Amendments on the electricity market design review

Eurelectric amendments

April 2023

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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Markets & Investments Committee
Customers & Retail Services Committee
Distribution & Market Facilitation Committee

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Executive Summary

The recent proposal by the European Commission on the revision of the electricity market design has been overall welcomed by Eurelectric. The proposal focuses on enhancing customer choices and boosting long-term contracts and hedging opportunities to encourage investment in renewable energy sources and low carbon technologies. However, we have identified the following five key issues that need to be addressed to ensure the proposal's success.

Firstly, the focus on long-term contracts and markets is appreciated, but the design needs to be adequate to allow long-term instruments to complement each other. Additionally, retroactive changes should be avoided, and measures facilitating the approval and long-term implementation of capacity mechanisms should be considered.

Secondly, enhancing forward market liquidity is essential, and quick-wins based on the current set-up should be implemented. Collateral requirements should be addressed, and untested solutions like virtual hubs should be avoided.

Thirdly, the right balance between customer protection and supply regulation should be struck. Stress tests and reporting requirements should be encouraged instead of normalising hedging strategies and regulating supply offers to the detriment of retail competition and customers' choice.

Fourthly, grid investment and modernisation are necessary for the energy transition, and tariff design should provide the right incentives to system operators. National regulatory barriers should be removed to boost investment.

Finally, flexibility potential should be unlocked in a technology-neutral and market-based manner. All flexibility options should be considered, and flexibility support should be embedded in existing markets and capacity mechanisms where they exist.

In conclusion, the European Commission's proposal is a step in the right direction, but the five key issues identified by Eurelectric need to be addressed to ensure its success.

In this document, you will find:

- Our priority amendments targeting the five key issues above mentioned;
- Accompanying amendment proposals on those five key issues and other relevant provisions;
- Amendment proposals on the recitals.

Priority Amendment Proposals

Amendment Proposals for Contracts for difference

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 1

Article 19b: Direct price support schemes for new investments in generation – paragraph 1

Original text	Original text +**amendments**
'Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of a two-way contract for differences. New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime.'	'Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of a two-way contract for differences **or equivalent mechanisms achieving the same goals.** New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime.'

Justification

As there is no 'one size fits all CfD', two-way CfDs or similar arrangements must be carefully designed to preserve price signals, efficient short-term dispatch and liquidity of forward market. Two-way CfDs are most relevant for variable RES (e.g. wind, PVs and run of river hydro), while dispatchable RES (e.g. reservoir, pumped-storage hydro and biomass) and low-carbon technologies (e.g., nuclear based on green/ synthetic gases or any other storage) may require adapted schemes to ensure adequate short-term incentives. Different design types shall adequately reflect specificities of assets' life cycles and reduce their overall costs, while maintaining the symmetrical property of providing both support for the developer and price stabilisation for the consumers. Therefore, in order to minimise the costs of the energy transition and to maximise social welfare, it is crucial to leave room for contractual innovation. On the other hand, one-way CfDs must remain explicitly excluded from future support schemes. Competitive allocation in accordance with State Aid Guidelines should be the general rule to prevent undue distortions to the efficient functioning of electricity markets. unless not possible under specific circumstances (e.g. absence of potential capacity) and for specific capacity (e.g. small-scale distributed resources).

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 2

Article 3: Amendment to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources

Original text	Original text +**amendments**
Directive (EU) 2018/2001 is amended as follows:	~~**Directive (EU) 2018/2001 is amended as follows:**~~
(1) Article 4(3) is amended as follows:	~~**(1) Article 4(3) is amended as follows:**~~
(a) the second subparagraph is replaced by the following:	~~**(a) the second subparagraph is replaced by the following:**~~
'To that end, with regard to direct price support schemes, support shall be granted in the form of a market premium, which could be, inter alia, sliding or fixed. This sentence shall not apply to support for electricity from the renewable sources listed in Article 19b(2) of Regulation (EU) 2019/944, to which Article 19b(1) of that Regulation applies.'	~~**'To that end, with regard to direct price support schemes, support shall be granted in the form of a market premium, which could be, inter alia, sliding or fixed. This sentence shall not apply to support for electricity from the renewable sources listed in Article 19b(2) of Regulation (EU) 2019/944, to which Article 19b(1) of that Regulation applies.'**~~

Justification

In accordance with the amendment above we propose to remove any restrictions on the form of the support. Thus, leaving room for contractual innovation and ensuring that support schemes take into account the specificities of the life cycle of the assets while maintaining the symmetrical property of providing both support for the developer and price stabilization for the consumers.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 3:

Article 19b: Direct price support schemes for new investments in generation – paragraph 3

Original text	Original text +**amendments**
Direct price support schemes in the form of two-way contracts for difference shall:	Direct price support schemes in the form of two-way contracts for difference shall:
(a) be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);	(a) be designed so that the revenues collected when the market price is above the strike price are distributed to ~~**all**~~ final electricity customers ~~**based on their share of consumption (same cost / refund per MWh consumed)**~~ **or to support the investments for the energy transition of the electricity sector**;
(b) ensure that the distribution of the revenues to final electricity customers is designed so as not to remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers;	(b) ensure that the distribution of the revenues to final electricity customers is designed so as not to remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers **or causing additional congestion in the grid**;
	(c) **ensure the liquidity of forward markets is preserved.**

Justification

The article should allow Member States more freedom on how to allocate revenues of two-sided CfDs settlement. Beyond the option to distribute to final electricity customers, Member States shall have the option to use the settlement to support investments for the energy transition of the electricity sector. When it comes to the redistribution to final customers, the proposed allocation proportional to the consumption could be deemed equitable but risks dampening price signals (reducing the ratio between peak and off-peak prices) and incentives to electrification. Last but not least, CfD design (including the use given to the costs/revenues from their settlement) must ensure that the liquidity of forward markets is preserved. This could be done, for example, by ensuring that the reference includes but is not limited to forward markets, intraday or even a combination of reference price. Including reference to forward markets in the calculation of the reference price could foster liquidity in forward markets and longer-term hedging for these energy sources.

Amendment Proposals for Virtual Hubs

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 4	
Article 9 Forward Markets	
Delete new Art. 9 except for paragraph 5 (market making as amended below) and keep the current article 9 of Reg 743/2019 with the following improvement amendments	
Original text	Original text +**amendments**
Article 9 is replaced by the following:	~~**1. By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:**~~
1. By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:	~~**(a) define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs;**~~
(a) define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs;	~~**(b) include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria;**~~
(b) include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria;	~~**(c) include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market;**~~
(c) include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market;	~~**(d) maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs.**~~
(d) maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs.	**In accordance with Regulation (EU) 2016/1719, transmission system operators shall issue long-term transmission rights or have equivalent measures in place to allow for market participants, including owners of power-generating facilities using renewable**
2. Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO	

for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.

3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council.

4. The single allocation platform shall:

(a) offer trading of long-term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long-term transmission rights to a virtual hub or to other bidding zones that are part of the same capacity calculation region;

(b) allocate long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross-zonal capacity shall support the efficient functioning of the forward market;

(c) offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead.

5. Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy **energy sources, to hedge price risks across bidding zone borders, unless an assessment of the forward market on the bidding zone borders performed by the competent regulatory authorities shows that there are sufficient hedging opportunities in the concerned bidding zones.**

2. ~~**Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.**~~ **Long-term transmission rights shall be allocated by TSOs with a range of maturities of up to at least three years ahead in a transparent, market based and non-discriminatory manner through a single allocation platform. The frequency of allocation of the long-term cross-zonal capacity shall support the efficient functioning of the forward market.**

All TSOs in each capacity calculation region should develop an approach that is aiming to increase the volume of cross-zonal capacities in forward markets and an increase in liquidity. This approach should be duly assessed (for instance apply a statistical approach for each forward capacity calculation with the objective to maximise long-term cross-zonal capacities).

3. ~~**The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council.**~~ **Subject to compliance with Union competition law, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power- generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such**

sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone.

hedging activity be limited to trades within a Member State or bidding zone.

4. ~~**The single allocation platform shall:**~~

~~**(a) offer trading of long-term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long-term transmission rights to a virtual hub or to other bidding zones that are part of the same capacity calculation region;**~~

~~**(b) allocate long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross-zonal capacity shall support the efficient functioning of the forward market;**~~

~~**(c) offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead.**~~

~~**5.**~~ Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), ~~**it may require**~~ power exchanges ~~**or transmission system operators to**~~ **could** implement ~~**additional measures, such as**~~ **voluntary market-based tendering process for the establishment of** market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require

that such hedging activity may be limited to trades within a Member State or bidding zone

Justification

Non mature proposal – does not solve the issues identified to support forward markets

The provision proposed in Art. 9 for the establishment of regional virtual hubs in the forward market and the new Art 69(a) should be deleted and discussions postpone to the Forward Capacity Allocation Guidelines (FCA) i.e. Regulation (EU) 2016/1719 revision process with further assessment.

The current Art.9 is already fit-for purpose to potentially accommodate virtual hubs in FCA 2.0. Non-tested technical tool should not be embedded in primary regulation. Furthermore, this concept is long to implement (according to ACER it would take 5-10 years) while the proposal is not addressing the immediate issues behind the current lack of liquidity caused by high cash collateral requirements and regulatory interventions.

The review of the Electricity Regulation should focus instead on targeted measures to remove regulatory disincentives (application of Art3), widen non-cash collateral options (with a clear visibility on the timeline regarding the revision of Art 46.1 of EMIR regulation), voluntary market making and improve access to cross-border capacity on forward markets.

We propose a new amendment that aims at widening the eligible collateral options. (See amendment 19 below).

We also propose amendments to the current Article 9 which represents quick wins to improve access to cross-border hedging:

- *Provide for maturity extension of LTTRs allocation up to at least 3 years and more frequent auctions as proposed by the EC provision;*
- *Apply statistical approach for forward CZ capacity calculation to increase the volumes of long-term CZ capacities issued by TSOs;*
- *Enable voluntary market-based tendering process in place for the establishment of market making activities, allowing to improve the liquidity in bidding zones;*
- *Keep the possibility to have equivalent measures to LTTRs in place.*

Amendment Proposals for Supplier Hedging & Product Obligations

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 5	
Proposed Article 18a (Directive)	
Original text	Original text +**amendments**
1. National Regulatory Authorities shall ensure that suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets.	1. National Regulatory Authorities shall ensure that suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets. **This could be achieved through (i) regular stress tests to verify the ability of suppliers to face major changes in the market dynamics; and (ii) reporting requirements towards regulators on how suppliers ensure their resilience.**

Justification

We understand the Commission's focus on ensuring suppliers' financial robustness in the context of the market exits which followed the price spikes starting in Autumn of 2021, however the current proposal is too broad and may lead to interventions risking suppliers' ability to remain in the market and may prevent otherwise financially sound new entrants from joining the market and driving competition. Our proposal would allow NRAs to be able to check suppliers' resilience against market shocks either through financial robustness, through risk hedging in consistency with the risks taken depending on the structure of their portfolios and customers' retail price or other means. For instance, consumers opting for dynamic pricing may not require hedging, while consumers with fixed prices would.

nb: A prerequisite of this resilience framework is to ensure that barriers to long-term hedging and supply in forward markets are addressed. Member States could envisage to define such a framework in suppliers' license conditions or in the regulation. Developing guidance at EU level would be useful to facilitate harmonisation of processes and methodologies across Member States and account for the fact that suppliers may be present in various jurisdictions.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 6	
Proposed Article 18a (Directive)	
Original text	Original text +**amendments**
2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets of power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law.	~~**2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets of power purchase agreements exist which allow effective competition, Member States ay require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law**~~.

