

European Commission's proposal for a Directive on common rules for the internal market in electricity

EURELECTRIC proposals for amendments

June 2017

EURELECTRIC is the voice of the electricity industry in Europe.

We speak for more than 3,500 companies in power generation, distribution, and supply.

We Stand For:

Carbon-neutral electricity by 2050

We have committed to making Europe's electricity cleaner. To deliver, we need to make use of **all low-carbon technologies**: more renewables, but also clean coal and gas, and nuclear. Efficient electric technologies in **transport and buildings**, combined with the development of smart grids and a major push in **energy efficiency** play a key role in reducing fossil fuel consumption and making our electricity more sustainable.

Competitive electricity for our customers

We support well-functioning, distortion-free **energy and carbon markets** as the best way to produce electricity and reduce emissions cost-efficiently. Integrated EU-wide electricity and gas markets are also crucial to offer our customers the **full benefits of liberalisation**: they ensure the best use of generation resources, improve **security of supply**, allow full EU-wide competition, and increase **customer choice**.

Continent-wide electricity through a coherent European approach

Europe's energy and climate challenges can only be solved by **European – or even global – policies**, not incoherent national measures. Such policies should complement, not contradict each other: coherent and integrated approaches reduce costs. This will encourage **effective investment** to ensure a sustainable and reliable electricity supply for Europe's businesses and consumers.

EURELECTRIC. Electricity for Europe.

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Definitions

Amendment 1

Article 2 – paragraph 6

Text proposed by Commission

Amendment proposal by EURELECTRIC

6. ‘active customer’ means a customer or a group of jointly acting customers who consume, store or sell electricity generated **on their premises**, including through aggregators, or participate in demand response or energy efficiency schemes provided that these activities do not constitute their primary commercial or professional activity;

6. ‘active customer’ means a customer or a group of jointly acting customers who consume, store or sell electricity generated **behind the point of their connection to the grid**, including through aggregators, or participate in demand response or energy efficiency schemes provided that these activities do not constitute their primary commercial or professional activity;

Justification

Clarification in the text is needed as ‘their premises’ could be interpreted as though the provisions apply to different assets owned by the same consumer in different locations; and such an interpretation would result in a positive discrimination.

Amendment 2

Article 2 – paragraph 7

Text proposed by Commission

Amendment proposal by EURELECTRIC

7. 'local energy community' means: ***an association, a cooperative, a partnership, a non-profit organisation or other legal entity which is effectively controlled by local shareholders or members, generally value rather than profit-driven, involved in distributed generation and in performing activities of a distribution system operator, supplier or aggregator at local level, including across borders;***

7. 'local energy community' means: ***an SME or a not-for-profit organisation, the shareholders or members of which cooperate in the generation, distribution, storage or supply of energy at local level, including across borders, fulfilling at least four out of the following criteria:***

- (a) shareholders or members are natural persons, local authorities, including municipalities, or SMEs;***
- (b) at least 51% of the shareholders or members with voting rights of the entity are natural persons;***
- (c) at least 51% of the shares or participation rights of the entity are owned by local members, i.e. representatives of local public and local private socio-economic interests or citizen having a direct interest in the community activity and its impacts;***
- (d) at least 51% of the seats in the board of directors or managing bodies of the entity are reserved to local members, i.e. representatives of local public and local private socioeconomic interests or citizens having a direct interest in the community activity and its impacts;***
- (e) the community has not installed more than 5 MW of capacity for electricity, heating and cooling and transport as a yearly average in the previous 5 year.***

Justification

To provide clarity on ownership structures and size of such an enterprise, we suggest reference is made to an existing definition in the Renewable Energy Directive which provides guidelines and a clear framework for both community groups and other market stakeholders.

Amendment 3

Article 2 – paragraph 11

Text proposed by Commission

Amendment proposal by EURELECTRIC

‘dynamic electricity price contract’ means an electricity supply contract between a supplier and a final customer that reflects **the price at the spot market or at the day ahead market at intervals at least equal to the market settlement frequency**

‘dynamic electricity price contract’ means an electricity supply contract between a supplier and a final customer that reflects **wholesale price volatility**

Justification

Dynamic pricing refers to retail electricity prices that pass through at least part of the wholesale price volatility to final end users. This can be achieved not only through real time pricing but also with advanced forms of time-of-use and critical peak pricing. Therefore, the definition of dynamic pricing should be extended.

Amendment 4

Article 2 – paragraph 12 (new)

Text proposed by Commission

Amendment proposal by EURELECTRIC

“Billing” means a written statement of the money owed for goods or services and containing the minimum information defined in Annex II.1

Justification

It is crucial to make a clear distinction between billing and billing information to simplify the current regulatory framework and to increase consumer satisfaction with bills.

- *Billing should only contain key information (e.g. consumption, price to pay, etc.) as defined in Annex II par1;*
- *Billing information should be distinct from the bill. It should contain separate additional information about consumers’ consumption and rights, as defined in Annex II.2 and II.5 and could be tailored depending on consumer preferences*

Amendment 5

Article 2 – paragraph 13 (new)

Text proposed by Commission

Amendment proposal by EURELECTRIC

“Billing information” means separate additional information about consumers’ consumption and rights, as defined in Annex II.2 and II.5, and shall not constitute a request for payment.

Justification

It is crucial to make a clearer distinction between billing and billing information to simplify the current regulatory framework and to increase consumer satisfaction with bills.

