

The Consumer Voice in Europe

ELECTRICITY REGULATION

BEUC key demands for trilogue negotiations



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Why it matters to consumers

Electricity is an essential service for consumers. However, millions of households are struggling to pay their energy bills and many still find it difficult to understand basic elements of the energy market and what are they paying for. With decentralisation and digitalisation, electricity markets are undergoing profound changes. The way the future electricity system functions will define how much the consumers can benefit from these trends, what kind of offers they can access, what quality of service they have, and ultimately how much they pay through their electricity bills.

Summary

The European Parliament and the Council entered negotiations on the European Commission's proposal on a revised Electricity Regulation which can help to create a fairer way for consumers to get involved in the transition. BEUC would like to provide the European legislators with a set of recommendations so that future electricity markets are competitive and ensure affordable and secure electricity supply for all European consumers.

✦ **Ensure security of supply at the lowest costs for consumers.** Capacity mechanisms should only be a temporary measure of last resort and reasons to introduce capacity mechanisms should be properly scrutinised. Costs of capacity mechanisms and the way they are distributed, and their impact on household consumers' bills, should be carefully assessed.

✦ **Create a fit-for-purpose framework for household-driven renewable generation and demand-side response.** The EU wants to make the energy transition consumer-centric, whilst being inclusive of renewable generation and more flexible demand. This policy transition is framed by rapidly evolving energy markets, driven by new technologies and innovative services enabling consumers to become more active than before. However, the underpinning structures of the markets were set without considering this new type of player or the size of players into account, or the ways they can in practice interact with the market. Dispatching and balancing mechanisms, the way the network operates and the wholesale markets all need to adapt to enable consumers become more active.

✦ **Provide a fair distribution of the network costs that is future proof.** The way the network costs will be distributed amongst different types of consumers will largely depend on the tariff structures chosen – but also on the discount and exemptions to industry. Household consumers should not be exposed to tariff structures that penalise those who cannot invest in connected equipment or change the way they consume electricity.

1. Chapter II: General rules for the electricity market

1.1. Balancing responsibility (Article 4)

The energy system was set up for large and centralised power plants. Mechanisms to determine who has priority to put the electricity on the network and to ensure that the system is balanced at all times are not designed for small-scale self-generation.

Balancing markets can be indeed challenging for small-scale projects to navigate. It would be disproportionate to ask household consumers to participate individually or collectively in these markets. Thus, small-scale renewable energy installations generally should be exempted from balancing responsibilities as they will bear the burden of the penalties but will not be able to access the tools to reduce the risk of being unbalanced.

Further lowering of threshold for balancing responsibilities to 250 kW after 2026 should not undermine consumers participation in the energy transition. For example, buildings of 50 households could easily have that capacity installed. This type of facilities will find it difficult to actively participate in the balancing mechanism, which means they will have to use third party intermediaries to access the market. This will create barriers for household consumers and is likely going to discourage many to install renewables in their homes. At the same time, it is currently unclear who they could delegate these responsibilities to in an open market. The legislation should not rely only on a potential development of intermediaries such as aggregators that could enable consumers to access the market.

BEUC demands:

- Modify Article 4.2 on derogations as Member States shall (not “may”) exempt small-scale renewable energy installations from balancing responsibilities.
- Adopt the original thresholds proposed by the Commission in Article 4.2. and supported by the Parliament. Reject the Council’s text on Article 4.3 lowering the threshold for balancing responsibility to 150 kW and allowing Member States to apply even lower threshold after 2026.

1.2. Trade on day-ahead and intraday markets (Article 7)

While market participants should be allowed to trade energy as close to real time as possible, the Electricity Regulation should be aligned with the Commission’s Guideline on Electricity Balancing. At the same time, it should maintain coherence and consistency with both the implementation of the Third Energy Package and the development of the new electricity network codes.

At the same time, the impact of 15 minutes imbalance settlement period could in some cases add disproportionate and unnecessary costs to consumer bills, e.g. if this requires the replacement of smart meters which are currently being rolled out. Where an exemption from 15 minutes imbalance settlement period is granted, National Regulatory Authorities should perform, in cooperation with the Agency and at least every three years, a cost-benefit analysis concerning the harmonisation of the imbalance settlement period within and between synchronous areas.

