

Terms of Reference for the System Operation European Stakeholder Committee

2017

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1. Introduction

Since 2011, considerable effort has been devoted to the development of the network codes and guidelines for electricity (NCs)¹ by the European Commission (EC), the Agency for the Cooperation of Energy Regulators (ACER), the European Network of Transmission System Operators for Electricity (ENTSO-E), associations representing Distribution System Operators (DSOs), the European association of energy exchanges (Europex) and other stakeholders such as consumer organisations, generators, suppliers and many others from across the European electricity sector.

The drafting and approval of NCs is however just the start. The NCs have been designed to help realise Europe's triple energy policy objective of developing a reliable, sustainable and competitive electricity sector. The NCs will now become one of the starting points of the Energy Union. For this to happen, they need to be implemented and complied with across Europe.

This represents an important challenge for the sector with each NC requiring a series of steps to be taken, before being considered fully implemented. This process will include, amongst other things, cross-national and national decisions, the conclusion of regional agreements, the creation of European-level common detailed methodologies and their actual (coordinated) application. All market participants, DSOs, system users, Market Operators (MOs, entities responsible for such tasks as imbalance settlement), Nominated Electricity Market Operators (NEMOs), Power Exchanges (PXs), Transmission System Operators (TSOs), Regional Security Coordinators (RSCs), scheduling agents, defence service providers, restoration service providers, balance responsible parties, balancing service providers, significant grid users and third parties as provided in the system operation NCs, and National Regulatory Authorities (NRAs) will be involved in the extensive required development work and consultation.

Effective stakeholder engagement is essential to the overall success in fulfilling the objectives. In practice, this involves efficient and intensive sharing of views and information by all interested parties throughout the process as a whole. Stakeholders will need to be kept abreast of developments and be provided with a forum to express their views and feedback. The parties responsible for implementation will play an important role in this respect.

2. Scope and objectives

ACER and ENTSO-E propose to co-organise three European Stakeholder Committees (ESC), one per family of network codes (Market, Operational and Grid Connection network codes). These Committees aim to complement, and not to replace, the legal obligations of stakeholder consultation and information included in the NCs during the implementation period. More specifically, the activities of the ESCs are without prejudice to Article 7 of Regulation (EC) No 714/2009² and Article 10 of Regulation (EC) No 713/2009³ and without prejudice to a potential need for the creation of a fourth ESC, namely the Balancing ESC.

¹ For clarity, the term “network codes” (NC) is mainly used in this document to define any set of common rules for electricity markets, be it “network codes” or “binding guidelines”, as defined by Regulation (EC) N°714/2009. The term “network codes and guidelines” is used on very specific occasions when it actually contributes to a better understanding.

² OJ L 211, 14.8.2009, p.15

³ OJ L 211, 14.8.2009, p.1

These Terms of Reference contain general rules for the three ESCs and specific rules for the purposes of the System Operation ESC (SO ESC). These Terms of Reference do not prejudice the determination of specific rules in the Terms of Reference adopted by the other ESCs (MESC and GC ESC⁴).

ACER may review the Terms of Reference from time to time, involve SO ESC members, and make any changes it considers necessary to ensure operational effectiveness.

A. Objectives

The main objectives of the ESC are:

1. To contribute to a more informed decision-making process for the methodologies and rules to be developed for the implementation of the NCs.
2. To contribute to monitoring progress in the NCs implementation process – as well as the operation and functioning of the processes and arrangements established according to the NCs – at local, regional and pan-European level as an overarching structure of all network codes;
3. To serve as a platform to share general views on the NC implementation, with a particular focus to enable stakeholders to express their views and receive feedback, including discussion on proposals for amendments to the NCs

Therefore, the ESC will provide **all interested stakeholder representative organisations on a European level** with:

- the opportunity to discuss and consult on the different implementation projects with ACER, the EC and all the responsible parties for the NC implementation;
- an efficient way to receive early information on the development of implementation projects; and;
- an efficient way to input towards and provide comments to the relevant parties involved in all implementation projects, while receiving clear feedback from these parties.

