BRIEFING
EU Legislation in Progress

European Parliament

Improving the design of the EU electricity market

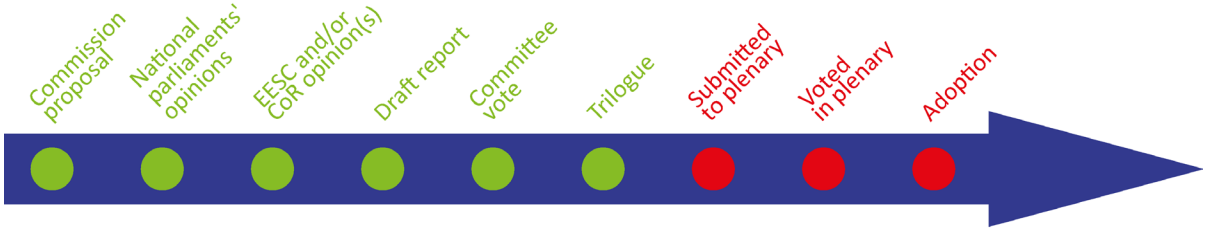
OVERVIEW

On 14 March 2023, the European Commission proposed a reform of the EU electricity market, with the aim of reducing price volatility for consumers and creating favourable conditions for investors in low-carbon energy. The reform includes two legislative proposals – one on electricity market design (EMD) and the other on protection against wholesale energy market manipulation (REMIT).

The reform would improve consumer protection by offering more fixed-price contracts and enhancing supplier obligations, and incentivising energy communities, self-consumption and renewable energy sharing. It would support the use of more long-term instruments such as power purchase agreements and contracts for difference, and improve integration and liquidity in forward markets. It also enhances flexibility solutions such as demand response and storage. Furthermore, it aims to improve market monitoring and transparency, and protection against manipulation.

The European Parliament voted on both files during its September 2023 plenary session. Interinstitutional negotiations on REMIT concluded in an agreement on 16 November, and those on EMD on 14 December 2023. The agreed texts now need to be formally adopted.

(A) Proposal for a regulation of the European Parliament and the Council amending Regulations (EU) 2019/943 and (EU) 2019/942 as well as Directives (EU) 2018/2001 and (EU) 2019/944 to improve the Union's electricity market design **(B) Proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union's protection against market manipulation in the wholesale energy market**		
Committee responsible:	Industry, Research and Energy (ITRE)	(A) COM(2023) 148 (B) COM(2023)147
Rapporteurs:	(A) Nicolás Gonzáles Casares (S&D, Spain) (B) Maria da Graça Carvalho (EPP, Portugal)	14.3.2023
Shadow rapporteurs:	(A) Maria da Graça Carvalho (EPP, Portugal); (B) Patrizia Toia (S&D, Italy); (A) Morten Petersen (Renew, Denmark); (B) Claudia Gamon (Renew, Austria); (A) Michael Bloss (Greens/EFA, Germany); (B) Jakop Dalunde (Greens/EFA, Sweden); Zdzisław Krasnodębski (ECR, Poland); Paolo Borchia (ID, Italy); Marina Mesure (The Left, France)	(A) 2023/0077(COD) (B) 2023/0076(COD) Ordinary legislative procedure (COD) (Parliament and Council on equal footing)
Next steps expected:	Final first-reading votes in plenary	



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Introduction

Energy prices have been rising since mid-2021, initially in the context of the post-COVID economic recovery. However, the energy price rise was accelerated by gas supply problems following the launch of Russia's war against Ukraine in February 2022, which unleashed a genuine energy crisis. High gas prices had an immediate effect on electricity prices, as they are linked together under the merit order system, where the most expensive (usually fossil fuel-based) energy source sets the overall electricity price.

A number of EU measures have been taken in the short term: the Commission's energy prices toolbox of October 2021 included a set of suggested measures to address high prices; the REPowerEU plan of May 2022 proposed to boost renewables and phase out Russian fossil fuel imports, and included a revision of three energy directives (the Renewable Energy Directive, the Energy Efficiency Directive and the Energy Performance of Buildings Directive); Council Regulation (EU) 2022/2577 of 22 December 2022 on accelerating the deployment of renewable energy laid down a framework to boost renewables rollout by simplifying permitting procedures for renewable energy projects; and Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices introduced targets for electricity consumption reduction[1] and capped inframarginal electricity generators' excess revenues.

