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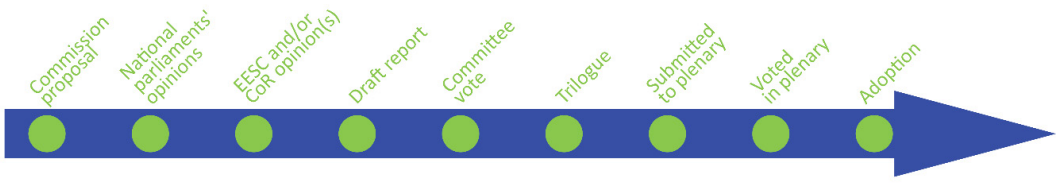
Print

Common rules for the internal electricity market

On 30 November 2016, the European Commission presented a legislative proposal for a recast directive on the internal market for electricity, as part of a comprehensive legislative package entitled 'Clean Energy for all Europeans'. The proposed directive would oblige Member States to ensure a more competitive, customer-centred, flexible and non-discriminatory EU electricity market with market-based supply prices. It would strengthen existing customer rights, introduce new ones and provide a framework for energy communities. Member States would have to monitor and address energy poverty. The proposal clarifies the tasks of distribution system operators and emphasises the obligation of neighbouring national regulators to cooperate on issues of cross-border relevance.

The Council adopted its general approach in December 2017. In the European Parliament, the Committee on Industry, Research and Energy (ITRE) adopted its report in February 2018. A provisional trilogue agreement was reached in December 2018. The European Parliament adopted the text in the March II 2019 plenary session and the Council on 22 May 2019. The Directive entered into force on 4 July 2019 and must be transposed into national legislation by 31 December 2020.

Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast)	
COM(2016) 864, 30.11.2016, 2016/0380(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')	
Committee responsible:	Industry, Research and Energy (ITRE)
Rapporteur:	Jerzy Buzek (EPP, Poland), replacing Krišjānis Kariņš (EPP, Latvia)
Shadow rapporteurs:	Martina Werner (S&D, Germany), Zdzisław Krasnodębski (ECR, Poland), Morten Helveg Petersen (ALDE, Denmark), Cornelia Ernst (GUE/NGL, Germany), Florent Marcellesi (Greens/EFA, Spain), Dario Tamburrano (EFDD, Italy), Barbara Kappel (ENF, Austria)
Procedure completed.	Directive (EU) 2019/944 OJ L 158, 14.6.2019, pp. 125–199



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Author: Gregor Erbach
Members' Research Service
PE 595.924

Introduction

Electricity markets[1] in the EU are faced with serious challenges, such as the transition towards a low-carbon energy system, the cost-efficient integration of variable renewable energy sources, the trend towards decentralised renewable energy production, the evolving role and stronger participation of energy customers (both households and industrial customers) and the requirement to ensure the security of supply in the short and long term efficiently and at affordable costs.

In order to stimulate competition and reward innovation in services, products and technologies, electricity markets should be open to new participants. Moreover, they should provide the right signals to investors in order to ensure that the necessary long-term investments will be made in the most cost-effective way. Concerns about a lack of investment in electricity generation capacity to meet peak demand have prompted several Member States to introduce capacity payments.

In order to address the challenges in the electricity market, the European Commission presented a legislative package on 30 November 2016. It consists of a communication entitled 'Clean Energy for all Europeans', eight legislative proposals and a number of reports and communications. With respect to the electricity market, the package comprises five legislative proposals and three reports.[2] The bundling of these legislative proposals into a single package aims to ensure their mutual coherence.

The proposed directive is focussed on the role of customers in the electricity market and aims to establish a more competitive, customer-centred, flexible and non-discriminatory EU electricity market with market-based supply prices. It would strengthen and expand the rights of individual customers and energy communities, giving them the right to engage in demand response, self-production, self-consumption, storage and sale of electricity. The proposal also sets a framework for the market participation of aggregators and local energy communities; introduces an obligation for Member States to monitor and address energy poverty; clarifies the roles and responsibilities of market participants and regulators; and lays out provisions on electro-mobility and energy storage.

