AMENDMENTS 001-090
by the Committee on Industry, Research and Energy

Report
Morten Helveg Petersen
European Union Agency for the Cooperation of Energy Regulators
A8-0040/2018


Amendment 1
Proposal for a regulation
Recital 5 a (new)

<table>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<td>(5a) Despite significant progress in integrating and interconnecting the internal electricity market, some Member States or regions still remain isolated or not sufficiently interconnected. This is particularly the case with regard to insular Member States and Member States located in the periphery. The Agency in its work should take account of the specific situation of those Member States or regions as appropriate.</td>
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Amendment 2
Proposal for a regulation
Recital 7

<table>
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<th>Text proposed by the Commission</th>
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<td>(7) Due to the close interconnection of the Union electricity grid and the</td>
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increasing need to cooperate with neighbouring countries to maintain grid stability and integrate large volumes of renewable energies, regional operational centres will play an important role for the coordination of transmission system operators. The Agency should guarantee regulatory oversight over the regional operational centres where necessary.

Amendment 3
Proposal for a regulation
Recital 8

**Text proposed by the Commission**

(8) As large parts of new electricity generation will be connected at local level, distribution system operators will play an important role when it comes to operating the European electricity system in a flexible and efficient manner.

**Amendment**

(8) As large parts of new electricity generation will be connected at local level, distribution system operators will play an important role when it comes to operating the European electricity system in a flexible and efficient manner. As the Commission considers the establishment of a Union-level body in order to enhance cooperation between transmission system operators and distribution system operators (DSOs), and to develop further guidance and codes on DSO issues, it is necessary to give the Agency certain regulatory oversight powers over such a body.

Amendment 4
Proposal for a regulation
Recital 10

**Text proposed by the Commission**

(10) The Agency should ensure that regulatory functions performed by the national regulatory authorities in accordance with [the recast Electricity Directive as proposed by

**Amendment**

(10) The Agency should ensure that regulatory functions performed by the national regulatory authorities in accordance with [the recast Electricity Directive as proposed by
COM(2016)0864] and Directive 2009/73/EC of the European Parliament and of the Council\(^{30}\) are properly coordinated and, where necessary, completed at Union level. To that end, it is necessary to guarantee the independence of the Agency from electricity and gas producers, transmission and distribution system operators, whether public or private, and consumers and to ensure the conformity of its actions with Union law, its technical and regulatory capacities and its transparency, amenability to democratic control and efficiency.

\(^{30}\) See page 94 of this Official Journal.

**Justification**

*Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments*

**Amendment 5**

**Proposal for a regulation**

**Recital 11**

**Text proposed by the Commission**

(11) The Agency should monitor regional cooperation between transmission system operators in the electricity and gas sectors as well as the execution of the tasks of the European Network of Transmission System Operators for Electricity (ENTSO for Electricity), and the European Network of Transmission System Operators for Gas (ENTSO for Gas). The Agency should also monitor the implementation of the tasks of other entities with regulated functions of Union-wide dimension, such as energy exchanges. The involvement of the Agency is essential in order to ensure that the cooperation between transmission system operators and the operation of other entities with Union-wide functions proceeds in an efficient and transparent way for the

**Amendment**

(11) The Agency should monitor regional cooperation between transmission system operators in the electricity and gas sectors as well as the execution of the tasks of the European Network of Transmission System Operators for Electricity (ENTSO for Electricity), and the European Network of Transmission System Operators for Gas (ENTSO for Gas) and play a role in ensuring compliance with Union law. The Agency should also monitor the implementation of the tasks of other entities with regulated functions of Union-wide dimension, such as energy exchanges. The involvement of the Agency is essential in order to ensure that the cooperation between transmission system operators and the operation of other entities with Union-
benefit of the internal markets in electricity and natural gas.

wide functions proceeds in an efficient and transparent way for the benefit of the internal markets in electricity and natural gas. The Agency should be able to request and to receive, from the ENTSO for Electricity and the ENTSO for Gas, information necessary for the fulfilment of its tasks.

**Justification**

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

**Amendment 6**

Proposal for a regulation
Recital 11 a (new)

*Text proposed by the Commission*

(11 a) With the expansion of the operational responsibilities of the ENTSO for Electricity, the ENTSO for Gas, the EU entity of Distribution System Operators (the “EU DSO entity”) and the regional cooperation centres, it is necessary to enhance oversight of such entities operating at regional or Union-wide level. In exceptional circumstances, in order to safeguard the proper functioning of the internal energy market, ACER should be able to adopt decisions addressed to such entities to ensure that they comply with their obligations certain energy law.

**Justification**

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

**Amendment 7**

Proposal for a regulation
Recital 13
(13) The Agency provides an integrated framework which enables national regulatory authorities to participate and cooperate. That framework facilitates the uniform application of the legislation on the internal markets in electricity and natural gas throughout the Union. As regards situations concerning more than one Member State, the Agency has been granted the power to adopt individual decisions. That power should under clearly specified conditions cover technical and regulatory issues which require regional coordination, notably concerning the implementation of network codes and guidelines, cooperation within regional operational centres, the regulatory decisions necessary to effectively monitor wholesale market integrity and transparency, decisions concerning electricity and natural gas infrastructure that connects or that might connect at least two Member States and, as a last resort, exemptions from the internal market rules for new electricity interconnectors and new gas infrastructure located in more than one Member State.

The Agency should also have the capacity to provide operational assistance to the national regulatory authorities. The national regulatory authorities should provide the Agency with the information relevant to the Agency’s monitoring activities.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 8

Proposal for a regulation
Recital 14
(14) The Agency has an important role in developing framework guidelines which are non-binding by nature ("framework guidelines"). Network codes should be in line with those framework guidelines. It is also considered appropriate for the Agency, and consistent with its purpose, to have a role in reviewing and amending draft network codes to ensure that they are in line with the framework guidelines and provide for the necessary degree of harmonisation, before it submits them to the Commission for adoption.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 9

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) With the adoption of a set of network codes and guidelines which provide for a stepwise implementation and a further refinement of common regional and Union-wide rules, the role of the Agency in monitoring the implementation of the network codes and guidelines has increased. Effective monitoring of network codes and guidelines is a key function of the Agency and crucial for the implementation of internal market rules.