Member States have also taken individual measures to curb energy prices and mitigate the impact of the energy crises – for instance, through price regulation, reduced energy taxes, transfers to vulnerable groups, business support and windfall taxes (see overview of fiscal and other types of policy responses).

The electricity market reform comes on top of these short-term responses to create long-term conditions for an electricity market resilient to future energy crises and extraordinary price increases. It responds to the European Council's call for the Commission to come up with such a structural response to address the emergency. The reform includes two legislative proposals, amending several pieces of EU legislation:

Legislative proposal	EU legal acts changed
Proposal on EU electricity market design	• Regulation (EU) 2019/943 (Electricity Regulation) • Directive (EU) 2019/944 (Electricity Directive) • Regulation (EU) 2019/942 (ACER Regulation) • Directive (EU) 2018/2001 (Renewable Energy Directive)
Proposal on protection against wholesale energy market manipulation	• Regulation (EU) No 1227/2011 (REMIT Regulation) • Regulation (EU) 2019/942 (ACER Regulation)

While the proposed reform does not provide a fundamental overhaul of the electricity market (for instance, it does not change the merit order system), it does seek to tackle price volatility, further accelerate investments in renewables, and enhance the flexibility and resilience of the power system. In terms of specific solutions, the reform aims to protect consumers from volatile short-term prices (driven by high fossil fuel prices), increase the role of long-term instruments, enable consumers to benefit from a greater choice of options, including more fixed-priced contracts, and improve access to renewable and low-carbon energy.

The proposed reform also aims to improve investment conditions for businesses and improve access to longer term contracts (e.g. contracts for difference and power purchase agreements – see text box below) to provide secure and stable revenues for renewable and low-carbon energy developers, bring down the risk and prevent windfall profits in periods of high prices. It introduces prudential

obligations for energy suppliers and boosts non-fossil flexibility through demand response and storage. It also allows Member States to introduce targeted public interventions in price setting in case of an electricity price crisis. The reform contributes to the EU's decarbonisation and security of supply goals, and is part of the Green Deal industrial plan for the net-zero age.

Long-term instruments explained

Power purchase agreement (PPA): A commercial contract between an electricity customer and a generator, whereby the generator agrees to sell energy (directly) to the customer at a certain price.

Contract for difference (CfD): A contract concluded by a public entity to encourage investment. It tops up the market price paid for electricity if the price is below a certain level, but requires the generator to pay back amounts where the market price is above a certain level. The net effect is that the revenues and the price are stable, close to the costs of production, and do not exceed such costs. A **two-way CfD** is a contract signed between an electricity generator and a public entity, typically the state, which sets a strike price (i.e. pre-agreed price), usually by a competitive tender. The generator sells the electricity on the market but then settles with the public entity the difference between the market price and the strike price. It allows the generator to receive a stable revenue for the electricity it produces, while at the same time limiting revenue for generators when market prices are high. In a two-way CfD, if the market price is below the strike price, the generator receives the difference; if the market price is above the strike price, the generator pays back the difference.

Forward contract: A contract between a customer and a generator to buy/sell a certain amount of electricity at a certain price in the future. It is normally done to hedge (i.e. protect against) price exposure and decrease the dependence on short-term prices. It is similar to a PPA, but generally for a shorter period.

Source: European Commission, Q&A on the revision of EU electricity market design, March 2023.

Existing situation

The EU electricity market is based on several pieces of legislation, which were last revised in 2019 under the clean energy package. This revision aimed to decarbonise the EU energy market by supporting a bigger share of renewables, taking advantage of new technologies and digitalisation, increasing flexibility and the active participation of consumers. It included the following acts: Directive (EU) 2019/944 on common rules for the internal market for electricity (Electricity Directive); Regulation (EU) 2019/943 on the internal market for electricity (Electricity Regulation); Regulation (EU) 2019/941 on risk-preparedness in the electricity sector (Risk Preparedness Regulation); and Regulation (EU) 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulators (ACER Regulation).