Existing situation

Today's liberalised internal energy market for gas and electricity, established to encourage competition on wholesale and retail markets, came into existence by means of three consecutive legislative packages, adopted in the 1990s, and then in 2003 and 2009. For the electricity market, these are Directive 96/92/EC on the common rules for the internal electricity market, Directive 2003/54/EC, enabling new electricity suppliers to enter Member States' markets and allowing customers to choose their electricity supplier, and Directive 2009/72/EC, which further liberalised the market by unbundling supply, generation and

1 The EPRS briefing Understanding electricity markets in the EU provides an introduction to EU electricity markets.
2 Proposal for a directive on common rules for the internal electricity market (COM(2016) 864), proposal for a regulation on the internal electricity market (COM(2016) 861), proposal for a revised regulation on the European Agency for the Cooperation of Energy Regulators (COM(2016) 863), proposal for a new regulation on risk preparedness in the electricity sector (COM(2016) 862), proposal for a revised Renewable Energy Directive (COM(2016) 767), evaluation of the electricity market design and security of supply (SWD(2016) 413), report on sector inquiry on capacity mechanisms (COM(2016) 752), and report on energy prices and costs in Europe (COM(2016) 769).

networks, providing market access to third parties and increasing the transparency of retail markets. Other aspects include the obligation for Member States to ensure the provision of a universal service to all households and mechanisms for regulatory oversight, in particular through cooperation amongst energy regulators, and the establishment of an Agency for the Cooperation of Energy Regulators (ACER) through Regulation (EC) No 713/2009. ACER started work in March 2011 and is mainly responsible for promoting cooperation between national regulatory authorities, monitoring progress in the implementation of the 10-year network development plans and monitoring the internal markets in electricity and gas.

Furthermore, Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity established a European network of transmission system operators for electricity (ENTSO-E).[3] Its tasks include elaborating rules (network codes) for the operation of the electricity transmission network and coordinating grid operation through the exchange of operational information and the development of common safety and emergency standards and procedures. ENTSO-E is also responsible for drafting a 10-year network development plan every two years, which is then reviewed by ACER.

The EU internal energy market is still facing some obstacles, notably persisting barriers to cross-border trade, insufficient competition in retail markets and weaknesses in consumer protection, as noted in the European Commission's evaluation of the EU's regulatory framework for electricity market design and consumer protection and a recent EPRS implementation appraisal. According to the European Parliament's third Cost of non-Europe report, a more physically integrated internal energy market in energy could deliver annual efficiency gains of at least €250 billion.

Directive 2009/28/EC (the Renewable Energy Directive) obliges Member States to open their power grids to energy from renewable sources, including priority grid access (priority dispatch). Other electricity-related EU legislation concerns the security of electricity supply, trans-European networks and the EU emissions trading system (emission allowances for fossil fuel-fired power plants). EU competition policy (state aid rules in particular) and tax policies are other important policy areas.

The European Parliament's starting position

In its resolution of 26 May 2016 on delivering a new deal for energy customers, the Parliament calls for empowering citizens (individually or collectively) to produce, consume, store or trade their own renewable energy, to actively engage in the energy market through customer choice, and to participate in demand response. It calls for addressing the causes of energy poverty, protecting customers from unfair practices and providing clear information to customers.

Parliament's resolution of 13 September 2016 on moving towards a new energy market design notes that the task of integrating a growing share of renewables and prosumers (active energy consumers that both consume and produce electricity) into the electricity markets, but also of encouraging demand response and storage, requires a combination of liquid short-term markets and long-term price signals. It calls for time-varying prices that reflect the scarcity of supply and provide incentives for storage and demand response, complemented by instruments aimed at mitigating revenue risk over 20-30 years and by a regulatory

3 The European network of gas transmission system operators (ENTSOG) was established by Regulation (EC) No 715/2009.

framework for prosumers focussed on self-production and local energy storage. The new market design should provide technical and market conditions for energy storage, including the introduction of smart grids and smart meters. Renewables should be integrated into the market and participate in balancing services, while support for mature renewables should be phased out. Market-based cross-border capacity mechanisms should only be allowed under certain conditions. The resolution emphasises the importance of regional cooperation and calls for ACER to be given additional competences.

In recent years, Parliament has adopted several resolutions related to energy markets: on making the internal energy market work (10 September 2013), on the energy union, on interconnection targets (15 December 2015), and on the renewable energy progress report (23 June 2016). To some extent, all have addressed issues relating to electricity market design.

