

**PROCEDURAL ACT No 01/2007**  
**OF THE REGULATORY BOARD**  
**OF THE ENERGY COMMUNITY**

**2007/01/ECRB-EnC: Decision of 1<sup>st</sup> March 2007 on adoption of Internal Rules of Procedure of the Energy Community Regulatory Board**

The Regulatory Board of the Energy Community,

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

Having regard to the proposal, made by the Vice-President on December 11, 2006,

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

HAS DECIDED AS FOLLOWS:

**Article 1**

The Internal Rules of Procedure of the Regulatory Board of the Energy Community as laid down in Annex to this act are hereby adopted.

**Article 2**

This decision is addressed to all Parties and institutions under the Treaty Establishing the Energy Community.

**Article 3**

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

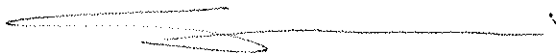
**Article 4**

This decision shall enter into force upon adoption.

Done in Athens on March 1, 2007.

For the Regulatory Board

The President  
Slave Ivanovski



**ANNEX TO  
PROCEDURAL ACT No 01/2007  
OF  
THE REGULATORY BOARD  
OF THE ENERGY COMMUNITY**

## **THE ENERGY COMMUNITY REGULATORY BOARD INTERNAL RULES OF PROCEDURE**

### **Article 1 – Purpose**

- 1.1 The Rules regulate the organisation of the Energy Community Regulatory Board and establish the procedures of its meetings.
- 1.2 The Energy Community Regulatory Board (hereinafter: “ECRB” or “Board”) shall discharge the tasks entrusted to it by Article 58 of the Energy Community Treaty.
- 1.3 The ECRB, at the request of the Ministerial Council, the PHLG and the European Commission, or on its own initiative and in accordance with the objectives of the Energy Community Treaty, shall undertake the function of advising on statutory, technical and regulatory rules in the region to the Energy Community Treaty Institutions.
- 1.4 The ECRB shall provide advice to the Ministerial Council and the PHLG with regard to monitoring and assessing the operation of the regional energy networks and network energy market and issue recommendations to the Parties when so entrusted by the Treaty or the Ministerial Council.
- 1.5 The ECRB shall facilitate consultation, co-operation and co-ordination amongst regulatory authorities to a consistent application of the *acquis communautaire*. The ECRB makes recommendations and reports with respect to the functioning of the energy markets.
- 1.6 The ECRB may decide, in accordance with the procedure laid down in 4.7 hereunder, to issue a request to the Ministerial Council pursuant to the provisions of Articles 90 and 92 of the Treaty.

### **Article 2 – Members**

- 2.1 In accordance with Article 59 of the Treaty, the ECRB is composed of one representative of the energy regulator of each Contracting Party and a representative of the European Commission representing the European Community (hereinafter: “Members” of the ECRB). The representative of the Regulatory Authority of the Contracting Parties shall be at the level of Head of the Energy Regulatory Authority or his nominated representative.
- 2.2 The European Commission is assisted by one regulator of each Participant and one representative of the European Regulators Group for Electricity and Gas (hereinafter: “EREGG”). The representative of the Regulatory Authority of the Participants shall be at the level of the Head of the Energy Regulatory Authority or his nominated representative. The representative of EREGG shall be at the level of the Chair or his nominated representative.
- 2.3 Members of the ECRB shall abide by a Code of Ethics, which shall be adopted by the ECRB as a Procedural Act. The Code of Ethics shall set forth the criteria by which a representative to the ECRB, including the President of the ECRB may be removed or recalled.

- 2.4 The Members of the ECRB shall act in good faith and resolve to adhere to these Internal Rules of procedure.

