

**PROCEDURAL ACT No 02/2012
OF THE ENERGY COMMUNITY REGULATORY BOARD**

2012/02 ECRB-EnC: Decision of 23 October 2012 of the Energy Community Regulatory Board on the Procedure for Issuing an Opinion of the Energy Community Regulatory Board on the Adoption of Network Codes adopted and/or amended under Regulation 714/2009 or Regulation 715/2009

The Energy Community Regulatory Board,

Having regard to the Treaty Establishing the Energy Community (hereafter "Treaty") and in particular Article 60, 86 and 87 thereof,

Having regard to the proposal, made by the President and Vice-President,

Acting in accordance with the procedure laid down in Article 82 and 83 of the Treaty,

Acting in accordance with the procedure laid down in Article 13.3 of the Internal Rules of Procedure of the Energy Community Regulatory Board (hereinafter "ECRB"), Procedural Act No. 01/2007 amended by Procedural Act 2009/01 and Procedural Act 2012/01,

Having regard to Decision D/2011/O2/MC-EnC of the 9th Energy Community Ministerial Council on the implementation of Directive 2009/172/EC, Directive 2009/173/EC, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009 and amending Articles 11 and 59 of the Energy Community Treaty and, in particular, Article 28 of said Decision,

Taking into account Procedural Act No 01/2012 PHLG-EnC of the Permanent High Level Group of the Energy Community of 21 June 2012 laying down rules governing the adoption of Guidelines and Network Codes (hereinafter "Procedural Act No 01/2012 PHLG-EnC") and, in particular, Article 3 paragraph 3 of said Procedural Act,

HAS DECIDED AS FOLLOWS

Article 1 – Procedures

When consulted on the proposal of the European Commission for adoption of Network Codes (hereinafter "proposal") as stipulated by Article 3 paragraph 3 of Procedural Act No 01/2012 PHLG-EnC the ECRB shall develop its opinion following the procedures laid down in the present Procedural Act.

Article 2 – Definitions

For the purpose of the present Procedural Act the term "Network Code" means the codes adopted and/or amended under Regulation 714/2009 or Regulation 715/2009.

Article 3 – ECRB Working Group Consultation

- (1) Upon receipt, the ECRB President (hereinafter “President”) shall without delay forward the proposal to the ECRB Working Group (hereinafter “Working Group”) dealing with the sector the proposal’s content is focusing on. In case of cross-sectoral content the President can decide to address more than one Working Group.
- (2) The President shall define an appropriate deadline for the Working Group(s) consultation referred to in paragraph (1). The deadline shall take into account the overall deadline the Secretariat set for the ECRB to issue its opinion on the proposal but involve not less than 7 working days.

Article 4 – ECRB Working Group Opinion

- (1) The ECRB Section at the Energy Community Secretariat (hereinafter “Section”) shall compile all comments received during consultation referred to in Article 3.
- (2) Upon agreement with the Vice-Presidency, the President shall circulate the compiled document to the Working Group(s) consulted under Article 3 for final opinion.
- (3) The President shall define an appropriate deadline for the Working Group(s) issuing its opinion. The deadline shall take into account the overall deadline the Secretariat set for the ECRB to issue its opinion on the proposal but involve not less than 4 working days.

Article 5 – ECRB Approval

- (1) The Section shall compile all comments received during consultation referred to in Article 4.
- (2) Upon agreement with the Vice-Presidency, the President shall circulate the compiled document to the ECRB.
- (3) The ECRB shall approve the document at its next meeting. In case no ECRB meeting is held before expiry of the overall deadline the Secretariat set for the ECRB to issue its opinion, the ECRB approval shall be executed via written approval.

Article 6 – Decision Making

- (1) The ECRB shall decide by majority of the votes cast.
- (2) Each Contracting Party shall have one vote. Abstentions to voting shall not count as votes cast
- (3) In case a decision referred to in Article 5 is taken in a meeting, the ECRB may act only if two thirds of Members are present.

Article 7

Following the approval of the ECRB the President shall transmit the ECRB opinion officially to the Secretariat for notification to the Permanent High Level Group.

Article 8

This Procedural Act is addressed to the members of the Energy Community Regulatory Board and all institutions under the Energy Community Treaty.

Article 9

The Section shall make this decision and its annex available to all Parties and institutions under the Energy Community Treaty within 7 days after its adoption.

Article 10

This Procedural Act shall enter into force upon adoption.

Done in Athens on 23 October 2012.

For the Regulatory Board

A handwritten signature in blue ink, appearing to read 'Shkelqim Bozgo', is written over a light blue horizontal line.

Shkelqim BOZGO

President