Council and European Council starting positions

The conclusions of the March 2015 European Council on the energy union call for a more effective, flexible market design in combination with enhanced regional cooperation that should help integrate renewables and provide affordable energy to households and industry, while retaining the right of Member States to decide on their own energy mix. Public interventions should be compatible with the internal market.

The messages from the Council presidency on electricity market design and regional cooperation of 19 May 2016 conclude that measures are needed to improve market functioning and remove barriers to flexibility. It highlights regional cooperation, based on a bottom-up approach, as an important step towards a more integrated, effective and flexible internal market. It calls for more interconnections and sufficient transmission capacity within and across borders. In the June 2016 Transport, Telecommunications and Energy Council meeting, most Member States welcomed the presidency messages.

Proposal

Preparation of the proposal

After evaluating the performance of the current legislation (third energy package), the Commission services concluded that overall, it has increased competition within and across borders and strengthened the position of customers. However, they found that barriers to cross-border trade persist and interconnector capacities are under-utilised. With respect to retail markets, they concluded that competition could be improved significantly.

The Commission held three public consultations. The first (November 2012 – February 2013) concerned resource adequacy and security of supply. It was followed by consultations on electricity retail markets and end-customers (January–April 2014) and on electricity market design (July–October 2015). A total of 705 responses were submitted.

Due to the inter-relations between the different proposals in the legislative package, the Commission produced a single impact assessment for four legislative proposals.[4] It is based on almost 30 studies and modelling tools, prepared mostly by external experts. The impact assessment compared a number of policy options for adapting the market design to an increasing share of renewables and to technological developments, for addressing investments in generation capacity, and for improving competition and services in retail markets. According to the impact assessment, the proposed legislation would establish a level playing field for different supply and demand-side resources, result in more competition and lower prices, more reliable electricity systems at a lower cost, and more efficient operation of the transmission and distribution systems. It expects indirect environmental benefits through the improved integration of renewables, and positive effects on health and well-being through the proposed measures on energy poverty. The EPRS initial appraisal of the impact assessment is generally positive, but notes its length and complexity and raises doubts as to whether the sequential process required in the better regulation guidelines has been followed.

The changes the proposal would bring

The proposed directive, which recasts[5] Directive 2009/72/EC, is focussed on the role customers play in the electricity market, whereas the proposed internal electricity market regulation (COM(2016) 861) concerns the wholesale market and grid operation. The proposed directive sets out some general principles that Member States would have to follow: the EU electricity market should be competitive, customer-centred, flexible and non-discriminatory. Member States should ensure that there are no undue barriers for market entry or market exit of electricity generators or electricity suppliers. Their national legislation should facilitate cross-border electricity flows, customer participation including demand response, investments in flexible energy generation, energy storage, and the deployment of electro-mobility and new interconnectors.

4 The impact assessment covers the proposals COM(2016) 864; COM(2016) 861; COM(2016) 863 and COM(2016) 862.
5 'Recasting' brings a legislative act and all the amendments made to it together in a single new act. The new legislative act passes through the full legislative process and repeals all the acts being recast.

Electricity prices should reflect actual supply and demand. Electricity suppliers should be free to decide the prices at which they sell electricity to customers, with limited possibilities for public price interventions; whenever made, such interventions should target energy-poor or vulnerable customers (see below).

Customer rights

The proposed directive clarifies and reinforces existing customer rights and introduces new ones. Aided by certified comparison tools, customers would have the right to freely choose a supplier or aggregator.[6] There should be no fees for changing the supplier, except in cases where a fixed-term contract that offers demonstrable advantages to the customer is terminated prematurely. Customers would be entitled to request a dynamic-price contract (based on prices in the spot or day-ahead market) and to engage in demand response, self-production, self-consumption, storage and sale of electricity, individually or through aggregators. Customers would have to be informed about the opportunities and risks of a dynamic-price contract. Member States would have to ensure that national regulators encourage customers to participate in organised markets and define the technical modalities for participation in demand response. The proposal updates the rules for out-of-court dispute settlement.

The proposal contains rules on clearer billing information. Bills should be clear, correct, concise and presented in a way that facilitates comparisons (following the requirements set out in Annex II of the proposal). Billing information should be provided at least twice a year, and at least once a month if meters can read remotely.