Justification

We do not find this proposal will achieve the aim of the Commission in providing adequate hedging against market volatility and it may in fact drive up costs for consumers where competition is reduced as part of suppliers' hedging strategies are normalised by tying some requirements to a particular financial instrument. It is also worth noting that given the inherent variability of most renewable generation contracted through PPAs, it is not an efficient instrument to hedge against "risk exposure to changes in wholesale electricity prices."

Rather than normalising the hedging strategies of suppliers through particular instruments, we would refer to our previous suggestion that NRAs be empowered to test suppliers' resilience through stress testing and reporting. Normalisation of hedging strategies will hinder the competitive dynamics of a given market and could lead to higher prices for consumers due to reduced choice.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 7

Article 11 (1) (Directive)

Original text	Original text +**amendments**
1. Member States shall ensure that the national regulatory framework enables suppliers to offer fixed-term, fixed-price contracts and dynamic electricity price contracts. Member States shall ensure that final customers who have a smart meter installed can request to conclude a dynamic electricity price contract and that all final customers can request to conclude a fixed-term, fixed-price electricity price contract of a duration of at least one year, with at least one supplier and with every supplier that has more than 200 000 final customers.	1. Member States shall ensure that the national regulatory framework enables suppliers to offer **~~fixed-term, fixed-price contracts and dynamic electricity price~~ different** contracts **which are adapted to the variety of needs and risk profiles of consumers.** Member States shall ensure that **~~final customers~~ consumers** who have a smart meter installed can request to conclude a dynamic electricity price contract **~~and that all final customers can request to conclude a fixed-term, fixed-price electricity price contract of a duration of at least one year, with at least one supplier and with every supplier that has more than 200 000 final customers~~**.

Justification

Eurelectric recommends removing the language which regulates particular products be made available on the market, and instead proposes language which allows Member States the ability to reflect their market specificities. We agree that consumers benefit when there are a variety of offers in the market, but we do not find it efficient to regulate specific products in legislation. If there is demand for a particular product, the market will respond to that demand organically.

Furthermore, regulating products that suppliers of a particular size must offer puts them at a competitive disadvantage compared to smaller market operators when these products require hedging. Considering that all suppliers maintain all other responsibilities to their customers, we do not understand why the requirement to offer fixed and dynamic priced contracts is only an obligation of suppliers servicing 200 000 or more customers. Implementation of this requirement should be left to Member States. For example, they may provide competitive remuneration for suppliers offering products they do not feel are being represented adequately in the market where a need may exist.

We have also proposed a change in the wording to align with the Consumer Protection legislation, as different protection requirements apply to different customer segments. The provisions of Article 11 apply to household customers, defined as "consumers" in Art. 2(1) of Directive 2011/83/EU of the European Parliament and of the Council. We would recommend applying this alignment in all of the relevant consumer protection provisions of this Directive.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 8	
Article 11 (1b) (Directive)	
Original text	Original text +**amendments**
None	**1b. Should a consumer conduct an additional contract, as guaranteed under the conditions of Article 4 of this Directive, or engages in energy sharing, or changes the energy sharing conditions, the consumer must notify any supplier(s) with whom they have an existing contract.**

Justification

While we agree that customers should have the right to conduct multiple contracts, having these contracts can drastically change their load profile and affect the consumption projections suppliers use to procure or hedge the correct amount of electricity to keep the system in balance. In order to mitigate the risk to suppliers of over-procuring or hedging based on inaccurate forecasts developed with incomplete information, we are requesting that customers be required to notify their supplier(s) of any additional contracts they enter into which may affect their energy consumption pattern.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 9	
Proposed Article 2 (15a) (Directive)	
Original text	Original text +**amendments**
'fixed term, fixed price electricity supply contract' means an electricity supply contract between a supplier and a final customer that guarantees the same contractual conditions, including the price, while it may, within a fixed price, include a flexible element with for example peak and off peak price variations;	'fixed term, fixed price electricity supply contract' means an electricity supply contract between a supplier and a final customer that guarantees the same contractual conditions, including the price **of the energy component of the bill over the contract duration**, while it may, within a fixed price, include a flexible element with for example peak and off peak price variations**. The other components (network charges, taxes, and other levies) shall be passed through to the final customer**;
Justification	
Although generally stated clearly in the contractual conditions, we think it should also be explicitly in law that these conditions can only apply to the energy component of the bill. If the fixed product is conducted over a period where taxes, regulated system or mechanism such as the ARENH's price in France, levies, and tariffs may change (which are imposed by governments, regulators, or system operators), the suppliers must be able to pass these changes on to the customer.	

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 10	
Article 12(3) (Directive)	
Original text	Original text +**amendments**
None	By way of derogation from paragraph 2, Member States **~~may permit~~** **shall grant** suppliers or market participants engaged in aggregation **the right** to charge customers contract termination fees where those customers voluntarily terminate fixed-term, fixed-price electricity supply contracts before their maturity, provided that such fees are a part of a contract that the customer has voluntarily entered into and that such fees are clearly communicated to the customer before the contract is entered into. Such fees shall be proportionate and shall not exceed the direct economic loss to the supplier or the market participant engaged in aggregation resulting from the customer's termination of the contract, including the costs of any bundled investments or services that have already been provided to the customer as part of the contract. The burden of proving the direct economic loss shall be on the supplier or market participant engaged in aggregation, and the permissibility of contract termination fees shall be monitored by the regulatory authority, or by an other competent national authority.
Justification	
Retail fixed-term, fixed price electricity supply contracts require a dual-sided commitment between customers and suppliers. Without the right to charge proportionate early termination fees, suppliers can be put in the position where they over-procure electricity, due to the hedging required to support fixed contracts, and put the system out of balance. As already stipulated in the Electricity Directive, it is key to ensure that such fees are proportionate and are clearly communicated to the customer before the contract is entered into.	

Amendment Proposals for Energy Sharing

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 11	
Proposed Article 15a (Directive)	
Original text	Original text +**amendments**
1. (d) are entitled to have the shared electricity netted with their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable taxes, levies and network charges;	1. (d) are entitled to have **~~the shared~~ injected** electricity**, including from electricity storage, ~~netted with~~ deducted from** their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable **losses, ancillary services,** taxes, levies and network charges. **All of the energy delivered by system operators to a connection point shall be subject to the same network losses and ancillary services charges, taxes, levies, and network tariffs**;

Justification

The amendment clarifies that shared energy which transits by network must support network tariffs, and the same tariffs as non-shared energy. The precision is essential to avoid cross-subsidies between customers and discrimination between energy-sharing and non-energy sharing suppliers. We have also added clarification of all of the charges which are included in some Member States's network tariffs and not in others. As energy can be shared in wide zones, complete network tariffs must be paid.

Despite what has been said in above, the VAT on electricity sales must be charged based on the same energy amount as energy consumed. This means that VAT of electricity sales must be allowed to be netted if the energy purchased by the customer from the network is billed based on the calculation of energy sharing. It would be very problematic if the supplier had to charge VAT on a different amount of energy (not netted) than the energy sold (netted) on their invoice. This provision will create an unacceptable level of discrimination for customers participating in energy sharing.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 12

Proposed Article 15a (Directive)

Original text	Original text +**amendments**
1. (e) benefit from all consumer rights and obligations as final customers under this Directive, except in case of energy sharing between households with an installed capacity up to 10.8 kW and up to 50 kW for multi-apartment blocks using peer-to-peer trading agreements.	**~~1. (e) benefit from all consumer rights and obligations as final customers under this Directive, except in case of energy sharing between households with an installed capacity up to 10.8 kW and up to 50 kW for multi-apartment blocks using peer-to-peer trading agreements.~~**

Justification

We propose to strike this provision because we find that the consumer rights should be elaborated in the private contractual agreements which are established between active consumers and/or applicable legal entities, and as the proposal is written right now, it could exempt those participating in energy sharing between small households from the applicable network losses and ancillary services charges, tariffs, fees, and levies which should be paid by those who are utilising public infrastructure to share this energy.

Amendment Proposals for Grid tariff design

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 13	
Article 18(2) (Regulation)	
Original text	Original text +**amendments**
2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmissions system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection"	Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider~~ both~~ capital and operational expenditure, **or an efficient combination of both,** to provide appropriate incentives to transmissions system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection". **Network tariffs should be designed to provide the right incentives to system operators by combining a timely recognition of traditional investments in physical networks and adequate returns, with a flexible reflection of operational cost. Any obstacle in national regulation to the necessary and efficient investments must be abolished.**

Justification

The EC 's proposal fails to sufficiently address the massive grid investment & digitalisation challenge required to electrify further. The benefit of renewables and flexibility from consumers can be harvested only to the extent the grid deployment keeps up. Allowing System Operators to make anticipatory investment is positive. However, the reform should ensure that network tariff design provide the right incentives to system operators by combining a timely recognition of "classic" investments in physical networks and adequate returns, with a flexible reflection of operational costs and remove any existing barriers at national level.

Amendment Proposals for Peak Shaving

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 14	
Proposed Article 7a (Regulation)	
Original text	Original text +**amendments**
1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak house.	~~**1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak house.**~~
2. Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements:	~~**2. Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements:**~~
(a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs;	~~**(a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs;**~~
(b) the procurement of a peak shaving product shall be based on objective, transparent, non-discriminatory criteria and be limited to demand response;	~~**(b) the procurement of a peak shaving product shall be based on objective, transparent, non-discriminatory criteria and be limited to demand response;**~~
(c) the procurement of the peak shaving product shall take place using a competitive bidding process, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria;	~~**(c) the procurement of the peak shaving product shall take place using a competitive bidding process, with selection based on the**~~

(d) contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day;

(e) the activation of the peak shaving product shall not reduce cross-zonal capacity;

(f) the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market

(g) the peak shaving product shall not imply starting generation located behind the metering point.

3. The actual reduction of consumption resulting from the activation of a peak shaving product shall be measured against a Vaseline, reflecting the expected electricity consumption without the activation of the peak shaving product. Transmission system operators shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority.

4. Regulatory authorities shall approve the proposal of the transmission system operators seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs.