The ESC will provide **ACER and NRAs** with:

- support to perform their monitoring tasks on the implementation status of each NC within each country and identifying any gap, inconsistencies, overlaps or inefficiencies from a European perspective;
- a platform to discuss the scope and progress of the monitoring of the implementation of network codes;
- an effective and responsive mechanism to monitor the operation and functioning of the processes and arrangements established according to the NCs.

The ESC will provide **ENTSO-E, and other parties responsible for NCs implementation** with:

- a platform to report on implementation projects, in particular the lessons learned and problems encountered as well as to report on early drafts for the terms and conditions of methodologies or other projects to be developed;
- specific to ENTSO-E, support to perform their monitoring tasks in accordance with Article 8(8) of Regulation (EC) No 714/2009;

⁴ Market European Stakeholder Committee and System Operation European Stakeholder Committee

- a platform to receive feedback from stakeholders, therefore contributing to a more informed decision-making process and enhancing the quality of the projects delivered.

B. Scope and consistency

The scope of the ESC is a priori limited to the implementation of the NCs it covers – monitoring progress in the NCs implementation process and in the operation and functioning of the processes and arrangements established according to the NCs.

The ESC Chairperson (supported by ENTSO-E) is responsible for ensuring the consistency of the discussions across the three ESCs; therefore, the Chairperson of the ESC or, upon the Chairperson's request, another party will provide participants with consistency updates (as appropriate) on the main relevant issues discussed by other ESCs. Also, see section 5 below on the organisation of back-to-back meetings.

The ESC shall not replace the obligation for general public consultations required by the network codes. The ESC shall also preserve TSOs' joint responsibility for the development of the implementation projects and ACER/NRAs' responsibility for monitoring and regulatory supervision of those projects. ACER, ENTSO-E, or other responsible parties may organise workshops on specific issues when needed and/or have bilateral contacts/meetings with individual stakeholders. The ESC should be informed about the timing and conclusions of these communications/meetings where appropriate.

The ESC will also serve as a platform for sharing local best practices and will help to monitor any failure or lack of stakeholder engagement at local level and identify appropriate measures.

C. Subgroups

The Chairperson, acting upon a recommendation of ESC, may propose the creation of time-limited or longer-term ad-hoc stakeholder groups (subgroups), which will focus on specific issues and projects or groups of projects. These will report to the ESC, which may provide input to their discussions and request specific actions, reports or explanations.

D. Operational and market NCs implementation plans⁵

Following the adoption of any operational or market network code, the Agency will ask ENTSO-E, and other responsible parties to provide implementation plans. These will present a basic overview of pan-European, regional and national projects' timelines and the deliverables necessary to implement these codes.

Each ESC will assist the Agency, ENTSO-E and other responsible parties in monitoring the implementation of NCs against this plan.

Details of the timeline and procedures for establishing the market and operational NCs implementation plans will be presented by the Agency when necessary.

3. Representation principles

The rules for membership and management of the ESC provide the necessary structure to ensure effective operation.

⁵ Pan-European and regional implementation plans are not applicable to grid connection network codes, because grid connection network codes are not subject to further implementation procedures at national level.

These rules must ensure proper representation of all interested parties directly or indirectly impacted by the NC implementation. The membership of the ESC should be balanced and on equal footing, representing all parts of the value chain and ensuring geographical diversity to the extent possible. Membership rules must however be designed in a way that enhances efficient discussions. To guarantee the application of these principles, the following rules should apply to all ESCs, and by default to all subgroups:

- ACER chairs all Committees, and nominates the Chairperson of each subgroup after consulting the ESC;
- The Chairperson's purpose is to facilitate and lead the discussions, allow the expression and active participation of all parties, and ensure that ACER, ENTSO-E and other responsible parties comply with their engagements, in particular in terms of follow-up;
- Members should aim to participate in person. The ESC's members commit to only substitute their representatives under exceptional circumstances;
- Members are nominated through a formal call for interest open to any interested association representing pan-European views or interests. Each association will be asked to designate a limited number of representatives;
- The number of representatives per association will be limited with the aim to keep the total number of members below 25;
- The European Commission will be invited to observe all meetings of the ESC;
- External speakers may be invited by the Chairperson when relevant to the meetings of the ESC;
- ENTSO-E is the main provider of administrative services, it organises the meetings in close cooperation with the Chairperson, and maintains the IT platform used for communication;
- Non-ESC members will be able to access all relevant documents, provide comments and, if technically feasible, follow live streaming of the meetings through the IT platform.

