– Consultation Response –

ACER public consultation on the impact of developing peak-shaving products on the Union electricity market under normal market circumstances

Brussels, 17 April 2025| Europex welcomes the opportunity to respond to ACER consultation on peak-shaving products. In our response, we strongly criticise the concept of peak-shaving products, emphasising that such an additional off-market instrument would only distort the wholesale market and its price signals - potentially at a cost that would significantly outweigh any savings derived from artificially reduced demand

Q1.1.1: The first policy objective of a peak-shaving product is to lower wholesale electricity prices. The decrease of the wholesale electricity price would reduce potential "excessive" windfall profits of producers and reduce costs for consumers.
This concept is illustrated in Figure 1. The idea behind a peak-shaving product is to activate demand response based on another price signal than the day-ahead price, thereby reducing the volume of demand participating in the market as buy orders (shift from the right demand curve to the left demand curve*). This reduction in market-participating demand would, in turn, lead to a decrease in wholesale electricity prices compared to a scenario without a peak-shaving product.
Do you agree that the introduction of a peak-shaving product would lead to a reduction of the wholesale electricity prices?

Partially disagree.

Feel free to justify your answer above

In principle, a reduction in electricity demand should lead to a decrease in wholesale electricity prices. Nonetheless, we believe the wholesale market price signal should be the primary driver of demand reduction, as it reflects the true scarcity of the electricity resource. A separate mechanism, such as peak-shaving products, that operates outside of the wholesale market would significantly distort the market price signal. Artificially lowering prices may also encourage increased consumption, offsetting the originally intended demand reduction. Plus, TSO activation costs would be passed on to consumers, possibly neutralising any potential benefits. It is also important to highlight that day-ahead market prices serve as a basis for indices used in pricing forward contracts. Any distortion in wholesale prices could therefore negatively affect forward markets, which are notably essential for providing stable prices to end-consumers and ensuring appropriate returns on investments.

Q1.1.2: In an integrated electricity market, the price in a bidding zone depends on supply and demand across all Member States, as well as the available cross-zonal capacities. For a

small, well-connected Member State, the price may be largely influenced by demand in larger neighbouring Member States. As a result, due to the different size of the System Operator (SO) and national systems, the ability of individual SOs to influence their national price might be different (due to national demand, level of cross-zonal capacities and national characteristics) compared to neighbouring Member States.
Do you agree that the SO of a small Member State may have a limited impact on market prices when using a peak-shaving product?

Partially disagree.

Feel free to justify your answer above

In theory, the SO of a small MS may be less effective than that of a larger country in reducing market prices when using a peak-shaving product. However, it is difficult to draw a general conclusion as, in practice, the impact of peak-shaving products depends on the level of connection, the exact location, the level of load, the types of generation, the structure of the orders, etc.

In any case, if peak-shaving products were introduced in one country, this would distort the neighbouring countries as the price signal of the affected bidding zone(s) would be altered, especially in the context of the integrated EU Internal Electricity Market. This would also have consequences on the import/export flows and thus on the prices of neighbouring bidding zones that would be arbitrarily distorted as well. In the end, we do not believe that the size of the Member State should considerably influence the decision whether to introduce peak-shaving products or not.

Q1.1.3: ACER understands that while the introduction of a peak-shaving product could reduce wholesale electricity prices, it may not guarantee lower costs for consumers. This is because a peak-shaving product also entails additional costs for SOs.
First, there is the cost of procuring the peak-shaving product in order to ensure it is available (i.e. reservation costs). Second, there is the cost of activating it. As illustrated in Figure 1, the price at which demand reduction is compensated through the peak-shaving product is higher than the day-ahead market price. This is because the reduced demand would have otherwise been cleared in the day-ahead market.
What is your view on the potential impact of a peak-shaving product on consumer costs, considering both its potential to lower wholesale electricity prices and the associated costs for SOs??

