

CEP Market Design – Council General Approach

eurelectric informal input

eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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Electricity Directive

Informal eurelectric input on the Council General Approach from 20 December 2017

Overall, eurelectric welcomes the Council's proposed changes to the Commission proposal, particularly for the articles dealing with contractual rights, energy poverty and data format.

Regulated Prices

Consumers will be empowered through a combination of measures such as price signals, certified comparison tools and easy switching. If prices keep being regulated by national authorities, then the benefits brought by the Clean Energy Package will be considerably reduced. eurelectric thus supports a complete phase out of regulated prices and remains fully supportive of the Commission's proposal.

While we understand that several Member States would like to delay the phase out, we deeply regret that the Council now leaves it open for Member States to keep regulated prices in place as long as they deem it necessary¹. In our view, it is absolutely key that that the Directive indicates a clear process and timeline to end regulated prices. We would also welcome a clarification that Member States who have already phased out regulated prices should not re-regulate them.

We welcome the proposed safeguards to limit the impact of public intervention on wholesale market price setting.

Billing

EU and national requirements on energy bills are already extensive. Because of this, the bill is often overloaded with information and it becomes confusing for consumers. We think that the best way to improve the existing framework is to make a clearer distinction between the energy bill (which should only contain key information such as consumption and price to pay) and billing information (which should contain all additional information about consumers' profile and rights, as defined in Annex II) and could be provided in different ways (paper, telephone, apps, webpage, etc.) and at intervals depending on individual consumer preferences. In this regard, we welcome the Council's proposed definition of billing information. However, we would suggest to amend the Council's proposed wording for Recital 30 and Annex II as follows: "Other information items should be available to final customers in, with or signposted to within their bills".

As for the disclosure of energy sources, we think that it would be much clearer for consumers to receive information about one mix only (and not three as currently proposed). In addition, we think such information should primarily be communicated as billing information and not through the bill itself.

¹ As pointed out by ACER, "Artificially low regulated prices (even without pushing them below costs) limit market entry and innovation, prompt consumers to disengage from the switching process and consequently hinder competition in retail markets. In addition, they may increase investor uncertainty and impact the long-term security of supply. Furthermore, regulated prices (even when set above costs) can act as a pricing focal point which competing suppliers are able to cluster around and at least in markets featuring strong consumer inertia can also considerably dilute competition." (2015 ACER/CEER Market Monitoring Report, p.87)

Comparison Tools

We are worried by the Council's proposal according to which Member States may decide not to require verification of private Comparison Tools (CT) if a publicly run CT exists. Private CTs are market parties which need regulatory oversight like any other market player. Indeed, private CTs may rank energy offers/suppliers differently depending on the fees they get from them. If not properly regulated, they can mislead consumers, create distrust in the market and lead to consumer disengagement.

Energy Communities

We welcome the proposal which requires energy communities to be held responsible for imbalances they cause in the system. We further support that customer rights should be equal regardless of participation in an energy community. However, for the avoidance of doubt, network charges (Art. 16 2bb) must account for network capacity reserved in addition to electricity fed from main grid to an energy community and vice-versa.

Dynamic Pricing

We support the Council's proposal that suppliers should be able to offer dynamic price contracts, but only final customers who have a smart meter installed can request to have such a contract. However, the dynamic pricing definition (Art. 2.11) imposing reflection of day-ahead and intraday spot prices is much too restrictive, retail markets need more diversity adapted to customers' needs by allowing the development of prices list based on day-ahead or intraday such as advanced forms of time-of-use and critical peak pricing. Independently of that remark, we agree with the fact that the national regulatory framework enables electricity suppliers to offer a dynamic electricity price contract.

