



Energy Community Regulatory Board

ECRB

Work Program 2013



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1 INTRODUCTION

1.1 THE ENERGY COMMUNITY

The Energy Community extends the European Union's (EU) internal energy market to South East Europe (SEE) and beyond. By signing the Treaty¹ the signatory parties² agreed to implement the *acquis communautaire* on electricity, gas, environment, competition and renewables³ with a view to realize the objectives of the Treaty and to create a regional gas and electricity market in SEE capable of attracting investment. Given the small size of the national markets a **harmonized regional approach** remains the key requirement for the promotion of investments in the Region.

1.2 THE ENERGY COMMUNITY REGULATORY BOARD

The Energy Community Regulatory Board (ECRB) operates based on Article 58 of the Energy Community Treaty. The ECRB advises the Energy Community Ministerial Council and Permanent High Level Group on details of statutory, technical and regulatory rules and can give recommendations in the case of cross-border disputes between regulators. The work of the ECRB is supported by the ECRB Section at the Energy Community Secretariat.⁴

1.2.1 Scope of Work

The key objective of the cooperation of energy regulators within the ECRB is to support a harmonized development of regulatory rules in the Energy Community. Within the necessary range of national specificities, streamlining of regulatory measures and providing a stable regulatory market framework remains a key promoter for a number of core objectives of the Treaty – such as market integration, facilitation of investments, competition and security of supply.

The ECRB acts as a coordination body of the national regulators for exchange of knowledge and development of common best practice solutions for implementing the Treaty in a harmonized way.

¹ The Energy Community has been established by the Treaty establishing Energy Community, signed in October 2005 in Athens and entering into force on 1 July 2006. Treaty establishing the Energy Community (hereinafter "The Treaty"). The Treaty was signed in October 2005 in Athens, Greece and entered into force on 1 July 2006.

² The **Parties** to the Treaty are the European Community, on the one hand, and the **Contracting Parties**, namely, Albania, Bosnia & Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia, Ukraine and UNMIK (pursuant to United Nations Security Council Resolution 1244). 15 European Union Member States have the status of **Participants**. Armenia, Georgia, Norway, and Turkey take part as **Observers**.

³ For details of the relevant *acquis* please refer to

http://www.energy-community.org/portal/page/portal/ENC_HOME/ENERGY_COMMUNITY/Legal/Treaty

⁴ For more detailed information on the ECRB and the Energy Community see www.ecrb.eu and www.energy-community.org.



1.2.2 Objectives and Priorities

ECRB activities are guided by the following overall objectives and priorities and linked to regulatory work⁵:

- Development of competitive national gas and electricity markets;
- Integration of national markets and development of competitive regional markets in electricity and gas
- Market monitoring;
- Identification and active contribution to abolishment of barriers for cross border trade and competition in cooperation with national competition authorities;
- Protection of vulnerable customers and social issues;
- Security of supply;
- Network security and quality of service;
- Renewable energy sources and energy efficiency.

In performing its task the ECRB actively coordinates and cooperates with the other Energy Community institutions. Such coordination is of utmost importance given the legal fact that any regulatory activity can only start from broader energy policy decisions and build on existing legal powers and framework rules.

⁵ See as well overall Work Programme of the Energy Community 2012-13; www.energy-community.org/pls/portal/docs/1084185.PDF

2 ECRB WORK PROGRAMME 2013

2.1 CROSS-SECTORAL

OVERVIEW

1. Input to European Framework Guidelines and Network Codes
2. Cooperation with European Energy Regulatory Coordination Bodies
3. ECRB Annual Report 2013

2.1.1 Input to European Framework Guidelines and Network Codes

The decision of the Energy Community Ministerial Council on implementing the 3rd European Package in the Energy Community⁶ also calls for implementation of the European Network Codes⁷. Accordingly, the Energy Community Permanent High Level Group and the ECRB have developed procedures for a related adoption process⁸.

In the light of this, providing input to the process of developing Framework Guidelines and Network Codes is crucial with a view of ensuring proper reflection of the specificities of the Energy Community.

ACTIVITY FOCUS

Providing input to public consultations on European Framework Guidelines and Network Codes according to the procedures explained in figure 1.

