

Directive 2009/72/EC of the European Parliament and of the Council  
of 13 July 2009 concerning common rules for the internal market in  
electricity and repealing Directive 2003/54/EC (Text with EEA relevance)

CHAPTER IX

**NATIONAL REGULATORY AUTHORITIES**

*Article 40*

**Record keeping**

1 Member States shall require supply undertakings to keep at the disposal of the national authorities, including the national regulatory authority, the national competition authorities and the Commission, for the fulfilment of their tasks, for at least five years, the relevant data relating to all transactions in electricity supply contracts and electricity derivatives with wholesale customers and transmission system operators.

2 The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled electricity supply contracts and electricity derivatives.

3 The regulatory authority may decide to make available to market participants elements of that information provided that commercially sensitive information on individual market players or individual transactions is not released. This paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.

4 To ensure the uniform application of this Article, the Commission may adopt Guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall be kept. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 46(2).

5 With respect to transactions in electricity derivatives of supply undertakings with wholesale customers and transmission system operators, this Article shall apply only once the Commission has adopted the Guidelines referred to in paragraph 4.

6 The provisions of this Article shall not create additional obligations towards the authorities referred to in paragraph 1 for entities falling within the scope of Directive 2004/39/EC.

7 In the event that the authorities referred to in paragraph 1 need access to data kept by entities falling within the scope of Directive 2004/39/EC, the authorities responsible under that Directive shall provide them with the required data.