4. Roles, responsibilities and working arrangements

All ESC members commit to:

- ensure high quality and consistency of the ESC through regular and active participation;
- liaise with their members and stakeholders to update on implementation and amendments of network codes, and represent their views and concerns; and
- share issues and concerns early on, in particular if they may be detrimental to the internal market, while respecting the processes for the implementation of the network codes as set up by the Member States, regulatory authorities and other designated entities.

ACER commits to:

- chair all meetings in a neutral way;
- ensure coordination of the three ESC discussions;
- work in close collaboration with ENTSO-E, and other responsible parties to prepare all necessary meeting documents (agenda, deliverables as per the action plan), and present them ideally 2 weeks or at least 5 working days before any meeting;

ACER, ENTSO-E, and other parties responsible for implementation commit to act in close collaboration in an open and transparent manner to:

- provide relevant information to facilitate participants' understanding, and prepare regular reports on implementation projects taking into account the requests for reporting from ESC members and chairs;
- initiate and provide information on aspects where participants input is expected:
 - in particular inform ESC members on a regular basis on the state of implementation of network codes' related projects. This reporting shall be sufficiently detailed, and also be provided in advance to give the ESC the opportunity to contribute to a consistent implementation;
- inform in advance the ESC of, inter alia, any new or updated methodology before implementation, study, consultations with regard to the NCs implementation;
- take into consideration all issues and actions expressed by stakeholders in the ESC meeting minutes.

ENTSO-E commits to:

- prepare, in close collaboration with ACER, and publish a list of all existing national and regional structures responsible for stakeholder engagement during network codes implementation;
- support ACER in the organisation of the ESC by providing secretariat services, including:
 - preparation of all meeting documents (such as agenda, deliverables, attendance lists, minutes);
 - setting up and maintaining an IT platform to ensure transparency, in close collaboration with ACER;
 - organisation of the meetings, in close collaboration with ACER;
 - conclusions with main action points: issues and actions logs.
- make sure, in close collaboration with ACER, that all the accessible information on the implementation of any national-specific methodologies and provisions at national or regional level is made available to all stakeholders in Europe through an IT platform.

5. Organisation of meetings

The ESC meets indicatively four times a year, but the Chairperson may increase or decrease this number according to the ESC's needs. The meetings will preferably be held in Ljubljana. Additionally, the Chairperson will aim to hold back-to-back SO ESC and GC ESC meetings, to the extent possible. The objective of back-to-back meetings is to facilitate logistics for those member representatives who actively participate in both committees.

The Chairperson drafts meeting agendas, while duly taking into consideration the input provided by the parties responsible for the implementation projects. Agendas are reviewed at the beginning of each meeting. Stakeholders may request, within a reasonable time period, the Chairperson to include a specific topic on the draft agenda.

Minutes of each meeting, which accurately reflect the discussions held, will be produced. Minutes shall be circulated to participants within, ideally, one week following the meeting. Participants shall be provided with a reasonable time period in which to comment on the minutes. In the event that no comments are received, the minutes shall be deemed to be approved. In the event comments are received, the Chairperson may incorporate them when justified, into a final version of the minutes.

Minutes will include an action log, and a log of any issues raised by stakeholders that may require further investigation. At each meeting, the Chairperson shall seek clear answers and reports on each item included in the issues and action logs from responsible parties.

6. IT Platform for transparency

ENTSO-E will put in place a dedicated IT platform for each ESC, in close collaboration with ACER. All relevant documents, deliverables, minutes, lists of participants and agendas will be published on this platform. The IT platform will also allow stakeholders, members or non-members of the ESC, to express comments on the main deliverables and will allow members to register for meetings. If technically feasible, live streaming of each meeting will be publicly available.