

LIFE-BECKON

Boosting Energy Communities massive deployment by equipping local authorities with comprehensive technical assistance cookboOk, integrated services and capacity building



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Governance: Guidelines for development of org process and institutional structure

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This document details several aspects that shall be taken into account in specific relevant events during the lifetime of an Energy Community: The entrance and exit of new members, the modification of the governing structure of the energy community, the ampliation of the generation installations of the Energy Community and the termination of the community.

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1. Introduction

This document provides guidelines to facilitate the handling of different relevant situations in the lifetime of an energy community: the enter and exit of participants, the ampliation of installations, the modification of the structure of the energy community, and its termination. Although the next chapter includes specific guidelines in relation to each of those situations, in general, when governing an energy community, the following aspects should be taken into account:

- Careful attention to procedural aspects is crucial in energy communities. Understanding the applicable legal framework, the governance structure of the community, and the necessary steps to implement renewable energy projects is necessary to manage the community correctly.
- Understanding the key stakeholders and their roles within the community's governance structure is crucial for proper decision making, but also to ensure that those governing the community are held accountable and to promote effective communication and collaboration.
- Decisions within energy communities have significant consequences. In consequence, it is advisable to evaluate their social, economic, and environmental impacts, considering both immediate effects and long-term implications. Moreover, effective participation in the decision-making process of the relevant members of the community shall be ensured, while it may be advisable to include external stakeholders in the process.
- Assessing the costs associated with each decision that the energy community needs to take is another important aspect. Analyzing financial aspects such as investments, operational expenses, and potential returns enables informed decision-making. Cost-benefit analyses help identify viable funding sources, evaluate project feasibility, and ensure long-term financial sustainability.

Finally, depending on the level of expertise of the members of the energy community, seeking help and advice may be necessary to navigate the complexities involved in managing the community. Engaging with energy consultants, legal advisors, financial institutions, and government agencies can provide the insights and support that the energy community needs.

2. Instructions

2.1. Entrance of new participants

When considering the entrance of new participants into an energy community, it is essential to be aware of the legal requirements and steps specific to the entity. Understanding the

necessary criteria and documentation for joining is crucial. This includes identifying the requirements set forth by the energy community

The procedure for joining the energy community should be clearly defined. It is important to outline the steps to be taken both internally within the energy community and externally, if any external entities, such as notaries or registries, need to be involved. Clarifying the specific actions and documentation needed at each stage of the process ensures that the entry process is efficient and compliant with legal and regulatory obligations.

It is necessary to identify the competent organ within the energy community responsible for handling new participant applications. Designating a point of contact or a committee to oversee the entrance process can help streamline communication and decision-making, ensuring that all necessary parties are involved and informed.

To ensure a smooth and effective entry process, it is important to ensure that the relevant individuals within the energy community are knowledgeable about the procedure.

Clear communication with the entering person is crucial. Providing detailed information about the procedure, including timelines, required documents, and expectations of participation in the energy community, helps the new participant understand the process and their responsibilities within the energy community. Additionally, it is important to inform the entering person about the activities of the energy community, potential risks associated with participation, and any potential liabilities they may assume as a member.

Especially, they should know the implications for the members of the Energy Community of situations such as interruptions of the activity of the community or its definitive closure. Communicating the potential scenarios and their impact on the participant, such as liability for debts or the fate of installations, ensures that new members are fully aware of the risks and potential outcomes.

Lastly, it is important to manage expectations by ensuring that the entering person understands both the functioning of the energy community and what is expected of them as a new member. This includes providing information on the day-to-day operations, decision-making processes, and the level of participation or contribution expected from the new participant.

2.2. Exit of participants

When considering the exit of participants from an energy community, it is important to be aware of the legal requirements and steps specific to the entity. Understanding the conditions and different legal regimes of exiting is crucial to ensure compliance and address potential liabilities. Generally, there are two main categories of exit to consider: expulsion and voluntary exit. It is essential to outline the conditions and procedures for both types of exit, to facilitate a smooth and fair transition.

Exiting participants must be aware of the consequences associated with their departure. This includes considering their current liability with regard to the entity. Additionally, future liability needs to be examined, both in relation to third parties and the energy community itself. Depending on the legal framework and agreements in place, the exiting member may no longer be held liable after their departure, their liability may be limited, for example, to a specific period of time or to certain concepts, or may be unlimited. Another important aspect to consider is the consequences for the installations associated with the exiting member. Different scenarios may arise depending on the specific circumstances. For example, the property may be transferred to the individual leaving the community or the installations may remain under the ownership of the energy community.