⁶Decision D/2011/O2/MC-EnC (<http://www.energy-community.org/pls/portal/docs/1146182.PDF>).

⁷Conclusions of the 9th Energy Community Ministerial Council (<http://www.energy-community.org/pls/portal/docs/1162177.PDF>).

⁸PHLG Procedural Act No. 01/2012 PHLG-EnC of the Permanent High Level Group of the Energy Community of 21 June 2012 laying down the rules governing the adoption of Guidelines and Network Codes in the Energy Community (<http://www.energy-community.org/pls/portal/docs/1162177.PDF>); ECRB Procedural Act 02/2012 (http://www.ecrb.eu/portal/page/portal/ECRB_HOME/ECRB_ABOUT/RULES/PA%202012-02_Network%20Codes_approved.pdf).

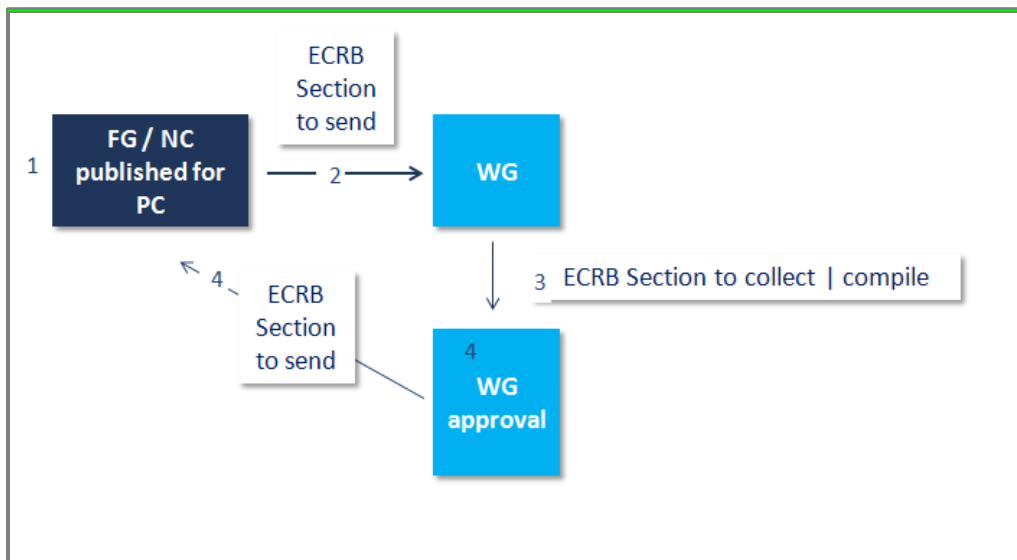


Figure 1: Network Codes and Framework Guidelines

2.1.2 Cooperation with European Energy Regulatory Coordination Bodies

When implementing the Energy Community *acquis*, streamlining with best practice experience gained on European level is not only recommended from an efficiency point of view but also when keeping in mind the goal of integrating regional markets. Alignment with European experience of course needs to take into account national and regional specificities of the Energy Community.

In general coordination of ECRB activities with European developments is guaranteed via the coordination function of the European Commission, acting as Vice-President of the ECRB and the representation of the Agency for Cooperation of Energy Regulators (ACER⁹) in the ECRB¹⁰. In addition the Participating Countries to the Treaty are member of the Council of European Energy Regulators (CEER¹¹) and the ACER Regulatory Board. Exchange of experience is also supported by individual European regulators joining the ECRB Working Group meetings subject to their experience on specific agenda items.

ECRB has developed relations with European energy regulatory coordination bodies, in particular with the ACER, CEER and the Energy Regulators Regional Association (ERRA¹²). Strengthening cooperation with these institutions will continue to be a focus area.

⁹ www.acer.europa.eu.

¹⁰ According to Article 2 decision D/2011/O2/MC-EnC of the Energy Community (<http://www.energy-community.org/pls/portal/docs/1146182.PDF>) and decision 2011-022 of the Director of ACER on appointing an ACER representative to the ECRB.

¹¹ www.energy-regulators.eu.

¹² www.erranet.org.



The ECRB Work Program 2013 defines a number of concrete common activities, in particular in chapters 2.2.3, 2.3.4 and 2.4.2. Beyond that, cooperation may also address additional regulatory area that is identified mutual field of interest.