In order to let customers participate in the electricity market, Member States would have to ensure the roll-out of smart metering systems. As provided for by the existing legislation, Member States would not be required to implement smart metering if a cost-benefit analysis demonstrates that doing so would not yet be cost-effective. However, every customer would have the right to request a smart meter, which would have to be installed under fair and reasonable conditions within three months after the request.

Vulnerable customers and energy poverty

Member States would be obliged to offer targeted protection to energy-poor or vulnerable customers without public interventions in the setting of the electricity price. Price-setting for energy-poor or vulnerable-household customers would only be allowed under certain conditions for a five-year period after the entry into force of the proposed directive, and thereafter only in cases of extreme urgency. Customers faced with disconnection should be given adequate information about alternatives well in advance and free of charge. Alternatives can include sources of financial support, alternative payment plans, debt management advice or a disconnection moratorium.

6 The proposed directive defines an aggregator as 'a market participant that combines multiple customer loads or generated electricity for sale, for purchase or auction in any organised energy market'.

Member States would be required to define criteria for measuring energy poverty, monitor the number of households in energy poverty and include this information in their bi-annual energy and climate progress reports.[7]

Aggregators

Member States would have to ensure that aggregators can take part in the retail market without having to obtain the consent of other market participants or pay compensation to suppliers or generators. Moreover, they would have to set transparent rules assigning roles and responsibilities to all market participants; to establish rules and procedures for data exchange between market participants; and to provide for a conflict resolution mechanism.

Local energy communities

The proposed directive establishes a framework for local energy communities, which would have the right to engage in local energy generation, distribution, aggregation, storage and energy efficiency services. They would have access to all organised markets and would have the right to establish, lease and manage community networks.

Data exchange and data format

The proposal updates the rules on the exchange of data with suppliers and service provides, and introduces a common European data format, to be defined by the Commission. Distribution system operators (DSOs) would have to ensure non-discriminatory access to data from smart-metering systems.

Electro-mobility

Member States would be required to establish a regulatory framework to facilitate the connection of electric vehicle recharging points to the distribution network. DSOs would only be allowed to own, develop, manage or operate recharging points if no other entity has expressed interest in an open tendering procedure, and subject to approval from the regulator. Member States would have to re-assess at regular intervals whether third parties would be able to own, develop, manage or operate the recharging points, in which case the operations of the DSOs would be phased out.

Distribution system operators

The proposal clarifies the tasks of DSOs, which include, notably, the integration of electric vehicles, data management and the procurement of network services to ensure flexibility. Such flexibility services can improve the efficiency of distribution networks by eliminating the need for costly network upgrades. DSOs would be required to draw up network development plans containing the planned investments for the

7 Under the proposed governance regulation (COM(2016)759), Member States would have to submit Integrated national energy and climate progress reports to the Commission every two years. These would assess progress in terms of meeting their national energy and climate plans for the period 2021-2030.

next five to ten years. The national regulator should consult system users on the network development plan, and publish the results of the consultation process.

The proposed directive would prohibit DSOs from owning and operating storage facilities, except in cases where no other parties have expressed an interest, or where the storage facility is necessary for fulfilling the DSO's obligations, and subject to the approval of the regulator. Member States would have to re-assess, at regular intervals, whether third parties would be able to own, develop, manage or operate the storage facilities, in which case the operations of the DSOs would be phased out.

Transmission system operators

Transmission system operators (TSO) would have to set up a framework for cooperation and coordination between regional operating centres, which are introduced in the proposed internal electricity market regulation (COM(2016) 861) related to it. They would have to cooperate with neighbouring TSOs and take into account the functions performed by the regional operating centres.

TSOs would have to ensure that the procurement of balancing services[8] is transparent, non-discriminatory and market-based, and ensures the effective participation of all market participants including renewable energy sources, demand response, energy storage facilities and aggregators.

TSOs would be prohibited from owning, managing or operating energy storage facilities and from controlling assets that provide ancillary services.[9] Derogations may apply under the same conditions that apply to the involvement of DSOs with energy storage facilities.

National energy regulators

The proposal would oblige national energy regulators to cooperate with neighbouring regulators and with ACER, where issues of cross-border relevance are concerned. National regulators would have to ensure that interconnector capacities are made available. They would have new tasks in the oversight of regional operating centres[10] and other entities performing functions at regional level.