- *Billing should only contain key information (e.g. consumption, price to pay, etc.) as defined in Annex II par1;*
- *Billing information should be distinct from the bill. It should contain separate additional information about consumers’ consumption and rights, as defined in Annex II.2 and II.5 and could be tailored depending on consumer preferences.*

Amendment 6

Article 2 – paragraph 16 (new)

Text proposed by Commission

Amendment proposal by EURELECTRIC

“Energy service provider” means a natural or legal person who delivers energy services in a final customer’s facility or premises.

Justification

“Service provider” is mentioned several times in the Directive and therefore we feel it is important to define the term.

Amendment 7

Article 2 – paragraph 20

Text proposed by Commission

Amendment proposal by EURELECTRIC

'near-real time' means, in the context of smart metering, the time, usually down to seconds, that elapses between data recording and their automated processing and transmission for use or information purposes;

Delete

Justification

The specification of the resolution "down to second " is considered excessive.

End-user energy prices

Amendment 8

Article 5 – paragraph 3

Text proposed by Commission

Amendment proposal by EURELECTRIC

(3) By way of derogation from paragraphs 1 and 2, Member States who apply public interventions in price setting for the supply of electricity for energy poor or vulnerable household customers at the date of entry into force of this Directive may continue to apply such public interventions during five years from the entry into force of this Directive. Such public interventions shall pursue a general economic interest, be clearly defined, transparent, non-discriminatory, verifiable and guarantee equal access for Union electricity companies to customers. The interventions shall not go beyond what is necessary to achieve the general economic interest which they pursue, be limited in time and proportionate as regards their beneficiaries.

(3) By way of derogation from paragraphs 1 and 2, Member States who apply public interventions in price setting for the supply of electricity for energy poor or vulnerable household customers at the date of entry into force of this Directive may continue to apply such public interventions during five years from the entry into force of this Directive, ***provided they are financed through the public budget***. Such public interventions shall pursue a general economic interest, be clearly defined, transparent, non-discriminatory, verifiable and guarantee equal access for Union electricity companies to customers. The interventions shall not go beyond what is necessary to achieve the general economic interest which they pursue, be limited in time and proportionate as regards their beneficiaries.

Justification

In most cases where customers have energy debts, they are likely to struggle paying for other essential services too (e.g. housing, food, etc.). Wider social policy is the best mechanism to help consumers tackle the root causes of debt, including energy debts.

Support granted to people suffering from poverty should come from general income of the state, i.e. through general taxation. Considering the progressive nature of taxation, this would allow for a fair burden-sharing without causing those on lower incomes to bear a disproportionately higher burden (meaning when a contribution is levied on the bill, all customers pay the same).

Basic contractual rights

Amendment 9

Article 10 – paragraph 1

Text proposed by Commission

Amendment proposal by EURELECTRIC

1. 4. Member States shall ensure that all customers are entitled to have their electricity provided by a supplier, subject to the supplier's agreement, regardless of the Member State in which the supplier is registered, as long as the supplier follows the applicable trading rules. In this regard, Member States shall take all measures necessary to ensure that administrative procedures do not discriminate against supply undertakings already registered in another Member State.

1. 4. Member States shall ensure that all customers are entitled to have their electricity provided by a supplier, subject to the supplier's agreement, regardless of the Member State in which the supplier is registered, as long as the supplier follows the applicable trading **and balancing** rules. In this regard, Member States shall take all measures necessary to ensure that administrative procedures do not discriminate against supply undertakings already registered in another Member State.

Justification

Deleting the reference to compliance with relevant balancing rules from the existing 3rd Directive would mean that suppliers registered in one Member State and supplying electricity in another Member State would de facto be freed from balancing responsibility. This represents a clear positive discrimination of foreign towards domestic suppliers and would also mean that other market parties have to bear the burden of imbalances caused by foreign suppliers. It is not aligned with the principles of non-discrimination and level-playing field.

Amendment 10

Article 10 – paragraph 1b

Text proposed by Commission

Amendment proposal by EURELECTRIC

Without prejudice to Union rules on consumer protection, in particular Directive 2011/83/EU of the European Parliament and of the Council and Council Directive 93/13/EEC, Member States shall ensure that customers:

(b) are given adequate notice of any intention to modify contractual conditions and are informed about their right to dissolve the contract when the notice is given. **Suppliers** shall notify their customers directly of any adjustment in the supply price as well as of the reasons and preconditions for the adjustment and its scope, at an appropriate time **no later than one normal billing period** before the adjustment comes into effect in a transparent and comprehensible manner. Member States shall ensure that customers are free to withdraw from contracts if they do not accept the new contractual conditions or adjustments in the supply price notified to them by their electricity supplier;

Without prejudice to Union rules on consumer protection, in particular Directive 2011/83/EU of the European Parliament and of the Council and Council Directive 93/13/EEC, Member States shall ensure that customers:

(b) are given adequate notice of any intention to modify contractual conditions and are informed about their right to dissolve the contract when the notice is given. **Service providers** shall notify their customers directly of any adjustment in the supply price as well as of the reasons and preconditions for the adjustment and its scope, **except if such adjustment was agreed upon by the customer when signing the contract**, at an appropriate time before the adjustment comes into effect in a transparent and comprehensible manner. Member States shall ensure that customers are free to withdraw from contracts if they do not accept the new contractual conditions or adjustments in the supply price notified to them by their electricity supplier;

Justification

Information obligation towards consumers should be equally applicable to any service provider, be they supplier, aggregator, ESCO, etc. This is key in order to ensure a high degree of protection to customers and a level playing field among market players.