Active Customers and Demand Response Aggregation

- We support that Member States shall ensure that active customers are subject to cost-reflective, transparent and non-discriminatory network charges, accounting separately for the electricity fed into the grid and the electricity consumed from the grid. While we oppose retroactive changes for consumers connected through net-metering schemes, Member States shall not be able to grant new rights under these schemes after entry into force of the Directive.
- A stable regulatory framework providing a level playing field for all market players is key to stimulate sustainable innovation. Exempting demand response aggregators from their balancing responsibility and from paying sourcing costs is not consistent with the market principles outlined in the Clean Energy Package. We support the Council clarifications that aggregators shall be financially responsible for the imbalances they cause in the electricity system. However, the need to ensure the remuneration for the energy injected into the system is not adequately tackled in Art. 17.3(db) as such payment would remain optional. The word "*may*" must be replaced by "*shall*". The last sentence calling for taking account benefit when designing the compensation payment ignores the fact that in economic law, any arrival of a new efficient market actor leads to a price decrease, it doesn't mean that this new market entrant must be paid to enter a market and be rewarded for that.
- We call for modification/deletion on Art. 131.1 that requires Member States to ensure that the consent of the final customers' supplier may be required in case where such a compensation for the energy injected is not foreseen. It is a double derogation on two principles. It gives the power to an incumbent (the supplier) to prevent market entry to a new entrant (the aggregator) and it gives the right to the aggregator to sell energy on the market at any value beginning at zero, far below

the economic value of this energy which is basically the sale price of the supply contract; such offers might bias the market price.

Smart metering

We welcome the proposed addition under Art. 19.5. The EC proposal to harmonise the Imbalance Settlement Period to 15min by 2025 in all control areas at wholesale and retail level under Art. 7.4 of the Electricity Regulation is welcome as it will ensure a level playing field between all market parties. However, ISP harmonisation will trigger adaptation costs across the value chain (metering, IT and commercial infrastructures) in Member States where smart meters for retail customers with a different metering interval have already been rolled out. We welcome the fact that the Council pays special attention to the lifetime of already installed smart meters.

Task of TSOs & DSOs

- DSOs are requested to cooperate with the TSOs when procuring flexibility/balancing services in the market and to collaborate for the effective participation of market participants in the markets (Art. 31). eurelectric calls for the same provision for the TSOs when procuring balancing services or services for congestion management. It also calls to define the technical modalities for the participation in the markets in close cooperation with the DSOs according to the article 182 of the guideline for system operators and to the article 53 of the recast of the Electricity regulation, and in line with all relevant provisions of EB GL. Those provisions are requested in article 40 of the recast of the Electricity Directive and article 5 of the recast of Electricity Regulation. We support the proposal for DSOs to procure non-frequency ancillary services in the market unless a regulatory authority identifies this process is economically not efficient.
- The Council proposes, in Article 32.2, an obligation for DSOs to submit their network development plans to the TSO every two years. In our opinion, the obligation should be to send the plan to the respective NRA only. The Commission states that the network development should be made public together with the results of a public consultation.
- eurelectric is concerned to see that more data management, cyber security and data protection tasks are given to TSOs. Data management, cybersecurity and data protection are traditional DSO tasks and overlaps will inevitably occur. TSOs have a role to play but should not be the only actors with such responsibility. Bearing in mind that cooperation between TSO and DSO is essential, we suggest to give the same responsibilities to the DSOs in the article 31 or to remove them from the TSO tasks. We note the same provisions on demand response. We dispute the involvement of TSOs when such activities are linked to the final customer. We propose to remove the task 'demand response' from the list.

Storage ownership

eurelectric supports the new amendments made by the Council related to the ownership of energy storage facilities by network operators aiming to prevent distortion of competition and to eliminate the risk of discrimination. We are pleased with the clarification that DSOs may, by way of derogation, be allowed to own energy storage facilities when they are used for the sole purpose of ensuring a secure and reliable operation of their networks, but not for balancing nor congestion management and when the regulators have granted their approval. eurelectric disagrees with the exception for both DSOs and TSOs to be able to invest in new batteries storage facilities with a final investment decision until 2024 when the entry into force of the current directive is before.

We also disagree with the avoidance of a public consultation to assess the market for fully integrated network components given to the TSOs. The requirements of art.36 should be aligned to those of article 54.

Electricity Regulation

Informal eurelectric input on the Council's General Approach from 19 December 2017