8 'Balancing services' ensure that electricity supply is equal to demand in or near real-time.
9 The proposed directive defines an 'ancillary service' as a service necessary for the operation of a transmission or distribution system, including balancing.
10 Regional operating centres are new entities introduced in the proposal for a regulation on the internal electricity market (COM(2016) 861). They would be involved in the coordination of the cross-border electricity grid operation.

Views

Advisory committees

The European Economic and Social Committee (EESC) adopted its opinion on electricity market design (rapporteur Alfred Gajdosik, Various interests – Group III, Austria) on 1 June 2017. It calls for extending consumer participation to include trade in electricity, facilitated by special trading structures for small producers, consumers and prosumers. It reiterates the view that renewable energy and prosumption can, in some circumstances, prevent lasting energy poverty if public loans and better access to capital are provided to vulnerable consumers. The EESC considers that network charges for consumers and energy communities must reflect actual use and incentivise 'grid friendly' activities. Consumers should have the right to state specific preferences regarding their electricity supply. Energy communities should also be entitled to operate as a basic supplier. Member States should develop a framework that incentivises investments to improve the European grids.

The Committee of the Regions, with Daiva Matonienė (ECR, Lithuania) as rapporteur, adopted its opinion on renewable energy and internal electricity market on 12 July 2017. It highlights the role of local and regional authorities in the energy sector and in promoting and facilitating climate-friendly solutions, and calls for them to be consulted and treated as equal partners. In particular, it stresses the importance of local and regional authorities in promoting the establishment of energy communities, and calls on the Commission to create technical and financial tools to assist them in this role. It generally welcomes the proposed market liberalisation and reduction of state interference, but suggests that the deregulation of energy prices by Member States should be carried out gradually, taking into account the special nature of energy as a service of general interest.

On 6 December 2018, the Committee of the Regions adopted an opinion on models of local energy ownership and the role of local energy communities in energy transition in Europe (rapporteur Mariana Gâju, PES, Romania). It calls for non-discriminatory market access for local energy communities, and for policies and legislation to promote them. EU legislation should establish a level playing field and minimum requirements for the promotion of local energy communities. The various national support schemes should be streamlined as far as necessary at European level. The opinion recommends dedicated financial support schemes and ready access to technical information and guidance. The opinion highlights the key role of local and regional authorities in creating awareness among citizens about the opportunities of engaging in the local energy sector.

National parliaments

The proposal has been passed to the national parliaments. Reasoned opinions on the grounds of subsidiarity were submitted by the Austrian Federal Council, the Hungarian National Assembly and the Polish Senate. Six national parliaments[11] entered into political dialogue with the Commission. National parliaments are

11 Czech Chamber of Deputies, Danish Parliament, German Bundesrat, Italian Chamber of Deputies, Portuguese Assembleia da República, Romanian Senate.

concerned that the proposed directive restrains the Member States' competence regarding price regulation of electricity and protection of vulnerable consumers, transfers national powers to regional operational centres and the Commission, restricts Member States' right to define their energy mix and strategies, and sets rules for elements which are not of cross-border relevance (network charges and energy communities).

Stakeholders' views[12]

Eurelectric, representing the European electricity industry, generally welcomes the Commission's proposals, but regrets that policy support costs, which increase customers' electricity bills, are not addressed. European energy regulators also welcome the proposals, which they consider well aligned with the regulators' position.

BEUC, which represents European consumers, welcomes the provisions on clearer information for customers and the proposed limitation of switching fees, but warns that the proposed new principles for support schemes for renewable energy generation may discourage customers from investing in such energy, as they would have less clarity about how their investment would perform.

12 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

Legislative process

The proposal was referred to the Parliament's Industry, Research and Energy Committee (ITRE), which decided to treat this proposal in parallel with the proposal for a regulation on the internal market in electricity. Krišjānis Kariņš (EPP, Latvia) was appointed rapporteur for both files. In June 2017, the rapporteur presented his draft report, which follows a 'market first' approach by creating a level playing field for all market participants and moving away from market-distorting subsidies. The ITRE committee held a public hearing on the future of the EU electricity market on 10 July 2017. The ENVI committee adopted its opinion on 21 November 2017.