The right to dissolve the contract should not apply when the price change is the result of a formula which was agreed upon by the consumer when signing the contract, e.g. dynamic pricing offer.

Last but not least, the notification should not be linked to the billing frequency. Invoice frequency varies between and within countries, depending on national regulation and consumer preferences. Beside, a price change could well occur in the middle of a billing period. What is key is that the notification is timely enough to allow consumers to switch if they wish to and that suppliers are free to decide how to communicate the notification (mail, app, bill...).

Amendment 11

Article 10 – paragraph 1i

Text proposed by Commission

Amendment proposal by EURELECTRIC

Without prejudice to Union rules on consumer protection, in particular Directive 2011/83/EU of the European Parliament and of the Council and Council Directive 93/13/EEC, Member States shall ensure that customers:

(i) are given adequate information on alternatives to disconnection sufficiently in advance before the planned disconnection. These alternatives may refer to sources of support to avoid disconnection, alternative payment plans, debt management advice or disconnection moratorium **and should not constitute an extra cost to customers**

Without prejudice to Union rules on consumer protection, in particular Directive 2011/83/EU of the European Parliament and of the Council and Council Directive 93/13/EEC, Member States shall ensure that customers:

(i) are **(i.e. when they are household customers)** given adequate information on alternatives to disconnection sufficiently in advance before the planned disconnection. These alternatives may refer to sources of support to avoid disconnection, alternative payment plans, debt management advice or disconnection moratorium.

Justification

Suppliers should have the right to charge the costs they incur for alternative payment plans, otherwise all consumers will pay for the costs caused by those who are not paying their bills, including those with low incomes and yet a good payment record.

Dynamic pricing

Amendment 12

Article 11 – paragraph 1

Text proposed by Commission

Amendment proposal by EURELECTRIC

Member States shall ensure that **every final customer is entitled, on request, to** a dynamic electricity price contract **by his supplier.**

Member States shall ensure that **there are no barriers for suppliers to offer** a dynamic electricity price contract **to final customers.**

Justification

Member States should remove any barriers that would prevent suppliers offering dynamic electricity prices. However imposing an obligation on some or all retail offerings contradicts various parts of the proposed directive, and will be detrimental to competition and innovation, as it could create entry barriers for small suppliers. Coherence with the broader framework that advocates for complete market liberalisation should be ensured and freedom of contract respected.

Switching

Amendment 13

Article 12 – paragraph 3

Text proposed by Commission

Amendment proposal by EURELECTRIC

(3) By way of derogation from paragraph 2, Member States may choose to permit suppliers to charge contract termination fees to customers willingly terminating fixed term supply contracts before their maturity. Such fees may only be charged if **customers receive a demonstrable advantage from these contracts**. In addition, such fees shall not exceed the direct economic loss to the supplier of the customer terminating the contract, including the cost of any bundled investments or services already provided to the customer as part of the contract

(3) By way of derogation from paragraph 2, Member States may choose to permit suppliers to charge contract termination fees to customers willingly terminating fixed term supply contracts before their maturity. Such fees may only be charged if **they are clearly communicated to customers upfront and as part of their contract**. In addition, such fees shall not exceed the direct economic loss to the supplier of the customer terminating the contract, including the cost of any bundled investments or services already provided to the customer as part of the contract

Justification

Proving that a consumer receives a “demonstrable advantage” from a given fixed term supply contract will be very complex in practice. Indeed, suppliers do not know the future cost of electricity nor do they know the future consumption of customers. What is key is that, where fees may apply, they must be proportionate to the costs incurred by the current supplier, be clearly communicated to customers up-front, and be controlled ex-ante and ex-post by the national authorities.

Demand Response aggregation

Amendment 14

Article 13 – paragraph 4

Text proposed by Commission

Amendment proposal by EURELECTRIC

Member States shall ensure that final customers are entitled to receive all relevant demand response data or data on supplied and sold electricity **at least once per year**.

Member States shall ensure that final customers are entitled to receive all relevant demand response data or data on supplied and sold electricity **on a regular basis**.

Justification

As the action of aggregators will have an impact on the customers' bill, customers should receive this information as soon as possible after receipt of their bill. In order to encourage more participation of consumers in the market, this information should be sent on a regular basis.

Retail Pricing

Amendment 15

New article

Text proposed by Commission

Amendment proposal by EURELECTRIC

Member States shall ensure that electricity prices do not hamper cost-efficient decarbonisation and may enable that network charges and policy support costs evolve along the following principles in order to enhance demand side flexibility, while improving the system's efficiency:

a) A set of network tariff structures with different shares of standing charges (€/client) capacity-based (kW) and energy-based (kWh) components may be defined by the NRA based on consumers contracted and absorbed capacity and consumption level and patterns.

b) These regulated charges may be conveyed by retailers to their customers with flat or more time-differentiated options

c) Policy costs and levies may be recovered through other means than the electricity price

Justification

The electricity bill is increasingly used to recover the cost of energy and climate policies, including the financing of decarbonisation. Taxes and levies have been the main driver for recent price increases. In this context, the way regulated costs (network charges and levies) are charged to consumers is problematic. Policy support costs and network costs are paid according to the consumption. However these costs are largely fixed. They need to be paid even if the consumption decreases. With technological developments like distributed generation, storage, or electromobility, some customers are now consuming less electricity from the grid and thereby contributing less to system costs through tariff payments. Those costs then have to be charged across a smaller consumer base – those consumers not willing or not able to invest in such technologies, including many low income consumers – meaning an effective increase to their tariff payments.

