



– Position Paper –

The Commission’s Electricity Regulation and Directive proposals: right direction but room for improvement

Brussels, 23 March 2017 | The present position paper provides the views of Europex, the Association of European Energy Exchanges, on both the recast of the EU Electricity Directive and the EU Electricity Regulation of the “Clean Energy for All Europeans” package. It constitutes a follow-up to our first position paper on the reviews of the Renewable Energy Directive and the Energy Efficiency Directive.

Overall, we consider that the two legislative proposals for the review of the Electricity Regulation and Directive constitute good progress towards the completion of the EU Internal Energy Market while recognising the central role of energy exchanges and the importance of strong market price signals in all Member States.

Nevertheless, both texts still leave room for improvement and should be further amended. In the following, we highlight some key areas where we believe additional changes are necessary and we make concrete proposals for how this could be implemented in the future legislation

Delivering clean energy to all Europeans: seven key pillars of a well-functioning electricity market design

- The definition of bidding zones in relation to imbalance price areas needs to be clarified. Imbalance price areas should follow the configuration of bidding zones, not the other way around.
- Markets are already efficiently delivering long-term hedging products. There is no need for the introduction of additional mandatory contracts (e.g. Power Purchasing Agreements - PPAs). The market is best placed to adapt its hedging contract offer to the needs of the market players in a fair and efficient manner.
- A regional approach to the assessment of adequacy, eventually leading to a pan-European adequacy assessment, constitutes a valuable step towards the further integration of EU energy markets.
- All market participants, including renewable energy sources (RES), need to bear balancing responsibilities. Exemptions should be limited to a minimum, take into account distortive effects on the well-functioning of the power market and define to whom the corresponding imbalances will be attributed.
- Capacity remuneration mechanisms, in line with Energy and Climate State Aid Guidelines, must only be used as a last resort by Member States.

- The increase of regional cooperation across Member States goes in the right direction, provided that the subsidiarity principle is respected.
- The same subsidiarity principle should be respected for all delegated acts.

1. Remarks on the proposal for an Electricity Regulation

a) *Principles regarding the operation of electricity markets*

Europex welcomes the high-level “Principles regarding the operation of electricity markets” in Article 3 of the draft Regulation. These principles are important for well-functioning markets and for the price formation mechanism in particular.

Europex values the Commission’s recognition of the role energy exchanges play in building the Energy Union, in empowering customers and in supporting Europe in reaching its 2030 and 2050 energy and climate targets.

b) *Full market integration of renewables*

As already stated in previous position papers, Europex supports the full and equal integration of renewables into the electricity market. We share the Commission’s view in Article 4 that all market participants need to bear balancing responsibility. While there may be reasons to allow for temporary exceptions for small RES and supported RES generators, any exemptions have a significant impact on the technical functioning and the competition in the energy system. The same applies to the intention to encourage Member States to offer compensation payments for balancing responsibility to certain RES producers. All temporary exceptions for RES producers, if deemed justified, shall be implemented by delegating their assigned responsibility to third-party balancing responsible bodies of their choice.

c) *Avoiding price caps*

Europex welcomes the Commission’s proposal not to limit the price formation process in the various market time segments as suggested in Article 9 of the draft Regulation. For technical and operational reasons, however, this principle needs to be in line with the provisions laid out in the Congestion Management and Capacity Allocation Guideline (CACM GL).

d) *Imbalance price areas to follow bidding zones*

According to Article 13.2 of the Electricity Regulation, a bidding zone “should be equal to an imbalance price area”. Bidding zones need to be defined by reference to transmission constraints. Imbalance price areas shall rather be equal to bidding zones as bidding zones drive imbalance price areas and not the other way around.

Hence, imbalance price areas need to be drawn based on the existence of bidding zones and not the contrary.

Europex therefore suggests amending the wording referring to the definition of bidding zones in Article 13.2 in the Electricity Regulation as “Imbalance price area shall be equal to a bidding zone”. Again, any such amendment should clearly state that imbalance price areas need to be based on the configuration of bidding zones.

In addition, we call for a clarification of the process leading to potential bidding zones reconfigurations. It is important, and indeed necessary, that all stakeholders, including market operators and exchanges, are fully involved in any such process. It is important that any split of bidding zones is notified well in advance to better manage the negative impact on liquidity in long-term hedging products.

e) Capacity remuneration mechanisms and regional adequacy assessments

Article 23 on the “Design principles of capacity mechanism” does not differ substantially from the State Aid Guidelines published by the Commission in 2014.

In this context, a regional approach to the assessment of adequacy, eventually leading to a pan-European adequacy assessment, constitutes a valuable step towards the further integration of EU energy markets. Any adequacy assessment needs to be based on transmission and generation capacity, also considering consumption flexibility.

f) Regional cooperation

Europex supports the draft Regulation’s push towards further cooperation as an important step on the way to completing a fully integrated European internal energy market.

g) Respecting subsidiarity

Regarding Articles 55 and 56 of the draft Regulation, we are concerned that they would enable the Commission to adopt and/or amend Network Codes and Guidelines through simple Delegated Acts. To us, it remains unclear why a centralised approach is suggested instead of the full involvement of the Member States.

h) Accepting and allowing third-party market operators

The definition of ‘market operator’ does not include certain parties, e.g. imbalance settlement administrators, who traditionally describe themselves as ‘market operators’. These parties have already been recognised in the Network Code on Emergency and Restoration (NC ER) and Electricity Balancing Guideline (EB GL) as ‘third parties’. So, Europex suggests that the term ‘market operator’ should be redefined as “an entity that provides a service whereby the offers to sell electricity are matched with bids to buy electricity; or an entity that performs other tasks related to the electricity market that are assigned to them by a Member State or National Regulatory Authority”.

In addition, such third party market operators should be included in the ENTSO-E led TSO discussions to the support their TSO in circumstances where the third party has as much, or more, experience and expertise than the TSO. This has been recognised in

the EB GL recital (7). Europex therefore recommends amending Article 26 in a way to allow assigned third party market operators to participate in relevant ENTSO-E discussions.

Europex supports the proposal in Article 55 (9) to allow different stakeholders to directly participate in the drafting process of Network Codes. This improvement must not be restricted by the limitation of the number of main affected stakeholders in drafting committees. All relevant stakeholders, explicitly including third-party market operators, need to be involved.

2. Remarks on the proposal for a revised Electricity Directive

Europex welcomes Article 5.2 of the draft Directive according to which “Member States shall ensure the protection of energy poor or vulnerable customers in a targeted manner by other means than public interventions in the price-setting for the supply of electricity”. Any such measures should be designed in a way to minimise their effect on wholesale price formation.

3. General remark on the clarity of definitions in both proposals

As a more general remark, we still see room for improvement as regards certain terms and definitions in both the Directive and Regulation proposals. Many concepts are not yet fully clear and need further fine-tuning. This applies *inter alia* to the definition of aggregators, independent aggregators, trading rules, local energy communities, organised markets etc..

About

Europex is a not-for-profit association of European energy exchanges with currently 27 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.

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