through a process of implementation. EURELECTRIC agrees with the European Commission's (EC) proposal to add the following key areas on the annual priority list for 2017 for the development of harmonised electricity rules:
 - rules regarding system operation (finalisation of EC adoption phase after Committee voting in 2016);
 - rules on emergency and restoration requirements and procedures (EC adoption phase after Committee voting in October 2016);
 - balancing rules (EC adoption phase after Committee voting).
- Consistency between technical and operational codes needs to be ensured. European stakeholder committees should have a strong role to ensure such consistency.
- The completion of the Internal Energy Market (IEM) is a clear no-regret option, and more work is needed to complete the process on fronts other than the Network Codes (NCs) themselves. The swift implementation of the 3rd Energy Package and the integration of wholesale markets across all timeframes remain absolutely crucial.
- In EURELECTRIC's opinion, the EC should keep encouraging the integration of energy markets via early implementation projects (e.g. the XBID project towards a single EU solution for intraday trading and the EU HAR for the forward market) as a step towards the completion of the IEM.
- DSO associations have taken note of the European Commission's intention to create a DSO body at the EU level. EURELECTRIC is continuing to work with other DSOs associations with a view to further cooperation and collaboration in the wider interest of the energy transition. Furthermore, this cooperation anticipates making constructive contributions towards the European Commission's intentions regarding the DSO body. Any such body would benefit from a clear and robust governance structure.
- As part of the upcoming Winter Package, the revised electricity directive should provide sufficient legal coverage to ensure wholesale market integration across all timeframes. The directive should set the high-level principles, while the NCs should deal with the detailed implementation.

Finalisation of the network codes/guidelines under development

The European Commission (EC), ENTSO-E, ENTSG, ACER and European stakeholders organisations have devoted considerable time over the past few years to the development of European Framework Guidelines (FG), network codes (NCs) and guidelines for electricity and gas. **Efforts should be made to adopt codes and guidelines as soon as practically feasible. However, quality should not be compromised during their development phase or during the comitology process for the sake of speed:** monitoring the consequences of NCs implementation and finding ways to mitigate potential adverse effects should be duly taken into consideration by the EC. Furthermore, the **adoption and implementation of NCs/guidelines should take place with the full involvement of stakeholders** and in particular, but not only, when it appears that profound and recent changes are being made, as in the case, for instance, of system operational guidelines.

The comitology processes cannot ignore the cost-benefit dimension related to the adoption of the codes themselves. In general, we would like to see some further consideration of the economic impact stemming from the codes' development and adoption. We provide more detailed views on this point in the next part dealing with the process followed to prepare the NCs/guidelines.

The NCs/guidelines cover the major relevant areas, but EURELECTRIC believes that more needs to be done to ensure consistency between them. In particular, when it comes to electricity, there should be a balance between the requirements put on system users in the Connection Codes and those placed on TSOs in the System Operation Guideline. Requirements placed on TSOs are also fundamental for system security.

However, we also wish to highlight that **monitoring the implementation of NCs/guidelines will probably represent an even greater challenge than their elaboration.** In particular, the codes/guidelines define a lot of requirements: some of them are non-exhaustive, meaning that choices will have to be made in order to define what has to be developed, such as regional agreements, common methodologies, implementation guidance documents etc. At the same time, the right balance between the NCs' implementation and actions that are left to the discretion of national competent authorities should be ensured. The challenge now is to ensure that the proper level of harmonisation and real obligations are created to bind markets and TSOs on pan-European basis and thus ensure smoother market integration.

For the Connection Codes, we should make sure that standards for mass markets are available in order to assess the compliance of small distributed generators (types A and B) and Demand Units with Demand Side Response (DSR) as required by the RfG and DCC codes. Essential and substantial work is required on the standardisation side at European level. Furthermore, all the Connection Codes have a chapter regarding derogations. Such chapters do not exist in the Operational Code. EURELECTRIC regrets this because this means that due to an unforeseen evolution of RES, new legislative actions are needed for the behavior of networks. Such legislative actions need time and identical results can be achieved by a derogation accepted by all involved parties.

Apart from the NCs implementation which will involve a substantial commitment of resources, we would also urge the EC and ACER to put forward some concrete, robust and inclusive proposals on how the codes will be subsequently amended and their implementation monitored in an efficient manner, in order to respond to changing system and market conditions, while still ensuring adequate stakeholder involvement.

Emergency and Restoration Network Code

Create a proper forum to discuss the market impacts of the Emergency and Restoration Network Code (“E&R NC”)

The E&R NC is considered a technical code, containing mainly technical obligations and prescriptions for both TSOs and market participants. However, the code also contains an entire chapter on the **interaction between emergency situations and market functioning**. Such provisions may have important impacts on the functioning of the market, during emergency situations but also during normal functioning because of the possible effects of anticipation of market behaviour in emergency situations. The current state of discussion has shown that such elements should not be discussed (only) by experts on technical matters, but by stakeholders involved in the drafting of the market NC. We therefore urge the EC to ensure that the **market elements of the E&R NC** are discussed in a stakeholder group gathering both technical and market functioning expertise. This could be done by setting up a joint expert group reporting to the three European Stakeholder Committees (e.g. Market, Grid Connection and System Operation).