To reverse this trend, regulated costs should be charged in an efficient way, progressively removing cross-subsidisation. Determining a detailed charging structure for both network tariffs and policy support costs that may still remain in the bill is a matter of subsidiarity. However, EU legislation could provide high level principles for effective retail pricing structures and give suppliers some flexibility to convey these regulated charges to consumers.

Active Customers

Amendment 16

Article 15 – paragraph 1

Text proposed by Commission

Amendment proposal by EURELECTRIC

Member States shall ensure that final customers:

(b) 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, in line with Article 59.

Member States shall ensure that final customers:

(b) 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, in line with Article 59. **However, Member States should not allow the use of net-metering schemes under which the excess electricity injected into the grid can be used at a later time to offset consumption during times when onsite generation is insufficient.**

Justification

Amendment of the text is needed to ensure that net-metering for any period longer than the settlement time that net-metering is excluded.

Local Energy Communities

Amendment 17

Article 16 – paragraph 1c

Text proposed by Commission

Amendment proposal by EURELECTRIC

Member States shall ensure that local energy communities:

- (c) benefit from a non-discriminatory treatment with regard to their activities, rights and obligations as final customers, generators, distribution system operators, or aggregators;

Member States shall ensure that local energy communities:

- (c) benefit from a non-discriminatory treatment with regard to their activities, rights and obligations as final customers, generators, distribution system operators, **suppliers**, or aggregators;

Justification

All potential undertakings of a local energy community should be covered.

Amendment 18

Article 16 – paragraph 2b

Text proposed by Commission

Amendment proposal by EURELECTRIC

Member States shall provide an enabling regulatory framework that ensures that:

- (b) shareholders, or members of a local energy community shall not lose their rights and obligations as household customers or active customers;

Member States shall provide an enabling regulatory framework that ensures that:

- (b) **system users**, shareholders, or members of a local energy community shall not lose their rights and obligations as household customers or active customers;

Justification

The same rights should apply to consumers connected via a local energy community-operated network, regardless of whether they are members and non-members of such LEC.

Amendment 19

Article 16 – paragraph 2e

Text proposed by Commission

Amendment proposal by EURELECTRIC

Member States shall provide an enabling regulatory framework that ensures that:

(e) provisions of Chapter IV apply to local energy communities that perform activities of a distribution system operator;

Member States shall provide an enabling regulatory framework that ensures that:

(e) **Article 6 and the** provisions of Chapter IV apply to local energy communities that perform activities of a distribution system operator;

Justification

A key element of this Directive has traditionally been the third-party access to the networks, which must be based on tariffs defined and approved by the regulator and published prior to their entry into force – see Article 6 and Article 59.

Demand Response

Amendment 20

Article 17 – paragraph 3

Text proposed by Commission

Amendment proposal by EURELECTRIC

(d) aggregators shall **not be required to** pay **compensation to** suppliers or generators;

(d) Aggregators shall pay suppliers **and** generators **the market value of the energy transacted as a result of a demand response action.**

Justification

In order to be sold by the third-party aggregator, the electricity related to the demand response action has to be sourced by the supplier of the activated customer. Therefore, this electricity has to be paid for. The re-routing of electricity through a demand response action and its subsequent sale on the electricity markets by aggregators should not be confused with a simple decrease of electricity consumption.

Amendment 21

Article 17 – paragraph 4

Text proposed by Commission

Amendment proposal by EURELECTRIC

4. In order to ensure that balancing costs and benefits induced by aggregators are fairly assigned to market participants, Member States **may exceptionally** allow **compensation** payments between aggregators and balancing responsible parties. Such compensation payments must be limited to situations where one market participant induces imbalances to another market participant resulting in a financial cost. Such **exceptional compensation** payments shall be subject to approval by the national regulatory authorities and monitored by the Agency.

In order to ensure that balancing costs and benefits induced by aggregators are fairly assigned to market participants, Member States **should** allow payments between aggregators and balancing responsible parties. Such payments must be limited to situations where one market participant induces imbalances to another market participant resulting in a financial cost.

Such payments shall be subject to approval by the national regulatory authorities and monitored by the Agency.

Justification

The current market model is based on the central role of Balance Responsible Parties that are financially responsible for keeping their own position balanced over a given timeframe (the imbalance settlement period). The Internal Market Regulation (art. 4.1) clearly states that all market participants must take financial responsibility for the imbalances they cause in the system. Aggregators should therefore always be balance responsible, on a level playing field with other market participants.

Billing and billing information

Amendment 22

Article 18 – paragraph 1

Text proposed by Commission

Amendment proposal by EURELECTRIC

(1) Member States shall ensure that **bills** fulfil the minimum requirements **for billing and billing information as** set out in Annex II. The information contained in bills shall be correct, clear, concise **and presented in a manner that facilitates comparison by consumers.**

(1) Member States shall ensure that **billing and billing information** fulfil the minimum requirements set out in Annex II. The information contained in bills shall be correct, clear, **and** concise

Justification

Bills are not meant to facilitate comparison by consumers, other tools such as Comparison tools are meant for this. However if bills contain minimum requirements in a clear and concise way, consumers will easily find the information they need to compare their existing tariff with other offers available on the market.