~~**lowest cost of meeting pre-defined technical and environmental criteria;**~~

~~**(d) contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day;**~~

~~**(e) the activation of the peak shaving product shall not reduce cross-zonal capacity;**~~

~~**(f) the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market**~~

~~**(g) the peak shaving product shall not imply starting generation located behind the metering point.**~~

~~**3. The actual reduction of consumption resulting from the activation of a peak shaving product shall be measured against a Vaseline, reflecting the expected electricity consumption without the activation of the peak shaving product. Transmission system operators shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority.**~~

~~**4. Regulatory authorities shall approve the proposal of the transmission system operators seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs.**~~

Justification

Peak shaving refers to the reduction of demand in peak hours, whether by reducing overall demand or by shifting it to other hours. This is a wider concept that can be used for the purpose of congestion management, balancing, or just market-based reaction to signals (whether is price levels or spreads) depending on the types of products contracted to market parties. As presented in the proposal, by character, peak shaving products are de facto specific balancing capacity products, though it's framed as a non-frequency ancillary service (article 2(49) in the proposed amendments for the Internal Electricity Market Directive). Firstly, this goes against the target model of the European balancing model, based on existing standard products (RR, aFRR, mFRR). Secondly, we do not think it is appropriate to outline specific products in the Regulation. Even non-frequency ancillary services – such as voltage control, black-start, inertia, … - are merely listed, in article 59(1)d), and not outlined as proposed.

Furthermore, leaving such a demand response product only with the TSOs will force market participants to choose where they will sell their demand (since they may only sell it once). This will reduce a significant portion of the limited liquidity in the existing flexibility markets (be it wholesale markets or DSO flexibility markets, which are not mentioned at all in the proposal). Finally peak shaving may also be carried out by DSOs as well as TSOs.

*It is also worthwhile to mention that further assessment should be done regarding the potential effect or distortion in the dynamics of price formation in both spot and balancing markets, considering this is contracted ahead of day-ahead and activated within the intra*day timeframe.

We would not be opposed to moving such a measure to the Risk Preparedness Regulation, so that it is confined exclusively to emergency situations. We also propose this be included as part of the proposed Article 66a provisions, please see the next amendment.

Amendment Proposals for flexibility needs assessment & targets

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 15	
Proposed Article 19c (Regulation)	
Original text	Original text +**amendments**
1. By 1 January 2025 and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data an analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3.	1. ~~**By 1 January 2025**~~ **Within 18 months from the publication of the adopted proposal by ACER as per paragraph 6** and every two years thereafter, the regulatory authority of each Member State shall ~~**assess and draw up a**~~ report on the need for flexibility in the electricity system **for a** ~~**period of at least 5 years**~~ **unique time horizon consistent with national and European scenario building activities**, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on ~~**the data an analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3.**~~ **European and national resource adequacy assessments, European and national network development plans and other relevant studies**.
2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand side response and storage to fulfil this need, both at transmission and distribution levels. The report shall distinguish between seasonal, daily and hourly flexibility needs.	2. The report shall include an evaluation of the need for **economically efficient** flexibility to integrate electricity generated from renewable sources **according to the National Energy and Climate Plan** in the electricity system ~~**and consider, in particular, the**~~
3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the	

preparation of the report referred to in paragraph 1 to the regulatory authority.

4. The ENTSO for Electricity and the EU DSO Entity shall coordination transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular they shall:

(a) define the types of data and format that transmission and distribution system operators shall provide to the regulatory authorities;

(b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system.

5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.

6. By 1 March 2024, the ENTSO for Electricity and the EU DSO Entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.

7. The regulatory authorities shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities.

~~potential of non-fossil flexibility such as demand-side response and storage to fulfil this need,~~ both at transmission and distribution levels. The report shall distinguish between seasonal, daily and hourly flexibility needs **and shall take into account all flexibility sources which can address local congestion and voltage problems**.

3. The transmission and distribution system operators of each Member State **shall contribute to the assessment by providing** ~~provide~~ the data and analyses needed for the preparation of the report referred to in paragraph 1 to the regulatory authority.

~~4. The ENTSO for Electricity and the EU DSO Entity shall coordination transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular they shall:~~

~~(a) define the types of data and format that transmission and distribution system operators shall provide to the regulatory authorities;~~

~~(b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system.~~

5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.

6. By 1 March 2024, the ENTSO for Electricity and the EU DSO Entity shall jointly submit to ACER a proposal regarding the type of data and ~~format~~ **analyses** to be submitted to regulatory authorities ~~and the methodology referred to in paragraph 3~~ **any complementary methodology needed to improve the assessment of flexibility in resource adequacy assessments.** ~~Within three months of receipt of the proposal, ACER shall either approve the proposal or~~

~~amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.~~ **The joint proposal shall be subject to prior consultation and approval by ACER in accordance with Article 27.**

7. The ~~regulatory authorities~~ **identified relevant body** shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the ~~regulatory authorities~~ **identified relevant bodies**.

Justification

We would prefer to see an economic system-wide assessment to find the best solutions to address flexibility needs and ultimately secure adequacy in the most cost-efficient way, while based on available data sources in a given time. Flexibility solutions should be compared against all the alternatives.

- *Article 19c(1): The national energy regulatory authority in each Member State should leverage available data and infrastructure planning and resource adequacy assessments. To ensure consistency of results the time horizon of the expected analysis should be aligned with the ENTSO-E's reporting mandates. As already provided for in Article 23(5) of the Electricity Regulation, any resource adequacy assessment should "appropriately take[s] account of the contribution of all resources including existing and future possibilities for generation, energy storage, sectoral integration, demand response, and import and export and their contribution to flexible system operation". It is part of an appropriate governance to ensure that there is no unnecessary duplication of work.*

- *Article 19c(4): This part is duplicating elements present in provisions above and below. It should therefore be removed.*

- *Article 19c(6): If needed, the methodology for resource adequacy assessments should be complemented to better address the assessment of flexibility. The approval process (described in Article 27 of the Electricity Regulation) regarding resource adequacy assessments (which include flexibility) should be extended to the EU DSO entity (see next amendment) and should then be used.*

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 16	
Proposed Article 19d (Regulation)	
Original text	Original text +**amendments**
Based on the report of the regulatory authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand side response and storage. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Article 3, 4, and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.	Based on the report of the regulatory authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for **all flexibility sources which considers the most cost-efficient solutions, all time frames (hourly, daily, and seasonal), and the availability of cross-border capacity.** ~~**demand-side response and storage**~~. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Article 3, 4, and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.
Justification	
Eurelectric recommends amending this provision as we should not favour one flexibility option, but rather all flexibility solutions in the most cost-efficient way. Furthermore, the way the proposal is phrased leaves too much flexibility to the Member States to define what is a "demand side response" target and what is a "storage" target (installed capacity, contracted demand reduction, load shift, peak shaving, etc.). Without a clear definition of either of these for the target, the assessments will be incomparable between Member States and thus will provide limited functionality. *We also find that between this assessment and the alignments proposed in the ERAA and TYNDP, national targets may be redundant. Once the needs are identified, Member States have the power to work with market actors to define incentives to promote the uptake of all flexibility solutions.*	

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 17	
Proposed Article 27 (Regulation)	
Original text	Original text +**amendments**
None	1.Where reference is made to this Article, the procedure set out in paragraphs 2, 3 and 4 shall apply to the approval of proposals submitted by the ENTSO for Electricity **and/or the EU DSO entity. Joint proposals have to be submitted by both entities.** 2.Before submitting a proposal, the ENTSO for Electricity **and/or the EU DSO entity** shall carry out a consultation involving all relevant stakeholders, including regulatory authorities and other national authorities. It shall duly take the results of that consultation into consideration in its proposal. 3.Within three months of the date of receipt of the proposal referred to in paragraph 1, ACER shall either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity **and/or the EU DSO entity** before approving the amended proposal. ACER shall publish the approved proposal on its website within three months of the date of receipt of the proposed documents. 4.ACER may request changes to the approved proposal at any time. Within six months of the date of receipt of such a request, the ENTSO for Electricity **and/or the EU DSO entity** shall submit a draft of the proposed changes to ACER. Within three months of the date of receipt of the draft, ACER shall amend or approve the changes and publish those changes on its website.
Justification	
With a growing role of renewable generation, resource adequacy assessments (including flexibility) will increasingly rely on the assets (generation, demand response, storage) available at distribution level. It is therefore important to ensure the participation of ENTSO-E and/or the EU DSO entity on a level playing field to the underlying processes (including the definition of methodologies).The approval process regarding resource adequacy assessments (which include flexibility) should therefore be extended to the EU DSO entity.	

Amendment Proposals for Customer Protection Provisions

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 18	
Proposed Article 66a (Directive)	
Original text	Original text +**amendments**
1. The Commission may by decision declare a regional or Union-wide electricity price crisis, if the following conditions are met:	1.a) The Commission**, acting together with all of the Member States**, may by decision declare a regional or Union-wide electricity price crisis, if all the following conditions are met **simultaneously and expected to continue for at least 6 months:**
(a) very high prices in wholesale electricity markets at least two and a half times the average price during the previous 5 years which is expected to continue for at least 6 months;	(a) very high prices in wholesale electricity markets ~~**at least two and a half times the average price during the previous 5 years which is expected to continue for at least 6 months.**~~
(b) sharp increases in electricity retail prices of at least 70% occur which are expected to continue for at least 6 months; and	(b) sharp increases in electricity retail prices of ~~**at least 70% occur which are expected to continue for at least 6 months**~~; and
(c) the wider economy is being negatively affected by the increases in electricity prices.	(c) the wider economy is being negatively affected by the increases in electricity prices
2. The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which may be for a period of up to one year.	**1b. To assess whether the three conditions above are realized, the Commission shall based its analysis supporting the decision mentioned in paragraph (1) on the following cumulative elements:** **a) whether baseload electricity prices on the day-ahead and forward wholesale electricity markets are at least [two and a half times] the average price during the previous 5 years and above a price threshold of [180] EUR/MWh.** **b) whether retail electricity prices have increased by at least [70%] on average over all consumers and over a period of [two] years.** **c) whether the economy is substantially and negatively affected by high electricity prices, as determined through macroeconomic**
3. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision apply targeted public interventions in price setting for the supply of electricity to small and medium sized enterprises. Such public interventions shall:	
(a) be limited to at most 70% of the beneficiary's consumption during the same period of the previous year and retain an incentive for demand reduction;	
(b) comply with the conditions set out in Article 5(4) and (7);	
(c) where relevant, comply with the conditions set out in Paragraph 4.	
4. Where the Commission has adopted a decisions pursuant to paragraph 1, Member	

States may for the duration of the validity of that decision, by way of derogation from Article 5(7), point (c), when applying targeted public interventions in price setting for the supply of electricity pursuant to Article 5(6) or paragraph 3 of this Article, exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled:

(a) The price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction;

(b) there is no discrimination between suppliers;

(c) suppliers are compensated for supplying below cost; and

(d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis.

analysis by the European Central Bank and, when available and relevant, any Member States' Central Bank.

1c. Every [2] years the Commission shall carry out a review of the conditions laid down in paragraph (1b), in particular to reassess the levels of the triggering conditions, and submit a report on the adaptation of this provision to the Council. Based on that report, the Commission may in particular propose to amend the conditions laid down in paragraph (1b).