2.1.3 ECRB Annual Report 2013

According to its Internal Rules¹³ the ECRB will prepare an Annual Report on its 2013 activities. The report will focus on the activities of the ECRB but not relate to market developments.

2.2 CUSTOMERS

OVERVIEW¹⁴

1. Task Force 1 – Customer Protection
2. Task Force 2 – Tariffs an Prices
3. Task Force 3 – Customer Education
4. Task Force 4 – Customer Contracts

2.2.1 Task Force 1 – Customer Protection

Protection of customers is in the focus of the ECRB activities from its beginning. Already in previous years special attention has been drawn on concepts for protection of vulnerable household customers. The topic gained special relevance trough the 3rd European legislative package on gas and electricity that requires Member States to develop a definition for vulnerable customers on national level and ensure their special protection.

Further to that, the 10th Ministerial Council tasked the Energy Community Secretariat to develop a Social Strategy¹⁵. Regulatory input to the customer related aspects of the strategy will be relevant.

¹³ http://www.energy-community.org/portal/page/portal/ENC_HOME/ENERGY_COMMUNITY/Legal/Acts#ECRB.

¹⁴ In addition to its 2013 activities, the Customer Working Group will in Q1/2013 finish two of its 2012 activities, namely: (1) Report on small customers' generation and (2) Analysis of existing grid connection rules and their customer-friendliness.

¹⁵ Conclusions 10th Ministerial Council: <http://www.energy-community.org/pls/portal/docs/1766216.PDF>.



ACTIVITY FOCUS

ECRB input to the Energy Community Social Strategy.

2.2.2 Task Force 2 – Tariffs an Prices

Energy prices and network tariffs are crucial for customers both in terms of their level and the services included. The treatment of commercial losses and bad debts as either socialized or directly allocated costs as well as the level of return guaranteed to suppliers and/or network operators has direct influence on the charges' level. In this context, in particular also public supplier tariffs are of central interest.

ACTIVITY FOCUS

Development of a status review of customer relevant elements of regulated distribution tariffs and end-user energy prices for the electricity and gas sector, focusing on:

- Losses
- Return
- Bad debts
- Public service obligation tariffs

2.2.3 Task Force 3 – Customer Education

Raising customers' awareness on their role and rights in a liberalized market is a pre-condition for their ability to participate in and benefit from competition. This includes the provision of information tools on switching options as well as on demand side management possibilities.

On the regulatory side the success of related activities relies on knowledge about consumers' needs and the use of consumer friendly processes. In this area, Energy Community regulators can benefit from the experiences already made on European level.

ACTIVITY FOCUS

Organisation of a workshop in cooperation with CEER and ERRR targeting

- The role of customers in the energy market
- Price comparison tools
- Motivations for switching
- Promotion of energy efficiency

- How regulatory authorities can raise customer awareness
- regulatory authorities – customers communication channels

2.2.4 Task Force 4 – Customer Contracts

Customer protection requires adequate reflection of customer rights in contracts. At the same time, contracts have to be transparent as regards the obligations of the contract parties, i.e. customers, suppliers and network operators. Clarity on the responsibilities of all stakeholders is a pre-condition for customers' ability to execute their role in a liberalized market properly.

ACTIVITY FOCUS

Development of a status review of customer contracts

2.3 ELECTRICITY

The electricity related activities of the ECRB in 2013 will involve:

1. Task Force 1 - Regulatory Framework for Establishing Regional Capacity Allocation Mechanisms and Congestion Management Procedures
2. Task Force 2 - Balancing
3. Task Force 3 - Compatible Market Rules and Effective Regional Wholesale Market Opening
4. Task Force 4 – Harmonization of Wholesale Trading Licenses
5. Task Force 5 – Market Monitoring
6. Task Force 6 – Regulatory Investment Incentives
7. Task Force 7 – Renewables
8. Electricity related input to public consultations on European Framework Guidelines and Network Codes. Details of this cross-sectoral activity of the ECRB are described in chapter 2.1.1

2.3.1 Task Force 1 - Regulatory Framework for Establishing Regional Capacity Allocation Mechanisms and Congestion Management Procedures