Energy Market functioning

- Regarding Art. 5 on Balancing:
 - eurelectric supports that ultimately with more product convergence, the settlement of both standard and specific balancing products shall be based on marginal pricing, pay as cleared, unless impossible due to non-comparable products. For this last case, market parties shouldn't have to face distortions (Art. 5.5).
 - In addition, the provision limiting 40% of balancing capacity procurement to one day and the rest to one month (and maximum 12 months after derogation) is still concerning in our opinion (Art. 5.9). While we welcome the extension from 3 months to 12 months, the conditions to obtain such derogation seem very difficult to reach (i.e. proving that the exemption would lead to lower costs to consumers). Therefore, it leaves no space for specific products for a longer period of time. Procurement on multiple auctions with various lead times seems to be the most relevant design.
- The impact of the bidding zones' reconfiguration on market efficiency, liquidity and the long-term value of existing assets should be considered with due care. We welcome the decision-making process involving the EC and affected Member State (Art. 13.4a-f). Indeed this process is based on an assessment of all available solutions to solve structural congestions on equal footing (TSO coordination, use of remedial actions, grid investments, etc.) before a more impacting bidding zone reconfiguration is considered. We welcome that the supranational intervention is only used as a last resort solution in case of disagreement between affected MS and/or if the TSOs do not comply with the threshold define in Art. 14.7.
- Increasing the availability of commercial capacity across borders is crucial to allow further market integration. eurelectric is therefore fully supportive of the EC original proposal for Art. 14, which is reflective of ACER Recommendation 02/2016, ensuring that TSOs, while respecting network security at all times, maximise cross-border capacities in a cost-efficient way from a European welfare perspective.
 - We strongly support the introduction by the Council of clear provisions on sharing of re-dispatching and countertrading costs, including a "polluter pays principle" (Art. 14§11). This is a must to ensure TSOs get the right financial incentives and economic signals to maximise cross-border capacities in a cost-efficient way. Unscheduled flows should not be the only "polluter" considered though.
 - Regarding the proposed minimum thresholds in Art. 14.7, although we welcome that efficient and transparent capacity calculations performed by the Regional Security Coordinators (RSC) should define the level of cross-border capacities, we are concerned by the derogations foreseen for TSOs to systematically reduce cross-border capacities below this calculation (cf. Art. 14.7.a and 14.7.b, but also Art. 14.2.a). TSOs should be able to reduce available capacity when the cost of managing network constraints through remedial actions outweighs the benefits of increased cross-border trade, under the supervision of NRAs. The concept of "minimum threshold" of cross-zonal capacity to be allocated to the market is inadequate and misleading. An arbitrary one-size fits all approach for all EU

borders would ignore the value created by cross-border trade, the reality of the system and the specificities of regional and national markets.

- We are concerned by the provisions of Art. 14.7a that allow TSOs to allocate part of the cross-border capacity to accommodate for unscheduled flows, including loop flows. This is against the spirit of ACER Recommendation 02/2016. This provision, as well as the last sentence of Art. 14.11, should be removed. If Article 14.7a is maintained as part of the final deal with the European Parliament, it should be modified as follows to ensure that this provision is subject to a cost-efficiency test: “Based on a ~~proposal~~ **evidence of increased overall social welfare presented** by all transmission system operators of a capacity calculation region , the relevant national regulatory authorities [] shall approve [] the level of percentage of total available cross-zonal capacity, which has been calculated in accordance with the capacity calculation methodology, to take account of cross-zonal unscheduled flows to the extent that could be expected [] without structural congestions in a bidding zone. []
- Last but not least, on art 14.4, it should be ensured that the possibility to introduce (national or regional) ID auctions is subject to the restrictions foreseen in CACM guideline.

Network Codes

In relation to the proposed list of the Network codes/Guidelines,

- The Electricity Directive requires DSOs to procure flexibility services and non-frequency ancillary services (including congestion management).
- The electricity industry needs to assess what issues need to be harmonised/regulated at European level or at national level and whether those issues have any cross-border impact (mention in TF SG tomorrow only: see recommendations in the joint DSO associations flexibility report but not for Council one pager as the report is under embargo).
- There is also a need to assess whether those points would be best addressed either through:
 1. a revision of the existing guidelines/network codes in order to avoid any overlap/inconsistencies with topics already tackled
 2. or a dedicated new Network code/guideline led by the EU DSO entity to address new specific DSO congestion issues not addressed in existing network codes/guidelines.
- If a revision of the existing codes is required to address those topics, the EU DSO Entity should be closely involved in the process.
- We disagree with a network code that gives financial rules for imbalances related to the article 17 of the Electricity Regulation. Compensation rules must remain under NRA scrutiny.
- Last but not least, eurelectric is pleased to see that the Council has kept the removal of the network code on harmonisation of distribution tariffs.