Transmission Tariffs

The European Internal Energy Market (IEM) is becoming increasingly integrated with generation assets competing no longer on a local but regional level. Numerous cross-border projects such as the North-Western Europe (NWE) market coupling and the Flow-based market coupling are designed to further enhance the ability to compete on a regional level. To ensure that market competition on such regional level is fair and based on a level playing field, generation assets should be exposed to similar external cost structures, an important one being transmission tariffs on power injections. Currently, these tariffs vary significantly across countries, creating competition distortions. Given the speed of the current integration of the IEM, the EC should guarantee that such sources of distortion are removed in the short term. Preferably, the structure – and ultimately the level – of transmission tariffs applied to generators (G-charges) should be harmonised. The level should be set as low as possible, in particular for the power based charges (€/MW) which act as a fixed cost and distort investment and decommissioning decisions. As an interim insurance against market distortion, the existing caps on the level of G-charges defined in Annex B(3) of Regulation 838/2010 should be maintained and the three exemptions should be further defined to avoid the creation of loopholes.

Balancing Guidelines

Ensuring a coherent target model

The Electricity Balancing Guideline (EB GL) do not offer a clear target model on how integrated balancing markets should take shape:

- The possibility for some TSOs to continue using Replacement Reserves (RR) while others do not reflects two different balancing methodologies: reactive and proactive. It is key to understand how the reactive and proactive system operation philosophies can co-exist, to which extend both of them are compliant with the target model, and if necessary, which adaptations are required for the integration of balancing markets. The EB GL being more in line with the reactive philosophy, it is expected that main adaptations will have to be made in the proactive situation;

- Allowing TSOs to reserve cross-border transmission capacity to share balancing reserves while market parties are unable to do so, in the intraday market for self-balancing purposes is in contradiction with one of the aforementioned objectives of allowing, as much as possible, market parties to balance their own portfolio. The EC should strive to further clarify the target model for the European balancing market, adhering to objective of providing market parties the maximum possible opportunity to balance their own perimeter. With regard to the ability of TSOs to reserve cross-border capacity for sharing balancing reserves, we propose to discuss the topic in coordination with the implementation of the CACM Guideline.

We therefore strongly believe that there is a need to clarify the picture on the target model/end goal for the European integration of balancing markets. This should be based on items defined in the FG and EB GL as, for instance, the activation methodology, the pricing of settlement, the definition of standard balancing products.

The work done through the Balancing Stakeholder Group, with the stakeholders' involvement, should also help to clarify. Similarly, the studies and CBA launched for the implementation of the EB GL will also be useful to define more precisely the target model.

Process to prepare the network codes and guidelines

EURELECTRIC believes that no additional NCs/guidelines are needed for the moment: efforts should now focus on the adoption and implementation of existing NCs at national level.

Further issues to be addressed by the EC have been discussed at the last Florence Forum in June:

1. Cooperation DSO/TSO, including data management;
2. Guidelines on demand side response;
3. Regulatory incentives for innovation;
4. Need to clarify the so-called 'grey areas' (flexibility, storage, electric mobility);
5. Digitalisation and cybersecurity.

EURELECTRIC is generally supportive of these proposals but questions whether addressing the aforementioned topics actually requires a brand new set of NCs, or if an expansion of the current NCs would be sufficient. In any case, consistency between existing and potential future codes should be ensured. The primary role of a NC is to regulate common principles for cross-border issues, which is not reflected in the issues listed above.

DSO associations have taken note of the European Commission's intention to create a DSO body at the EU level. EURELECTRIC is continuing to work with other DSOs associations with a view to further cooperation and collaboration in the wider interest of the energy transition. Furthermore, this cooperation anticipates making constructive contributions towards the European Commission's intentions regarding the DSO body. Any such body would benefit from a clear and robust governance structure.

EURELECTRIC believes that, should further NCs be elaborated or the existing ones modified in the future, the process for the development or modification of NCs/guidelines should be improved on the basis of both the lessons learned so far and the good practice followed in the development of gas NCs:

- The implementation of NCs is the backbone of the market integration process and the governance process must ensure coherent, good-quality codes. **Stakeholder involvement should be strengthened – especially in developing, amending and monitoring the electricity NCs – and the convergence of markets across Europe should be a number one priority** throughout the entire development and implementation process of codes. Should new codes be developed in the future and/or should the current ones be amended, the European Stakeholder Committees should be closely involved with a stronger role to be played by ACER;
- Decisive action should be taken to strengthen the independence and balance of the entities involved in the governance process. We remain strongly concerned that ENTSO-E is given extensive powers in elaborating the NCs, despite being a directly involved party. **We would therefore encourage opening a discussion on actions increasing the control of the NCs drafting process for ACER or the EC to counterbalance the power currently conferred upon ENTSO-E in this respect by the 3rd Energy Package.** This applies not only to drafting legal or technical texts, but also to amending existing codes and, most importantly, monitoring their implementation over time. Direct interaction between TSOs and other stakeholders (like DSOs, generators, etc.) should also be provided;
- **Economic and societal impact assessments, as well as cost-benefit analyses should be developed in a more transparent manner, published and widely consulted upon in parallel to the FG, and codes/guidelines development.** This is in contrast to the current practice of publishing the impact assessment (including detailed cost-benefit analyses) at the end of the process, when everything has already been settled. **Before any FG is developed or any existing one is reshuffled, there should be a thorough scoping exercise** (as with the Transmission Tariffs NC) with the full involvement of stakeholders. Some specific questions should be answered: (1) How much does the codes' implementation cost? (2) How much do the codes contribute to system security and safe operations? (3) How much do the codes facilitate access to the grid for new users? Only after that, should a decision be taken on whether or not more FGs, codes/guidelines are needed in a specific field, be it market or grid related;
- **We also regret the lack of transparency and visibility in the Comitology phase.** The Comitology process is by nature not very transparent, nor is it open to stakeholders' input: not all draft versions of the codes/guidelines are circulated and when they are, this is often very late in the process and amendments are not properly explained to stakeholders. Also, the rejection of stakeholder comments is often not explained. In addition, the cost-benefit analyses to justify particular modification or re-drafting proposals are also missing or are insufficiently documented for any third party to be able to analyse the related figures and to justify any NC redrafting action.

The governance structure to ensure stakeholder involvement at European level should be complemented by similar structures at local/regional level, as any implementation issues will be raised at this level first. We therefore urge ACER and ENTSO-E to persuade National Regulatory Authorities to actually set up National Structures and Regional Stakeholder Committees in Member States where these are still missing. The coordination process between the Stakeholders' structures set up at local/regional and European levels should be further clarified as well. The Stakeholder Committees should be represented not only by sectors, but also geographically.

Completion of the Internal Energy Market

The completion of the IEM is a clear no-regret option, and more work is needed to complete the process also on fronts other than the NCs. The swift implementation of the 3rd Energy Package and the integration of wholesale markets across all timeframes thus remain absolutely crucial objectives. Some MS still lag behind, even in the implementation of the 2nd Energy Package.

Market integration should focus in particular on developing robust cross-border intraday and balancing markets to ensure that the system remains balanced as the share of renewables continues to grow. Progress on this front is slow. To achieve this, it is also crucial to ensure a larger degree of involvement and coordination between TSOs as, without such coordination, intraday markets, regional cooperation and increasing interconnectivity will not produce the desired results. In those aspects and operations where TSO/DSO coordination is required, it will also be important to stress the crucial nature of the coordination between transmission and distribution grid operators on requirements set by the NCs on demand connection, emergency and restoration, and operational security.

The upcoming Winter Package should provide sufficient legal coverage on wholesale market integration

In our view, the Electricity Directive 2009/72/EC is currently not providing sufficient legal coverage to underpin and enforce the key principles of an efficient wholesale market design. The current approach defines key principles for different wholesale market timeframes at NC level, leading to a lengthy market integration process and failing to provide a holistic and comprehensive legal framework. The revised Electricity Directive should include a "wholesale" chapter aimed at enforcing the following key principles of an efficient wholesale market design:

- For forward markets: provide cross-zonal hedging opportunities by ensuring full firmness of Long Term Transmission Rights;
- For day-ahead markets: ensure non-discriminatory access to cross-zonal capacity and provide an efficient market-based dispatch system to deal with congestions (including cross-border redispatching measures) based on regional capacity calculation/allocation methodology, integrated market-based redispatch mechanisms and a fair allocation of redispatching costs;

- For intraday markets: promote a liquid pan-European market with harmonised features in all MS, making sure capacity pricing does not drain liquidity nor reduce the speed of market process; allow the market to determine the most economic dispatch until a gate closure set as close to real-time as possible. TSOs shall only perform the residual balancing of the system;
- Define a clear target model for balancing markets as for other timeframes building upon the following key principles:
 - Make the balancing time frame a fully market-based solution, for which participation is not mandatory. TSOs should not be granted the right to offer balancing services as this would imply owning and operating generation assets (against unbundling rules) and the possibility to reserve cross-border transmission capacity for balancing purposes;
 - Clearly define balancing responsibility which are applied to all assets or group of assets on a level playing field and foster a regional approach to ensure European integration and cross-border participation in balancing markets;
 - Ensure that all technologies are allowed to contribute to the various balancing processes and be subject to the same system balancing responsibilities (intra-day, balancing, ancillary services).

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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