Amendment 23

Article 18 – paragraph 3

Text proposed by Commission

Amendment proposal by EURELECTRIC

(4) Billing shall take place on the basis of actual consumption at least once a year. **Billing** information shall be made available at least once every three months, upon request or where the final customers have opted to receive electronic billing or else twice a year

(4) Billing shall take place on the basis of actual consumption at least once a year. Information **on actual consumption** shall be made available at least once every three months, upon request or where the final customers have opted to receive electronic billing or else twice a year

Justification

The proposed change only aims at clarifying the current provision. The minimum information to be contained in the bill are defined in Annex II par 1. Billing information on the other hand are defined in Annex II par 2. Referring to “information on actual consumption” instead of “billing information” in this article would avoid any confusion about which information has to be provided when.

Amendment 24

Article 18 – paragraph 4

Text proposed by Commission

Amendment proposal by EURELECTRIC

(4) Where final customers have meters that allow remote reading by the operator, accurate ***billing*** information ***based*** on actual consumption shall be provided at least once a month.

(4) Where final customers have meters that allow remote reading by the operator, accurate information on actual consumption shall be provided at least once a month.

Justification

The proposed change only aims at clarifying the current provision. The minimum information to be contained in the bill are defined in Annex II par 1. Billing information on the other hand are defined in Annex II par 2.

Amendment 25

Article 18 – paragraph 7

Text proposed by Commission

Amendment proposal by EURELECTRIC

(7) Member States may lay down that, at the request of the final customers, the information contained in these bills shall not be considered to constitute a request for payment. In such cases, Member States shall ensure that suppliers offer flexible arrangements for payments.

Delete

Justification

This provision is very confusing; it contradicts Article 18.3 and the broader goal of energy efficiency. A bill is a request for payment.

Smart metering

Amendment 26

Article 20 (2) Smart meter functionalities

Text proposed by Commission

Amendment proposal by EURELECTRIC

Where smart metering is positively assessed as a result of cost-benefit assessment referred to in Article 19(2), or systematically rolled out, Member States shall implement smart metering systems in accordance with European standards, the provisions in Annex III, and in line with the following principles:

- (a) the metering systems accurately measure actual electricity consumption and provide to final customers information on actual time of use. That information shall be made easily available **and visualised** to final customers **at no additional cost and at near-real time** in order to support automated energy efficiency programmes, demand response and other services;
- (b) the security of the smart metering systems and data communication is ensured in compliance with relevant European Union security legislation having due regard of the best available techniques for ensuring the highest level of cybersecurity protection;

...

- (g) smart metering systems **shall** enable final customers to be metered and settled at the same time resolution as the imbalance period in the national market.

Where smart metering is positively assessed as a result of cost-benefit assessment referred to in Article 19(2), or systematically rolled out, Member States shall implement smart metering systems in accordance with European standards, the provisions in Annex III, and in line with the following principles:

- (a) the metering systems accurately measure actual electricity consumption and provide to final customers information on actual time of use. That information shall be made easily available to final customers in order to support automated energy efficiency programmes, demand response and other services;
- (b) the security of the smart metering systems and data communication is ensured in compliance with relevant European Union security legislation having due regard of the best available techniques for ensuring the highest level of cybersecurity protection **taking into consideration the customers interest for a constant level of protection and the costs of the upgrades involved;**

...

- (g) smart metering systems **may** enable final customers to be metered and settled at the same time resolution as the imbalance period in the national market.

Justification

- a) *Deletion of specification “near real time” as shortening the time period to get data (raw and validated) cannot be provided without any additional costs and will inevitably make the cost benefit analysis negative. Furthermore some Member States already began the smart meter roll out, technical requirements should not cause a readjustment of already developed technology.*

Also mandating this functionality as mandatory will negatively impact the development of energy services (at no additional costs).

- b) *It will be almost technically impossible and expensive to maintain the security of the system at the highest level of cyber security protection throughout the entire system life time: this would mean in practice a continuous update of the software.*
- c) *g)addition proposed to avoid inefficient cost and related communication upgrades which are inefficient for certain type of customers*

Amendment 27

Article 21 Entitlement to a smart meter

Text proposed by Commission

Amendment proposal by EURELECTRIC

2. In the context of a customer request for a smart meter pursuant to paragraph 1, Member States or, where a Member State has so provided, the designated competent authorities shall:

(a) ensure that the offer to the final customer requesting the installation of a smart meter explicitly states and clearly describes:

– the functions and interoperability that can be supported by the smart meter and the services that are feasible as well as the benefits that can be realistically attained by having that smart meter at that moment in time;

– any associated costs to be borne by the final customer;

(b) ensure that it is installed within a reasonable time **and no later than three months** after the customer's request;

....

2. In the context of a customer request for a smart meter pursuant to paragraph 1, Member States or, where a Member State has so provided, the designated competent authorities shall:

(a) ensure that the offer to the final customer requesting the installation of a smart meter explicitly states and clearly describes:

– the functions and interoperability that can be supported by the smart meter and the services that are feasible as well as the benefits that can be realistically attained by having that smart meter at that moment in time;

– any associated costs to be borne by the final customer;

(b) ensure that it is installed within a reasonable time **inside the roll-out planning** after the customer's request;

....