The Electricity Directive and Electricity Regulation set the basis for competitive, efficient and integrated electricity markets, aiming to ensure security of supply, affordable prices for consumers and a transition towards a decarbonised energy system. While the directive covers the retail electricity markets and includes common rights for energy consumers across the EU, the regulation refers mostly to the wholesale markets and network operation. The 2019 **Electricity Directive** lays down the rules for the generation, transmission, distribution, supply and storage of electricity, as well as some consumer protection aspects such as the right freely to choose the supplier and a dynamic price contract, and the protection of vulnerable consumers. The directive also has provisions on billing information, smart metering systems, aggregators, citizen energy communities, distribution system operators, transmission system operators and energy regulators.

The 2019 **Electricity Regulation** sets out principles for the operation of EU electricity markets, such as free price formation on the basis of supply and demand, facilitating more flexible and low-carbon generation and more flexible demand, empowering consumers as market players, supporting decarbonisation of the electricity system by integrating renewables, facilitating the removal of obstacles to cross-border flows between countries and bidding zones (i.e. the largest geographical

areas within which market participants can exchange energy without capacity allocation), and incentivising investments in low-carbon production and technologies. The regulation also includes provisions on the balancing market, day-ahead, intraday and forward markets, bidding limits, dispatching and redispatching, network access and congestion management, transmission and distribution systems operation, network codes and guidelines, and regulatory oversight.

The 2019 **ACER Regulation** updates the provisions relating to the role of the EU Agency for the Cooperation of Energy Regulators, which was established in 2011 on the basis of the 2009 ACER Regulation. The role of ACER is to assist regulatory authorities and perform regulatory and supervisory functions. It is competent to take decisions regarding conditions and methodologies envisaged in network codes and guidelines, bidding zone reviews, arbitration between regulatory authorities on cross-border issues, exemptions from certain market rules, infrastructure, and matters related to wholesale market integrity and transparency rules. It also monitors the wholesale and retail markets in electricity and natural gas, including retail prices of electricity and gas, compliance with consumer rights, the impact of market developments on household consumers, and access to the networks, including access of electricity produced from renewable energy sources.

A number of other legislative acts are also relevant for the electricity markets (see overview in this EPRS briefing), with two being particularly important in the context of the electricity market reform:

The 2018 Renewable Energy Directive (currently under revision) also has provisions pertaining to electricity, as it obliges the Member States to support integration of renewable sources into their power grids, prioritising their grid access. It also contains provisions on energy communities, rules on cross-border projects, and accelerated permit granting for renewable energy projects.

Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT Regulation) sets out EU oversight rules for wholesale electricity and gas markets, with the aim of counteracting abuses such as insider trading and market manipulation. It tasks ACER with monitoring trading activities in the wholesale energy market and annual reporting to the European Commission, obliges market participants to register with a national regulatory authority, and outlines penalties for non-compliance with the regulation.

Parliament's starting position

In its resolution of 10 July 2020 on a comprehensive European approach to energy storage, the Parliament called for removing the obstacles to integrating storage into electricity markets and for promoting the role of active consumers able to self-generate electricity, and to consume, store and sell it on the market.

In its resolution of 19 May 2021 on a European strategy for energy system integration, the Parliament stressed the benefits of an increasingly decentralised and renewable power generation mix, maximising electricity trade and the role of demand-side response, storage and smart energy management.

In its resolution of 19 May 2022 on the social and economic consequences for the EU of the Russian war in Ukraine – reinforcing the EU's capacity to act, the Parliament called on the Commission to submit proposals addressing the problem of excessive electricity prices and 'to assess the impact of gas prices on the functioning of the electricity market, in particular on the setting role of the gas price in the final price'.

In its resolution of 5 October 2022 on the EU's response to the increase in energy prices in Europe, the Parliament stressed that any reform of the electricity market should be aligned with EU climate goals and decarbonisation efforts, and called on the Commission to analyse the option to decouple electricity prices from gas prices.

In its amendments of 10 November 2022 to the proposal for a regulation on REPowerEU chapters in recovery and resilience plans, the Parliament stressed the need to speed up permitting procedures for renewable energy plants, including improvements to related electricity generation.