2. The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which may be for a period of up to one year.

3. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision apply targeted public interventions in price setting for the supply of electricity to small and medium sized enterprises **and household customers**. Such public interventions shall:

(a) be limited to at most 70% of the beneficiary's consumption during the same period of the previous year and retain an incentive for demand reduction;

(b) comply with the conditions set out in Article 5(4) and (7);

~~**(c) where relevant, comply with the conditions set out in Paragraph 4.**~~

~~**4. Where the Commission has adopted a decisions pursuant to paragraph 1, Member States may for the duration of the validity of that decision, by way of derogation from Article 5(7), point (c), when applying targeted public interventions in price setting for the supply of electricity pursuant to Article 5(6) or paragraph 3 of this Article, exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled:**~~

~~(a) The price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction;~~

~~(b) there is no discrimination between suppliers;~~

~~(c) suppliers are compensated for supplying below cost; and~~

~~(d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis.~~

4. Where the Commission has adopted a decision pursuant to paragraph 1, transmission system operators may, during the application period of that decision, procure peak shaving products in order to achieve a reduction of electricity demand during peak hours.

   (a) Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned.

   (b) The proposal of the transmission system operator shall comply with the following requirements:

      i. the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other

sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs;

ii. **the procurement of a peak shaving product shall be based on objective, transparent, non-discriminatory criteria and be limited to explicit and implicit demand response;**

iii. **the procurement of the peak shaving product shall take place using a competitive bidding process, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria;**

iv. **contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day;**

iv. **the activation of the peak shaving product shall not reduce cross-zonal capacity;**

The activation of the peak shaving product shall be integrated in day-ahead, intraday markets or capacity mechanisms.

Justification

Eurelectric recommends moving this to the Risk Preparedness Regulation (Regulation (EU) 2019/941 of the European Parliament and of the Council) and making the suggested changes from above. *This is to maintain consistency with other emergency measures related to the electricity system.*

We suggest a clearer definition for what constitutes a regional price crisis and who has the authority to declare it as such. This should be coordinated with the Member States.

We would recommend introducing an additional paragraph 1(b) defining concrete elements/criteria on how the Commission shall base its analysis to support the decision mentioned in paragraph (1)a. In particular:

- *We believe that a price limit should be set. Using only a 5-year average prices as a reference threshold could lead to a situation where the commission may declare an energy price crisis in a situation which wouldn't be actual crisis e.g., Finnish wholesale electricity price for a 5-year average period multiplied by 2,5 have been under 90 €/MWh on many occasions (see the table in Annex I). Therefore, we believe that introducing a minimum threshold of 180 €/MWhis necessary to maintain market participants' and investors' confidence in the market.*
- *Further clarification of what is included in "retail prices" in point 1a(b) would also be needed as the language is quite broad. Point 1(b) could for example specify that retail electricity prices have increased by at least [70%] on average over all consumers and over a period of [two] years.*
- *Last but not least, we would recommend tying this decision to quantitative analysis of the relevant central bank(s) to ensure normal market volatility is not mistaken for a price crisis.*

We caution against the introduction of regulated prices, even in periods of emergency. One of the key achievements of the internal energy market is the fact that the vast majority of Member States have moved away from regulated prices and these markets have been able to deliver competitive prices for final consumers. Regulated prices can lead to the locking in of high prices and disincentivises market participants from competing with each other to deliver the best price for final consumers.

Furthermore, regulated below-cost prices must be paid by someone in the end. Our members' experience shows that these costs are generally funded through other budgetary mechanisms, and often socialised back onto the customers these measures are intended to help most. Effectively below-cost regulated prices move the cost from the electricity bill to the tax bill. We would suggest instead that the legislators stick to the provisions in the existing Article 5 for household consumers in times of price crisis. It is also worth noting that regulated, below cost prices provide signals which work against the uptake of energy efficiency measures and demand reduction.

Another hesitation we have with the implementation of regulated below cost prices is the issue of settling the difference between the market price and the regulated price with suppliers. Some members have experienced significant delays in payments from their Member State when such prices were implemented. If this measure may not be avoided, there must be a clear timeframe in which Member states are obligated to settle this difference with suppliers.

We have also proposed moving the peak shaving product to this section so it is available only in emergency situations.

Amendment Proposals for flexibilization of collateral requirements

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 19	
New Article	
Original text	Original text +**amendments**
None	**In order to address liquidity constraints to forward hedging linked to the collateral requirements defined as per Article 41 of Regulation (EU) 648/2012, a central counterparty (CCP) shall accept highly liquid collateral with minimal credit and market risk to cover its initial and ongoing exposure to its clearing members. A CCP may accept public guarantees or public bank or commercial bank guarantees, including uncollaterised commercial bank guarantees issued to energy market participants, provided that they are unconditionally available upon request within the liquidation period referred to in Article 41.**

Justification

We support that public bank guarantees, commercial bank guarantees or public guarantees are considered eligible as highly liquid collateral under certain conditions under the proposed EC proposal for Regulation (EU) 648/2012 review (EMIR). We request in this context that the reference to "commercial bank guarantees" be clarified to also include uncollateralised commercial bank guarantees issued to energy market participants. The recognition of uncollateralised commercial bank guarantees will facilitate and encourage central clearing of derivatives by energy market participants. Those entities usually have constrained access to sufficient amounts of highly liquid assets (cash), which can lead to substantial liquidity stress of those firms in times of very volatile energy markets. Enabling energy market participants acting as indirect or direct clearing members to post non-cash collateral to cover at least an appropriate portion of the margin requirements will provide relief from that liquidity stress. Although the main legislative vehicle for collateral requirements is Regulation (EU) 648/2012, a cross-reference as part of the electricity market design reform is needed.

Amendment Proposals for capacity mechanisms

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 20 (new)	
Article 21: General principles for capacity mechanisms	
Original text	Original text +**amendments**
7. When designing capacity mechanisms Member States shall include a provision allowing for an efficient administrative phase-out of the capacity mechanism where no new contracts are concluded under paragraph 6 during three consecutive years.	~~**7. When designing capacity mechanisms Member States shall include a provision allowing for an efficient administrative phase-out of the capacity mechanism where no new contracts are concluded under paragraph 6 during three consecutive years.**~~
8. Capacity mechanisms shall be temporary. They shall be approved by the Commission for no longer than 10 years. They shall be phased out or the amount of the committed capacities shall be reduced on the basis of the implementation plans referred to in Article 20. Member States shall continue to apply the implementation plan after the introduction of the capacity mechanism.	~~**8. Capacity mechanisms shall be temporary. They shall be approved by the Commission for no longer than 10 years. They shall be phased out or the amount of the committed capacities shall be reduced on the basis of the implementation plans referred to in Article 20.**~~ Member States shall continue to apply the implementation plan after the introduction of the capacity mechanism.

Justification

To ensure adequacy and security of supply, capacity mechanisms could be a core part of the market design. Member States should be able to freely choose whether to implement capacity mechanisms, and the process of approval should be smoother than today. However, current legislation defines them as temporary additions to the energy-only market model and as a last-resort measure to address security of supply concerns.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 21

Article 22: Design principles for capacity mechanisms

Original text	Original text +**amendments**
1. Any capacity mechanism shall:	1. Any capacity mechanism shall:
(a) be temporary;	~~***(a)* be temporary;***~~
(…)	(…)

Justification

To ensure adequacy and security of supply, capacity mechanisms could be a core part of the market design. Member States should be able to freely choose whether to implement capacity mechanisms, and the process of approval should be smoother than today. However, current legislation defines them as temporary additions to the energy-only market model and as a last-resort measure to address security of supply concerns.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 22

Article 19e: Flexibility support schemes

Original text	Original text +**amendments**
1. ‘Member States which apply a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design of the capacity mechanism.’	~~1.~~ 1. ‘Member States which apply a capacity mechanism in accordance with Article 21 shall consider the ~~promotion of the~~ participation of ~~non-fossil~~ **all** flexibility **sources capable of providing the required technical performance in accordance with Article 22 of the Regulation (EU) 2019/943 on a level playing field with other sources and their expected contribution to addressing the adequacy concern.** ~~such as demand side response and storage by introducing additional criteria or features in the design of the capacity mechanism.’~~
2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with19d, Member States may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.	~~2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in~~
3. Member States which do not apply a capacity mechanism may apply flexibility	

support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.	~~accordance with19d, Member States may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.~~
	~~3.~~ 3. Member States which do not apply a capacity mechanism **and in which a need for flexibility is identified** may apply flexibility support schemes consisting of payments for the available ~~capacity of non-fossil~~ flexibility, **considering all sources capable of providing the required technical performance.** ~~such as demand side response and storage.~~

Justification

The primary purpose of Capacity Mechanisms is to ensure adequacy, and depending on the needs of a given electricity system, it can be best achieved by adding different kinds of resources – both stable, non-flexible and flexible kinds. Flexibility must not be mistaken with adequacy, and long-term adequacy will not be achieved by flexibility alone. The revision shall therefore facilitate the inclusion of all flexibility sources and should not be limited to demand side response and storage exclusively - support schemes shall be open to all flexibility providers in line with the National Energy & Climate Plans in order to consider the most cost-efficient solutions, all time frames (hourly, daily and seasonal) and the availability of cross-border capacity. Independently on where there is a capacity mechanism or not in a given Member States, support to flexibility capacity should be done on a level playing field with generation and demand side respond and receive no preferential treatment.

Other Amendment Proposals

Amendment Proposals for PPAs

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 23

Article 2: Definitions – paragraph 77

Original text	Original text +**amendments**
'power purchase agreement' or 'PPA' means a contract under which a natural or legal person agrees to purchase electricity from an electricity producer on a market basis'	'power purchase agreement' or 'PPA' means a contract under which a natural or legal person agrees to purchase electricity from an electricity producer on **~~a market basis~~ commercial terms'**

Justification

Given the wide variety of possible contractual arrangements for power purchase agreement, the definition shall include all commercial terms for the sale and purchase of electricity.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 24

Article 19a: Power Purchase Agreements – paragraph 4

Original text	Original text +**amendments**
'In the design of the support schemes for electricity from renewable sources, Member States shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivize the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face entry barriers to the PPA market.'	'In the design of the support schemes for electricity from renewable sources, Member States shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and **~~endeavour to make~~ shall** use **~~of~~** evaluation criteria to incentivize the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face entry barriers to the PPA market.'

Justification

Need to ensure a level playing field between CfDs and PPAs and to avoid the crowd out effect that an extensive use of CfDs can have on the PPA market. RES support schemes should be designed not to discourage investors in the RES PPAs market.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 25

Article 19a: Power Purchase Agreements – new paragraph 7

Original text	Original text +**amendments**
	7. 'Member States shall avoid any regulatory change that negatively affects the rights conferred under existing PPAs.'

Justification

Regulatory certainty is a key condition to promote private investments in renewables. The revision must include guarantees that regulatory changes will not have retroactive effect on the PPAs already signed, in breach of the legitimate expectations of the parties. The legal uncertainty that arises from the fact that the legal conditions considered for setting the price between the parties to the PPA can be artificially modified by regulatory interventions must be avoided.

Similarly to art 6.1 of the Renewable Energy Directive which provides legal protection for RES support schemes against retroactive regulatory changes, an equivalent protection must be granted to PPAs.

