

energy traders Europe

Legal Committee

Terms of Reference

7th March 2024

energy traders europe

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1. Preamble

The Legal Committee of energy traders europe (the "Committee") consists of a group of in-house lawyers, each representing a member company and/or consultants affiliated with a member company. It was established in line with the mission of energy traders europe to provide a forum for members to address legal issues related to energy trading in Europe in order to improve the conditions for such trading and to address current challenges.

In order to fulfil this mandate, the Committee and the representatives of the member companies may, if they so wish, undertake and participate in any of the activities listed below:

1. Develop and regularly update all standard documentation;
2. Coordinate and supervise the preparation of netting opinions or legal opinions by external lawyers in relation to standard documents or in relation to any legal issues that may be of interest to the Committee or energy traders europe and its members;
3. Representing the interests of member companies, e.g. in working groups, other committees or the Board of energy traders europe vis-à-vis governments or ministries or the European Commission, if requested;
4. Monitor current developments in the energy industry that could have an impact on the standard documentation and inform the Committee of these developments;
5. Regular meetings in hybrid form (online and face-to-face) to exchange knowledge and experience on legal issues related to the energy trading business.

2. Membership

Member companies of energy traders europe may acquire membership of the Committee (each a "LC Member") by paying an additional annual fee (the "Legal Committee Fee").

All LC Members have the right to participate in and contribute to all discussions and decisions of the Committee, in accordance with this Terms of Reference, and if they choose to do so, they must endeavour to do so in a constructive manner. To ensure efficient administration of LC Members, the general mailing list is limited three (3) e-mails per LC Member. Generic e-mails (e.g., legal@member.com) are permissible.

All LC Members have access to meeting materials, recordings (if available) and all netting opinions and/or legal opinions prepared for energy traders europe in relation to its standard documentation at no additional cost.

All LC Members have the right and are encouraged to participate in all activities of the Committee, including Committee Meetings (see clause 7), Working Groups or Task Forces (see under 3) and have access, as appropriate, to all sub-Working Groups or Task Forces of the Committee established to carry out the activities of the Committee.

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Participation of members of energy traders europe who are not LC Members in the activities of the Committee is subject to invitation by the Committee Chair and/or the Secretary. Other companies and individuals (e.g. service providers or consultants) may only participate in the activities of the Committee and/or receive information from the Committee and/or Working Groups if the Committee mandates them to advise on specific matters and only to the extent necessary for the provision of the service. Notwithstanding the foregoing, each LC Member has the choice of being represented by an affiliated consultant as long as it is clear at all times which member company the consultant represents (e.g., name@external.member.com).

LC Members may terminate their membership by giving at least three months' written notice (e-mail with attached signed PDF termination notice shall be sufficient) to the end of the calendar year to the Secretariat of energy traders europe, such notice to take effect on the 01 January following the expiry of the notice period.

3. Working groups

The work of the Committee is organised in Working Groups and Task Forces.

The Committee comprises a total of eight Working Groups in 2023/2024. Within the Working Groups, it is possible to split up into smaller working units "Task Forces" - for specific topics.

The purpose of the individual Working Groups is the education and training of members, as well as the development and standardisation of trading agreements.

The focus of the Working Groups is set according to the members' expressions of interest. The LC Secretariat shall request feedback from members for matters of interest and key areas at least once a year in text form (e.g. survey).

Access to the Working Groups is mainly online, hybrid meetings are also possible.

The Committee provides an opportunity for staff from each member to sign up for the respective Working Groups. Each member is strongly encouraged to assign at least one person to the Working Group Legal Opinion review and to participate in the review of at least one legal opinion per year.

4. Fees

All members of the Committee shall be required to pay the Committee subscription when they become members and for each subsequent year for which their membership has not been terminated when invoiced.

The Committee fee shall be determined by the Board of energy traders europe, taking into

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consideration the expected budget requirements of the Committee.
The Legal Committee Fee for the year 2024 is 19'000 EUR.