Council and European Council starting position

In its conclusions of 20-21 October 2022, the European Council called on the Commission 'to speed up work on the structural reform of the electricity market, including an impact assessment', highlighting the dual objective of energy sovereignty and climate neutrality. It confirmed this position in its conclusions of 15 December 2022 and invited the Commission to submit, in early 2023, a proposal and impact assessment on a 'structural reform of the EU's electricity market, including on the effect of gas prices on electricity prices, making it fully fit for a decarbonised energy system and facilitating the uptake of renewable energy'. The revision of the EU electricity market design was also discussed at the Energy Council meeting on 19 December 2022, with the participation of Energy Commissioner Kadri Simson.

Several Member States gave their views on the electricity market reform. Non-papers proposing more radical changes were submitted by Spain and Poland, while seven countries (Denmark, Germany, Estonia, Latvia, Luxembourg, the Netherlands and Finland) issued a letter in which they called for cautious reform, largely preserving the current market set-up and making only targeted changes, reflecting the wide differences of opinion among Member States on this topic.

Preparation of the proposal

In anticipation of the legislative proposal, the Commission conducted a public consultation on the reform of the EU electricity market design between 23 January and 13 February 2023. The results are presented in the proposal and the staff working document accompanying the proposal. The Commission received 1 369 replies, primarily from citizens (725), companies (277), business associations (181), non-governmental organisations (NGOs) (53) and other stakeholders such as academia, public authorities, trade unions, and consumer and environmental organisations. Companies and business associations largely supported market-based mechanisms and highlighted the role of market price signals in avoiding distortions. Several NGOs supported a massive rollout of renewables and the development of power purchase agreements (PPAs) and contracts for difference (CfDs). Citizens expressed diverse views, with a majority supporting the use of PPAs, CfDs and forward hedging as efficient tools to mitigate the impact of short-term markets on the price of electricity.

In addition, an online targeted stakeholder meeting was organised on 15 February 2023 with around 70 market actors, NGOs, network operators, ACER and national regulators, think-tanks and academics. The Commission drew the following conclusions based on stakeholders' overall views:

- Short-term (day-ahead and intraday) markets and the pricing mechanism based on marginal pricing should be preserved, as they are well developed, function well and provide the right price signals.
- Short-term markets should be complemented by instruments incentivising longer-term price signals, such as PPAs, CfDs and enhanced forward markets. There should not be mandatory schemes, and the freedom of choosing relevant contracts should be preserved.
- The benefits of non-fossil flexibility solutions such as demand response and storage are important, especially in the context of an increasing share of renewables. Their market participation should be facilitated.
- Future electricity markets will have to be adapted to a high share of renewable energy, with more emphasis on the local dimension and grid development.
- Consumer protection is essential, as is affordability of energy, but preserving the signals for demand response is equally important. Emerging solutions such as energy communities, self-consumption and energy sharing should be enabled and incentivised.

Given the urgency of the procedure, a staff working document was produced instead of an impact assessment. This presents the current structure of the electricity market and discusses the areas for improvement highlighted by the energy crisis. It explains the rationale behind both Commission proposals, and presents the available evidence for the relevance of the proposed measures. The document is organised around the following topics: making electricity bills more independent from the short-term cost of fossil fuels; driving renewable investments; alternatives to gas to keep the electricity system in balance; lessons learned from short-term market interventions; better consumer empowerment and protection; and stronger protection against market manipulation.

The changes the proposal would bring

The legislative proposal on electricity market design amends four legislative acts: Regulation (EU) 2019/943 (Electricity Regulation); Directive (EU) 2019/944 (Electricity Directive); Regulation (EU) 2019/942 (ACER Regulation); and Directive (EU) 2018/2001 (Renewable Energy Directive). The legislative proposal on protection against market manipulation in the wholesale energy market amends two acts: Regulation (EU) No 1227/2011 (REMIT Regulation) and Regulation (EU) 2019/942 (ACER Regulation). As amendments to the ACER Regulation appear in both proposals, the electricity market reform covers a revision of five pieces of legislation in total.