### **Article 3 – President and Vice President**

- 3.1 The President of the ECRB carries out the tasks entrusted to him/her by the provisions below. The President shall also fulfill a unifying role and ensure, by his/her authority that all the Members and Participants work with a common purpose towards the discharge of the tasks entrusted to the ECRB under the Treaty.
- 3.2 The President is elected by the ECRB, from the Contracting Parties Regulatory Authorities by secret ballot and by a two third majority of the votes cast. The Head and or Commissioners of Contracting Parties Regulatory Authorities are eligible for the ECRB Presidency.
- 3.3 The President's term of office is one year and may be terminated upon a decision of the ECRB. A President of the ECRB may not assume the Presidency more than two terms consecutively.
- 3.4 Any candidature or any proposal for candidature shall be put forward to the Vice President of the ECRB. The Vice President brings the candidacies to the attention of the members of the ECRB.
- 3.5 The President shall in principle not represent his/her Institution but this task shall normally be undertaken by a suitable representative of the Contracting Party Regulatory Authority and this representative will exercise the Contracting Party Regulatory Authority vote.
- 3.6 In the event of resignation, incapacity or recall of the President during his or her term of office, a new President shall be appointed in accordance with the above mentioned procedure, as soon as possible.
- 3.7 In addition to exercising the powers conferred upon him/her elsewhere in these rules, the President, after consulting the Vice-President, shall declare the opening and closing of each ECRB meeting, shall direct the discussion, shall ensure the observance of these Rules, shall accord the right to speak and announce decisions.  
The President may also call a speaker to order if his or her remarks are not relevant to the subject under discussion.
- 3.8 The European Commission shall act as Vice-President. The Vice-President shall also fulfill a unifying role and ensure, by his/her authority that all the Members and Participants work with a common purpose towards the discharge of the tasks entrusted to the ECRB under the Treaty.
- 3.9 The Vice-President assists the President in accordance with the provisions set out below. In the event of absence, impediment or incapacity of the President, the Vice-President is empowered to replace and exercise the responsibilities of the President.

### **Article 4 – Decision making process**

- 4.1 The Board acts within the mandate set forth in Article 58 of the Energy Community Treaty and takes Measures if so empowered by the Ministerial Council.

- 4.2 Each Member shall have one vote. Abstentions to voting from Members present shall not count as votes cast.
- 4.3 The Board may act in accordance with the provisions of Articles 4.4, 4.5 and 4.6 only if two thirds of Members are present.
- 4.4 Under Title II of the Energy Community Treaty, the Board shall act on a proposal from the European Commission, and each Contracting party shall have one vote.
  - 4.4.1 The European Commission may alter or withdraw its proposal at any time during the procedure leading to its adoption.
  - 4.4.2 The Board shall act by a majority of the votes cast.
- 4.5 Under Title III of the Energy Community Treaty the Board shall act on a Proposal from a Party or the Secretariat. The Parties and the Secretariat are encouraged to consult their proposal with the European Commission four weeks before the meeting upon which the proposal shall be presented. The Board shall act by a two third majority of the votes cast, including a positive vote of the European Community.
- 4.6 Under Title IV of the Energy Community Treaty the Board shall act on a proposal from a Party. The Party or Parties interested in putting forward a proposal are encouraged to consult with the European Commission three weeks before the proposal is tabled to the Board for consideration. The Board shall act with unanimity.
- 4.7 The ECRB may decide by unanimity excluding any Party concerned, to issue the request pursuant to paragraph 1 of these Rules of Procedure.
- 4.8 Proposals are submitted to the President and the Vice President of the ECRB.
- 4.9 The vote(s) against a proposal for a Measure that was adopted by the Board shall be, upon request by the outvoted Member, recorded in the minutes and the conclusions of ECRB, together with the proposal as adopted, according to Article 58 of the Energy Community Treaty.
- 4.10 The outcome of any votes has to be recorded in the minutes of the ECRB meetings.
- 4.11 The communication of opinions of Members and Participants is possible by electronic correspondence, when a matter is urgent but excluding Measures and Procedural Acts. The President may seek agreement to a position or opinion by electronic procedure. In such cases, the President shall ensure that each Member is aware that an agreement or opinion is sought by electronic procedure and shall set out clearly the deadline for comments.

## **Article 5 – Meetings**

- 5.1 If a contracting Party, Participant or Observer has one Regulator for Gas and one Regulator for Electricity, presence shall be determined taking into account the agenda.
- 5.2 The ECRB shall establish a register of Members and Participants and shall record attendance at all official meetings. These registers shall form a part of the management report.

