

Common rules for the internal market in electricity. Recast

2016/0380(COD) - 30/11/2016 - Legislative proposal

PURPOSE: to recast the common rules for the internal market in electricity.

LEGISLATIVE ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the energy sector plays a key role in the obligation to reduce greenhouse gas emissions in the Union by at least 40% until 2030 with an expected share of 50% of renewables by 2030. The European Parliament adopted [a resolution](#) in September 2016 stressing that a well-functioning integrated energy market is the best tool to guarantee affordable energy prices, secure energy supplies and to allow for the integration and development of larger volumes of electricity produced from renewable sources in a cost efficient manner.

The current electricity market design is based on the rules of the [Third Energy Package](#), adopted in 2009. The latter has brought tangible progress for consumers but **new developments have led to fundamental changes in European electricity markets**. The share of electricity generated from renewable energy sources (RES-E) has steeply increased, and this shift will continue as it is a key condition to fulfilling the Union's obligations under the Paris Agreement on climate. In parallel, **state interventions**, often designed in an uncoordinated manner, have led to distortions of the wholesale electricity market, with negative consequences for investments and cross-border trade. Significant changes are also taking place on the **technological** side. The shortcomings of the current market arrangements also reduce the attractiveness of the energy sector for new investment. At the level of wholesale markets, barriers to cross-border trade persist and interconnector capacities are rarely fully exploited. With regards to retail markets, competition performance could be significantly improved.

Furthermore, **fully integrating industrial, commercial and residential consumers into the energy system can avoid significant costs** for 'backup' generation - costs which consumers would otherwise end up paying. Delivering a new deal for energy consumers is a key commitment of the Energy Union.

The present electricity market design initiative thus aims to **put consumers at the heart of the energy market**, and adapt the current market rules to new market realities, by allowing electricity to move freely to where it is most needed when it is most needed via undistorted price signals, whilst **empowering consumers**, reaping maximum benefits for society from cross-border competition and providing the right signals and incentives to drive the necessary investments to decarbonise our energy system. It will also give priority to energy efficiency solutions, and contribute to the goal of becoming a world leader in energy production from renewable energy sources, thus contributing to the Union's target to create jobs, growth and attract investments.

The [proposal for a recast](#) of the Regulation on the electricity market, this proposal the recast of the Directive on common rules for the internal market in electricity, and [the proposal](#) on the recast of the Regulation establishing a European Agency for the Cooperation of Energy Regulators are part of the Commission's broader package of initiatives ("Clean Energy for All"). That Package comprises the Commission's key proposals to implement the [Energy Union](#).

The proposal is also closely linked to [the proposal](#) for a revised Renewable Energy Directive, providing for a framework to achieve the 2030 renewable target, including principles in relation to support schemes for renewable energy sources.

IMPACT ASSESSMENT: all proposed measures are supported by the impact assessment, on which the Regulatory Scrutiny Board issued a positive opinion on 7 November 2016. The impact assessment endorsed an enhancement of current market rules in order to create a level-playing field among all generation technologies and resources by **removing existing market distortions**.

Regarding the **retail market**, the preferred option included Member States being encouraged to progressively phase-out blanket price regulation, starting with prices below cost. Vulnerable consumers can be protected by a transitional price regulation.

CONTENT: the draft Directive contains eight Chapters, the main provisions of which may be summarised as follows:

Objectives: the draft directive establishes **common rules** for the generation, transmission, distribution, storage and supply of electricity, together with consumer protection provisions, with a view to creating truly integrated, consumer-centred and flexible electricity markets in the Union. The Directive aims at ensuring **affordable energy prices for consumers**, a high degree of security of supply and a smooth transition towards a decarbonised energy system. It lays down key rules relating to the organisation and functioning of the European electricity sector, in particular rules on consumer empowerment and protection, on open access to the integrated market, on third party access to transmission and distribution infrastructure, unbundling rules, and on independent national energy regulators.

General rules for the organisation of the sector: the general principle is that Member States have to ensure that the EU electricity market is competitive, consumer-centred, flexible and non-discriminatory. The text emphasises that **national measures should not unduly hamper cross-border flows, consumer participation or investments**. It further enshrines the principle that supply prices shall be market-based, subject to duly justified exceptions. The Chapter also clarifies certain principles relating to the functioning of the EU electricity markets, such as the right to choose a supplier. It also provides for updated rules on possible public service obligations that may be imposed by Member States on energy undertakings under certain circumstances.

Consumer empowerment and protection: this Chapter reinforces pre-existing consumer rights and **introduces new rights** that aim at putting consumers at the heart of the energy markets by ensuring that they are empowered and better protected. The proposal:

- contains rules on clearer billing information and on certified comparison tools;
- sets out provisions ensuring that consumers are able to freely choose and change suppliers or aggregators, are entitled to a dynamic price contract and are able to engage in demand response, self-generation and self-consumption of electricity;
- entitles every consumer to request a smart meter equipped with a minimum set of functionalities;
- aims to ensure that energy poverty is addressed by Member States;
- requires Member States to define frameworks for independent aggregators and for demand response along principles that enable their full participation in the market;
- defines a framework for local energy communities which may engage in local energy generation, distribution, aggregation, storage, supply or energy efficiency services;
- provides clarification on pre-existing provisions on smart meters, single points of contacts, and rights to out-of-court settlement, universal service and vulnerable consumers.

Distribution system operation (DSO): the text clarifies the tasks of DSOs, notably relating to the activities of DSOs concerning the procurement of network services to ensure flexibility, the integration of

electrical vehicles and data management. It also clarifies the role of DSOs with respect to storage and recharging points for electric vehicles.

General rules applicable to the transmission system operator (TSO): this Chapter summarises the rules, providing only some clarifications concerning ancillary services and the new Regional Operational Centres.

Unbundling of TSOs: the rules on unbundling as developed in the Third Energy Package, remains unchanged as concerns the main substantive rules on unbundling, notably with respect to the three regimes for TSOs (ownership unbundling, independent system operator and independent transmission operator), as well as with respect to the provisions on TSO designation and certification. It only provides a clarification on the possibility for TSOs to own storage or to provide ancillary services.

Independent system operator: the proposal notably emphasises the obligation of regulators to cooperate with neighbouring regulators and ACER in case issues of cross-border relevance are concerned and updates the list of tasks of regulators, inter alia with respect to the supervision of the newly created Regional Operational Centres.

Final provisions: this Chapter changes some general provisions, inter alia on derogations to the Directive, exercise of delegated powers by the Commission and the Committee established under comitology rules pursuant to Regulation (EU) No 182/2011.

The new Annexes to the proposed Directive set out more requirements on comparison tools, billing and billing information and amends pre-existing requirements for smart meters and their roll-out.

BUDGETARY IMPLICATIONS: the budgetary impact associated to the proposal under this package concerns the resources of the [Agency for the Cooperation of Energy Regulators](#) (ACER). Essentially, the new tasks to be carried out by ACER, notably as regards the assessment of system adequacy and the establishment of Regional Operation Centres, require a phasing in of 18 additional full-time staff in the Agency in 2020, as well as corresponding financial resources.