Amendment Proposals for Contract for Differences

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 26

Article 2: Definitions – paragraph 76

Original text	Original text +**amendments**
'two-way contract for difference' means a contract signed between a power generating facility operator and a counterpart, usually a public entity , that provides both minimum remuneration protection and a limit to excess remuneration; the contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the electricity markets and complies with the principles set out in Article 4(2) and Article 4(3), first and third subparagraphs, of Directive (EU) 2018/2001;	'two-way contract for difference' means a contract signed between a power generating facility operator and a counterpart, usually a public entity , that provides both minimum remuneration protection and a ~~**limit to excess**~~ **maximum remuneration**; the contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the electricity markets and complies with the principles set out in Article 4(2) and Article 4(3), first and third subparagraphs, of Directive (EU) 2018/2001

Justification

The upper (lower) limit is related to a maximum (minimum) remuneration. The wording "excess" for the upper limit would require an additional characterization and should therefore be changed to "maximum".

Amendment Proposals for Interaction with Union financial legislation

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 27

New Article 69a Interaction with Union financial legislation

Delete new Article

Original text	Original text +**amendments**
Nothing in this Regulation shall derogate from the provisions of Directive (EU) 2014/65, Regulation (EU) 648/2012 and Regulation (EU) 600/2014 when market participants or market operators engage in activities related to financial instruments in particular as defined under Article 4(1)(15) of Directive (EU) 2014/65.	~~**Nothing in this Regulation shall derogate from the provisions of Directive (EU) 2014/65, Regulation (EU) 648/2012 and Regulation (EU) 600/2014 when market participants or market operators engage in activities related to financial instruments in particular as defined under Article 4(1)(15) of Directive (EU) 2014/65.**~~

Justification

We fail to understand the need and purpose behind the addition of this new amendment.

Amendment Proposals for Intraday Gate Closure Time and bid size

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 28

Article 8 Trade on day-ahead and intraday markets

Amendment to 8(1) and (3)

Original text	Original text +**amendments**
(5) Art 8 is amended as follows:	(a) paragraph 1 is replaced by the following:
(a) paragraph 1 is replaced by the following:	
'NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.'	'NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. **Subject to a positive impact assessment outlining potential benefits and drawbacks of intraday cross-zonal gate closure time change over all timeframes including balancing,** by 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time in all coupled Bidding Zones. **Market actors shall be notified sufficiently in**
(b) paragraph 3 is replaced by the following:	
'NEMOs shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid	

sizes of 100kW or less, to allow for the effective participation of demand-side response, energy storage and small-scale renewables including direct participation by customers.'	**advance by the changes in all timeframes inherent in this.'** **(a') is added following (a) of paragraph 1:** **'NEMOs and all power exchanges shall be obliged to submit their shared order book for a given market time unit for single matching immediately after the orders have been received from market participants at all times when trading with intraday products is allowed by the responsible TSO within a bidding zone, irrespective of and also after the intraday cross-zonal gate closure time.'** (b) paragraph 3 is replaced by the following: NEMOs shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 100kW ~~**or less,**~~ to allow for the effective participation of demand-side response, energy storage and small-scale renewables including direct participation by customers.'

Justification

Regarding the proposed setting of the intraday gate closure time at GCT 30min: *we agree with this provision, however the timing might be tight to address the overlap with the balancing timeframe and operational constrains; plus considering that there are already lots of delay on the implementation of integration projects and prioritisation work is in progress. If this legal deadline is maintained, impact assessment of this provision on Balancing Timeframe and Operational constraints must be launched rapidly and its outcome communicated to Market actors (e.g. Balancing Service Providers) to allow anticipation.*

Regarding our new proposal on order book sharing in intraday: *the suggested amendment aims at boosting competition and liquidity among market participants through order book sharing within a bidding zone during the intraday timeframe. It also follows the European Commission's reform proposal on the electricity market design, recognising the importance of liquidity sharing between market operators in the intraday markets after the cross-zonal gate closure. More precisely, in recital (14) of the EMD legislative proposal, the European Commission mentions that the liquidity of the intraday market should be improved with the sharing of the order books between market operators within a bidding zone.*

Regarding the proposed minimum bid size of 100kW or less*: we welcome the reduction of minimum bid from 500 kW to 100 kW. However, we recommend deleting "or less" as 100kW is already a significant reduction and a trade-off must be found to avoid deteriorating algorithm performance and jeopardizing market functioning.*

Amendment Proposals for Congestion Income

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 29

New Article 19 (2) Congestion income

Amendment to the new provision (c)

Original text	Original text +amendments
2. The following objectives shall have priority with the respect to the allocation of any revenues resulting from the allocation of cross-zonal capacity:	2. The following objectives shall have priority with the respect to the allocation of any revenues resulting from the allocation of cross-zonal capacity:
(a) guaranteeing the actual availability of the allocated capacity including firmness compensation; or	(a) guaranteeing the actual availability of the allocated capacity including firmness compensation; or
(b) maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion	(b) maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion
'(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.'	'(c) **following a coordinated decision between the Member States involved on the implementation of an offshore bidding zone and on the design of the support mechanism,** compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.'

Justification

Furter implementing details need to be set out in upcoming amendments to Capacity Allocation & Congestion Management (CACM) Guidelines with the definition of Offshore Bidding Zone. The details of its integration/formula must be consulted as part of the CACM 2.0 process.

The compensation mechanism for offshore generation plant operators in an offshore bidding zone could be one possibility to use congestion income. However, it should be decided following a case-by-case approach. Its use should be conditional to a coordinated decision between the Member

States involved on the implementation of an offshore bidding zone and on the design of the support mechanism.

Amendment Proposals for Establishment of network codes

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 30

Article 59 Establishment of network codes

Amendments to 59 (1)(b)

Original text	Original text +**amendments**
In Article 59 (1), point (b) :	In Article 59 (1), point (b) :
"(b), capacity-allocation and congestion-management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day ahead and intraday coupling including the possibility of being operated by a single entity, the firmness of allocated cross-zonal capacity, congestion income distribution, the allocation of financial long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and congestion management cost recovery;"	"(b), capacity-allocation and congestion-management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day ahead and intraday coupling ~~**including the possibility of being operated by a single entity,**~~ the firmness of allocated cross-zonal capacity, congestion income distribution, the allocation of ~~**financial**~~ long-term transmission rights ~~**by the single allocation platform**~~, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and congestion management cost recovery;"

Justification

We propose the deletion of the mention of the single entity which is interfering with the Capacity Allocation & Congestion Mangement (CACM) Guidelines revision process.

We also propose to delete the mention of the allocation of "financial" LTTRs and "by the single allocation platform" as they are associated with the proposed implementation of a virtual hub model. The provisions should remain general, as this proposed solution is not tested, is not addressing the issues behind the current lack of liquidity and could disrupt forward markets (see justification for deletion of article 9 – e.g. amendment 4).

Amendment Proposals for Supplier Hedging & Product Obligations

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 31

Article 11 (1a) (Directive)

Original text	Original text +**amendments**
1a. Prior to the conclusion or extension of any contract, final customers shall be provided with a summary of the key contractual conditions in a prominent manner and in concise and simple language. This summary shall include at least information on total price, promotions, additional services, discounts and include the rights referred to in points (a), (b), (d), (e), and (f) of Article 10(3). The Commission shall provide guidance in this regard.	1a. Prior to the conclusion or extension of any contract, **~~final customers~~** **consumers** shall be provided with a summary of the key contractual conditions in a prominent manner and in concise and simple language. This summary shall include at least information on total price, promotions, additional services, discounts and include the rights referred to in points (a), (b), (d), (e), and (f) of Article 10(3). The Commission shall provide guidance in this regard.

Justification

We have proposed a change in the wording to align with the Consumer Protection legislation, as different protection requirements apply to different customer segments. The provisions of Article 11 apply to household customers, defined as "consumers" in Art. 2(1) of Directive 2011/83/EU of the European Parliament and of the Council. We would recommend applying this alignment in all of the relevant consumer protection provisions of this Directive.

Amendment Proposals for Energy Sharing

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 32

Proposed Article 15a (Directive)

Original text	Original text +**amendments**
1. All households, small and medium sized enterprises and public bodies have the right to participate in energy sharing as active customers.	1. All households, small and medium sized enterprises and public bodies have the right to participate in energy sharing as active customers.
(a)Active customers shall be entitled to share renewable energy between themselves based on private agreements or through a legal entity.	(a)Active customers shall be entitled to share renewable energy between themselves based on private agreements or through a legal entity **up to a capacity limit which shall be defined by the Member States and shall not exceed 3 MW**.

Justification

Eurelectric recommends ensuring energy sharing does not become a disguised form of alternative commercial supply.

The sharing of energy should be reserved for non-commercial operations to preserve the social nature of energy sharing. In addition to this, energy sharing poses risks to traditional energy suppliers operating with balancing responsibility due to uncertainty about the quantities to be delivered and the distortion of sourcing costs. To limit distortions and ensure energy sharing does not become a disguised form of commercial supply not subject to the responsibilities and protections required of commercial suppliers, it is essential to place a limit on the size of these operations. This limit should be determined by the Member States based on their market specificities, up to the ceiling defined above.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 33	
Proposed Article 15a (Directive)	
Original text	Original text +**amendments**
1. (h) are informed of the possibility for changes in bidding zones in accordance with Article 14 of Regulation (EU) 2019/943 and of the fact that the right to share energy is restricted to within one and the same bidding zone.	1. (h) are informed of ~~**the possibility for changes in bidding zones in accordance with Article 14 of Regulation (EU) 2019/943 and of**~~ the fact that the right to share energy is restricted to ~~**within one and the same bidding zone**~~ **a limited geographical area to be set at Member State-level**.

Justification

To maintain the social nature of energy sharing and the ensure the most efficient dispatch of excess renewable energy production, we feel that some proximity limits should be set by the Member States.

Moreover, shared energy suppliers benefit from derogations to the general supply rules which are not acceptable if energy sharing is not restricted to a limited perimeter. An extensive energy sharing

perimeter would generate unacceptable discrimination between shared energy suppliers and other suppliers and undermine general supply framework.

prices are high and sell directly to customers when prices are low (by offering a slightly lower rate than those of customers who can be averaged over the year). This could lead to the emergence of active energy-sharing operations only in the summer.

If these arbitrage opportunities persist, suppliers will be encouraged not to offer contracts to customers participating in an energy-sharing scheme, or to offer them only risk-free offers (e.g., spot price offers).

Moreover, participation to energy sharing scheme and allocation rules change customer load profile and affect consumption projections suppliers use to procure or hedge the correct amount of electricity to keep the system in balance. In order to mitigate the risk to suppliers of over-procuring based on inaccurate forecasts developed with incomplete information, suppliers must be informed in advance of the participation of one of its consumers to an energy sharing scheme and of the energy allocation rule.

Amendment Proposals for submetering and stakeholder engagement

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 34	
Article 2(79) (Regulation)	
Original text	Original text +**amendments**
'dedicated metering device' means a device attached to or embedded in an asset that sells demand response or flexibility services on the electricity market or to transmission and distribution system operators;	**~~'dedicated metering device' means a device attached to or embedded in an asset that sells demand response or flexibility services on the electricity market or to transmission and distribution system operators;~~**

Justification

Eurelectric proposes to remove this provision from the Electricity Regulation and place it in the foreseen Network Code on Demand Response.