In our view, this measure is paradoxical since by aiming to reduce wholesale prices to safeguard end-consumers, in the end, it risks increasing the activation costs borne by TSOs and passed on to end-consumers themselves. Indeed, we understand that the activation cost would require a compensation at a price that is generally higher than the day-ahead price. In fact, such activation costs would be recovered by the TSOs through network charges which eventually would be likely higher for end-consumers than the savings in the day-ahead prices gained in the energy component of the bill.

Q1.1.4: For assets receiving state support, such as renewable energy subsidies, capacity mechanisms, or Contracts for Difference (CfDs), ACER considers it more efficient to address potential "excessive" windfall profits through these support mechanisms rather than by introducing a peak-shaving product to lower wholesale electricity prices.
For example, the use of a two-sided Contract for Difference or the implementation of a reliability option within a capacity mechanism could ensure that producer revenues exceeding a certain threshold are recovered.
Do you agree with ACER's view?

Fully agree.

Feel free to justify your answer above

First, we would like to clarify that the scope of Article 7a – Regulation (EU) 2024/1747 – rather refers to the demand side, differently from CfDs that apply to the supply side. Moreover, it is important to recall that episodes of high electricity prices are due to supply/demand fundamentals and do not necessarily translate in such “excessive windfall profits”. Moreover, needless to say, market participants profits and losses are the result of not only day-ahead but also of the other market timeframe prices (forward, intraday, balancing, etc.).

Moreover, it is worth mentioning that CfDs or CRM contracts are generally referenced to day-ahead prices. Thus, if peak-shaving products were to be introduced, thereby distorting the day-ahead prices, this would have negative implications even on those state support mechanisms.

Q1.1.5: For assets that are not under state support schemes, ACER understands that limiting the infra-marginal rents of producers in normal market circumstances might prevent producers to recover their investment costs.
Do you agree with ACER's understanding?

Fully agree.

Feel free to justify your answer above

Regarding the intended scope of peak-shaving products, we would like to refer to our response to the previous question. Again, we express our concerns regarding the introduction of peak-shaving products that, by distorting day-ahead prices, could endanger investment signals for generators.

Besides that, we agree with ACER. In normal market conditions, limiting inframarginal rents of producers might endanger the recovery of investment costs. Already in the past, this resulted in market participants leaving the energy markets, thus deteriorating the market competitiveness structure and the price formation robustness due to a decreased liquidity. In the future, limited inframarginal revenues might cause a lack of renewable generation and jeopardise the achievement of the European decarbonisation targets.

Q1.1.6: ACER considers that lowering wholesale electricity prices through subsidised demand response such as peak shaving is not an efficient approach to supporting consumers, as the subsidy provides the same level of support to all consumers, regardless of their actual needs. Instead, ACER recommends targeted measures for vulnerable consumers rather than broad mechanisms that benefit all consumers equally (see 2023 CEER/ACER retail report).
Do you agree with ACER's assessment?

Fully agree.

Feel free to justify your answer above

Spot market prices provide price signals that represent the level of scarcity of a given resource, meaning that in situations of extremely high prices end-consumers would be naturally driven to consume less. Overall, the savings due to a decreased electricity price would be offset by the increased network costs that would be paid in the bills by end-consumers. Thus, not only this measure is applied with no distinction among vulnerable or non-vulnerable end-consumers, but paradoxically it risks placing a greater burden on vulnerable consumers.

Against that background, we rather support measures that enable consumers to react on high prices in electricity markets more directly or that support schemes targeted to vulnerable end-consumers.

Q1.2.1.: The second policy objective of a peak-shaving product is to ensure security of supply. The premise is that demand reduction from the activation of the peak-shaving product could help avoid situations where there is a loss of load (when production and imports cannot meet demand).
Capacity mechanisms and strategic reserves are introduced and sized to address adequacy concerns (Article 21.1 and 22.1(c) of Regulation 2019/943). For this reason, ACER is of the opinion that in Member States that already have a capacity mechanism or a strategic reserve in place, there is less need to introduce an additional peak-shaving product for ensuring security of supply, as these mechanisms already ensure the necessary level of security of supply.
Do you agree with ACER's understanding? Do you see any advantages in the design of a peak-shaving product compared to a strategic reserve or a capacity mechanism?