In the process of establishing a Coordinated Auction Office (CAO) in SEE as instrument for achieving a regionally coordinated congestion management and capacity allocation mechanism in the 8th Region¹⁶, regulators are responsible for approving relevant SEE CAO related documents

¹⁶ Regulation (EC) 1228/2003 (OJ L 176 of 15.7.2003, p 1 et seqq) requires the implementation of a regionally coordinated congestion management and capacity allocation mechanism. By decision of the Energy Community

(e.g. auction rules). These documents need to be prepared by the Transmission System Operators. Although the approval of the prepared documents would take place on national level – i.e. by each regulator individually for its national Transmission System Operator – the approach followed by the regulators in the national approval procedure needs to be streamlined throughout the Region. A regional project, such as the SEE CAO, can only operate if the same regulatory rules are applicable in all participating markets.

ACTIVITY FOCUS

Development of a coordinated regulatory review of SEE CAO related documents prepared and proposed by the *Project Team Company in Charge of establishing a SEE CAO*¹⁷.

2.3.2 Task Force 2 - Balancing

Balancing of electricity flows is of core relevance for the functioning of electricity transmission systems and – beyond that – continues to be crucial for network development and regional market integration: linking the national markets to a regional and more dynamic market would develop strong impact on the load flow situation and might also affect grid stability. The envisaged integration of renewable energy creates additional challenges. In small markets with transmission systems largely depending on one energy source – as prevailing in the Energy Community – reserve requirements, as foreseen by the ENTSO-E¹⁸ Handbook are a relevant cost factor and an argument for an increased role of regional balancing.

ACTIVITY FOCUS

1. Development of a balancing glossary.
2. Follow up study on 2012 imbalance settlement with a view to create a regional balancing approach in line with European experiences and rules. In this context, the introduction of short term capacity allocation has to be considered of primary importance for the enhancement of a balancing mechanism in South East Europe.

Ministerial Council on establishing the so-called 8th Region (Decision of the MC of 27 June 2008 (2008/02/MC-EnC), this requirement is applicable in the Energy Community Contracting Parties and neighbouring EU Members building the 8th Region. By signing a Memorandum of Understanding, the TSOs of the 8th Region set the cornerstone for the development of a SEE CAO. By signature of the Company Agreement for a *Project Team Company in Charge of Establishing a SEE CAO* on 13 June 2012 and the formal registration of this company on 4 July 2012 at the Court in Podgorica, activities have been practically initialised. A first auction of annual capacities for 2014 is expected by end of 2013.

¹⁷ On the detailed procedure see conclusions of the 11th and 19th ECRB Plenary meeting as well as http://www.ecrb.eu/portal/page/portal/ECRB_HOME/ECRB_MEMBERS/ECRB/19th%20ECRB/CAO%20approval%20procedure.pdf.

¹⁸ www.entsoe.eu.

2.3.3 Task Force 3 - Compatible Market Rules and Effective Regional Wholesale Market Opening

An open regional wholesale market is one of the major pillars of a regional electricity market in South East Europe and its integration with the European market. A harmonized regulatory approach is necessary for establishing a regional wholesale market. With the financial support of the World Bank, a consultancy study on Wholesale Market Opening (WMO) has been developed and finalized in 2010¹⁹. Based on the study's recommendations a Regional Action Plan (RAP) for electricity wholesale market opening in South East Europe has been jointly developed by the ECRB and ENTSO-E Regional Group SEE²⁰ that aligns the study's results with the European Target Model for Electricity Market Integration by 2014.

ACTIVITY FOCUS

1. Implementation of the Regional Action Plan for electricity wholesale market opening in SEE: follow up the implementation of the RAP and - via the ECRB RAP coordinator -ensure active coordination and streamlining of approaches with Ministries, stakeholders and the Energy Community Secretariat.
2. Monitoring of the RAP implementation in line with ACER's quarterly Regional Initiative reporting.