We would propose the following definition:

> *'dedicated metering device' means a device attached to or embedded in an asset that sells demand response or flexibility services on the electricity market or to transmission and distribution system operators which is compliant with Directive 2014/32/EU of the European Parliament and of the Council. This device must be interoperable (whereby system operators can read the data produced by the device in real time);*

We believe submetering provisions are way too detailed for an electricity regulation, we would prefer this to be included rather in the new Network Code on Demand Response. We are concerned about the lack of reference to the Metering Instruments Directive (MID) and the fact that the main meter (whether smart or manual) be the single point of reference for system operators for balancing & settlement. There is a possibility of system insecurity if the flexibility behind a separate metering device does not actualise or is cancelled out from the main meter.

We think any devices which will interact with the system should be compliant with the Metering Instruments Directive to ensure interoperability, an assurance of the quality of the data produced, and to protect against technological locking-in.

We also find that these devices should only be deployed in Member States where existing main metering devices lack the telemetric requirements for specific demand response products. We think that these and interoperability requirements should be set at EU-level (as already foreseen in Article 24 of the Electricity Directive and the subsequent Implementing Acts on interoperability) to foster an EU-wide market for these devices.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 35	
Proposed Article 7b (Regulation)	
Original text	Original text +**amendments**
1. "Member States shall allow transmission system operators and distribution system operators to use data from dedicated metering devices for the observability and settlement of demand response and flexibility services, including from storage systems.	~~**1. Member States shall allow transmission system operators and distribution system operators to use data from dedicated metering devices for the observability and settlement of demand response and flexibility services, including from storage systems.**~~
2. Member States shall establish requirements for a dedicated meter device data validation process to check and ensure the quality of the respective data';	~~**2. Member States shall establish requirements for a dedicated meter device data validation process to check and ensure the quality of the respective data;**~~

Justification

Eurelectric recommends including such a definition in the forthcoming Network Code on Demand Response rather than in the Electricity Regulation. We would recommend the following definition for the Network Code:

1. *Where implemented metering systems do not have the telemetry capabilities needed for the requirements of specific demand response products, Member States shall allow transmission system operators and distribution system operators to use data from dedicated metering devices for the observability and settlement of demand response and flexibility services, including from storage systems.*
2. *The cost of equipping, installing, and managing the data of an additional dedicated metering device as provided for in paragraph 1 shall not be borne by the network tariff.*

These technical elements belong in the forthcoming Network Code on Demand Response, not in the Electricity Regulation. Furthermore, our above amendment suggests compliance with the Metering Instruments Directive (MID), which will remove the need for data validation processes (compliant devices should generate accurate data). We also believe that leaving the establishment of technical requirements at Member State level may lock in innovation and the development of an EU market for dedicated metering devices.

The inclusion of additional metering devices bring added value where smart meters are not yet deployed. In France, smart meters are already widely deployed with over 30 million meters installed by French DSOs. Smart meters provide real-time data and enable utilities to offer time-of-use pricing, integrate renewable energy sources, identify grid issues, and inform customers about their energy usage, all of which contribute to the development of flexibilities. The primary focus should be on reinforcing roll-out of smart meters by DSOs in European Regulation and on how consumers use data provided by smart meters.

An example of the use of dedicated metering devices already in place comes from our member in Portugal: Electric vehicle charging points with public or semi-public access, the metering from EV chargers, behind the main meter of the consumption point (e.g., supermarkets or hotels), is sent to

the DSO that recalculates the net consumption to bill the consumer, while the EV charging consumption is billed separately. Both the main meter and the charging point meter (submeter, as it measures a subtotal consumption only) are used for settlement purposes.

Regarding our proposed point 2, we think it should be ensured that the costs associated with these additional devices are not socialised among customers who will not receive a direct benefit from them. In the event of the installation of an additional metering device attached to the subscription to flexibility services, the inherent costs must be borne by the customer concerned or their service provider.

Finally, observability is not a defined concept in any regulation. For DSOs, observability must be measurable at the connection point.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 36	
Article 31 (Regulation)	
Original text	Original text +**amendments**
None	1. While preparing the proposals pursuant to the tasks referred to in Article 30(1), the ENTSO for Electricity shall conduct an extensive consultation process. The consultation process shall be structured in a way to enable the accommodation of stakeholder comments before the final adoption of the proposal and in an open and transparent manner, involving all relevant stakeholders, and, in particular, the organisations representing such stakeholders, in accordance with the rules of procedure referred to in Article 29. That consultation shall also involve regulatory authorities and other national authorities, supply and generation undertakings, system users including customers, distribution system operators, including relevant industry associations, technical bodies and stakeholder platforms. **It shall aim at identifying the views and proposals of all relevant parties during the decision-making process. To be considered extensive, the consultation process shall include the aforementioned groups in an ongoing manner, by way of creating a consultation committee which meets at least quarterly to discuss the progress of the proposals pursuant to the tasks referred to in Article 30(1).**

2. All documents and minutes of meetings related to the consultations referred to in paragraph 1 shall be made public.

3. Before adopting the proposals referred to in Article 30(1) the ENTSO for Electricity shall indicate how the observations received during the consultation have been taken into consideration. It shall provide reasons where observations have not been taken into account.

Justification

The current wording of Article 31 in the Electricity Regulation, while created with good intention, is not well-implemented for effective consideration and inclusion of stakeholder concerns of the ENTSO-E's proposals. We would recommend a more stringent outlining of what is considered "extensive" for the consultation process, which more actively involves affected stakeholder groups in the development of the proposals. It is our members' experience that these proposals are generally drafted without consultation and stakeholders are only invited to comment on a final version, which leads to inefficiencies where significant comments from stakeholders may not be considered or included due to time constraints.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 37	
Article 56 (Regulation)	
Original text	Original text +**amendments**
None	1. While participating in the development of new network codes pursuant to Article 59, the EU DSO entity shall conduct an extensive consultation process, at an early stage and in an open and transparent manner, involving all relevant stakeholders, and, in particular, organisations representing such stakeholders, in accordance with the rules of procedure on consultation referred to in Article 53. That consultation shall also involve regulatory authorities and other national authorities, supply and generation undertakings, system users including customers, technical bodies and stakeholder platforms. **It shall aim at identifying the views and proposals of all relevant parties during the decision-making process. To be considered extensive, the consultation process shall include the aforementioned groups in an ongoing manner, by way of creating a consultation committee which meets at least quarterly to discuss the progress of the development of**

	new network codes pursuant to Article 59. 2. All documents and minutes of meetings related to the consultations referred to in paragraph 1 shall be made public. 3. The EU DSO entity shall take into consideration the views provided during the consultations. Before adopting proposals for the network codes referred to in Article 59 the EU DSO entity shall indicate **and publish** how it has taken the observations received during the consultation into consideration. It shall provide reasons where it has not taken such observations into account.

Justification

The current wording of Article 56 does not require that affected stakeholders be consulted in a regular manner throughout the development process for the Network Codes. To limit inefficiencies which could be addressed through regular consultation of affected stakeholders, we recommend clarifying what constitutes an extensive consultation process.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 38	
Article 24 (Directive)	
Original text	Original text +**amendments**
None	1. In order to promote competition in the retail market and to avoid excessive administrative costs for the eligible parties, Member States shall facilitate the full interoperability of energy services within the Union. 2. The Commission shall adopt, by means of implementing acts, interoperability requirements and non-discriminatory and transparent procedures for access to data referred to in Article 23(1). **To ensure the aims of Art. 24(1) are achieved in developing these implementing acts, those tasked with developing the implementing acts shall cooperate closely with representatives of national regulatory authorities, competent authorities and regulated entities with institutional roles at national level, as well as with all relevant stakeholders, including, but not limited to, consumer associations, electricity retailers, European standardization organizations, service and technology providers, and equipment and**

component manufacturers, at an early stage and in an open and transparent manner.. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 68(2).

3. Member States shall ensure that electricity undertakings apply the interoperability requirements and procedures for access to data referred to in paragraph 2. Those requirements and procedures shall be based on existing national practices.

Justification

The current wording of the article as it relates to developing implementing acts necessary to set interoperability requirements could be interpreted to leave out key stakeholders during the drafting process. We recommend a similar consultation process to that required for the work of ENTSO-E and the EU DSO Entity to prevent inefficiencies that could be addressed by consulting affected stakeholders regularly throughout the drafting process.

Amendment Proposals for Customer Protection Provisions

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 39	
Proposed Article 28a (Directive)	
Original text	Original text +**amendments**
Member States shall ensure that vulnerable customers are protected from electricity disconnections. This shall be provided as part of the concept of vulnerable customers pursuant to Article 28(1) of this Directive and without prejudice to the measures set out in Article 10(11).	~~**Member States shall ensure that vulnerable customers are protected from electricity disconnections. This shall be provided as part of the concept of vulnerable customers pursuant to Article 28(1) of this Directive and without prejudice to the measures set out in Article 10(11).**~~

Justification

This issue is already covered in the existing Article 28.1, "In this context, each Member State shall define the concept of vulnerable customers which may refer to energy poverty and, inter alia, to the prohibition of disconnection of electricity to such customers in critical times" and Article 28.2 "Member States shall take appropriate measures… to ensure the necessary supply to vulnerable customers."

We are concerned that such a ban on disconnection could have downstream effects on suppliers. It is not clear from the proposal who will be responsible for covering the bad debt of these customers, which may end up being socialised among the entire customer segment, and subsequently driving up their prices.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 40	
Proposed Article 27a (Directive)	
Original text	Original text +**amendments**
1. Member States shall appoint suppliers of last resort at least for household customers. Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory procedure.	~~**1. Member States shall appoint suppliers of last resort at least for household customers. Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory procedure.**~~
2. Final customers who are transferred to suppliers of last resort shall not lose their rights as customers, in particular those rights laid down in Articles 4, 10, 11, 12, 14, 18 and 26.	~~**2.**~~**1.** Final customers who are transferred to suppliers of last resort shall not lose their rights as customers, in particular those rights laid down in Articles 4, 10, 11, 12, 14, 18 and 26.
3. Member States shall ensure that suppliers of last resort promptly communicate the terms and conditions to transferred customers and ensure seamless continuity of service for those customers for at least 6 months.	~~**3.**~~**2.** Member States shall ensure that suppliers of last resort promptly communicate the terms and conditions to transferred customers and ensure ~~**seamless**~~ continuity of service for those customers for ~~**at**~~ **a period defined in national law, not to exceed** ~~**least**~~ 6 months.
4. Member States shall ensure the final customers are provided with information and encouragement to switch to a market-based offer.	~~**4.**~~**3.** Member States shall ensure the final customers are provided with information and encouragement to switch to a market-based offer.
5. Member States may require the supplier of last resort to supply electricity to household customers who do not receive market based offers. In such cases, the conditions set out in Article 5 shall apply.	~~**5. Member States may require the supplier of last resort to supply electricity to household customers who do not receive market based offers. In such cases, the conditions set out in Article 5 shall apply.**~~
Justification	
The proposal does not take into account the different functions of suppliers of last resort in the different Member States. Our members have found that the existing provisions of Article 27.1 functioned well during the energy price crisis and would stress leaving flexibility to the Member States to define suppliers of last resort in a way that makes sense for the particularities of the different markets. For a brief overview of some of the differences, we refer you to our Customers & Retail Services Co-Vice Chair's presentation from the Dublin Forum last November.	
Should this proposal be unavoidable, it must be clear that suppliers of last resort are free to determine the price level and structure of products they offer as this appointed entity. Suppliers of Last Resort have specific extra costs (as they are often procuring energy on the short-term wholesale market without the benefit of hedging) and it must be ensured that there is fair compensation of these costs, which should be set at Member State level.	