The amendments to the **Electricity Regulation** clarify the main principles for trading in the day-ahead and intraday markets; introduce new rules for the procurement by transmission system operators (TSOs) of demand response in the form of a 'peak shaving' product (i.e. reducing short-term demand spikes), together with rules allowing TSOs and distribution system operators (DSOs) to use data from dedicated metering devices; include new provisions for forward electricity markets, to improve their liquidity; clarify and incentivise the role and use of longer-term contracts in the form of power purchase agreements and two-way contracts for difference; provide for new rules regarding the assessment of flexibility needs by Member States, and the possibility for them to introduce flexibility support schemes and design principles for such schemes; and introduce new transparency requirements for transmission system operators regarding the capacity available for new connections to the grid.

The amendments to the **Electricity Directive** introduce new rules on the protection and empowerment of consumers. They include provisions on the free choice of supplier (requirement to ensure more than one supplier is present), a variety of contracts on offer, with at least one fixed-term, fixed-price offer, and clear pre-contractual information; establish a new right to renewable energy sharing (e.g. sharing surplus rooftop solar power with a neighbour); introduce a requirement for Member States to appoint suppliers of last resort to protect consumers against failed suppliers and vulnerable consumers from disconnection, along with a requirement for suppliers to have risk management strategies – for instance, hedging; introduce new requirements for DSOs in terms of capacity available for new connections in the grid; and introduce a new provision allowing for targeted public interventions in price-setting by Member States when the Commission declares an electricity price crisis.

The amendments to the **REMIT Regulation** extend the scope of data reporting to new electricity balancing markets and coupled markets as well algorithmic trading; enhance cooperation between energy and financial regulators, including ACER and the European Securities and Markets Authority (ESMA), regarding derivative wholesale energy products; improve supervision of reporting parties such as Registered Reporting Mechanisms (RRMs) and persons professionally arranging transactions (PPATs); enhance data sharing possibilities between ACER, national authorities and the Commission; envisage a stronger role for ACER in investigations of significant cross-border cases to fight breaches of the REMIT Regulation; and lay out a framework for harmonisation of fines set by regulatory authorities at national level.

The amendments to the **ACER Regulation** aim to clarify the role of ACER regarding the single allocation platform established in accordance with Regulation (EU) 2016/1719 on forward capacity

allocation and regarding the new rules introduced in the Electricity Regulation concerning forward markets and flexibility support schemes.

The amendment to the **Renewable Energy Directive** clarifies the application of the rules on national direct price support schemes for renewable energy sources.

Advisory committees

The European Economic and Social Committee (EESC) and the European Committee of the Regions (CoR) have been asked for an opinion. The EESC adopted its two opinions (on EMD and REMIT) during the plenary session of 14 June 2023. The opinion on EMD calls for abolishing the merit order system and replacing it with a model where electricity prices take into account the average costs in pricing. It also questions the ability of liberalised energy markets to create enough incentives and investment security for renewable energy, while ensuring affordability and security of supply. It therefore proposes a hybrid model, where market forces and target-driven management jointly lead to optimal market functioning ('liberalised where possible and regulated where necessary'). At the centre of this model would be a government-established 'e-facility' that buys electricity from the producers and sells it to the suppliers of household customers, small and medium-sized enterprises (SMEs), citizen energy communities and large consumers, and – when applicable – to other countries, using long-term contracts based on tenders (including PPAs, CfDs and cost+ contracts). It also proposes an 'electricity bank' for small producers to maximise their benefit from self-generation. It calls for accelerating the development of green gases and for a new regulation on the market design of natural gas under the hydrogen and low carbon gases package in order to accelerate the electrification of the energy system. Moreover, it proposes maintaining the inframarginal rent cap until the reform is fully operational and directing the revenues towards the most vulnerable (e.g. people in energy poverty and SMEs). Lastly, it calls for the new electricity market design to guarantee basic energy consumption at regulated prices to ensure affordability.