RES Integration

- The Council’s proposal is going in the right direction as it is pushing for more market exposure for RES. Therefore, we recognise the effort to lower the thresholds proposed by the EC, nonetheless we reiterate that there is no need to incentivise the development of new exemptions from balancing responsibility or new priority of dispatch provisions based on the size of the projects or the type of technologies (Art. 4, 11). In order not to damage the investment environment in the sector, the

existing exemptions should however be kept. Market participants may be incentivized to voluntarily accept new responsibilities against compensation.

- In Art. 12, it is necessary to change “redispatching” for “countertrading and redispatching” in the title and first subsections of the article. This would ensure that countertrading can be considered on an equal footing with redispatching, at least for congestions on critical network elements under scrutiny of the RSCs.

Capacity Mechanisms and adequacy assessment

- We welcome the Council’s approach toward resource adequacy assessment ensuring that European adequacy assessment takes into account national assessment and specificities (Art. 19 & 19.a). We support the Council’s proposals to combine and compare different geographical scopes (national and European adequacy assessments) before implementing security of supply measures, but the recognition of the relevance of regional assessment seems to be missing.
- eurelectric reiterates that an EPS coupled with capacity mechanisms does not support cost-effective decarbonisation, increases costs for consumers and creates risks of security of supply and gas import dependency. We would also welcome some clarifications of the Council’s intent as the provision of Art. 23 seems to be diverging from what was announced in the Presidency Press Release. eurelectric therefore reiterates its support to the previous proposal of the Council (REV 3) i.e. the introduction of an EPS of maximum 550gr/kWh for new plants with a final investment decision after 2020, but no EPS for existing plants.
- When designing capacity markets, Member States shall include a provision which would ensure economic viability of the assets required to secure the desired level of adequacy.
 - eurelectric welcomes the deletion of the proposed limitation for the duration of capacity contracts that was in the Council REV2 (Art. 23.3.f) as it was going i) against the objective of capacity markets to provide investment signals for firm capacity needed to ensure SoS (generation, demand response, storage) and ii) not allowing operators to cope properly with the industrial constraint linked to maintenance cycles for existing assets. There is no one size fits all approach to assessing what contract lengths are needed to attract different types of investments.
 - In the same way, we are concerned about the fact that MS should include a provision to phase out capacity mechanisms within 4 years (Art.23.5.a) that tend to a stop-and-go approach. It is crucial to ensure sufficient visibility to market participants on future revenues.
- Finally, we welcome the Council’s move toward cross-border participation in strategic reserve “*where technically feasible*” (Art. 21.1), as all capacity markets should be open to direct cross-border participation.

ROCs

An approach where TSO coordination aims at optimising regional welfare is a prerequisite to achieve the Internal Energy Market. The framework proposed shall ensure:

- Ambitious and transparent coordinated capacity calculation resulting in the allocation of the optimal volume of cross-border transmission capacity to the market (Art. 14).
- A fully transparent and systematic reporting when TSOs derogate from ROC (or their future name) instructions. Therefore, we fully support the Council’s approach asking for TSOs to transparently report the detailed reason why they opt out (Art.38.2a).
- A greater facilitating role given to ROCs on balancing capacity sizing and procurement (Art. 34 paragraph 1).

- An enhanced regional governance framework for Member States and NRAs (Art. 7 ACER Regulation).

EU DSO Entity (Art 49–55)

eurelectric is concerned how the Council has reduced the remit and the responsibilities of the EU DSO Entity. As proposed here, the EU DSO Entity is no longer responsible for convening the drafting committee for distribution codes and submitting proposals. eurelectric strongly opposes assigning responsibility to ENTSO-E for any distribution code related activities. ENTSO-E and the EU DSO entity should be treated on an equal footing. Furthermore, we advise against defining the structure and the voting process of the EU DSO Entity in EU legislation. Such details should be established in the statutes analogue to how it was done for ENTSO-E. Enshrining operational principles in legislation may lead to complex and time-intensive legislative review should the need for modification arise.

eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability



Union of the Electricity Industry – eurelectric aisbl
Boulevard de l'Impératrice, 66 – bte 2 – 1000 Brussels, Belgium
Tel: + 32 2 515 10 00 – VAT: BE 0462 679 112 • www.eurelectric.org
EU Transparency Register number: [4271427696-87](https://ec.europa.eu/transparency/regexp1/index.cfm?do=entity.entity_details&entity_id=4271427696-87)