In case a Committee Member fails to pay the Legal Committee Fee when due and such failure is not remedied within five (5) calendar days following the receipt of a written notice, the Committee has the right to suspend the membership rights of this Committee Member (which include in particular but not exclusively access to netting opinions and legal opinions, participation rights in Working Groups, Task Forces and Committee meetings) until all outstanding invoices have been paid. The membership rights shall be reinstalled without undue delay after payment.

5. Budget of the Legal Committee

The Legal Committee Fee becomes the part of the budget of energy traders europe. The Board of energy traders europe (at its discretion) shall allocate funds to the Committee based on its planning (the "LC Budget") exclusively for external costs, e.g. the preparation of legal opinions or draft documents commissioned by the Committee in relation to standard documentation, workshops, costs for external experts on topics of interest to the Committee or Working Groups and related direct costs incurred, as well as for any additional costs incurred at the request of the Committee.

The LC Secretariat will (i) develop a proposal to allocate the LC budget to the Working Groups according to the expressed interest of the members and (ii) discuss and vote on this proposal at the LC Meeting in the fourth quarter of each year for the following year.

Any reallocation of funds among the Working Groups requires the approval of the LC Members.

6. Chairperson and Secretariat

The Committee shall be managed by a Chair, up to two Vice-Chairs and up to two Secretaries.

The Committee Secretary, under the direction of the Committee Chair, shall be responsible for the organisation and conduct of Committee meetings, Working Group meetings and educational activities of the Committee.

The election of the Chair, and Vice Chair, if requested by the Committee, takes place at least every two years. The election takes place during the Committee Meetings in the third quarter of the relevant year and must be subsequently confirmed by the Board of energy traders europe. The first election will be held in q3/2024.

Interest in the position of Chair and/or recommendation of person not affiliated with LC Member and/or suggestions by secretariat of energy traders europe must be expressed by

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e-mail to LCsecretariat@efet.org at least four (4) calendar weeks before the relevant Committee Meeting.

An extraordinary election shall be held in the event of a vote of no confidence in the Chair by at least 20%* of the LC Members or if the Chair expressed the wish to resign from its position before the end of the regular term. The vote of no confidence may be made in writing or by e-mail. Re-election of the Chair is permitted.

A Chair (or Vice Chair, if requested by the Committee) is elected if at least 30 % of LC members attend the LC meeting in person or online and if the simple majority of those participants vote in favour of a candidate. Each LC Member shall have an equal vote. Only yes and no votes shall be observed in elections, abstentions are disregarded.

7. Meetings and voting procedures

7.1. Meetings

Regular meetings of the Committee shall be held at least four (4) times a year in hybrid form (online and face-to-face). The Committee meetings shall be recorded if technically possible and if no member objects. The Secretariat will share a list of participants prior to each meeting. The possibility of objections shall be pointed out before each Committee Meeting.

At these meetings, the Committee deals with the following topics, among others, current legal issues and developments of interest for the LC Members, development and maintenance of Committee rules and regulations, updates from Working Groups and/or Task Forces, endorsement of documents from standardisation initiatives, updates from other committees of energy traders europe.

In this context, endorsement means confirmation by LC Members that a document (whether agreement, appendix or annex)

- (i) has been developed by LC Members and/or external counsel in a Working Group or Task Force,
- (ii) has been peer-reviewed to meet the quality requirements of LC Members by at least 10% of the members of the respective Working Group or Task Force,
- (iii) LC members received the document at least fourteen (14) calendar days prior to the relevant LC meeting or electronic voting, if applicable, and were given the opportunity to ask questions or comment on the document and
- (iv) that it reflects the interests of the LC members in relation to the subject matter as confirmed in the related voting procedure in accordance with cl. 7.2. It does, however, not mean that LC Members confirm that they will use the document (whether with or

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without modification).

Ad hoc meetings may be called by the Chair of the Committee or by a qualified number of at least 10 %* of the LC Members.