Amendment 10

Proposal for a regulation
Recital 17

Text proposed by the Commission

(15) With the adoption of a set of network codes and guidelines which provide for a stepwise implementation and a further refinement of common regional and Union-wide rules, the role of the Agency in monitoring and ensuring the implementation of the network codes and guidelines has increased. Effective monitoring of network codes and guidelines is a key function of the Agency and crucial for the implementation of internal market rules.
(17) Since the stepwise harmonisation of the Union energy markets involves finding regional solutions regularly as an interim step, it is appropriate to reflect the regional dimension of the internal market and to provide for appropriate governance mechanisms. **Regulators responsible for coordinated regional approvals should be able to prepare Board of Regulators decisions on issues of regional relevance in a regional subcommittee of the Board of Regulators, unless those issues are of general importance for the Union.**

**Amendment 11**

**Proposal for a regulation**

**Recital 20**

**Text proposed by the Commission**

(20) The Agency **should** consult interested parties, where appropriate, and provide them with a reasonable opportunity to comment on proposed measures, **such as network codes and rules.**

**Amendment**

(20) The Agency **must** consult interested parties, where appropriate, and provide them with a reasonable opportunity to comment on all proposed measures.

**Justification**

*Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments*

**Amendment 12**

**Proposal for a regulation**

**Recital 22**

**Text proposed by the Commission**

(22) The Agency should contribute to the efforts of enhancing energy security.

**Amendment**

(22) The Agency should contribute to the efforts of enhancing energy security **and meeting the climate objectives of the**
Union. As an executive body, it should abide by the strategic energy and climate agenda determined by the Union’s policy-making institutions.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 13

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) The Agency should have the necessary powers to perform its regulatory functions in an efficient, transparent, reasoned and, above all, independent manner. The independence of the Agency from electricity and gas producers and transmission and distribution system operators is not only a key principle of good governance but also a fundamental condition to ensure market confidence. Without prejudice to its members’ acting on behalf of their respective national authorities, the Board of Regulators should therefore act independently from any market interest, should avoid conflicts of interests and should not seek or follow instructions or accept recommendations from a government of a Member State, from Union institutions or another public or private entity or person. The decisions of the Board of Regulators should, at the same time, comply with Union law concerning energy, such as the internal energy market, the environment and competition. The Board of Regulators should report its opinions, recommendations and decisions to the Union institutions.

Amendment

(26) The Agency should have the necessary powers to perform its regulatory functions in an efficient, transparent, reasoned and, above all, independent manner. The independence of the Agency from electricity and gas producers and transmission and distribution system operators as well as other organisations promoting the interests of national regulators is not only a key principle of good governance but also a fundamental condition to ensure market confidence. Without prejudice to its members’ acting on behalf of their respective national authorities, the Board of Regulators should therefore act independently from any market interest, should avoid conflicts of interests and should not seek or follow instructions or accept recommendations from a government of a Member State, from Union institutions or another public or private entity or person. The decisions of the Board of Regulators should, at the same time, comply with Union law concerning energy, such as the internal energy market, the environment and competition. The Board of Regulators should report its opinions, recommendations and decisions to the Union institutions. The Agency’s decisions should be binding, while its opinions and recommendations should be given the
utmost consideration by the ENTSO for Electricity, the ENTSO for Gas, the EU DSO entity, the transmission system operators, the regional operational centres and nominated electricity market operators.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 14
Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) The Agency should exercise its decision-making powers in line with the principles of fair, transparent and reasonable decision-making. All procedural rules of the Agency should be laid down in its rules of procedures.

Amendment

(28) The Agency should exercise its decision-making powers in line with the principles of fair, transparent and reasonable decision-making. All procedures of the Agency should follow adequate rules of procedure. All procedural rules of the Agency should be laid down in its rules of procedures.

Amendment 15
Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) The Agency should be mainly financed from the general budget of the Union, by fees and by voluntary contributions. In particular, the resources currently pooled by regulatory authorities for their cooperation at Union level should continue to be available to the Agency. The Union budgetary procedure should remain applicable as far as any subsidies chargeable to the general budget of the Union are concerned. Moreover, the auditing of accounts should be undertaken by an independent external auditor in

Amendment

(29) The Agency should be properly resourced to carry out its tasks. The Agency should be mainly financed from the general budget of the Union, by fees and by voluntary contributions. In particular, there sources currently pooled by regulatory authorities for their cooperation at Union level should continue to be available to the Agency. The Agency should have the possibility to collect fees for certain of its activities. The Union budgetary procedure should remain applicable as far as any subsidies
accordance with Article 107 of Commission Delegated Regulation (EU) No 1271/2013. chargeable to the general budget of the Union are concerned. Moreover, the auditing of accounts should be undertaken by an independent external auditor in accordance with Article 107 of Commission Delegated Regulation (EU) No 1271/201333.


Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 16
Proposal for a regulation
Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) The Agency's budget should be prepared in accordance with the principle of performance-based budgeting, taking into account its objectives and the expected results of its tasks.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 17
Proposal for a regulation
Recital 30

Text proposed by the Commission

Amendment

(30) The Agency's budget should be

(30) The Agency's budget should be
assessed by the budgetary authority on an ongoing basis, with reference to the Agency’s workload and performance. The budgetary authority should ensure that the best standards of efficiency are met.

assessed by the budgetary authority on an ongoing basis, with reference to the Agency’s workload and the objective of working towards an internal energy market and contributing to energy security for the benefit of consumers in the Union. The budgetary authority should ensure that the best standards of efficiency are met.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 18
Proposal for a regulation
Recital 34

Text proposed by the Commission

(34) Through the cooperation of national regulators within the Agency it is evident that majority decisions are a key prerequisite to achieve progress on matters concerning the internal energy market which have significant economic effects in various Member States. National regulators should therefore vote with simple majority within the Board of Regulators.

Amendment

(34) Through the cooperation of national regulators within the Agency it is evident that majority decisions are a key prerequisite to achieve progress on matters concerning the internal energy market which have significant economic effects in various Member States. National regulators should therefore vote by a two-thirds majority within the Board of Regulators. The Agency should be accountable to the European Parliament, the Council and the Commission, as appropriate.

Amendment 19
Proposal for a regulation
Recital 37 a (new)

Text proposed by the Commission

(37a) Decision 2009/913/EU taken by common agreement between the representatives of the governments of Member States provides that the Agency is to have its seat in Ljubljana, Slovenia. Agency’s seat is the centre of its activities

Amendment

(37a) Decision 2009/913/EU taken by common agreement between the representatives of the governments of Member States provides that the Agency is to have its seat in Ljubljana, Slovenia. Agency’s seat is the centre of its activities.
and its statutory functions. Thus, the meetings of the statutory organs should take place at the seat.


Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 20
Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) The Agency’s host Member State should provide the best possible conditions to ensure the smooth and efficient functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections.

Amendment

(38) The Seat Agreement between the Government of the Republic of Slovenia and the Agency was concluded on 26 November 2010 and entered into force on 10 January 2011 and other specific arrangements fulfil the requirements of Regulations (EU) No 713/2009 and 863/2016.

Amendment 21
Proposal for a regulation
Recital 38 a (new)

Text proposed by the Commission

(38a) The Agency should encourage and facilitate cooperation between the national regulatory authorities across sectors, where relevant, especially in the field of data protection and privacy.
Amendment 22

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

2. The purpose of the Agency shall be to assist the regulatory authorities referred to in Article 57 of [the recast Electricity Directive as proposed by COM(2016)0864] and Article 39 of Directive 2009/73/EC of the European Parliament and of the Council in exercising, at Union level, the regulatory tasks performed in the Member States and, where necessary, to coordinate their action.

Amendment

2a. When carrying out its tasks, the Agency shall act independently and objectively and in the interest of the Union alone. The Agency shall take autonomous decisions, independently.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 23

Proposal for a regulation
Article 1 – paragraph 2 a (new)

Text proposed by the Commission

2a. When carrying out its tasks, the Agency shall act independently and objectively and in the interest of the Union alone. The Agency shall take autonomous decisions, independently.

Amendment

2a. When carrying out its tasks, the Agency shall act independently and objectively and in the interest of the Union alone. The Agency shall take autonomous decisions, independently.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments
from private and corporate interests and have separate annual budget allocations, with autonomy in the implementation of the allocated budget, and adequate human and financial resources to carry out its duties effectively.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 24

Proposal for a regulation
Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) issue opinions and recommendations addressed to transmission system operators, regional operational centres and nominated electricity market operators;

Amendment

(a) issue opinions and recommendations addressed to transmission system operators, the ENTSO for Electricity, the ENTSO for Gas, the EU DSO entity, the regional coordination centres and nominated electricity market operators;

Amendment 25

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) take individual decisions in the specific cases referred to in Articles 6, 8, and 11 of this Regulation;

Amendment

(d) take decisions in the specific cases referred to in this Regulation;

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 26

Proposal for a regulation
Article 2 – paragraph 1 a (new)
The ENTSO for Electricity, the ENTSO for Gas, the EU DSO entity, the transmission system operators, the regional coordination centres and nominated electricity market operators shall give the utmost consideration to, and make every effort to comply with, the Agency’s opinions and recommendations addressed to them pursuant to this Regulation.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 27

Proposal for a regulation
Article 4 – title

Text proposed by the Commission

Tasks of the Agency as regards the cooperation of transmission system operators

Amendment

Tasks of the Agency as regards the cooperation of transmission and distribution system operators

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 28

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

1. The Agency shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure of the ENTSO for Electricity in accordance with Article 26 (2) of [OP: recast Electricity Regulation as proposed by

Amendment

1. The Agency shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure of the ENTSO for Electricity in accordance with Article 26(2) of [OP: recast Electricity Regulation as proposed by
COM(2016)0861] and on those of the ENTSO for Gas in accordance with Article 5(2) of Regulation (EC) No 715/2009.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 29

Proposal for a regulation
Article 4 – paragraph 3 – point a

Text proposed by the Commission

(a) to the ENTSO for Electricity in accordance with Article 27(1)(a) of [recast Electricity Regulation as proposed by COM(2016)0861] and to the ENTSO for Gas in accordance with Article 8(2) of Regulation (EC) No 715/2009 on the network codes; and

Amendment

(a) to the ENTSO for Electricity in accordance with Article 27(1)(a) of [recast Electricity Regulation as proposed by COM(2016)0861] and to the ENTSO for Gas in accordance with Article 8(2) of Regulation (EC) No 715/2009 on the network codes;

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 30

Proposal for a regulation
Article 4 – paragraph 3 – point b

Text proposed by the Commission

(b) to the ENTSO for Electricity in accordance with Article 27(1) (b) and (h) of [recast Electricity Regulation as proposed by COM(2016)0861], and to the ENTSO for Gas in accordance with the first subparagraph of Article 9(2) of Regulation (EC) No 715/2009 on the draft

Amendment

(b) to the ENTSO for Electricity in accordance with Article 27(1) (b) and (h) of [recast Electricity Regulation as proposed by COM(2016)0861], and to the ENTSO for Gas in accordance with the first subparagraph of Article 9(2) of Regulation (EC) No 715/2009 on the draft
annual work programme, on the draft Union-wide network development plan and other relevant documents referred to in Article 27(1) of [recast Electricity Regulation as proposed by COM(2016)0861] and Article 8(3) of Regulation (EC) No 715/2009, taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal markets in electricity and natural gas.

Amendment 31
Proposal for a regulation
Article 4 – paragraph 3 – point b a (new)

Text proposed by the Commission

(b a) to the EU DSO entity on the draft annual work programme and other relevant documents referred to in Article 51(1) and (2) of Regulation (EU) ... [recast Electricity Regulation as proposed by COM(2016)0861], taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal markets in electricity and natural gas.

Amendment 32
Proposal for a regulation
Article 4 – paragraph 4 a (new)

Justification
Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments
4 a. The Agency may issue decisions addressed to the ENTSO for Electricity, the ENTSO for Gas and the EU DSO entity to require them to comply with their obligations as specified in
(a) this Regulation;
(b) Regulation (EC) No 715/2009 and Regulation (EU) .../[proposed recast Electricity Regulation, COD (2016)0379];
(c) the network codes adopted pursuant to Article 6 of Regulation (EC) No 715/2009 and Articles 54 and 55 of Regulation (EU) .../[proposed Electricity Regulation, COD(2016)0379 ];
(d) the guidelines adopted pursuant to Article 23 of Regulation (EC) No 715/2009 and Article 57 of Regulation (EU) .../[proposed Electricity Regulation, COD(2016) 0379 ];
(f) Regulation (EU) ... [Risk Preparedness Regulation as proposed by COM(2016)0862]

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 33

Proposal for a regulation
Article 4 – paragraph 4 b (new)