Our members would also like further clarification in the provision about what happens to the customer should they not conclude a new contract in the period defined in the final piece of legislation. It will help suppliers to better inform customers and be in compliance with the articles referenced in the proposal.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 41	
Article 4 (Directive)	
Original text	Original text +**amendments**
Member States shall ensure that all customers are free to purchase electricity from the suppliers of their choice. Member States shall ensure that all customers are free to have more than one electricity supply contract at the same time, and that for this purpose customers are entitled to have more than one metering and billing point covered by the single connection point for their premises.	Member States shall ensure that all customers are free to purchase electricity from the **supplier(s)** of their choice. Member States ~~**shall ensure**~~ **can allow** that all customers are free to have more than one electricity supply contract at the same time, and that for this purpose customers ~~**are entitled to**~~ **may** have more than one metering **point** and billing point covered by the single connection point for their premises.~~**, should the contractual conditions require a separate metering point or billing point**~~.

Justification

We recommend leaving subsidiarity for Member states (especially for those which have already other efficient tools to incentivise demand side management (smart meters, time of use offers …)

We think it should be clear that when a customer conducts an additional contract that the load which is covered is clearly specified, both in the contractual terms, as well as being metered through a separate physical installation. Our Finnish member has experienced a high uptake of customers who have requested the possibility to conduct simultaneous fixed and dynamic contracts and switch their load behind the meter to the least expensive option on a frequent basis. Such a practice is a threat to system stability and it shall be clearly stated that the regulatory framework does not allow for such a practice. Implementation of the multiple suppliers right will generate important costs (e.g., development of network operator and suppliers' information system, metering) while the energy transition already requires massive investment. It appears irresponsible to impose extra cost, which will ultimately be borne by consumers.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 42	
Article 4 (Directive)	
Original text	Original text +**amendments**
None	**1. Metering arrangements shall ensure that all suppliers operating at a single connection point are treated equally:** **(a) metering arrangements are approved by grid operator which allow the physical connection point to be split into several energy connection points equally reliable, independent from each other, and with same features and functionalities as single connection points (including balancing responsibility)** **(b) One energy use shall be linked in a stable way to only one metering and billing point. Any modification must be subject to the agreement of the supplier who would become responsible for the consumption of this energy use.**
Justification	
Maintains metering reliability and equal treatment of suppliers.	

Accompanying Recital Amendment Proposals

Amendment Proposals for Investment incentives – PPAs & CfDs

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 43	
Article Recital 27	
Original text	Original text +**amendments**
In this framework, Member States should strive to create the right market conditions for long-term market-based instruments, such as power purchase agreements ('PPAs'). They provide long-term price stability for the customer and the necessary certainty for the producer to take the investment decision. Nevertheless, only a handful of Member States have active PPA markets and buyers are typically limited to large companies, not least because PPAs face a set of barriers, in particular the difficulty to cover the risk of payment default from the buyer in these long-term agreements. Member States should take into consideration the need to create a dynamic PPA market when setting the policies to achieve the energy decarbonisation objectives set out in their integrated national energy and climate plans.	In this framework, Member States should strive to create the right market conditions for long-term market-based instruments, such as power purchase agreements ('PPAs'). They provide long-term price stability for the customer and the necessary certainty for the producer to take the investment decision. Nevertheless, only a handful of Member States have active PPA markets and buyers are typically limited to large companies, not least because PPAs face a set of barriers, in particular the difficulty to cover the risk of payment default from the buyer in these long-term agreements. Member States should take into consideration the need to create a dynamic PPA market when setting the policies to achieve the energy decarbonisation objectives set out in their integrated national energy and climate plans. **Regulatory unpredictability, instability and retroactivity would undermine the ability of PPAs to contribute to the clean energy transition and energy independence.**

Justification

Regulatory certainty is a key condition to promote private investments in renewables. The new Regulation on market design must include guarantees that regulatory changes will not have retroactive effect on the PPAs already signed, in breach of the legitimate expectations of the parties. The legal uncertainty that arises from the fact that the legal conditions considered for setting the price between the parties to the PPA can be artificially modified by regulatory interventions must be avoided. Article 6.1 of the Renewable Energy Directive provides legal protection for RES support schemes against retroactive regulatory changes, a similar protection must be granted to RES PPAs.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 44

Article Recital 28

Original text	Original text +**amendments**
(…) Without prejudice to that obligation to report on the regulatory context affecting the PPA market, Member States should ensure that instruments to reduce the financial risks associated to the buyer defaulting on its long-term payment obligations in the framework of PPAs are accessible to companies that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. Member States could decide to set up a guarantee scheme at market prices (…)	(...) Without prejudice to that obligation to report on the regulatory context affecting the PPA market, Member States should ensure that instruments to reduce the financial risks associated to the buyer defaulting on its long-term payment obligations in the framework of PPAs are accessible to companies that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. Member States ~~could decide to~~ **shall** ~~set up~~ **ensure that instruments such as** ~~a~~ guarantee scheme**s** at market prices **are available** (…)

Justification

To address the risks of non-payment arising from the conclusion of long-term PPAs, Member States should be obliged to establish public guarantee schemes to promote PPAs. The amendment is consistent with the proposal of Article 19a(2), which stipulates that Member States must ensure such guarantee schemes.

Amendment Proposals for Virtual Hubs

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 45

Recitals 19, 20 et 21

Amendments of recitals 19 and 21, deletion of recital 20

Original text	Original text +**amendments**
(19) Consumers and suppliers need effective and efficient forward markets to cover their long-term price exposure and decrease the dependence on short-term prices. To ensure that energy customers all over the EU can fully benefit from the advantages of integrated electricity markets and competition across the Union, the functioning of the Union's electricity forward market should be improved via the establishment of regional virtual hubs with a view to overcome the existing market fragmentation and the low	(19) Consumers and suppliers need effective and efficient forward markets to cover their long-term price exposure and decrease the dependence on short-term prices. To ensure that energy customers all over the EU can fully benefit from the advantages of integrated electricity markets and competition across the Union, the functioning of the Union's electricity forward market should be improved ~~via the establishment of regional virtual hubs~~ with a view to overcome the existing market fragmentation and the low

liquidity experienced in many bidding zones. Regional virtual hubs should cover multiple bidding zones while ensuring an adequate price correlation. Some bidding zones may not be covered by a virtual hub in terms of contributing to the hub reference price. However, market participants from these bidding zones should still be able to hedge through a hub.

(20) Virtual hubs should reflect the aggregated price of multiple bidding zones and provide a reference price, which should be used by market operators to offer forward hedging products. To that extent, virtual hubs should not be understood as entities arranging or executing transactions. The regional virtual hubs, by providing a reference price index, should enable the pooling of liquidity and provide better hedging opportunities to market participants.

(21) To enhance the possibilities of market participants for hedging, the role of the single allocation platform established in accordance with Commission Regulation (EU) 2016/1719 should be expanded. The single allocation platform should offer trading of financial long-term transmission rights between the different bidding zones and the regional virtual hubs. The orders submitted by market participants for financial transmission rights shall be matched by a simultaneous allocation of long term cross zonal capacity. Such matching and allocation should be performed on a regular basis, to ensure enough liquidity and, hence, efficient hedging possibilities to market participants. The long-term transmission rights should be issued with frequent maturities (ranging from month ahead to at least three years ahead), in order to be aligned with the typical hedging time horizon of market participants. The single allocation platform should be subject to monitoring and enforcement to ensure that it performs its tasks properly.

liquidity experienced in many bidding zones. ~~**Regional virtual hubs should cover multiple bidding zones while ensuring an adequate price correlation. Some bidding zones may not be covered by a virtual hub in terms of contributing to the hub reference price. However, market participants from these bidding zones should still be able to hedge through a hub.**~~

Commission Regulation (EU) 2016/1719 sets out the framework for detailed rules on cross-zonal capacity allocation in the forward markets, on the establishment of a common methodology to determine long-term cross-zonal capacity, on the establishment of a single allocation platform at European level offering long-term transmission rights, and on the possibility to return long-term transmission rights for subsequent forward capacity allocation or to transfer long-term transmission rights between market participants. Article 30 of Regulation (EU) 2016/1719 sets out rules on forward hedging products. These rules should ensure the proper functioning of forward markets, as well their further efficiency in order to enhance hedging possibilities for market participants and thereby support the expected investments in the energy transition.

~~**(20) Virtual hubs should reflect the aggregated price of multiple bidding zones and provide a reference price, which should be used by market operators to offer forward hedging products. To that extent, virtual hubs should not be understood as entities arranging or executing transactions. The regional virtual hubs, by providing a reference price index, should enable the pooling of liquidity and provide better hedging opportunities to market participants.**~~

(21) To enhance the possibilities of market participants for hedging, ~~**the role of the single allocation platform established in accordance with Commission Regulation (EU) 2016/1719 should be expanded. The single allocation platform should offer trading of financial long-term transmission**~~

~~**rights between the different bidding zones and the regional virtual hubs. The orders submitted by market participants for financial transmission rights shall be matched by a simultaneous allocation of long term cross zonal capacity. Such matching and allocation should be performed on a regular basis, to ensure enough liquidity and, hence, efficient hedging possibilities to market participants. T**~~t~~he long-term transmission rights **or equivalent measures in place,** should be issued with frequent maturities (ranging from month ahead to at least three years ahead), in order to be aligned with the typical hedging time horizon of market participants **and market-making could be introduced on a voluntary basis**. ~~**The single allocation platform should be subject to monitoring and enforcement to ensure that it performs its tasks properly**~~.

Justification

Non mature proposal – consistency with amendments proposals on Article 9.

Amendment Proposals for Supplier Hedging & Product Obligations

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 46	
Recital (44)	
Original text	Original text +**amendments**
(44) Consumers should have access to a wide range of offers so that they can choose a contract according to their needs. However, suppliers have reduced their offers, fixed-price contracts have become scarce, and the choice of offers has become limited. Consumers should always have the possibility to opt for an affordable fixed price and fixed term contract and suppliers should not unilaterally modify the terms and conditions before such contract expires.	(44) Consumers should have access to a wide range of offers so that they can choose a contract according to their needs. However, suppliers have reduced their offers, fixed-price contracts have become scarce, and the choice of offers has become limited. Consumers should always have the possibility to opt for a~~**n affordable**~~ **market-based** fixed price and fixed term contract **to ensure a stable price over a given period** and suppliers should not unilaterally modify the terms and conditions before such contract expires.