The EESC opinion on REMIT endorses increased collaboration and information-sharing between authorities with regard to detecting and addressing market manipulation. However, it calls for an appropriate and efficient division of duties between national regulatory authorities and ACER. It insists on maintaining national competences to carry out on-site inspections and issue decisions on REMIT infringements. It also calls for streamlining data and information processes and requirements to minimise administrative burden. Moreover, it calls for proportionality in data reporting and avoiding a misuse of data collected. It insists that the new rules must not hinder competition and discourage new market entrants. It also points out the risks of new requirements on algorithmic trading in terms of creating an uneven playing field between market participants across the EU due to different frequency of information obligations. It welcomes the proposed system for producing and publishing liquefied natural gas (LNG) price assessments and benchmarks. It suggests that the proposed penalties for legal entities and natural persons are too high. Furthermore, it deplores the lack of an impact assessment of the proposal and calls for continuous future monitoring and analysis of the situation on the market.

The CoR adopted its opinion on EMD in plenary on 5 July 2023. The opinion underlines the proposal's potential to decarbonise, decentralise and democratise the energy transition by means of a strong local and regional dimension. It highlights the importance of the EU renewable energy financing mechanism and supports decentralised solutions such as self-consumption and energy communities. It also welcomes the provisions on consumer protection and calls for place-based solutions guaranteeing electricity supply in geographically disadvantaged regions. Furthermore, it supports the use of PPAs and CfDs. The CoR decided not to issue a separate opinion on REMIT.

National parliaments

The Commission's EMD proposal was transmitted to national parliaments on 14 March 2023, with the deadline for the submission of reasoned opinions on the grounds of subsidiarity being

24 May 2023. The REMIT/ACER proposal was also transmitted to national parliaments with the subsidiarity deadline of 23 May 2023. The Czech Senate issued a resolution on both files, which welcomed the partial modification of existing rules and measures to limit price fluctuations (such as long-term contracts) and to ensure consumer protection. It insisted that the principle of subsidiarity must be respected when extending the supervisory and investigative power of ACER. It stressed the need to reduce possible market pricing manipulation, ensure the stability of the energy grid and mitigate hedging risks. The French Senate provided a political opinion on the overall electricity market reform. It welcomed the proposed long-term measures but considered the measures with short-term market impact insufficient, criticising the decision to preserve the merit order system. It questioned the need to include a revision of legislation on protection against wholesale energy market manipulation (REMIT) as part of the reform. It called for maintaining current national competences in terms of wholesale market transparency and integrity, in line with the subsidiarity principle, and contested the transfer of some national competences to ACER. It highlights the need to ensure that consumers can use low-carbon electricity (especially from nuclear), leave capacity mechanisms optional, protecting end consumers from high prices, and extending instruments such as PPAs and CfDs to energy storage.

Stakeholder views[2]

Eurelectric, the federation of the European electricity industry, issued its policy recommendations on the 'Electricity market design: Fit for net zero' at the end of March 2023. It proposes an evolution building on the existing market structure, with three new pillars: to empower consumers, incentivise clean energy investments, and ensure security of supply. It supports the use of long-term instruments (such as PPAs and CfDs), together with improved liquidity in forward markets. Rather than top-down hedging obligations, it calls for a flexible resilience framework to ensure supplier robustness, ease collateral regulations and enhance cross-border hedging opportunities. It also pleads for the removal of legislative barriers to long-term instruments, such as private PPAs, and favoured state-backed CfDs.

SolarPower Europe welcomed the fact that the proposal maintains the foundation of EU electricity markets. It applauds easier access to PPAs for homes and businesses, de-risking schemes for long-term energy supply contracts and the fact that 'only new solar projects which benefit from state support will be put under government-organised two-sided CfDs'. It also welcomes the provisions outlining the legal framework for electricity sharing and the support for grid flexibility and recognition of electricity grids in facilitating access to green energy and connecting solar to the grid.

In a press release after the publication of the proposal, **WindEurope** praised the efficiency of the electricity market in matching supply and demand, which has brought affordable electricity prices to consumers for years. In their view, it has been very high gas prices, not the EU electricity market design, that has created the real problem on the EU electricity market. WindEurope welcomes the provisions on curtailing revenue caps on inframarginal electricity producers, and the development of PPAs and CfDs, while highlighting the need for investment certainty, revenue stabilisation, reducing financial risks and removing regulatory barriers. They also support hybrid offshore wind farms with grid connections to two or more countries. Their full opinion on the electricity market reform was laid out in a position paper published prior to the reform (February 2023).