Text proposed by the Commission

4 b. The Agency shall issue a decision pursuant to paragraph 4a only where:
(a) the failure to comply affects the efficient functioning of the internal energy market; and
(b) no competent authority has taken measures or the measures taken by one or more competent authorities have not been sufficient to ensure compliance.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 34

Proposal for a regulation
Article 4 – paragraph 4 c (new)

Text proposed by the Commission

Amendment

4 c. Upon the Agency’s request, the ENTSO for Electricity, the ENTSO for Gas and the EU DSO entity shall provide the Agency with the information necessary for the fulfilment of its tasks.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 35

Proposal for a regulation
Article 5 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) monitor and analyse the implementation of the network codes and the Guidelines adopted by the Commission in accordance with Article 55(12) of [recast Electricity Regulation as proposed by COM(2016)0861] and in Article 6(11) of Regulation (EC) No 715/2009, and their effect on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market, and report to the Commission. The Agency
report to the Commission. \textit{may also issue decisions in accordance with Article 4(4a) of this Regulation.}

\textbf{Justification}

\textit{Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments}

\textbf{Amendment 36}

\textbf{Proposal for a regulation}

\textbf{Article 5 – paragraph 2}

\textit{Text proposed by the Commission}

2. In cases where the network codes and guidelines developed pursuant to Chapter VII of [recast Electricity Regulation as proposed by COM(2016)0861] provide for the development of proposals for terms and conditions or methodologies for the implementation of those network codes and guidelines which require \textit{regulatory} approval by \textit{all regulatory authorities or by all regulators of the concerned region, the} terms and conditions or methodologies shall be submitted for revision and approval to the Agency. \textit{Before approving the terms and conditions or methodologies, the Agency shall revise and change them where necessary in order to ensure that they are in line with the purpose of the network code or guideline and contribute to market integration, non-discrimination and the efficient functioning of the market. The procedure for the coordination of regional tasks in accordance with Article 7 shall apply.}

\textit{Amendment}

2. In cases where the network codes and guidelines developed pursuant to Chapter VII of [recast Electricity Regulation as proposed by COM(2016)0861] provide for the development of proposals for terms and conditions or methodologies for the implementation of those network codes and guidelines which require approval by \textit{the regulatory authorities of all Member States, the proposed} terms and conditions or methodologies shall be submitted for revision and approval to the Agency.

\textbf{Amendment 37}

\textbf{Proposal for a regulation}

\textbf{Article 5 – paragraph 2 a (new)}
2 a. In cases where the network codes and guidelines developed pursuant to Chapter VII of Regulation (EU) .../...
[proposed recast Electricity Regulation, COD (2016)0379] provide for the development of proposals for joint regional terms and conditions or methodologies for the implementation of network codes and guidelines which require approval by all regulatory authorities of the region concerned, the proposed terms and conditions or methodologies shall be notified to the Agency.

Within one month of such notification, the Director may, on his or her own initiative after consulting the Board of Regulators, or at the request of the Board of Regulators, require the regulatory authorities of the region concerned to refer the proposal to the Agency for approval where the proposal has a tangible impact on the internal energy market.

A proposal shall be considered to have a tangible impact on the internal energy market where it would:

(i) have a tangible impact on end-consumers beyond the region concerned, or

(ii) significantly affect the Union's energy interests beyond the region concerned.

In such cases, or in cases referred to in Article 6(8)(a) and (b) the Agency shall take a decision within the period specified in the relevant network codes and guidelines. That period shall begin on the day following that on which the proposal was notified.

Before approving the terms and conditions or methodologies, the Agency shall revise and change them where necessary in order to ensure that they are
in line with the purpose of the network code or guideline and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

Amendment 38
Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

3. In the context of the bidding zone review, the Agency shall approve and may request amendments to the methodology and assumptions that will be used in the bidding zone review process pursuant to Article 13 paragraph 3 of [recast Electricity Regulation as proposed by COM(2016)0861].

Amendment

3. The bidding zone review process shall be effected pursuant to Article 13 paragraph 3 of [recast Electricity Regulation as proposed by COM(2016)0861].

Amendment 39
Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

2. The Agency may, in accordance with its work programme, at the request of the Commission or at its own initiative, make recommendations to assist regulatory authorities and market players in sharing good practices.

Amendment

2. The Agency may, in accordance with its work programme, at the request of the Commission or at its own initiative, make recommendations to assist regulatory authorities and market players in sharing good practices and ensuring full compliance with existing regulation.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 40
Proposal for a regulation
Article 6 – paragraph 2 a (new)
Text proposed by the Commission

2a. The Agency may provide the Commission with an opinion regarding a particular national regulatory authority’s independence or lack of resources and technical capabilities upon its own initiative.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 41

Proposal for a regulation
Article 6 – paragraph 3

Text proposed by the Commission

3. The Agency shall provide a framework within which national regulatory authorities can cooperate. It shall promote cooperation between the national regulatory authorities and between regulatory authorities at regional and Union level to ensure interoperability, communication and monitoring of regional performance in those areas which are still not harmonised at Union level and shall take into account the outcome of such cooperation when formulating its opinions, recommendations and decisions. Where the Agency considers that binding rules on such cooperation are required, it shall make the appropriate recommendations to the Commission.

Amendment

3. The Agency shall provide a framework within which national regulatory authorities can cooperate in order to ensure efficient decision-making on issues with cross border relevance. It shall promote cooperation between the national regulatory authorities and between regulatory authorities at regional and Union level to ensure interoperability, communication and monitoring of regional performance in those areas which are still not harmonised at Union level and shall take into account the outcome of such cooperation when formulating its opinions, recommendations and decisions. Where the Agency considers that binding rules on such cooperation are required, it shall make the appropriate recommendations to the Commission.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments
4. The Agency shall provide a factual opinion at the request of one or more regulatory authorities or of the Commission, on whether a decision taken by a regulatory authority complies with the guidelines referred to in [recast Electricity Directive as proposed by COM(2016)0864], Directive 2009/73/EC, [recast Electricity Regulation as proposed by COM(2016)0861] or Regulation (EC) No 715/2009 or with other relevant provisions of those Directives or Regulations.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 43

Proposal for a regulation
Article 6 – paragraph 6 a (new)

6 a. Upon the request of a national regulatory authority, the Agency may decide to provide operational assistance to the national regulatory authority concerned in the investigation, including for the purpose of enforcement with regard to non-compliance with rules relating to market abuse, market manipulation and insider trading, pursuant to Regulation (EU) No 1227/2011 of the European Parliament and of the Council\(^a\).


Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 44
Proposal for a regulation
Article 6 – paragraph 7

<table>
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<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. The Agency shall decide on the terms and conditions for access to and operational security of electricity and gas infrastructure connecting or that might connect at least two Member States (&quot;cross-border infrastructure&quot;), in accordance with paragraph 8.</td>
<td></td>
</tr>
<tr>
<td>7. The Agency shall decide on the terms and conditions for access to and operational security of electricity and gas infrastructure connecting or that might connect at least two Member States (&quot;cross-border infrastructure&quot;), in accordance with paragraphs 8, 9 and 10.</td>
<td></td>
</tr>
</tbody>
</table>

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 45
Proposal for a regulation
Article 6 – paragraph 10 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 a. The national regulatory authorities shall ensure enforcement of the Agency’s decisions.</td>
<td></td>
</tr>
</tbody>
</table>

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments
Amendment 46

Proposal for a regulation
Article 7

Text proposed by the Commission

[...]

Amendment

deleted

Amendment 47

Proposal for a regulation
Article 8 – title

Text proposed by the Commission

Tasks of the Agency as regards regional
operational centres

Amendment

Tasks of the Agency as regards regional
coordination centres

Amendment 48

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. The Agency, in close cooperation with the national regulatory authorities and the ENTSO for Electricity, shall monitor and analyse the performance of regional operational centres, taking into account the reports provided for in [Article 43 paragraph 4 recast Electricity Regulation as proposed by COM(2016)0861].

Amendment

1. The Agency, in close cooperation with the national regulatory authorities and the ENTSO for Electricity, shall monitor and analyse the performance and compliance of regional coordination centres, taking into account the reports provided for in [Article 43(4) of Regulation ... recast Electricity Regulation as proposed by COM(2016)0861] and their compliance with obligations under Regulation (EU) .../... recast Electricity Regulation as proposed by COM(2016)0861], the network codes adopted pursuant to Articles 54 and 55 thereof and the guidelines adopted pursuant to Article 57 thereof.
Amendment 49
Proposal for a regulation
Article 8 – paragraph 2 – point b

Text proposed by the Commission
(b) request information from regional operational centres where appropriate pursuant to Article 43 of [recast Electricity Regulation as proposed by COM(2016)0861];

Amendment
(b) request information from regional coordination centres where appropriate pursuant to Article 43 of [recast Electricity Regulation as proposed by COM(2016)0861];

Amendment 50
Proposal for a regulation
Article 8 – paragraph 2 – point d

Text proposed by the Commission
(d) issue opinions and recommendations to regional operational centres.

Amendment
(d) issue opinions and recommendations to regional coordination centres.

Amendment 51
Proposal for a regulation
Article 8 – paragraph 2 a (new)

Text proposed by the Commission
2 a. The Agency may issue decisions addressed to the regional coordination centres to require them to comply with their obligations as specified in
(a) Regulation (EU) .../[proposed recast Electricity Regulation, COD (2016)0379];
(b) the network codes adopted pursuant to Articles 54 and 55 of Regulation (EU) .../[proposed Electricity Regulation, COD(2016)0379 ];
(c) the guidelines adopted pursuant to Article 57 of Regulation (EU) .../[proposed Electricity Regulation, COD(2016) 0379].
Amendment 52
Proposal for a regulation
Article 8 – paragraph 2b (new)

Text proposed by the Commission

2b. The Agency shall take a decision pursuant to paragraph 2a only where:
   (a) the failure to comply affects the efficient functioning of the internal energy market; and
   (b) no competent authority has taken measures or the measures taken by one or more competent authorities have not been sufficient to ensure compliance.

Amendment 53
Proposal for a regulation
Article 10 – paragraph 1 – point a

Text proposed by the Commission

(a) the proposals for methodologies and calculations related to the European resource adequacy assessment pursuant to Article 19(2), (3) and (5) of [recast Electricity Regulation as proposed by COM(2016)0861].

Amendment

(a) the proposals for methodologies and calculations related to the European resource adequacy assessment pursuant to Article 19(2), (3) and (5) of [recast Electricity Regulation as proposed by COM(2016)0861] as well as the results of the European resource adequacy assessment pursuant to Article 19(6) of Regulation (EU) ... [recast Electricity Regulation as proposed by COM(2016)0861].

Amendment 54
Proposal for a regulation
Article 13 – paragraph 1 – point a

Text proposed by the Commission

(a) monitor wholesale markets, collect data and register market participants in accordance with Article 7 to 9 of

Amendment

(a) monitor wholesale markets, including regional markets, collect and share data and establish a European register of market participants in
Amendment 55

Proposal for a regulation
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

Procedural safeguards for addressees of the Agency’s decisions

1. Before taking the decisions provided for in this Regulation, the Agency shall inform the parties concerned of the decisions and shall invite them to submit observations by a particular time-limit, taking full account of the urgency, complexity and potential consequences of the matter.

2. Decisions taken by the Agency shall be fully reasoned for the purpose of allowing an appeal on the merits.

3. The parties concerned shall be informed of the legal remedies available to challenge decisions pursuant to this Regulation.

4. The Agency shall adopt and publish adequate and proportionate rules of procedure relating to the Agency’s tasks under Chapter I. For all Agency decisions, the rules of procedure shall at least set the standards specified in paragraphs 1, 2 and 3 of this Article and shall ensure a transparent and reasonable decision-making process, guaranteeing fundamental procedural rights based on the rule of law. For all other Agency tasks
under Chapter I, the rules of procedure shall at least ensure that fundamental procedural rights are guaranteed.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 56

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. The Agency, in close cooperation with the Commission, the Member States and the relevant national authorities including the national regulatory authorities and without prejudice to the competences of competition authorities, shall monitor the wholesale and retail markets in electricity and natural gas, in particular the retail prices of electricity and natural gas, compliance with the consumer rights laid down in [recast Electricity Directive as proposed by COM(2016)0864] and Directive 2009/73/EC, access to the networks including access of electricity produced from renewable energy sources, potential barriers to cross-border trade, state interventions preventing prices from reflecting actual scarcity, the performance of the Member States in the area of electricity security of supply based on the results of the European resource adequacy assessment as referred to in Article 19 of [recast Electricity Regulation], in particular taking into account the ex-post evaluation referred to in Article 16 of [Risk Preparedness Regulation as proposed by COM(2016)0862].