- 5.3 Notwithstanding Article 71 of the Treaty, the Energy Community Secretariat shall be represented by the Head of the ECRB Section of the Secretariat unless excused by the President.
- 5.4 The Observers' Regulatory Authorities may attend ECRB meetings without participating in the discussions and without voting rights, in accordance with the Energy Community Treaty, Title IX, Article 96. The President in agreement with the Vice-President may invite an Observer to make a statement. The president in agreement with the Vice President may also decide that Observers be absent for specific points of the agenda due to confidentiality concerns. This will be specified as far as possible when the agenda is circulated.
- 5.5 The ECRB will be convened in principle four times a year and, extraordinarily when appropriate.
- 5.6 At its first meeting in the beginning of a calendar year, the ECRB decides the dates of its coming meetings and these are published on the ECRB website.
- 5.7 The ECRB meetings shall be convened by either the President or the Vice President.
- 5.8 An extraordinary meeting of the ECRB may be convened by the President or Vice-President. An extraordinary meeting shall also be called at the request of at least of one fifth of the Members, within one month of the receipt of the request by the ECRB Secretariat Section.
- 5.9 Upon endorsement of the draft Agenda by the President and Vice-President, the ECRB Secretariat Section circulates the proposed Agenda to those entitled to attend the respective meeting of the ECRB. The draft Agenda shall indicate the subjects to be considered clearly, so as to allow the national Regulators to determine which Regulator should attend the meeting pursuant to Article 59 of the Energy Community Treaty.
- 5.10 The Agenda and all supporting documentation shall be circulated to those entitled to attend the respective meeting of the ECRB at least two weeks ahead of the meeting. In case of urgency the President may deviate from this rule.
- 5.11 With the President's permission, the Regulators may be accompanied by experts.

## **Article 6 – Organization of Work**

- 6.1 The ECRB shall adopt an annual work programme in accordance with the procedure laid down in article 11.2. The work programme shall be published on the ECRB web site.
- 6.2 At the beginning of every calendar year, the ECRB shall adopt an annual report of summarizing its activities over the preceding year, prepared by the ECRB Secretariat Section.
- 6.3 Both documents referred to in 6.1 and 6.2 will be transmitted to the Ministerial Council.

## **Article 7– Working Groups**

- 7.1 The ECRB may set up working groups composed of Members, Participants and ERGEG and chaired by a Member, a Participant, or ERGEG, and mandates them to study specific subjects. The mandate may provide that the composition of the working groups will be flexible in order to involve other relevant authorities when necessary. The mandate shall be time limited and shall

further specify in which way the working group will report back to the Board and how it will be assisted by the Secretariat. The Members, Participants and ERGEG involved in the working groups shall nominate their representatives and notify the chair in a timely fashion prior to the start of the relevant working group.

- 7.2 The decision to establish a group and its terms of reference is taken by simple majority of the votes cast, including a positive vote of the Vice-President.
- 7.3 Unless decided otherwise by the ECRB for a specific working group, Observers' representatives shall be allowed to participate in the working groups and be invited by the chairmen of the working groups.
- 7.4 Meetings of the Working Groups shall be convened by their Chairs.

### **Article 8 – Communications and Exchange of Information**

- 8.1 Every Member, ERGEG, Participant and Observer shall appoint a communications officer. His/her task will consist of facilitating the relevant information exchange between his/her organisation and the other Members and the ECRB Secretariat Section. This information is related to the work carried out by the ECRB or its working groups.
- 8.2 Members and Participants shall endeavour to keep the other national and regional energy regulators of their States informed about activities of the ECRB and, where necessary, make all appropriate arrangements to be in a position to speak as the competent energy regulator in the event that other national or regional regulators have an interest in the matter discussed.

### **Article 9 – Conclusions and Minutes**

- 9.1 Conclusions that record decisions taken shall be adopted at the end of each meeting by consensus
- 9.2 The minutes of each meeting shall be drawn up by the ECRB Secretariat Section. Opinions may be recorded in the minutes, when requested. The draft minutes shall be sent to Members, Participants and ERGEG within 15 working days of the meeting and shall be submitted to the next meeting of the ECRB or the working group for approval.
- 9.3 The agenda, the conclusions and minutes of the ECRB meeting and its working groups established by ECRB shall not be considered to be confidential unless a specific decision is made to deem them such and shall be published on the ECRB web- site as soon as possible after a meeting.
- 9.4 Where the European Commission or a Contracting Party informs the ECRB that the advice requested or the question raised is of a confidential nature, Members, Participants, ERGEG, Observers and any other person involved shall not disclose that information unless allowed by the Party raising the issue. The President may decide in such cases that only Members, Participants and ERGEG may be present at meetings.
- 9.5 The ECRB shall adopt its rules on confidentiality.