The ITRE committee adopted its report on 21 February 2018. It further strengthens the rights of electricity consumers by making it possible to switch electricity suppliers within 24 hours (starting from 2022), have contracts with multiple suppliers, receive clearer information about offers and a comparison tool, receive clearer information about contract conditions and more transparent energy bills, and gain better access to and protection of their data. Consumers and local energy communities would be enabled to participate actively in the electricity market by producing their own electricity, consuming it or selling it to others. The report clarifies the conditions under which local energy communities can participate in the electricity market, free of discrimination and bearing a fair share of the system costs. It clarifies the responsibilities of DSOs and the conditions under which they may, on an exceptional basis, own and operate storage facilities and charging infrastructure for electric vehicles. The report calls for energy poverty to be addressed through social policy measures. Regulated electricity prices to support vulnerable household consumers should only be allowed under strict conditions and be completely phased out 10 years after the entry into force of the revised directive. The Commission would have to review and submit a report on the implementation of the directive by June 2025, together with a legislative proposal if appropriate.

The committee also decided to enter into interinstitutional negotiations, a decision confirmed at the February II plenary session.

At the Energy Council meeting on 27 February 2017, ministers had a first exchange of views on the package of proposals. At the Energy Council meeting on 26 June 2017, Member States broadly welcomed the entire package on electricity, but raised some issues. On 18 December 2017, the Energy Council adopted its general approach, which would let electricity suppliers set prices freely, but allow Member States to regulate prices for energy poor or vulnerable consumers temporarily. It would enable electricity suppliers to offer dynamic electricity price contracts and sets out new rules for the installation of smart meters. It sets a framework for energy communities to ensure that they contribute in an adequate and balanced way to the overall system cost. It would let TSOs and DSOs own, develop, manage or operate energy storage facilities, under certain conditions.

Trilogue negotiations started in June 2018 and concluded with a provisional agreement in the sixth trilogue meeting on 19 December 2018.

The agreed text gives customers the right to switch electricity suppliers in the shortest possible time, with a maximum of three weeks. By 2026, customers must be able to switch suppliers within 24 hours. Household consumers will be entitled to participate in collective switching schemes. It will be possible for customers to have more than one supply contract. Households and micro-enterprises will have access to at least one

free, accurate, independent and unbiased tool to compare offers of suppliers, including dynamic price contracts. Final customers have a right to out-of-court dispute settlement.

Customers that have a smart electricity meter must be offered a dynamic price contract by at least one supplier, and by every supplier that has more than 200 000 final customers. Final customers must give their consent before being switched to a dynamic price contract.

All customers will be entitled to act as active customers, either independently or through aggregation. They may sell self-generated electricity, participate in flexibility and energy efficiency schemes, and delegate the management of their installations to a third party. They are subject to cost-reflective, transparent and non-discriminatory network charges, and financially responsible for imbalances, but may delegate their balance responsibility. Customers that own a storage facility will have the right to a grid connection, are not subject to double charges when providing flexibility services, and are allowed to provide several services simultaneously.

The provisions on bills and billing information[13] are amended to make them more customer-friendly, by offering electronic bills, flexible payment schedules, information about future changes of products, prices or discounts, and the right to request a clear explanation of a bill. Member States must consult consumer organisations when they consider changing the requirements for the contents of bills. The requirements on smart metering will only apply to future installations and to the replacement of older smart meters. If smart metering systems not meeting the requirements are already rolled out, they may remain in operation over their lifetime, but no longer than 12 years after the entry into force of the directive.

Member States must take measures to ensure the supply of electricity to vulnerable customers, for example by providing benefits via social security systems. Regulated prices for energy-poor or vulnerable consumers will be allowed only under clearly specified conditions. Member States will have to report on the application of regulated prices in January 2022 and January 2025. By the end of 2025, the Commission will review the application of regulated prices and possibly present a legislative proposal setting an end date for regulated prices.

The rights of customers who conclude an aggregation contract are strengthened. Member States have to allow and foster demand response through aggregation and ensure fair and non-discriminatory rules. Market participants engaged in aggregation will be financially responsible for any imbalances or costs incurred by other market participants during the activation of demand response, but without creating a barrier for market entry or for flexibility.