Amendment

1. The Agency, in close cooperation with the Commission, the Member States and the relevant national authorities including the national regulatory authorities and without prejudice to the competences of competition authorities, shall monitor the wholesale and retail markets in electricity and natural gas, in particular the retail prices of electricity and natural gas, compliance with the consumer rights laid down in [recast Electricity Directive as proposed by COM(2016)0864] and Directive 2009/73/EC, the impact of market developments on household customers access to the networks including access of electricity produced from renewable energy sources, the progress made with regard to interconnections, potential barriers to cross-border trade, regulatory barriers for new market entrants and smaller actors, including energy communities, state interventions preventing prices from reflecting actual scarcity, the performance of the Member States in the area of electricity security of supply based on the results of the European resource adequacy assessment as referred to in Article 19 of [recast Electricity Regulation], in particular taking into account the ex-post evaluation referred to in Article 16 of [Risk Preparedness Regulation as proposed by COM(2016)0862].
Amendment 57
Proposal for a regulation
Article 16 – paragraph 3 a (new)

Text proposed by the Commission

3 a. The Agency may request the national regulatory authorities, the ENTSO for Electricity, the ENTSO for Gas, the regional coordination centres, the EU DSO entity and the nominated electricity market operators to make available any information necessary for the purpose of carrying out monitoring pursuant to this Article. For that purpose the Agency shall have the power to issue decisions. In its decisions the Agency shall make a reference to the legal basis under which the information is requested, the time limit within which the information is to be provided, and the purpose of the request. The Agency shall use confidential information received pursuant to this Article only for the purposes of carrying out the tasks assigned to it in this Regulation. The Agency shall ensure appropriate data protection of all the information pursuant to Article 41.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 58
Proposal for a regulation
Article 17 – paragraph 4 – subparagraph 2

Text proposed by the Commission

The Agency may establish local offices in the Member States, subject to their consent and in accordance with Article

Amendment

The Agency may establish local offices in the Member States, in accordance with
Amendment 59
Proposal for a regulation
Article 19 – paragraph 5

Text proposed by the Commission
5. Decisions of the Administrative Board shall be adopted on the basis of a simple majority of the members present, unless provided otherwise in this Regulation. Each member of the Administrative Board or alternate shall have one vote.

Amendment
5. Decisions of the Administrative Board shall be adopted on the basis of a two thirds majority of the members present, unless provided otherwise in this Regulation. Each member of the Administrative Board or, in his or her absence, an alternate shall have one vote.

Justification
Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 60
Proposal for a regulation
Article 19 – paragraph 8

Text proposed by the Commission
8. The members of the Administrative Board shall undertake to act independently and objectively in the public interest. For that purpose, each member shall make a written declaration of commitments and a written declaration of interests indicating either the absence of any interest which may be considered prejudicial to his independence or any direct or indirect interest which might be considered prejudicial to his independence. Those declarations shall be made public annually.

Amendment
8. The members of the Administrative Board shall undertake to act independently and objectively in the interest of the Union as a whole and shall neither seek nor follow instructions from the Union institutions or bodies, from any government of a Member State or from any other public or private body. For that purpose, each member shall make a written declaration of commitments and a written declaration of interests indicating either the absence of any interest which may be considered prejudicial to his independence or any direct or indirect interest which might be considered prejudicial to his independence. Those declarations shall be made public annually.
Amendment 61
Proposal for a regulation
Article 20 – paragraph 1 – point e

Text proposed by the Commission

(e) adopt, each year the draft programming document referred to in Article 21 before its submission to the Commission for its opinion, and shall, following the opinion of the Commission and after having received approval by the Board of Regulators in accordance with Article 23(5)(c), adopt the programming document of the Agency by a two thirds majority its members and shall transmit it to the European Parliament, the Council and the Commission. The work programme shall be adopted without prejudice to the annual budgetary procedure and shall be made public.

Amendment

(e) adopt, each year by 31 January the draft programming document referred to in Article 21 and submit it to the Commission, the European Parliament and the Council. It shall, following the opinion of the Commission, and in relation to the multiannual programming after presenting it to the European Parliament and after having received approval by the Board of Regulators in accordance with Article 23(5)(c), adopt the programming document of the Agency by a two thirds majority of its members and shall transmit it to the European Parliament, the Council and the Commission by 31 October. The programming document shall be adopted without prejudice to the annual budgetary procedure and shall be made public.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 62
Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

2. The Administrative Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Director and defining the conditions under which that delegation of powers can be suspended. The Director shall be

Amendment

2. The Administrative Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Director. The Director shall be authorised to sub-delegate those powers.
authorised to sub-delegate those powers.

Amendment 63
Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. Where exceptional circumstances so require, the Administrative Board may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Director and those sub-delegated by the latter and in favour of itself or delegate them to one of its members or to a staff member other than the Director.

Amendment

deleted

Amendment 64
Proposal for a regulation
Article 21 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Each year, the Administrative Board shall adopt a programming document containing multi-annual and annual programming, based on a draft put forward by the Director, taking into account the opinion of the Commission and in relation to multiannual programming after consulting the European Parliament. It shall forward it to the European Parliament, the Council and the Commission no later than 31 January each year.

Amendment

Each year, the Administrative Board shall adopt a draft programming document containing annual and multi-annual programming in accordance with Article 32 of Commission Delegation Regulation (EU) No 1271/2013, based on a draft put forward by the Director. The Administrative Board shall adopt the programming document taking into account the opinion of the Commission, after approval of the Board of Regulators for the annual work programme of the Agency and in relation to multiannual programming after presenting it to the European Parliament. It shall forward it to the European Parliament, the Council and the Commission no later than 31 October each year.
Amendment 65
Proposal for a regulation
Article 22 – paragraph 1 – subparagraph 1 – point b a (new)

Text proposed by the Commission
(b a) one non-voting representative of the European Parliament;

Justification
Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 66
Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission
1. The Board of Regulators and sub-committees pursuant to Article 7 shall act by a simple majority of the members present, with one vote for each member, except for the opinion pursuant to paragraph 5(b) which shall be taken on the basis of a two-thirds majority of its members present.

Amendment
1. The Board of Regulators shall act by a two-thirds majority of the members present, with one vote for each member.