In its paper on the electricity market reform of 24 March 2023, **BEUC (European Consumer Organisation)** highlighted the need to develop new renewable power plants and improve price stability for consumers, while promoting flexible electricity consumption and avoiding reliance on gas during demand peaks. It supports PPAs, non-mandatory CfDs and energy sharing within the same bidding zone or transmission system area, as well as network charges that reflect true costs.

Legislative process

On 14 March 2023, the European Commission proposed a reform of the EU electricity market. The reform includes two legislative proposals: a proposal on electricity market design and a proposal on protection against wholesale energy market manipulation.

The Council reached an agreement on the REMIT file on 19 June 2023. Stricter requirements were proposed for market participants in the EU that are resident in a third country. The Council also accepted an increased role of ACER in cross-border investigation cases (to fight against REMIT breaches) but decided to strengthen the role of national regulatory authorities, thus limiting ACER's investigative powers if the same investigation is already being conducted by national regulators. More flexibility on issuing administrative fines was also proposed, with a list of criteria and a possibility for Member States to set lower fines.

The Council position on EMD was adopted on 17 October 2023. The Council agreed that Member States would promote the uptake of power purchase agreements, for instance through state-backed guarantee schemes at market prices, private guarantees, or facilities pooling demand for PPAs. Two-way contracts for difference would be a mandatory model in cases of public funding being involved in long-term contracts, with some exceptions and subject to oversight from the Commission to avoid unfair competition. Two-way CfDs would apply to investments in new power-generating facilities based on wind, solar, geothermal, hydropower without reservoir and nuclear energy. A transition period of 3 years would apply to the rules for two-way CfDs. Moreover, flexibility would be envisaged for the redistribution of revenues generated by the state through two-way CfDs. Revenues would be redistributed to final customers or used to finance the costs of direct price support schemes or investments to reduce electricity costs for final customers.

The Council introduced a derogation from existing requirements regarding CO_2 emission limits for generators (including coal power plants) to receive support from capacity mechanisms until 31 December 2028. It also introduced clarifications to the provisions on customer protection and agreed on stricter rules for suppliers in their price-hedging strategies to shield customers from variations on wholesale markets. Member States strengthened the role of the Council in declaring a temporary regional or EU-wide electricity price crisis and amended conditions for declaring such a crisis. Moreover, Member States would be able to apply a cap on excessive market revenues from electricity produced from generators with lower marginal costs such as renewables, nuclear and lignite ('inframarginal generators') until 30 June 2024, subject to the same conditions as the emergency measure on inframarginal revenues in Regulation (EU) 2022/1854 on an emergency intervention to address high energy prices.

In the Parliament, the files were assigned to the Committee on Industry, Research and Energy (ITRE). The rapporteur for the EMD file is Nicolás Gonzáles Casares (S&D, Spain). The rapporteur for the REMIT file is Maria da Graça Carvalho (EPP, Portugal). Both rapporteurs' draft reports were released in May 2023.

The draft report on EMD welcomes the Commission proposal and proposes further amendments to address the electricity market challenges. It supports two-way CfDs as an instrument providing consumers with stable prices and producers with certainty. However, it pleads for prioritising consumers who need it most when distributing revenues from CfDs and focusing on energy efficiency measures. It considers it necessary for generation under CfDs to adjust its output to reflect market circumstances and to include penalties in case of early termination of the support scheme by the producer. PPAs are considered an appropriate instrument improving access to private financing of primarily renewable generation capacity, while providing long-term stability to the consumer. However, the draft report calls for increasing the transparency of this market, facilitating the entry of small players, lowering transaction costs and creating a platform for PPA trading.

The rapporteur supports investments in grid development to meet the accelerated deployment of renewable and smart electricity demand, such as electric vehicles and heat pumps. He also proposes

criteria for flexible connection arrangements to enable more efficient use of grid capacity. Moreover, he proposes an impact assessment on regional virtual hubs to gain more clarity on better interconnection between regions. The draft report also proposes an EU-level assessment of storage and demand response needs, followed by setting quantifiable national targets in this area. It highlights the potential of electric vehicle batteries in terms of demand response, and proposes to account for electric vehicle charging services in the flexibility schemes and to include obligations for bi-directional charging functionalities.

