

PROCEDURAL ACT No 01/2016
OF THE ENERGY COMMUNITY REGULATORY BOARD

on the procedures for issuing an Opinion of the Energy Community Regulatory Board based on Annex II.2.10 of Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure¹, as adapted and adopted by the Ministerial Council Decision 2015/09/MC-EnC of 16 October 2015,

THE ENERGY COMMUNITY REGULATORY BOARD,

Having regard to the Treaty Establishing the Energy Community ("Treaty") and in particular Articles 5 and 11 thereof,

Having regard to Article 2(10) of Annex II to Regulation (EU) 347/2013, as adapted and adopted by the Ministerial Council Decision 2015/09/MC-EnC of 16 October 2015, requiring the Energy Community Secretariat ("Secretariat") to consult the Energy Community Regulatory Board ("Board" or "ECRB") on the preliminary list of Projects of Energy Community Interest and the Projects of Mutual Interest falling under the categories set out in Annex I.1 and 2 leg cit and, in particular, on the consistent application of the selection criteria ruled by Article 4 leg cit and the cost-benefit analysis,

Having regard to Article 60 of the Energy Community Treaty, a procedure needs to be established that regulates the related decision making process of the Board,

Acting in accordance with the procedures laid down in Articles 82, 83, 86 and 87 of the Treaty,

Upon proposal by the Secretariat,

HAS DECIDED AS FOLLOWS

Article 1 - Purpose

This Procedural Act lays down the procedures based on which the ECRB shall develop an Opinion when consulted by the Secretariat based on Annex II .2.10 to Regulation (EU) 347/2013 as adapted and adopted by the Ministerial Council Decision 2015/09/MC-EnC of 16 October 2015, on the preliminary list of Projects of Energy Community Interest and the Projects of Mutual Interest falling under the categories set out in Annex I.1 and 2 leg cit and, in particular, on the consistent application of the selection criteria ruled by Article 4 leg cit and the cost-benefit analysis.

¹ As incorporated into the Energy Community *acquis communautaire* by Ministerial Council Decision 2015/09/MC-EnC of 16 October 2015.

Article 2 – Procedure

1. In line with Article 2(10) of Annex II to Regulation (EU) 347/2013, as adapted and adopted by the Ministerial Council Decision 2015/09/MC-EnC of 16 October 2015, the Board shall provide its Opinion not later than three (3) months after receipt of the Secretariat's consultation request by the ECRB President ("President").
2. The President and Vice-Presidency may agree on shortening the deadline referred to in paragraph 1 in case of urgency duly justified by the Secretariat.
3. Upon receipt, the President shall without delay forward the Secretariat's request for an Opinion to the ECRB members including related documents provided by the Secretariat.
4. ECRB members shall submit their comments no later than five (5) calendar weeks after receipt. Each authority shall provide a single set of comments.
5. The ECRB Section at the Secretariat shall compile all comments received during the consultation referred to in paragraph 4 in a draft ECRB Opinion. Subject to agreement by the President, the ECRB Section shall circulate the draft Opinion to the Board for review and approval within a period not exceeding three (3) calendar weeks.
6. The deadlines referred to in paragraphs 4 and 5 may be reduced by decision of the President in case of a shortened consultation period agreed by the President and Vice-Presidency under paragraph 2. In any case the consultation period referred to in paragraph 4 shall not be shorter than two (2) calendar weeks and the consultation period referred to in paragraph 5 shall not be shorter than one (1) calendar week.
7. In case the Board has not scheduled a regular meeting within the maximum deadline referred to in paragraph 1, the Board shall take its decision via written procedure. The Board shall, in this case or where otherwise deemed necessary, make use of electronic and telecommunication tools (e.g. web-, video- or telephone conferences) for finalizing its Opinion.

Article 3 – Decision Making Rules

1. Each Board member shall have one vote.
2. The ECRB shall decide by majority of the votes cast, including a positive vote of the European Union. Abstentions to voting shall not count as votes cast.
3. A Board decision requires presence of at least two third of its Members. In case of non-physical meetings, physical presence is replaced by participation in any web-, video- or telephone based conferences (or similar).
4. The members of the ECRB shall preserve the confidentiality of commercially sensitive information.

Article 4

The ECRB Opinion shall be public unless otherwise decided by the ECRB.

Article 5

Following the procedures laid down in Article 4, the ECRB President shall submit the ECRB Opinion to the Secretariat within not more than two working days.

Article 6

This Procedural Act is addressed to the members of the Board.

For the Board

A handwritten signature in black ink, appearing to read 'B. Prelević', is written over a faint, illegible printed name.

Branislav Prelević

President

Done in Athens on 28 September 2016