2.3.4 Task Force 4 – Harmonization of Wholesale Trading Licenses

A harmonized approach for wholesale trading licenses allowing for their mutual recognition of licenses²¹ remains a key parameter for the facilitation of new market entries and cross border trading. At the same time fair and non-discriminatory competition requires a certain minimum level of transparency and regulatory oversight. In the light of this, the ECRB already in 2009 developed a proposal for a harmonized system of wholesale licensing in the 8th Region²². Having in mind discussions on European level on the same topic, the ECRB decided to adjust the 2009 to the final results on European level. The EU discussions finally concluded with the introduction of REMIT²³. REMIT does not overlap with the recommendations of the 2009 ECRB

¹⁹ www.ecrb.eu; with an amendment on Moldova and Ukraine published in December 2011 (www.ecrb.eu).

²⁰ http://www.ecrb.eu/portal/page/portal/ECRB_HOME/ECRB_DOCUMENTS/PUBLICATIONS/ELECTRICITY/2011/RAP_FINAL%20approved%20%20ECRB17%20_CLEAN__PUBLISHED%20VERSION%20incl%20ENTSO_E%20RG%20SEE%20logo.pdf.

²¹ The Energy Community Treaty allows the Energy Community to take measures on mutual recognition of licensees.

²² http://www.ecrb.eu/portal/page/portal/ECRB_HOME/ECRB_DOCUMENTS/ECRB%20PAPERS/ELECTRICITY/2009/Harmonised%20Licensing_2009.pdf.

²³ Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (REMIT), 8 December 2011. REMIT introduces a sector-specific framework for the monitoring of wholesale



recommendation paper. However, REMIT sets the rules for the registration of wholesale traders with headquarters and active in the EU, as well as for those traders with headquarters outside of, but active within the EU, which opens up issues of streamlining the registration and monitoring processes.

ACTIVITY FOCUS

1. Development of measures ensuring a level playing field for traders while guaranteeing fair market conduct that would allow for tracking of traders activities substituting wholesale trade licensing. Propose these new measures to the PHLG and MC complemented with fade out of wholesale trade licensing in each jurisdiction.
2. Develop knowledge regarding REMIT as part of ECRB's coordination activities with ACER with a view to ensure streamlining with European developments and discussion related to the rules and procedures of REMIT.

2.3.5 Task Force 5 – Market Monitoring

The SEE Market Monitoring project was initiated following an invitation from the 8th Athens Forum in June 2006 to establish a Market Monitoring Pilot Plan. The Pilot Plan became effective in December 2006 with the financial support of USAID and engagement of the consultant Potomac Economics. The project defines a set of common market monitoring indicators that – after the finalization of the project – are expected to be commonly applied by the Energy Community regulators. The Market Monitoring Guidelines, monitoring database and a web interface for exercising the monitoring activity will be finalized with the assistance of Potomac Economics.

ACTIVITY FOCUS

1. Providing input to Potomac Economic, for finalization of the Market Monitoring Guidelines and development of a market monitoring database and a web interface for exercising the monitoring activities. In this context particular attention will also have to be drawn to avoiding overlapping and/or contradiction with ACER's market monitoring activities and REMIT.
2. Participation in a monitoring trial run of the web interface with a monthly rolling lead responsibility for one regulator

energy markets, with the objective of detecting and deterring market manipulation but does not target harmonization of wholesale trade licenses.

2.3.6 Task Force 6 – Regulatory Investment Incentives

Attracting investments remain a key requirement for the development of a liquid and competitive electricity market in SEE. Facilitating and stimulating new investments is therefore a core responsibility of both national legislation and regulatory praxis (for the gas sector see chapter 2.4.1).

The Energy Community in 2011 developed a Regional Energy Strategy²⁴. A phase II of this activity will in 2012 focus on the identification of Projects of Common Energy Community Interest (PECI). Regulatory input to this process will be crucial.

ACTIVITY FOCUS

Providing input to the PECI identification²⁵, including the follow up of study on investment incentive²⁶.

2.3.7 Task Force 7 – Renewables

European experience shows, that the enforced implementation of power production from renewable energy sources (RES) can develop significant impact on the models for regulating electricity systems. An analysis of the ECRB in 2011²⁷ identified that a broad variety of rules related to RES exists in the Contracting Parties. Especially, the powers of regulators are not equally stipulated, with some having in-depth approval and definition rights and others not being involved in the RES sector at all. Against the background of only a number of regulators being involved in RES related rule setting at all, the Task Force shall in principle act as platform for an exchange of regulatory experience on EU and Energy Community level in the RES area with a view to identify EU best practice models the Energy Community can learn from.