Justification

Deletion of a strict timeline “no later than three months” as not feasible in cases where smart meter deployment is selective and on request.

Data management and data format

Amendment 28

Article 23 – paragraph 2

Text proposed by Commission

Amendment proposal by EURELECTRIC

(2) Member States shall organise the management of data in order to ensure efficient data access and exchange. Independently of the data management model applied in each Member State, the party or parties responsible for data management shall provide to any eligible party with the explicit consent of the final customer, access to the data of the final customer. Eligible parties should have at their disposal in a non-discriminatory manner and simultaneously the requested data. Access to data shall be easy, while relevant procedures shall be made publicly available.

(2) Member States shall organise the management of data in order to ensure **secure, transparent, neutral, non-discriminatory and cost-efficient** data access and exchange. Independently of the data management model applied in each Member State, the party or parties responsible for data management shall, **in accordance with Regulation (EU) 2016/679**, provide to any eligible party with the explicit consent of the final customer, access to the data of the final customer. Eligible parties should have at their disposal in a non-discriminatory manner and simultaneously the requested data. Access to data shall be easy, while relevant procedures shall be made publicly available.

Justification

Whilst we agree that there is no ‘one size fits all’ data management model applicable in all European countries, it is however fundamental to set common principles at EU level to ensure that data access and exchange is done in a secure, transparent, neutral, non-discriminatory, and cost-efficient way.

DSOs and suppliers should have unrestricted access to customers’ data needed to fulfil their legal and regulatory liabilities (security of supply, billing, switching etc.), as per their contractual obligations. For any other additional service, access to metering and consumption data should be possible only after the explicit consent of the customer. The General Data Protection Regulation (EU 2016/679) introduces very precise rules and obligations about consumer consent and we think the Electricity Directive should be aligned.

Amendment 29

Article 24 – paragraph 1

Text proposed by Commission

Amendment proposal by EURELECTRIC

(1) Member States shall define a common data format and a transparent procedure for eligible parties to have access to the data listed under paragraph 1 of Article 23, in order to promote competition in the retail market and avoid excessive administrative costs for the eligible parties.

(1) Member States shall define a common **national** data format and a transparent procedure for eligible parties to have access to the data listed under paragraph 1 of Article 23, in order to promote competition in the retail market and avoid excessive administrative costs for the eligible parties.

Justification

Data format should be primarily harmonised at national level. It is unclear what « common » data format alone means.

Amendment 30

Article 24 – paragraph 2

Text proposed by Commission

Amendment proposal by EURELECTRIC

(2) The Commission, **by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 68, shall** determine a common European data **format and** non-discriminatory and transparent **procedures for** accessing the data, listed under paragraph 1 of Article 23, **that will replace** national data format and procedure **adopted by Member States** in accordance with paragraph 1. **Member States shall ensure that market participants apply a common European data format.**

(2) The Commission **may** determine **a set of principles for** a common European data **framework to support** non-discriminatory and transparent access **to** the data, listed under paragraph 1 of Article 23. **Such principles should be taken into account by Member States when developing their** national data format and procedure in accordance with paragraph 1.

Justification

It is worth recalling that several Member States have just implemented a national data hub (e.g. Denmark, Italy) or are about to do it (e.g. Finland, Sweden, Norway, Belgium, France, etc.). Introducing a new data format would require market actors and DSOs to upgrade all core systems (such as billing) thus creating high costs. However we do think there is merit in establishing a set of principles at EU level to guide those Member States which have not yet define their national data format, thus facilitating convergence of data format and procedures.

Tasks of DSOs

Amendment 31

Article 31 – paragraph 1

Text proposed by Commission

Amendment proposal by EURELECTRIC

The distribution system operators shall be responsible for ***ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity, for operating, maintaining and developing under economic conditions a secure, reliable and efficient electricity distribution system in its area with due regard for the environment and energy efficiency.***

...

The distribution system operators shall be responsible for:

- a) ***ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity, for operating, maintaining and developing under economic conditions a secure, reliable and efficient electricity distribution system in its area with due regard for the environment and energy efficiency.***
- b) ***managing electricity flows on the system, taking into account exchanges with other interconnected systems. To that end, the distribution system operator shall be responsible for ensuring a secure, reliable and efficient electricity system and, in that context, for ensuring the availability of all necessary ancillary services, including those provided by demand response and energy storage, insofar as such availability is independent from any other distribution system with which its system is interconnected;...***

Justification

This specific sentence for the secure, reliable and efficient operation of its distribution system would strengthen and underline the role of DSOs as active system managers.

Amendment 32

Article 31 – paragraph 6 (new)

Text proposed by Commission

Amendment proposal by EURELECTRIC

6. Where a distribution system operator is responsible for balancing the distribution system, rules adopted by it for that purpose shall be objective, transparent and non-discriminatory, including rules for the charging of system users of their networks for energy imbalance. Terms and conditions, including rules and tariffs, for the provision of such services by distribution system operators shall be established in accordance with Article 59 (6) in a non-discriminatory and cost-reflective way and shall be published.