A draft agenda is prepared before each meeting. The invitation to a meeting and the related final agenda shall be sent by the Committee Secretariat to all LC Members in good time and in any case at least one week before a regular meeting and at least five working days before an ad hoc meeting. For the purpose of proper receipt of the invitation and agenda, each LC Member shall provide the Committee Secretariat with the details of at least one person in his or her organisation who has been designated as the main contact person for the Committee, as well as the designated person's alternate, and update this information as necessary. The designated primary contact and alternate shall then receive all relevant documentation for the meeting.

The Committee Secretariat shall prepare an A& D list for each LC meeting, which shall include a list of participating LC Members and (if applicable) the quorums achieved in a voting procedure according to cl. 7.2.

7.2. Voting Procedures

All decisions of the Committee should be made on the basis of consensus of the LC Members present. If consensus cannot be reached, a voting procedure may be used.

A decision is adopted if at least 30 %* of LC members attend the LC meeting in person or online and if the simple majority of those participants vote in favour. Each LC Member shall have an equal vote. Only yes and no votes shall be observed in elections, abstentions are disregarded.

In the absence of a formal meeting, a decision of the Committee shall only be deemed to have been taken if (a) there was a consensus at the last meeting to decide later by electronic voting, or (b) the Committee has invited all LC Members to vote electronically and less than 20%* of the LC member have actively objected to electronic voting.

Secretariat shall allow a voting period of at least fourteen (14) calendar days or (ii) in the absence of prior agreement to conduct electronic votes, a reasonably longer period. The Committee may deviate from the above deadlines if there is consensus, or the matter so requires.

A decision is adopted if at least 30%* of LC members participated in the electronic voting

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and if the simple majority of those participants vote in favour. Each LC Member shall have an equal vote. Only yes and no votes shall be observed in elections, abstentions are disregarded.

8. Miscellaneous

8.1. Permanent Advisors

To answer legal questions of the Committee members on issues of German and English law

in a timely manner, the Committee instructs a law firm for each law as "Permanent Advisors". The client relationship manager of these Permanent Advisors is invited to the meetings of the Committee as mentioned in Cl. 7.1. by the Chair to the Committee's activities and receive other information from the Committee and/or the Working Groups will be shared when needed in the reasonable opinion of the LC Secretariat.

Permanent Advisors shall be appointed for a period of two (2) years-. In the meantime, a selection procedure for a new Permanent Advisor for the relevant jurisdiction shall take place if

- at least 20%* of the LC Members request a replacement of the then-current Permanent Advisor;
- if the Permanent Advisor wishes to resign from its advisory function before the end of the regular two-year term,
- or the client relation manager changes his affiliation with the Permanent Advisor.

A replacement request or a request to resign shall be made in writing or by e-mail. Re-instruction of the Permanent Advisor is permissible.

Permanent Advisors for the term 2023/24 are:

German law: DLA Piper UK LLP (Cologn office), client relationship manager: Michael Cieslarczyk

English law: ReedSmith LLP, client relationship manager: Brett Hillis

8.2. Representation of member interests

LC Member representatives on the Committee shall at all times represent only the interests of their respective LC Member in an effort to build consensus between LC Member on legal matters and topics to which the Committee may then respond in accordance with these Terms of Reference.

In working within the Committee, these representatives may, if they wish, assist or otherwise participate in the drafting, review, consideration and development of documents and positions on issues, but may only ever do so on behalf of their respective LC Member. A representative on the Committee cannot be considered as an advisor, consultant or other service provider of a legal nature to energy traders europe, the Committee or any other

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committee or Working Group of energy traders europe.

Consequently, the LC Member and their respective representatives involved in the activities of the Committee shall not be liable or otherwise responsible to energy traders europe or any other LC Member for the use of any advice and/or opinions they put forward on behalf of their LC Member.

*Rounded up or down to the next whole person according to mathematical principles