

ECRB RECOMMENDATION

ON THE ADOPTION OF COMMISSION REGULATION 543/2013 OF 14 JUNE 2013 ON SUBMISSION AND PUBLICATION OF DATA IN ELECTRICITY MARKETS IN THE ENERGY COMMUNITY

1. Background

Transparency was an element of every legislative package adopted on EU level since the beginning of market liberalisation, as it was, and is, understood to be a necessary precondition for market functioning. With the experience gained during the establishment and development of cross-border wholesale markets in the EU, awareness for the need of a harmonised and comprehensive set of rules for transparency in electricity market rose. Accordingly, such an update of the legal basis for the submission and publication of data translated in becoming the second Guideline adopted as Commission **Regulation 543/2013**¹ under the Third Package.

2. Reasoning of the Importance of Adoption for the Energy Community

Compared to the 2nd or 3rd packages' transparency provisions², Regulation 543/2013 provides a much more comprehensive set of definitions of the data to be published, prescribes roles and responsibilities and establishes a central platform for the publication of that data. The adoption of Regulation 543/2013 is strongly recommended in order to:

- overcome the present lack of legal certainty on data and timing requirements, as present and future rules (Annex 1, Point 5.5 and 5.9 of Regulation 714/2009 or 1228/2003, respectively) are not detailed and precise enough. These provision, which would be replaced by Regulation 543-2013 allow for different interpretations and hence led to different applications of these. Moreover, the bindingness of Regulators' interpretations of these provisions was questioned and hardly enforceable. Consequentially, publications are often not comparable across markets.
- establish information flows with clear roles and responsibilities (primary data owner, data provider, central information transparency platform,..).
- provide a centralised publication of data, allowing for an overall assessment of fundamentals of market functioning.
- avoid potential inconsistency with REMIT³.
- realise the benefits from a relatively easy implementation of the central publication platform. Significant synergies can be won through a cooperation of the Energy Community's TSO with ENTSO-E's EMFIP project. The relative ease of implementation, additionally, forwards the integration of the 8th Region, as it facilitates market participation and promotes the reputation of the Contracting Parties as trustworthy partners for trade, investment and cooperation.
- Facilitate the endeavours of Energy Community TSOs to get involved in the EMFIP project. Support the TSOs that are already active in that project, and Incentives for all other TSOs to cooperate with ENTSO-E on that project, is necessary to provide legal certainty, especially in the relation between TSOs and other market participants, where the latter are the primary owner of the data.

¹ The text of the Regulation is available here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:163:0001:0012:EN:PDF>

² The provisions governing the publication of data of both packages have the same wording. They are to be found in Points 5.5 and 5.9 of Annex I to Regulation (EC) 714/2009 or to Regulation (EC) 1228/2003, respectively.

³ The REMIT Regulation is not yet part of the Energy Community acquis.



3. Policy Recommendation

The ECRB recommends the timely and comprehensive adoption of Regulation 543/2013 into the acquis of the Energy Community in order to facilitate achieving the requirements of the implementation of the 3rd Package, with an implementation date of 1 January 2015. The national regulatory authorities of the Energy Community are the institutions suited best for the monitoring and enforcing of this Regulation.

Provisions of the Regulation No 543/2013 related to submission of data to ENTSO-E shall be transposed and implemented by Moldova and Ukraine after synchronization of Moldovan and Ukrainian power systems with ENTSO-E system.