The amendments also propose strengthening consumer rights in fixed-price electricity supply contracts, for instance through preventing suppliers from modifying the conditions of the contracts during their duration or terminating them prematurely, introducing the obligation to extend the information requirements and guaranteeing the right of customers to participate in demand response measures or energy sharing. The amendments also provide some safeguards around energy sharing by limiting it to a specific distribution area and smaller size installations, to avoid the exploitation of potential loopholes by commercial generators.

The draft report proposes strengthening the provision on designating a supplier of last resort by guaranteeing continuity of service for as long as necessary until a new supplier is found rather than for a limited period of time. It also advocates the extension of security of supply provisions to SMEs.

The draft report also considers it necessary to complement the measures proposed for periods of crisis with provisions on funding them, for instance through EU-level structural instruments such as temporary caps of the market revenues of infra-marginal generators, a 'relief valve' in the event of crisis, or other equivalent measures such as reliability options.

The draft report on REMIT supports the main lines of the proposal. At the same time, it calls for a better alignment with other pieces of EU legislation by clarifying the rules and aligning definitions (e.g. of 'market participant' and 'inside information'). It proposes reinforcing ACER's role in investigating potential market abuse in cross-border cases, while keeping a balance between ACER's competences and those of national regulatory authorities, which should keep a primary role in the enforcement phase. Other amendments include a better framing the roles of inside information platforms and registered reporting mechanisms, enhancing the exchange of information between energy and financial authorities, reducing excessive administrative burden and red tape for market participants, granting adequate market access to third-country players and safeguarding investments by tighter rules on the disclosure of information.

The report on EMD was voted in the ITRE committee on 19 July 2023, and the report on REMIT on 7 September 2023. A vote during the September plenary session was need to confirm the mandate for the former file, and so interinstitutional (trilogue) negotiations on both files were then able to start.

The interinstitutional negotiations on REMIT were concluded on 16 November 2023 with a provisional agreement between the Parliament and Council. The agreement reinforces the supervisory role of ACER, taking into account elements of the EP position. ACER will have the power to take decisions on inspections, requests for information and authorisations of Inside Information Platforms (IIPs) and Registered Reporting Mechanisms (RRMs). It will also be able to impose periodic penalty payments if it does not receive the requested information during investigations in cross-border cases triggered when there is a suspicion of market abuse affecting at least two Member States. However, this refers only to ensuring procedural compliance, while the power to impose penalties in case of infringement will stay with the Member States. Moreover, MEPs managed to secure the integration of mechanisms that oversee how the price of liquefied natural gas (LNG) is determined.

The interinstitutional negotiations on EMD were concluded on 14 December 2023. The provisional agreement between the co-legislators provides for the use of CfDs in all investments in new electricity production from renewable and nuclear energy. The agreement also gives the Council the power to declare an electricity price crisis. It reinforces the measures to protect energy-poor and

vulnerable customers, in line with the wish expressed in the EP position, for instance through the right to fixed-price and dynamic price contracts, access to key information and a ban on suppliers unilaterally changing the terms of a contract or cutting the electricity supply of vulnerable customers. The agreement also enables flexible use of the revenues generated by the state via two-way CfDs, e.g. to finance direct price-support schemes or invest in reducing electricity costs for final consumers. The new market design will facilitate the integration of renewables into the system and improve predictability and flexibility of electricity generation. It will also promote energy sharing, as prosumers will be able to invest in wind and solar parks, and sell excess rooftop solar electricity to their neighbours.

Both agreements now need to be formally adopted by the Parliament and the Council before they can come into force.

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ENDNOTES

[1] A mandatory 5 % reduction in peak electricity consumption (applicable between 1 December 2022 and 31 March 2023), and a voluntary 10 % reduction in electricity consumption (valid until the end of December 2023), with the possibility of prolongation. In its June 2023 report, the European Commission considered the measure to have completed its role, and the regulation was not prolonged.

[2] 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 'European Parliament supporting analysis'.

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