ACTIVITY FOCUS

Discussing the elements stemming from the introduction of power production from renewable energy sources (RES) with impact on the regulatory rules and provide a platform for exchange of regulatory experience on EU and Energy Community level in this respect.

²⁴ <http://www.energy-community.org/pls/portal/docs/1810178.PDF>.

²⁵ Cross- sectoral activity; for the same activity in the gas sector see chapter 0.

²⁶ The ECRB in 2009/2010 analyzed the existing regulatory instruments for stimulating investments in new infrastructure projects

(http://www.ecrb.eu/portal/page/portal/ECRB_HOME/ECRB_DOCUMENTS/ECRB%20PAPERS/ELECTRICITY/2010/Cross%20Border%20Investments-approved%2013th%20ECRB-FIN.pdf). Based on the report's recommendations, a study on regulatory investment incentives been developed in 2011 (http://www.ecrb.eu/portal/page/portal/ECRB_HOME/ECRB_DOCUMENTS/STUDIES/Final%20Report%20Gas%20Ring%20Study.pdf).

²⁷ www.ecrb.eu - publications.

2.4 GAS

OVERVIEW

1. Task Force 1 – Regulatory Aspects of the Gas Ring Development
2. Task Force 2 – Role of Regulatory Authorities with Respect to Preparation and Implementation Monitoring of the ENTSO-G Ten Year Network Development Plan
3. Gas related input to public consultations on European Framework Guidelines and Network Codes. Details of this cross-sectoral activity of the ECRB are described in chapter 2.1.1

2.4.1 Task Force 1 – Regulatory Aspects of the Gas Ring Development

Attracting investments remain a key requirement for the developing of a liquid and competitive electricity market in SEE. Facilitating and stimulating new investments is therefore a core responsibility of both national legislation and regulatory praxis (for the electricity sector see chapter 2.3.6). For the gas sector the concept of a so-called “Gas Ring”²⁸ aims at connecting all Contracting Parties, considering also the needs of the Region with regard to the electricity sector as well as the (existing or planned) regional pipelines, LNG terminals and storage facilities that could be connected to the Gas Ring. Realization of such infrastructure calls for a common regulatory approach on regional level. Building on the deliverables of previous years, the objective of Task Force 1 is to discuss the regulatory requirements for the realization of a broader gas infrastructure concept in the Energy Community. This will include providing input to phase II of the Energy Community Regional Energy Strategy²⁹, i.e. the identification of Projects of Common Energy Community Interest (PECI).

ACTIVITY FOCUS

1. Providing input to the PECI identification³⁰.
2. Analysis of the impact of new regulatory aspects and new gas market developments on the Gas Ring

²⁸ The Gas Ring concept was first presented in SEE Regional Gasification Study (SEE Regional Gasification Study (2008), Economic Consulting Associates/Penspen/ Energy Institute Hrvoje Požar, financed by World Bank and KfW; March 2008, <http://www.energy-community.org/pls/portal/docs/36273.PDF>).

²⁹ <http://www.energy-community.org/pls/portal/docs/1810178.PDF>.

³⁰ Cross- sectoral activity; for the same activity in the electricity sector see chapter 2.3.6.



2.4.2 Task Force 2 – Role of Regulatory Authorities with Respect to Preparation and Implementation Monitoring of the ENTSO-G Ten Year Network Development Plan

According to its responsibilities under the 3rd package, the European Network of Transmission System Operators for Gas (ENTSO-G³¹) is tasked to develop a Ten Year Network Development Plan (TYNDP)³². Energy Community gas transmission system operators are to a large extent included in this activity. From a regulatory perspective it is important to develop knowledge on the role of regulators in the process of TYNDP preparation and monitoring of its implementation.

ACTIVITY FOCUS

A workshop on the role of regulatory authorities with respect to preparation and Implementation monitoring of the ENTSO-G Ten Year Network Development Plan will be organised back to back to a meeting of the ECRB Gas Working Group.

³¹ www.entsog.eu.

³² Regulation No 715/2009 Art 7 para 3a.