The exit procedure should be clearly defined to ensure a structured and efficient process. This includes outlining the steps to be taken internally within the energy community and the exiting member. It is also important to consider the possibility of hearing the affected individual's perspective. Especially in cases of expulsion, hearing the exiting party is important to ensure fairness and due process.

External steps may need to be taken outside the energy community as part of the exit procedure, which should be known by the entity. For example, exiting can involve engaging a notary to formalize the exit process according to legal requirements and executing any necessary legal documents or updating relevant registries.

To facilitate the exit process, it is essential to identify the competent organ or responsible body within the energy community that will manage and oversee the exit.

Ensuring that the relevant individuals within the energy community are knowledgeable about the exit process and understand the conditions associated with it is crucial. Preparing a pre-established sequence to follow in case of exit helps ensure efficiency and accuracy in managing the process, minimizing confusion and potential conflicts.

Clear communication with the exiting person is vital to ensure they fully understand the exit procedure and the conditions that apply. Providing comprehensive information about the process, including the steps involved and the implications of their departure, helps facilitate a smooth and mutually satisfactory transition. It is important to address any concerns or questions they may have, ensuring they are fully informed about their rights, obligations, and the impact of their exit on the energy community.

2.3. Modification of the EC

When considering modifications to the legal, governance and operation structures of the energy community (EC), it is essential to adhere to the legal requirements and follow the appropriate steps. This ensures compliance and transparency throughout the process. Here are some expanded points to consider:

To introduce the modification, it is crucial to understand the correct procedure to be followed. This typically involves one of the following procedures:

- **Modification of the bylaws:** If the proposed modification affects the existing bylaws of the energy community, it is necessary to make the appropriate amendments to reflect the desired changes.
- **Agreement of the general assembly or equivalent organ:** Depending on the governance structure of the energy community, obtaining the approval or agreement of the general assembly or a similar representative body may be required.
- **Agreement of the board:** Less significant modifications may only require the approval of the board.

The procedure for implementing the modifications should be clearly defined. This includes the internal steps to be taken within the energy community. These steps may involve notifying relevant members or decision-making bodies, conducting internal discussions or consultations, and drafting the necessary documentation. Additionally, external steps may be required, such

as involving a notary to certify the changes or updating relevant registries or authorities to reflect the modified legal structure.

It is important to identify the competent organ or responsible body within the energy community to decide on the modifications and to manage and/or oversee the procedure.

Members' participation and access to relevant information should be ensured throughout the process. To facilitate participation, steps should be taken to make it easy for members to engage. Depending on the time pressure and intensity of the modifications, sessions of debate or discussion on the proposed changes may be organized. Even if members do not have voting rights on the matter, it may be advisable to give them the opportunity to express their opinions and concerns.

Providing members with the necessary information is crucial to enable informed decision-making. This includes sharing copies of the current bylaws or internal regulations, the proposed amendments, and the potential consequences of the modifications. Consideration should be given to the different ways members can access this information, as preferences may vary. Some members may prefer physical copies of documents, while others may prefer online access.

If the proposed modifications are substantial and significantly impact the rights or obligations of the members, it is important to provide an option for members to exit without requiring any additional justification. This ensures that membership in the community remains voluntary.

2.4. Election of the governing bodies

The election of the members of the energy community that will participate in the governing bodies in the community requires being aware of the applicable legal requirements and procedure. Moreover, the procedure shall take place in a transparent and democratic

However, other elements also need to be taken into account. Section 5 of the [Governance Guide of the CARES Community Benefits Toolkit](#) (page 8 to 16) provides valuable advice and guidance in the procedure of electing the leadership of an organization with the aim of ensuring good governance within the group: this is, that the group works in a fair, accountable, inclusive and responsible way.

Although the CARES Community Benefits Toolkit is not addressed to Energy Communities, the content of the Governance Guide can be applied to Energy Communities. The guide contains guidance on the content of the governing document of the entities, in the case of REC and CEC, the bylaws. Also, it includes content on the procedure of recruiting and electing the members of the governing body of a collective, focusing on detecting the skills that are necessary for the governance of the entity and finding the people that have those skills.

Equally, among other matters, the guide provides advice on how to manage the rotation and the retirement in the governing bodies, and also how new members in the leadership of the entity shall be introduced in the direction of the collective.

2.5. Management of the EC

Guidance on the management and governance of energy communities is provided in Chapter 3 of the following guide, authored by RESCOOP, Friends of the Earth Europe and Energy Cities: [Community Energy: A practical guide to reclaiming power](#). (Pages 55 to 69). The guide also includes references to other interesting materials which can provide relevant help in leading an Energy Community. This guide is available in English and in other languages, including Spanish and Bulgarian.