The agreed text revises the definition of a citizens' energy community ('local energy community' in the Commission proposal) as being a legal entity controlled by natural persons, local authorities, including municipalities, or small enterprises and micro-enterprises, based on voluntary and open participation, whose primary objective is to provide environmental, economic or social community benefits rather than financial profits. They may engage in electricity generation, distribution and supply, consumption, aggregation, storage, electric vehicle charging or energy efficiency services, and may provide other energy

13 The rules on metering and billing for electricity are moved from the Energy Efficiency Directive 2012/27/EU to the Electricity Directive. The rules on metering and billing in the Energy Efficiency Directive are amended so that they refer to gas only.

services to their shareholders or members. Member States must provide rules that establish the rights of members or shareholders, oblige DSOs to cooperate with citizens' energy communities to facilitate electricity transfers and ensure that citizens' energy communities are subject to non-discriminatory, fair and transparent procedures and charges. Member States may provide that citizens' energy communities are open to cross-border participation. They will have access to all electricity markets, be financially responsible for imbalances, be treated like active customers with regard to self-consumption and entitled to intra-community sharing of electricity. Member States may grant them the right to manage distribution networks, subject to an agreement with a relevant DSO or TSO, appropriate network charges and non-discrimination of customers that remain connected to the distribution system.

Before authorising new generating capacity, Member States must also consider alternatives, such as demand-response solutions and energy storage. When drawing up network development plans, TSOs must take the potential of demand response, storage and other resources into account as alternatives to expansion of the network.

Member States must ensure that regulatory authorities have the necessary human and financial resources and a separate annual budget. The Commission must report about the independence of the national regulatory authorities three years after entry into force of the directive, and thereafter every four years.

The agreement sets out the duties and powers of regulatory authorities with respect to regional coordination centres. Oversight of ENTSO-E and the EU DSO entity will be exercised by the regulatory authority in the Member State where the entity has its seat. This includes the power to impose penalties if these entities fail to comply with their obligations under EU law or legally binding regulatory decisions.

DSOs must procure products and services needed for system operation in transparent, non-discriminatory and market-based procedures. They are not allowed to own, develop, manage or operate recharging points for electric vehicles, with the exception of private recharging points for their own use. Derogations from this prohibition are only possible if a tendering procedure has been carried out without success and the DSO operates the charging points on the basis of third-party access. DSOs and TSOs may not own, develop, manage or operate storage facilities, with the possible exception of fully integrated network components that serve exclusively the secure and reliable system operation,[14] subject to the approval of the regulatory authority. The agreement expands the list of tasks of TSOs and introduces rules for the procurement of non-frequency ancillary services[15] by TSOs.

Member States may apply for time-limited derogations from certain provisions of the directive if they can demonstrate that these would cause serious problems for the operation of their electricity systems. A derogation from the rules on free choice of electricity suppliers, market-based supply prices and third-party access may also be granted for small isolated systems and for the island of Corsica (France).

14 The directive defines fully integrated network components as 'network components that are integrated in the transmission or distribution system, including storage facility, and are used for the only purpose of ensuring a secure and reliable operation of the transmission or distribution system but not for balancing nor congestion management'. Such components can include capacitors or fly wheels which help to ensure network security and reliability and to maintain synchronisation between different parts of the grid. They must not be used to buy or sell electricity in the electricity markets.

15 The directive defines non-frequency ancillary service as a service for 'steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, and black start capability and island operation capability'.

By 31 December 2025, the Commission must review the implementation of the directive. In particular, the review will assess whether customers, especially those who are vulnerable or in energy poverty, are adequately protected.

Coreper endorsed the agreed text on 18 January 2019 and the ITRE committee did likewise on 23 January 2019. The European Parliament adopted the text in the March II 2019 plenary session and the Council did so on 22 May 2019. The final act was signed on 5 June 2019 and published in the Official Journal on 14 June 2019. The Directive entered into force on 4 July 2019 and must be transposed into national legislation by 31 December 2020.

References

EP supporting analysis

(Re-)Designing the internal market for electricity (initial appraisal of European Commission impact assessment), EPRS, European Parliament, April 2017.

Overview of the internal energy market design legislation, EPRS Implementation Appraisal, January 2017.

Understanding electricity markets in the EU, EPRS, November 2016.

Electricity 'Prosumers', EPRS, November 2016.

Energy Union: key decisions for the realisation of a fully integrated energy market, Policy Department for Economic and Scientific Policies, European Parliament, April 2016.

A New Deal for energy customers, EPRS, January 2016.

Other sources

Common rules for the internal market in electricity. Recast / European Parliament, Legislative Observatory (OEIL).

Re-powering markets: Market design and regulation during the transition to low-carbon power systems, International Energy Agency, February 2016.