Justification

Suppliers cannot guarantee that fixed price, fixed term products will be affordable, as they cannot offer in retail prices better terms than they are able to obtain on the wholesale market where they source the energy. Such products require a certain amount of hedging and can provide a stable

price for consumers but depending on the dynamics of the market in a given period, other products may be more affordable. The trade-off between dynamic and fixed contracts is not necessarily related to the affordability of the price the consumer pays, but rather to the predictability of the price they pay.

Amendment Proposals for Energy Sharing

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 47	
Recital (50)	
Original text	Original text +**amendments**
(50) Energy sharing arrangement are either based on private contractual agreement between active customers or organised through a legal entity. A legal entity that incorporates the criteria of a renewable energy community as defined in Directive (EU) 2018/2001 of the European Parliament and of the Council or a citizen energy community as defined in Directive (EU) 2019/944 of the European Parliament and of the Council can share with their members electricity generated from facilities they have in full ownership.	(50) Energy sharing arrangement**s** are either based on private contractual agreement**s** between **two or more** active customers**, as defined in Article 2(8) of Directive (EU) 2019/944 of the European Parliament and of the Council, namely through peer-to-peer trading, as defined in article 2(18) of Directive (EU) 2018/2001** or organised through a legal entity. A legal entity ~~**that**~~ **which is incorporated under** the criteria of a renewable energy community as defined in Directive (EU) 2018/2001 of the European Parliament and of the Council or a citizen energy community as defined in Directive (EU) 2019/944 of the European Parliament and of the Council can share with their members electricity generated from facilities they have in full ownership **per the provisions of Article 22 of Directive (EU) 2018/2001 of the European Parliament and of the Council for Renewable Energy Communities or per the provisions of Article 15 of Directive (EU) 2019/944 of the European Parliament and of the Council**.
Justification	
Pointing to the existing relevant legislation helps to clarify how energy sharing may be conducted in the framework being proposed by the Commission.	

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 48	
Recital (51)	
Original text	Original text +**amendments**
(51) Energy sharing operationalises the collective consumption of self-generated or stored electricity injected into the grid by more than one jointly acting active customers. Member States should put in place the appropriate IT infrastructure to allow for the administrative matching within a certain timeframe of consumption with self-generated or stored renewable energy for the purpose of calculating the energy component of the energy bill. The output of these facilities should be distributed among the aggregated consumer load profiles based on static, variable or dynamic calculation methods that can be pre-defined or agreed upon by the active customers.	(51) Energy sharing operationalises the collective consumption of self-generated or stored electricity injected into the grid by more than one jointly acting active customers **within a restricted geographical area to be determined at Member State level**. **System operators or other relevant designated bodies** should put in place the appropriate IT infrastructure to allow for the administrative matching within a certain timeframe of consumption with self-generated or stored renewable energy for the purpose of calculating the energy component of the energy bill. **The cost related to the set up and management of these IT infrastructures shall be decided and allocated by the Member States.** The output of these facilities should be distributed among the aggregated consumer load profiles based on static**, ~~variable or dynamic~~ and** pre-defined calculation methods **~~that can be pre-defined or agreed upon by the active customers~~**.
Justification	
We recommend that energy sharing remain as localised as possible to preserve the social nature of energy sharing and prevent alternative supply methods which may leave customers without the necessary protections. Shared energy must pay for all costs associated with its transfer, including taxes, levies, network charges, network losses, and ancillary services. If these costs are not considered as part of the framework for energy sharing, participants will benefit from the derogation to the general supply rules if the sharing is not limited effectively. The larger the energy sharing perimeter, the greater the risk of discrimination between shared energy suppliers and traditional energy suppliers and the greater undermining of the general supply framework. *As foreseen in the staff working document, the system operators or any designated bodies will have the responsibility to put in place the necessary back-end IT infrastructure to operationalise this right. However, the system operator or the designated body should recover the cost associated to its setting up and management. We recommend to make it explicit that system operators shall recover their costs related to energy sharing development (network investments, IT developments, management). Member States are free to define costs recovering national methodologies, adapted to their DSO/TSO specific situation.* *Finally, the rules for allocating the energy shared production between its different consumers must be defined and communicated to the consumer's supplier(s) with sufficient notice to allow them to*	

limit their balancing costs.

It is important that to understand the risk that energy sharing poses to suppliers' operations. Suppliers rely on the relative consistency of different customer segments' consumption patterns to develop projections which allow them to procure the right amount of electricity to ensure enough supply for their customers when the customers need it. When a customer enters into an energy sharing arrangement, the relative unpredictability of the excess generation they receive can upset this balance. To mitigate this, suppliers need to be informed so they may understand the consumption changes and cover the associated risks. Nevertheless, if this measure limits supplier balancing costs, it doesn't protect fixed price suppliers from P&L generated by the energy they were supposed to sell at a determined contractual price to their customer, and that they had to sell at market price because the consumer doesn't consume this energy (replaced by shared energy).

Amendment Proposals for Grid tariff design

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 49	
Recital (26)	
Original text	Original text +**amendments**
(26) To reach the Union's decarbonisation targets and the objectives set out in REPowerEU to become more energy independent, the Union needs to accelerate the deployment of renewables at a much faster pace. In view of the investment needs required to achieve these goals, the market should ensure that a long-term price signal is established.	(26) To reach the Union's decarbonisation targets and the objectives set out in REPowerEU to become more energy independent, the Union needs to accelerate the deployment of renewables at a much faster pace. In view of the investment needs required to achieve these goals, the market should ensure that a long-term price signal is established. **The benefit of renewables and flexibility from consumers can be harvested only to the extent the grid deployment keeps up with more anticipatory and least regret investments. All obstacles to the necessary and efficient growth of the infrastructure that might be existing in the national regulatory regimes today, must be abolished.**
Justification	
There is a major interdependency between the necessary built-out of RES and the necessity to accommodate that built-out also in the grid on both transmission and distribution level. In other words, if policy accelerates renewables, there is a need to accelerate the grid by supporting its expansion, flexibilisation and further digitalisation with more anticipatory and non-regret investment. *We are convinced that the regulatory framework at national level, with appropriate returns on investment, is still best suited to solve the issue.* *In some cases, we are convinced that adjusting national approaches will be beneficial. Thus, we*	

would advocate to complement the existing EU electricity directive in a way that gives a clear signal to the Member States that grids must grow and be digitised significantly and 'All obstacles to the necessary and efficient growth of the infrastructure that might be existing in the national regulatory regimes today, must be abolished. An example of 'obstacle" is the current investment cap set in Spain since 2013 which was imposed as a reaction to the financial crisis. The limit is no longer necessary not justified but the Spanish government has not removed it yet.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 50	
Recital (22)	
Original text	Original text +**amendments**
(22) Network tariffs should incentivise transmission and distribution system operators to use flexibility services through further developing innovative solutions to optimise the existing grid and to procure flexibility services, in particular demand response or storage. For this purpose, network tariffs should be designed so as to take into account the operational and capital expenditures of system operators or an efficient combination of both so that they can operate the electricity system cost-efficiently. This would further contribute to integrating renewables at the least cost for the electricity system and enable final customers to value their flexibility solutions.	(22) Network tariffs should incentivise transmission and distribution system operators to use flexibility services through further developing innovative solutions to optimise the existing grid and to procure flexibility services, in particular demand response or storage. For this purpose, network tariffs should be designed **to provide the right incentives to system operators by combining a timely recognition of traditional investments in physical networks and adequate returns, with a flexible reflection of operational cost.** ~~**so as to take into account the operational and capital expenditures of system operators or an efficient combination of both so that they can operate the electricity system cost-efficiently.**~~ This would further contribute to integrating renewables at the least cost for the electricity system and enable final customers to value their flexibility solutions.
Justification	

Incentives and appropriate remuneration schemes, set by the NRAs, are needed for the efficient provisions of flexibility services. They could be improved at MS level while making sure there is no bias in either OPEX and nor on CAPEX, but only a pursuit of a long-term optimum. DSOs must be fully remunerated for the procurement of flexibility services independent from the chosen regime (CAPEX/OPEX).

There are two effects in the remuneration of SO which prevent an unbiased decision between grid reinforcement and flexibility use:

- *OPEX are only adapted with a considerable time-lag and without correcting for past developments in most national regulatory systems is being used.*
- *While CAPEX usually and with regards to incentivising necessary and efficient investments necessarily become effective immediately i.e., the investment is recognized by the NRA and*

its corresponding CAPEX per year are added to the allowed revenue. The time lag for OPEX must be corrected at least for new or fast-growing items.

Both CAPEX and OPEX are essential:

- *The urgent necessity to increase capacity for the connection of new distributed generation and loads has demonstrated in recent years that grid investments are a no-regret option. A higher weighting of CAPEX in remuneration schemes can reduce the investment risk and provide more incentives for efficient investment.*
- *An adequate redesign of OPEX incentives to distribution grid operators will enable the integration of these resources in the planning activities of grid distribution operators and will render the most efficient outcome.*

Amendment Proposals for flexibility needs assessment & targets

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 51	
Recital (37)	
Original text	Original text +**amendments**
The accelerated deployment of renewables necessitates a growing availability of flexibility solutions to ensure their integration to the grid and to enable the electricity system and grid to adjust to the variability of electricity generation and consumption across different time horizons. Regulatory authorities should periodically assess the need for flexibility in the electricity system based on the input of transmission and distribution system operators. The Assessment of the flexibility needs of the electricity system should take into account all existing and planned investments (including existing assets that are not yet connected to the grid) on sources of flexibility such as flexible electricity generation, interconnectors, demand side response, energy storage or the production of renewable fuels, in view of the need to decarbonise the energy system. On this basis, Member States should define a national objective for non-fossil flexibility such as demand side response on storage which should also be reflected in their integrated national energy and climate pans.	The accelerated deployment of renewables necessitates a growing availability of flexibility solutions to ensure their integration to the grid and to enable the electricity system and grid to adjust to the variability of electricity generation and consumption across different time horizons. Regulatory authorities should periodically assess the need for flexibility in the electricity system based on the input of transmission and distribution system operators. The Assessment of the flexibility needs of the electricity system should take into account all existing and planned investments (including existing assets that are not yet connected to the grid) on sources of flexibility such as flexible electricity generation, interconnectors, demand side response, energy storage or the production of renewable fuels, in view of the need to decarbonise the energy system. **~~On this basis, Member States should define a national objective for non-fossil flexibility such as demand side response on storage which should also be reflected in their integrated national energy and climate pans.~~ These assessments should be considered in the context of all tools available to system operators to allow them to choose the most cost-efficient methods to support the**

dramatic increase in renewable generation needed to meet the Union's decarbonisation goals and ensure system security and stability given the variability of renewable generation sources. Such considerations are already foreseen in the recently revised TEN-E Regulation (Regulation (EU) 2022/869 of the European Parliament and of the Council) Articles 10 and 11 and here we recommend adding a specific flexibility dimension to the ERAA.

Justification

We agree that the development of a flexibility assessment could drive the further development of flexibility assets and services. We find that a standalone assessment, coupled with a flexibility dimension in the ERAA and the TYNDP will help put these technologies in the global context of the available tools to system operators can use to support the onboarding of new renewable and low carbon generation.

Nb: the recently revised TEN-E regulation already has such a flexibility dimension in Articles 10 & 11

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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