Amendment 67
Proposal for a regulation
Article 23 – paragraph 5 – point -a (new)

Text proposed by the Commission
(-a) where it considers it to be appropriate, provide comments, including proposals for amendments to the Director on draft opinions, recommendations and decisions referred to in Articles 3 to 11 and Article 14. The Director shall consider those comments before submitting the opinions, recommendations and decisions to the Board of Regulators for opinion and shall
issue a written justification if he or she does not follow the position issued by the Board of Regulators.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 68

Proposal for a regulation
Article 23 – paragraph 5 – point a

Text proposed by the Commission

(a) provide opinions to the Director on the opinions, recommendations and decisions referred to in Articles 4 to 14, which are considered for adoption. In addition, the Board of Regulators, within its field of competence, shall provide guidance to the Director in the execution of his tasks, with the exception of decisions pursuant to Article 16(6) of Regulation 1227/2001.

Amendment

(a) provide opinions to the Director on opinions, recommendations and decisions referred to in Articles 3 to 11 and Article 14, which are considered for adoption. In addition, the Board of Regulators, within its field of competence, shall provide guidance to the Director in the execution of his or her tasks, with the exception of the Agency’s activities under Regulation 1227/2011 and provide guidance to the Agency’s working groups established pursuant to Article 30.


Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 69

Proposal for a regulation
Article 23 – paragraph 5 – point c
(c) in accordance with Article 20(1)(e) and Article 25(f) and in line with the preliminary draft budget established in accordance with Article 33(3)(1), approve the work programme of the Agency for the coming year and present it by 1 September of each year for adoption by the Administrative Board.

Amendment

(c) in accordance with Article 20(1)(e) and Article 25(f) and in line with the provisional draft estimate established in accordance with Article 33(1) to (3), approve the draft programming document including the annual work programme of the Agency and present it by 30 September of each year for adoption by the Administrative Board.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 70

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

1. The Agency shall be managed by its Director, who shall act in accordance with the guidance referred to in Article 23(5)(a) and, where provided for in this Regulation, the opinions of the Board of Regulators. Without prejudice to the respective roles of the Administrative Board and the Board of Regulators in relation to the tasks of the Director, the Director shall neither seek nor follow any instruction from any government, from the Union institutions, or from any other public or private entity or person. The Director shall be accountable to the Administrative Board. The Director may attend the meetings of the Board of Regulators as an observer.

Amendment

1. The Agency shall be managed by its Director, who shall act in accordance with the guidance referred to in the second sentence of Article 23(5)(a) and, where provided for in this Regulation, the opinions of the Board of Regulators. Without prejudice to the respective roles of the Administrative Board and the Board of Regulators in relation to the tasks of the Director, the Director shall neither seek nor follow any instruction from any government, from the Union institutions, or from any other public or private entity or person. The Director shall report to the Administrative Board. The Director may attend the meetings of the Board of Regulators as an observer.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments
Amendment 71

Proposal for a regulation
Article 24 – paragraph 2

Text proposed by the Commission
2. The Director shall be appointed by the Administrative Board following a favourable opinion of the Board of Regulators, on the basis of merit as well as skills and experience relevant to the energy sector, from a list of at least three candidates proposed by the Commission, following an open and transparent selection procedure. Before appointment, the candidate selected by the Administrative Board may be invited to make a statement before the competent committee of the European Parliament and to answer questions put by its members. For the purpose of concluding the contract with the Director, the Agency shall be represented by the Chairman of the Administrative Board.

Amendment
2. The Director shall be appointed by the Administrative Board following a favourable opinion of the Board of Regulators and after approval of the European Parliament, on the basis of merit as well as skills and experience relevant to the energy sector, from a list of at least three candidates proposed by the Commission, following an open and transparent selection procedure. Before appointment, the candidate selected by the Administrative Board shall be invited to make a statement before the competent committee of the European Parliament and to answer questions put by its members. For the purpose of concluding the contract with the Director, the Agency shall be represented by the Chairman of the Administrative Board.

Justification
Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 72

Proposal for a regulation
Article 25 – paragraph 1 – point c

Text proposed by the Commission
(c) draft, adopt and publish opinions, recommendations and decisions. Opinions, recommendations and decisions referred to in Articles 3 to 11 and 14, shall only be adopted if they have received a favourable opinion of the Board of Regulators;

Amendment
(c) draft, adopt and publish opinions, recommendations and decisions. Opinions, recommendations and decisions referred to in Articles 3 to 11 and Article 14 shall only be adopted if they have received a favourable opinion of the Board of Regulators;
Amendment 73
Proposal for a regulation
Article 25 – paragraph 1 – point f

Text proposed by the Commission

(f) each year prepare a draft work programme of the Agency for the following year, and shall, after the adoption of the draft by the Administrative Board submit it to the Board of Regulators, to the European Parliament and to the Commission by 31 January every year. The Director shall be responsible for implementing the programming document and reporting to the Administrative Board of its implementation;

Amendment

(f) each year prepare a draft programming document of the Agency, containing multi-annual programming and the annual work programme for the following year in accordance with Article 21. The Director shall be responsible for implementing the programming document and reporting to the Administrative Board of its implementation;

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 74
Proposal for a regulation
Article 25 – paragraph 1 – point k

Text proposed by the Commission

(k) be responsible for deciding whether it is necessary for the purpose of carrying out the Agency's tasks in an efficient and effective manner to locate one or more staff in one or more Member States for the purpose of carrying out the Agency's tasks in an efficient and effective manner. The decision to establish a local office requires the prior consent of the Commission, the Administrative Board and the Member State or Member States concerned. The decision shall specify the scope of the activities to be carried out at that local office in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency.

Amendment

(k) be responsible for deciding whether it is necessary for the purpose of carrying out the Agency's tasks in an efficient and effective manner to locate one or more staff in one or more Member States for the purpose of carrying out the Agency's tasks in an efficient and effective manner. The decision to establish a local office requires the prior consent of the Administrative Board. The decision shall specify the scope of the activities to be carried out at that local office in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency;
Amendment 75
Proposal for a regulation
Article 25 – paragraph 1 – point k a (new)

Text proposed by the Commission

(k a) with respect to the staff of the Agency, exercise the powers referred to in Article 39(3).

Amendment

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 76
Proposal for a regulation
Article 29 – paragraph 5

Text proposed by the Commission

5. The Board of Appeal may exercise any power which lies within the competence of the Agency, or it may remit the case to the competent body of the Agency. The latter shall be bound by the decision of the Board of Appeal.