Fully agree.

Feel free to justify your answer above

We agree that both mechanisms can have overlapping objectives. Implementing mechanisms that pursue the same goal may reduce their effectiveness. Capacity mechanisms should not distort the electricity markets by reducing liquidity. Related contracts should be priced based on the marginal day-ahead price. Thus, peak-shaving products would affect day-ahead prices and so the index price used in the capacity mechanisms, jeopardising fair remuneration of security of supply assets.

Strategic reserve mechanisms are more distortive excluding some market participants from wholesale markets and reducing liquidity. Indeed, these mechanisms reward market participants at higher prices than in wholesale markets and are eventually born by end-consumers in network charges. Consequently, peak-shaving products would double the costs passed on to the end-consumers.

Overall, our call not to apply peak-shaving products in countries with capacity mechanisms applies to any CRM design.

Q1.2.2.: For countries without capacity mechanisms or strategic reserves, ACER is concerned that by lowering wholesale electricity prices, the peak-shaving product could weaken investment incentives in new capacities, potentially affecting long-term security of supply.
Do you agree with ACER's concerns?

Fully agree.

Feel free to justify your answer above

We kindly refer to our response to the previous questions.

Q1.3.1.: The third policy objective of a peak-shaving product is to enable the participation of additional demand response that cannot currently participate in existing wholesale electricity markets.
Do you consider that, even after the implementation of the demand response network code, some demand response will still be unable to participate in the market? If so, what barriers prevents their participation?

In principle, the NC DR should establish an EU regulatory framework that aims to eliminate any entry barrier (e.g., the length of the prequalification process, the definition of an excessively high minimum bidding size, the prequalification process performed at unit level, etc.) preventing DR resources from the participation in flexibility and also in wholesale markets, once integrated. Importantly, MS should focus on removing the identified barriers abstaining from further regulatory actions until the NC DR is fully implemented.

There could be still external elements that cannot be addressed by the NC DR directly and that can continue to represent an entry barrier for DR. However, peak-shaving products would not be effective in tackling such obstacles such as the low deployment of smart meters or the lack of possibility for suppliers to offer dynamic electricity price contracts to end-consumers.

Q1.3.2.: ACER understands that the technical requirements for participating in a peak-shaving product would not be lower than those for participating in day-ahead and intraday markets. This is because mechanisms like peak-shaving products, which provide remuneration for capacity (e.g., balancing capacity, capacity mechanisms), typically involve

more stringent control processes (such as prequalification) than wholesale market participation.
Do you agree with ACER's understanding?

Fully agree.

Feel free to justify your answer above

The resources that can participate in mechanisms such as peak-shaving products should have specific characteristics as in the case of other similar mechanisms (e.g., the Demand Side Management with the participation of just energy-intensive consumers). Thus, we agree that the prequalification process would be more stringent than in the case of the wholesale markets as specific technical requirements would be involved. It is worth highlighting that this kind of prequalification would imply that market participants may have two separated qualification processes (one for wholesale markets and one for peak-shaving products), thus increasing their transition costs.

Q1.3.3.: ACER understands that by providing remuneration for capacity, a peak-shaving product could enhance the business case for demand response developers and, in turn, support the development of additional demand response.
Do you agree with ACER's understanding?

No opinion.

Do you see any modifications to the characteristics (e.g., time of procurement, time of activation) of the peak-shaving product that would make it more attractive for demand response?

The most effective way to attract new demand response resources is through the implementation of local flexibility markets that are supposed to be interoperable and integrated with the wholesale markets, thus enabling for liquidity pooling. Nevertheless, if an analysis justifies the need for an additional service to support the development of demand response and to ensure security of supply through demand reduction during certain periods, this should include the possibility to use spot markets for such purpose. Furthermore, Regulation (EU) 2024/1747 already includes the possibility to develop non-fossil flexibility support schemes.