Justification

We would like to stress the crucial role of DSOs for system stability as well as market facilitation in the ongoing energy transition. Balancing the local grid becomes a focal point creating further complexity and affecting the overall coordination of the distribution system, which might impact operation, quality and cost of the service.

Tasks of DSOs in flexibility

Amendment 33

Article 32

Text proposed by Commission

1. Member States shall provide the necessary regulatory framework to allow and incentivise distribution system operators to procure services in order to improve efficiencies in the operation and development of the distribution system, including local congestion management. In particular, regulatory frameworks shall enable distribution system operators to procure services from resources such as distributed generation, demand response or storage and consider energy efficiency measures, which may supplant the need to upgrade or replace electricity capacity and which support the efficient and secure operation of the distribution system. Distribution system operators shall procure these services according to transparent, non-discriminatory and market based procedures.

[...]

2. The development of a distribution system shall be based on a transparent network development plan that distribution system operators shall submit **every two years** to the regulatory authority. The network development plan shall contain the planned investments for the next five to ten years, with particular emphasis on the main distribution infrastructure which is required in order to connect new generation capacity and new loads including re-charging points for electric vehicles. The network development plan shall also demonstrate the use of demand response, energy efficiency, energy storage facilities or other resources that distribution system operator is using as an alternative to system expansion.

The regulatory authority shall consult all

Amendment proposal by EURELECTRIC

1. Member States shall provide the necessary regulatory framework to allow and incentivise distribution system operators to procure **and use** services in order to improve efficiencies in the operation and development of the distribution system, including local congestion management. In particular, regulatory frameworks shall enable distribution system operators to procure **and use** services from resources such as distributed generation, demand response or storage and consider energy efficiency measures, which may supplant the need to upgrade or replace electricity capacity and which support the efficient and secure operation of the distribution system. Distribution system operators shall procure these services according to transparent, non-discriminatory and market based procedures.

[...]

2. The development of a distribution system shall be based on a transparent network development plan that distribution system operators shall submit to the regulatory authority. The network development plan shall contain the planned investments for the next five to ten years, with particular emphasis on the main distribution infrastructure which is required in order to connect new generation capacity and new loads including re-charging points for electric vehicles. The network development plan shall also demonstrate the use of demand response, energy efficiency, energy storage facilities or other resources that distribution system operator is using as an alternative to system expansion.

current or potential system users on the network development plan. The regulatory authority shall publish the result of the consultation process on the proposed investments.

Delete

[...]

Justification

It is up to Member States to decide on the review cycle of the network development plan considering the situation of the already deployed distribution network infrastructure.

It is inappropriate to define a harmonised consultation process for DSOs' development plan at EU level given the large number of national specificities. The consultation should be decided by Member States and not be mandatory.

Electro-mobility

Amendment 34

Article 33 – paragraph 4

Text proposed by Commission

Amendment proposal by EURELECTRIC

Member States shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to own, develop, operate or manage recharging points for electric vehicles. In case the public consultation indicates that third parties are able to own, develop, operate or manage such points, Member States shall ensure that distribution system operators' activities in this regard are phased-out.

Member States shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to own, develop, operate or manage recharging points for electric vehicles. In case the public consultation indicates that third parties are able to own, develop, operate or manage such points, Member States shall ensure that distribution system operators' activities in this regard are phased-out, **assets are transferred at market value, and distribution system operators recover eligible costs incurred.**

Distribution System Operators are entitled to own, develop, operate or manage their own recharging points in their facilities for their exclusively operational use.

Justification

It should be guaranteed that DSOs can recover the costs incurred, also and notably if the activity of the DSO in this field is phased out.

Any discrepancies between the costs sustained by the DSO and the market value of assets at the moment of sale may be recovered through the grid tariffs.

Storage

Amendment 35

Article 36

Text proposed by Commission

Amendment proposal by EURELECTRIC

1. Distribution system operators shall not be allowed to own, develop, manage or operate energy storage facilities.

2. By way of derogation from paragraph 1, Member States may allow distribution system operators to own, develop, manage or operate storage facilities only if the following conditions are fulfilled:

(a) other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate storage facilities;

(b) such facilities are necessary for the distribution system operators to fulfil its obligations under this regulation for the efficient, reliable and secure operation of the distribution system;

And

(c) the **regulatory authority** has assessed **the necessity of such derogation taking into account the conditions under points (a) and (b)** of this paragraph and has granted its approval.

3. Articles 35 and Article 56 shall apply to distribution system operators engaged in ownership, development, operation or management of energy storage facilities.

4. Regulatory authorities shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to invest, develop, operate or manage energy storage facilities. In case the public consultation indicates that third parties are able to own, develop, operate or manage such facilities, Member States shall ensure that distribution system operators' activities in this regard are phased-out

1. Energy storage facilities shall be owned, developed, managed or operated by markets participants.

2. Distribution system operators may be allowed to own, develop, manage or operate storage facilities if such facilities are necessary for the distribution system operator to fulfil its obligations under this regulation for the efficient, reliable and secure operation of the distribution system only if the following conditions are fulfilled:

(a) other parties, following an open and transparent tendering procedure **(under NRA supervision)**, have not expressed their interest to own, develop, manage or operate **cost-effectively** storage facilities **or for alternatives flexibility services;**

Or;

(b) the NRA has assessed **that there is no necessity to apply the condition under point (a)** of this paragraph and has granted its approval.