## **Article 10 – Public consultation and transparency**

- 10.1 The ECRB will use appropriate processes to consult consumers, market participants, system operators, market operators and interested parties which may include, inter alia: public hearings and roundtables, industry and the Energy Community Fora, the European Fora (including the European Electricity Regulatory Forum – “Florence Forum” - and the European Gas Regulatory Forum – “Madrid Forum”) and written and Internet consultations.
- 10.2 The ECRB may publish on the ECRB web site consultative documents, statements of agreed principles, press releases, consultation procedures, summaries of responses to consultations and other documents which assist interested parties to understand the work of the ECRB. Comments shall be invited either individually or jointly to be addressed to the ECRB in written form, preferably by email. Comments received in response to consultation documents shall be published on the ECRB web site, unless a respondent explicitly requests that their submission is not made available to others on confidentiality grounds.
- 10.3 The ECRB may decide to meet interested parties to discuss matters of common interests. As appropriate, the President or the Vice-President may represent the ECRB at such a meeting or Members may be nominated to do so. The President or the Vice-President, where appropriate, will communicate the official position of the ECRB. The President may, on his own initiative, describe the work or explain the views of the ECRB to the press or other interested parties, in response to enquiries or otherwise in cases of urgency. Where a Member refers in public to the views or position of the ECRB it must do so in an accurate manner.

## **Article 11 – ECRB Section of the Secretariat**

- 11.1 There shall be specific staff of the Energy Community Secretariat devoted to the support of the ECRB (“Secretariat Section”). The Secretariat Section shall answer to the Energy Community Secretariat Director with regard to management and employment issues. The Head of the ECRB Section of the Secretariat shall direct the staff as to their substantive activities, in line with the ECRB work programme.
- 11.2 The ECRB Secretariat Section shall prepare the minutes of the meetings, assist the ECRB and the working groups in their functions and execute all other functions assigned to it by the Board, inter alia:
- Drawing up the ECRB annual work programme for consideration and adoption by the ECRB upon agreement by the President and Vice-President;
  - Preparing and presenting to the ECRB for adoption an annual review of the progress achieved;
  - Preparing the agenda for the ECRB meetings to be submitted for agreement to the President and Vice President;
- 11.3 The Secretariat Section acts as coordinator for consultations required to take forward the work of the ECRB or its working groups and assist the President and Vice-President in their public relations activities and representation functions.
- 11.4 The permanent or seconded staff of the Secretariat Section is appointed by the Energy Community Secretariat Director pursuant to paragraph 22 of the procedural act of the Energy Community

Ministerial Council on the Rules of Recruitment and working conditions of the staff of the Secretariat of the Energy Community.

Specifically, the staff of the ECRB Section of the Secretariat will operate as much time as needed in Athens in order to ensure the smooth and effective operation of the meetings of the Regulatory Board, which take place in Athens according to the Treaty establishing the Energy Community (article 62).

#### **Article 12 Accountability and links**

- 12.1 The ECRB shall submit an Annual Report to the Ministerial Council. In addition, this report and an attached management report will be sent to the Director of the Energy Community Secretariat.
- 12.2 The ECRB may participate or designate its representative in other European or international committees or groups when that is necessary for the work of ECRB.

#### **Article 13 – Publication and Modification of the Rules of Procedure**

- 13.1 The Regulatory Board Internal Rules of Procedures shall be made available on the ECRB website.
- 13.2 When necessary the ECRB shall agree on interpretation of the Rules of Procedure. These decisions require two thirds majority of Members voting, including a positive vote of the European Community.
- 13.3 Based on practical experience with these Rules, the President or Vice-President or any Member of the ECRB may propose to the Board any useful and necessary amendments to these Rules. In accordance with Article 60 of the Treaty, any amendments to these Rules are adopted by a Procedural Act of the ECRB, which shall act by two-third majority of the votes cast, including a positive vote of the European Community.

#### **Article 14 – Transitional and Final Provisions**

- 14.1 These Internal Rules for Procedure come into force immediately upon adoption.
- 14.2 To the extent possible, the work agreed and done with the Council of European Energy Regulators South East Europe Working Group shall be continued by the Energy Community Regulatory Board.
- 14.3 Rules of procedures on the implementation of the tasks in Article 58 (b) of the Treaty shall be adopted by the ECRB.