Moreover, wr to the "no opinion" above, we would recall that it is one of the goals of Article 7a (paragraph 7) to avoid any "redirection of demand response services towards peak-shaving products". Against that background, such an effect, if occurring, should serve as a clear indication not to introduce peak-shaving products in normal market conditions.

Q1.3.4.: When demand response is activated through the peak-shaving product, its remuneration is higher than if it had been activated through the market. This is because a demand response asset participating in the peak-shaving product receives both a capacity payment and an activation price, which exceeds the wholesale market price (see Figure 1).

As a result, there is a risk that the introduction of a peak-shaving product could lead to a shift of demand response away from wholesale markets toward the peak-shaving product. Do you agree with this?

Fully agree.

Feel free to justify your answer above

Considering that peak-shaving products would be completely separated from the wholesale markets, we agree that there could be a shift of demand response resources away from the wholesale markets. To this end, we ask for focusing first on the implementation of local flexibility markets that are instead supposed to be integrated in the wholesale markets, thereby enabling liquidity pooling and not distorting the correct functioning of the markets. The same negative effect could apply to flexibility markets.

Q2.1.: ACER understands that by remunerating demand reduction at a price different from the wholesale electricity price, the introduction of a peak-shaving product could result in an inefficient dispatch and therefore a loss of socio-economic surplus. Specifically, demand response participating in the peak-shaving product may be activated and therefore not consume, even though its valuation is higher than the day-ahead price (see Figure 1). As a result, the economic surplus would have been increased if this demand had been allowed to consume instead.
Do you agree with ACER's understanding?

Fully agree.

Feel free to justify your answer above

The wholesale electricity markets provide a pricing mechanism that is superior to any cost-based or regulated price setting method, thus guaranteeing always the optimal solution in terms of economic surplus. Peak-shaving products introduce externalities and restrictions that may distort such pricing mechanism, preventing the most efficient assets and behaviours to be activated. i.e., worsening the economic surplus.

Nonetheless, the impact of peak-shaving products on end-consumers remains difficult to estimate. They will certainly lead to an increasing network cost component as TSOs have to compensate the activation of peak-shaving products at favourable prices, that are generally higher than the prices in the day-ahead markets. These costs would be passed on through network charges, potentially outweighing any uncertain savings in the energy component.

Q2.2.: In an integrated market, ACER understands that by reducing national demand, a System Operator would also lower electricity prices in other Member States. This price reduction could, in turn, impact the incentives for demand response development in those markets or affect their security of supply.
Do you agree with ACER's understanding regarding the cross-border impact of activating a peak-shaving
product?

Fully agree.

Feel free to justify your answer above

A reduction of national demand has implications on the import/export flows in the whole integrated market since if the country that reduces its demand is an importer, this means that the exporter neighbouring countries will have more energy available, thus potentially reducing their (national) prices. This, together with a distorted price signal, would have certainly negative implications on the investments in new generation, also in cases of states applying CRMs or CfDs, thus endangering their security of supply. As a result, the reduced price of a single bidding zone due to a distortive intervention would have negative implications on the integrated market as a whole.

It is also worth mentioning that if the CRM of a country becomes less attractive because of the contracts being priced on the basis of the pricing level of the reduced DA price, there would be no incentive to cross-border participation, as pursued by Article 26 of Regulation 1747/2024.

Q3.: You are kindly invited to share your general view on the topic of peak-shaving products. Feel free to provide any other benefit or disadvantage of the introduction of peak-shaving products under normal market circumstances, as well as any other comments.

Considering all the negative implications that peak-shaving products could have on the wholesale markets, on the development of flexibility markets and on the effectiveness of support state mechanisms already in place (CfDs, CRMs etc.), we firmly oppose the introduction of this measure under normal market circumstances.

About

Europex is a not-for-profit association of European energy exchanges with 37 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

Contact

Europex – Association of European Energy Exchanges
Address: Rue Archimède 44, 1000 Brussels, Belgium
Phone: +32 2 512 34 10
Website: www.europex.org
Email: secretariat@europex.org
X: @Europex_energy

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