3. Articles 35 and Article 56 shall apply to distribution system operators engaged in the ownership, development, operation or management of energy storage facilities.

4. Regulatory authorities shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to invest, develop, operate or manage energy storage facilities. In case the public consultation indicates that third parties are able to own, develop, operate or manage such facilities, Member States shall ensure that distribution system operators' activities in this regard are phased-out **with compensation on fair and reasonable terms.**

Justification

Storage is a key part of the new active DSO's 'toolkit' which can be used to assist DSOs to operate and plan their networks more 'flexibly'. A tendering procedure is to assess whether DSOs should be allowed to own, develop, manage or operate energy storage facilities because in principle energy storage facilities shall be owned, developed, managed or operated by markets participants. Nevertheless a mandatory tendering procedure could be both costly and time consuming and not appropriate for every situation.

It is a simple adjustment to the normal course of the DSOs business in cooperation with the NRA and does not require a tender to be undertaken by the NRAs, nor does it require Member States to provide derogation from EU law.

Tasks of TSOs

Amendment 36

Article 40 – paragraph 4 (new)

Text proposed by Commission

Amendment proposal by EURELECTRIC

(c) reflective of the need for all products and services for the system.

Justification

TSOs need to highlight requirements for their systems in advance and procure their full demand in order for commercial market participants to invest in assets to deliver these products and services.

Independence of TSOs

Amendment 37

Article 47 – paragraph 3

Text proposed by Commission

Amendment proposal by EURELECTRIC

The vertically integrated undertaking and its subsidiaries undertaking performing functions of generation or supply shall not have any direct or indirect shareholding in the transmission system operator. The transmission system operator shall neither have any direct or indirect shareholding in any subsidiary of the vertically integrated undertaking performing functions of generation or supply, nor receive dividends or any other financial benefit from that subsidiary.

The vertically integrated undertaking and its subsidiaries ***of the vertically integrated*** undertaking performing functions of generation or supply shall not have any direct or indirect shareholding in the transmission system operator. The transmission system operator shall neither have any direct or indirect shareholding in any subsidiary of the vertically integrated undertaking performing functions of generation or supply, nor receive dividends or any other financial benefit from that subsidiary.

Justification

The proposed change can also be interpreted in a way that extends the ban on the ownership in the ITO to vertically integrated undertakings.

Billing and billing information

Amendment 38

Annex II – paragraph 2 (new)

Text proposed by Commission

Amendment proposal by EURELECTRIC

Where appropriate, the following information shall be ***prominently displayed*** to final customers ***in or with their bills and periodical settlement bills***:

(a) current actual prices and actual consumption of energy;

(b) comparisons of the customers' current energy consumption with consumption for the same period in the previous year in graphic form;

(c) contact information for consumer organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, comparisons with an average normalised or benchmarked customer in the same user category shall be made available to final customers ***in, with or signposted to within, their bills and periodical settlement bills***.

(2) Billing information

Where appropriate, the following ***billing*** information shall be ***made available*** to final customers:

(a) current actual prices and actual consumption of energy;

(b) comparisons of the customers' current energy consumption with consumption for the same period in the previous year in graphic form;

(c) contact information for consumer organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, ***wherever possible and useful***, comparisons with an average normalised or benchmarked customer in the same user category shall be made available to final customers.

Justification

It is crucial to make a clearer distinction between billing and billing information to simplify the current regulatory framework and to increase consumer satisfaction with bills.

- *Billing should only contain key information (e.g. consumption, price to pay, etc.) as defined in Annex II par1;*
- *Billing information should be distinct from the bill. It should contain separate additional information about consumers' consumption and rights, as defined in Annex II.2 and II.5.*

Bills are not intended to facilitate comparison by consumers, other tools such as Comparison tools are meant for this. However if bills contain minimum requirements in a clear and concise way, consumers will easily find the information they need to compare their existing tariff with other offers available on the market.

Text proposed by Commission

Amendment proposal by EURELECTRIC

4. Disclosure of energy sources

Suppliers shall specify in **bills**:

(a) the contribution of each energy source to the overall fuel mix of the supplier **(at national level i.e. in the Member State where the supply contract has been concluded, as well as at the level of the supply undertaking if the supplier is active in several Member States)** over the preceding year in a comprehensible and clearly comparable manner;

(b) the contribution of each energy source to the electricity purchased by the customer in accordance with the supply contract (product level disclosure);

(c) as a minimum the reference to existing reference sources, such as web pages, where information on the environmental impact, in terms of at least CO₂ emissions and the radioactive waste resulting from the electricity produced by the overall fuel mix of the supplier over the preceding year is publicly available;

5. Disclosure of energy sources

Suppliers shall specify in **billing information**:

(a) the contribution of each energy source to the overall fuel mix of the supplier over the preceding year in a comprehensible and clearly comparable manner; **and/or**

(b) the contribution of each energy source to the electricity purchased by the customer in accordance with the supply contract (product level disclosure);

(c) as a minimum the reference to existing reference sources, such as web pages, where information on the environmental impact, in terms of at least CO₂ emissions and the radioactive waste resulting from the electricity produced by the overall fuel mix of the supplier over the preceding year is publicly available;

Justification

It would be much clearer for consumers to receive information about one mix only. This should be the product mix and/or the supplier mix depending on national circumstances. In addition, we think such information should primarily be communicated as billing information and not through the bill.

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



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