Amendment

5. The Board of Appeal may confirm the decision, or it may remit the case to the competent body of the Agency. The latter shall be bound by the decision of the Board of Appeal.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 77
Proposal for a regulation
Article 29 a (new)

Text proposed by the Commission

Actions before the Court of Justice

Actions for the annulment of a decision issued by the Agency pursuant to this

Amendment

Article 29 a
Regulation and for failure to act within the applicable time limits, may be brought before the Court of Justice of the European Union only after exhaustion of the appeal procedure referred to in Article 29. The Agency shall take all necessary measures to comply with the judgment of the Court of Justice of the European Union.

Amendment 78

Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

1. Where justified and in particular to support the regulatory work of the Director and of the Board of Regulators on regulatory issues, the Administrative Board may establish working groups.

Amendment

1. Where justified and in particular to support the regulatory work of the Director and of the Board of Regulators on regulatory issues, the Director and the Board of Regulators may, jointly, establish working groups.

Amendment 79

Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

2. The working groups shall be composed of experts from the staff of the Agency, from national regulatory authorities and from the Commission, as necessary. The Agency shall not be responsible for the costs of the participation of experts from the staff of national regulatory authorities in the Agency working groups.

Amendment

2. The working groups shall be composed of experts from the staff of the Agency and from national regulatory authorities. Experts from the Commission shall participate as observers, if necessary. The Agency shall not be responsible for the costs of the participation of experts from the staff of national regulatory authorities in the Agency working groups.

Amendment 80

Proposal for a regulation
Article 30 – paragraph 3
3. The **Administrative** Board shall adopt and publish internal rules of procedure for the functioning of the working groups.

**Amendment 81**

Proposal for a regulation
Article 30 – paragraph 3 a (new)

**Text proposed by the Commission**

3 a. The **Director, after consulting the Board of Regulators**, shall adopt and publish internal rules of procedure for the functioning of the working groups.

**Amendment**

3 a. The working groups shall carry out the activities assigned to them in the programming document adopted pursuant Article 21.

**Amendment 82**

Proposal for a regulation
Article 31 – paragraph 1 – point c

**Text proposed by the Commission**

(c) any voluntary contributions from the Member States or from the regulatory authorities, under Article 20(1)(g);

**Amendment**

(c) any voluntary contributions from the Member States or from the regulatory authorities, under Article 20(1)(g), **without compromising the Agency's neutrality or independence**;

**Justification**

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

**Amendment 83**

Proposal for a regulation
Article 31 – paragraph 4 a (new)

**Text proposed by the Commission**

4a. The revenue received by the Agency shall not compromise its independence or
objectivity.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 84

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

1. Fees shall be due to the Agency for requesting an exemption decision pursuant to Article 11(1) and for decisions on cross border cost allocation provided by the Agency pursuant to Article 12 of Regulation (EU) No 347/2013.

Amendment

1. Fees shall be due to the Agency for the following:

(a) exemption decisions pursuant to Article 11(1) and decisions on cross border cost allocation provided by the Agency pursuant to Article 12 of Regulation (EU) No 347/2013;
(b) registrations as reporting party pursuant to Article 8 of Regulation (EU) 1227/2011;
(c) the oversight of activities and of the cooperation of transmission and distribution system operators, including through the ENTSO for Electricity, the ENTSO for Gas, and the EU DSO entity.


Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 85

Proposal for a regulation
Article 32 – paragraph 2

2. The fees referred to in paragraph 1 shall be set by the Commission.

Amendment

2. The fees referred to in paragraph 1 shall be set by the Commission after consulting the Administrative Board. The Commission shall determine the level of the fees and charges and the manner in which they are to be paid. The level of the fees and charges shall be fixed such as to ensure that the revenue in respect thereof is sufficient to cover the full cost of the services delivered. The Commission shall evaluate, when necessary, the level of the fees and charges in light of the need to impose such fees and charges.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 86

Proposal for a regulation
Article 33 – paragraph 1 a (new)

Text proposed by the Commission

1a. The provisional draft estimate shall be based on the objectives and expected results of the annual programming document referred to in Article 21(1) and shall take into account the financial resources necessary to achieve those objectives and expected results, in accordance with the principle of performance-based budgeting.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 87

Proposal for a regulation
Article 33 – paragraph 8 a (new)
8a. By ... [12 months after the date of entry into force of this Regulation], the Commission shall evaluate the Agency’s assigned budget with the aim of securing adequate funding and human resources allowing the Agency to fulfil its role of working towards an internal energy market and contributing to energy security to the benefit of consumers in the Union. The Commission shall, if appropriate, submit proposals to amend the Agency’s budget.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 88

Proposal for a regulation
Article 44 – paragraph 3

Text proposed by the Commission

3. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for the Bodies of the European Union.

Amendment

3. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for the Bodies of the European Union or other translation service providers in accordance with the procurement rules and in accordance with the relevant financial rules.

Justification

Amendment necessary for pressing reasons relating to the internal logic of the text or inextricably linked to other admissible amendments

Amendment 89

Proposal for a regulation
Article 45 – paragraph 1
Text proposed by the Commission

1. No later than five years after the entry into force of the present regulation, and every five years thereafter, the Commission, with the assistance of an independent external expert, shall carry out an evaluation to assess the Agency's performance in relation to its objectives, mandate and tasks. The evaluation shall in particular address the possible need to modify the mandate of the Agency, and the financial implications of any such modification.

Amendment

1. No later than five years after the entry into force of the present regulation, and every five years thereafter, the Commission, with the assistance of an independent external expert, shall carry out an evaluation to assess the Agency's performance in relation to its objectives, mandate and tasks. The evaluation shall in particular address the possible need to modify the mandate of the Agency, and the financial implications of any such modification, in accordance with the principle of performance-based budgeting.

Amendment 90

Proposal for a regulation
Article 45 – paragraph 2

Text proposed by the Commission

2. Where the Commission considers that the continuation of the Agency is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed

Amendment

2. Where the Commission considers that the continuation of the Agency is no longer justified with regard to its assigned objectives, mandate and tasks, it shall consult the Board of Regulators. The Board of Regulators shall issue an opinion on the future role of the Agency within 12 months of receiving the Commission request. The Commission, while taking duly into account the opinion of the Board of Regulators, may propose that this Regulation is amended accordingly or repealed.