Chapter 3 of the guide advises on the management of an Energy Community in three different aspects of the functioning of the community. First of all, it provides advice on how to begin the Energy Community, recommending growing from small to bigger and to engage with other collectives that are already functioning. Also, it recommends that the first steps shall be taken by a core team that is confident but also diverse and willing to listen to the different opinions of its members.

Besides this, the chapter also takes into account group dynamics. The guide affirms that disagreement and conflict will likely happen in the community sooner or later, and provides some tools on how to address these issues. It recommends taking a flexible and empathic approach and agreeing on a document on the working of the community. Moreover, this section also points out that members should be aware of the power dynamics within the collective and includes a checklist to address those power dynamics.

Finally, the guide advises on sustaining the working group of the community, so that it can continue working in the longer term, including a check list of ideas aimed at sustaining the core teams of leaders of the Energy Community.

2.6. Ampliation of Installations

When considering the ampliation of installations within an energy community, several aspects need to be taken into account:

Analysis of the opportunity of the amplification should include a thorough assessment of the necessary investment and funding options, taking into account the conditions associated with each option. The procedure and timing for the amplification should be considered to ensure a well-planned and timely implementation. It is crucial to assess the overall costs involved, including those that may not be initially evident, such as taxes, registry fees, and notary expenses. Additionally, considering if the involvement of intermediaries like legal and technical advisors is necessary and estimating the expected effort to be taken by the energy community is important.

Analyzing the procedure and necessary steps is essential for a successful ampliation. From a legal perspective, identifying the required documents to carry out the ampliation is crucial. Identifying the permits needed, and their specific requirements, processing time, the competent authority responsible for issuing them, and associated costs, is necessary. Additionally, considering the registry requirements and any checks or control processes by the authorities is vital. On the non-legal side, the entity should make sure it understands the steps leading to the amplification, determine the optimal timing, and identify the external participants involved. The necessary documents or information to these external participants shall be provided, and written contracts or agreements may need to be signed.

Assessing the capability of the energy community to handle the necessary steps is crucial. Evaluating the available resources, expertise, and capacity within the community helps determine if additional help or expertise is required. If assistance is needed, identifying suitable candidates, such as consultants, contractors, or specialized service providers, is important for successful implementation.

If the ampliation affects the members of the energy community, those members should have the opportunity to express their voice and, when necessary, vote on matters related to the ampliation. While not every amplification may require a formal vote, providing an avenue for members to express their opinions fosters transparency and inclusivity.

2.7. Termination of the EC

When considering the termination of the energy community (EC), it is important to be aware of the legal requirements and steps involved. Termination can occur under different conditions, such as compulsory or voluntary termination.

The consequences of termination should be carefully evaluated. This includes considering the current liability of members towards third parties, which can be direct or result from debts incurred by the entity. It is also important to determine if members are shielded from liability after termination. Future liability should be assessed, considering whether former members can be held liable or if liability is limited to a specific period, specific concepts, or certain types of members. The consequences for installations shall also be determined and taken into account. Those consequences may depend on decisions and the contracts entered to by the EC, but the law may also determine the future of the installations.

The termination procedure should be clearly defined, addressing the necessary steps to be taken internally by the relevant bodies or individuals within the EC. It is important to determine if the entity requires assistance from third parties or advisors during the process. Additionally, there may be steps that need to be taken outside the EC, such as notifying other interested parties, involving a notary, updating registries, or fulfilling other legal obligations.

The competent organ within the structure should be identified to manage the termination process effectively. It may be necessary to notify various parties, including the administration, clients or providers of the EC, and other relevant parties with a legitimate interest.

Consideration should also be given to the costs associated with termination, if applicable. This includes costs related to advisors, registries, notaries, and taxes. It is also necessary to determine who will bear these costs.

It is also necessary to ensure that the relevant individuals within the EC are informed about how to proceed and understand the conditions of termination. The decision to terminate the entity will likely require the involvement of the members through an agreement of the General Assembly or equivalent organ, possibly via a reinforced majority. Members should understand the reasons for the proposed termination, have access to all necessary information to make an informed decision, and comprehend the consequences for the entity, its members, and third parties. They should be able to reflect, debate, and effectively participate in the decision-making process.

The termination procedure should be clear, identifying all the consequences regarding members, installations, third parties, and any other relevant entities. It is also advisable to anticipate and research any unexpected circumstances or consequences that may arise from the termination process, ensuring comprehensive planning and preparation.