Furthermore, household consumers should be able to provide flexibility in the market if they wish so. Lower minimum bidding volumes for the day-ahead and intraday markets can facilitate new entrants to participate in these markets. An aggregator would require significant number of household customers to be able to respond to 1 Megawatt products. Bidding size that is too high may therefore limit the participation of aggregators proposing products for households, potentially stagnating the market and putting higher barriers to entry.

BEUC demands:

- Support the Council's text on Article 7.4 and amend it to ensure regular assessment of costs and benefits related to the harmonisation of the imbalance settlement period.
- Support the original Commission's proposal on Article 7.3 adjusted by the Parliament's amendment with a minimum bid size of 500kW. We recommend a minimum bid size of "500kW or less" to allow various aggregators to participate and ensure flexibility for Member States.

1.3. Dispatching of generation and demand response (Article 11)

Priority dispatch for renewable power plants is still indispensable to offset risks of distorted wholesale markets. Removal of priority dispatch adds uncertainty and destroys investment security in particular for households and communities planning a self-generation project. These groups are less able to have sophisticated predictions and are generally more risk adverse.

Small players, especially households, are not set to participate in dispatching mechanisms. For example, they will have to go through administrative burdens for the bidding process, which was set for larger players. Also, households would have to understand the market enough to bid at the right level. They would bear the risk of getting it wrong and not being able to get their electricity in the system and get compensated.

BEUC demands:

- Support the priority dispatch for small-scale installations of renewable energy sources up to 500kW until 2026 as proposed by the Commission in paragraph 11.2 and backed by the Parliament.
- Oppose that some Member States could lower the threshold before 2026 as proposed by the Commission in paragraph 11.3 and support the Council's proposal to delete this paragraph.
- Oppose the exemptions to provide priority dispatch for some Member States as proposed by the Parliament in the first paragraphs of amendment 53.
- Support the last paragraph of Parliament's amendment 53 to continue priority dispatch for renewable installations up to 250kW after 2026. We oppose the proposal of the Commission and the Council that this threshold could be lowered to 125kW or 150kW respectively.

2. Chapter III: Network access and congestion management

2.1. Charges for access to networks (Article 16)

The way the costs of the network are allocated will have significant distributional impacts. The design of network tariffs is one of the key elements that will establish who pays for what and how much. Network tariffs should be fair, cost-reflective and better reflect real use of the grid. There may be benefits in supporting complementary policy objectives to those set in the Clean Energy for All Europeans package, such as support greater efficiency in energy poor and vulnerable households. However, National Regulatory Authorities should ensure that grid tariffs do not include costs supporting policy objectives not delivered by the network operators (such as taxes or levies), or costs and payments for unrelated services (eg TV tax). National Regulatory Authorities should establish performance indicators for the Transmission and Distribution System Operators to ensure the efficient, reliable and secure operation of distribution and transmission systems and regularly report on their performance.

Moreover, network tariffs have the potential to provide signals to those using the grid. These are expected to result in investment decisions or behavioural changes from consumers. Typically, the goal of these signals is to increase the overall system efficiencies, reducing its costs that are ultimately borne by consumers. Network tariffs should be redesigned to reward flexibility and trigger contribution of ancillary services by consumers who engage in self-generation or demand-side flexibility. However, the redesign of network tariffs must not unduly increase the financial burden for consumers, such as households with a low level of electricity consumption or households living in remote areas. At the same time, we welcome approaches that reduce overall costs to domestic consumers and ensure that consumers do not pay for the benefits of other players.

The distribution of costs and benefits should not create winners and losers among consumers. Some will be able to adapt to the price signals and gain from these incentives, reducing their overall costs. Other consumers might be able to take the extra costs of not responding to the signals and “can’t be bothered” to adapt. But more important to us, other consumers will face too many barriers and simply cannot react to price signals. We recommend that the legislation provide safeguards for these latter consumers.

Also, it is likely that time differentiated tariffs are not adequate for all household consumers, so it should not be mandatory to introduce them in all Member States (with smart meters). The type of tariff structures that is fair and cost reflective will depend on local circumstances and should thus be established by the Member State rather than be harmonised at EU level. This is linked also to Article 55 on EU network codes that should not harmonise distribution tariff structures because these are likely to be better regulated at the local level. Harmonising these tariffs would likely be detrimental to consumers.

BEUC demands:

- Clarify the Parliament's amendment 78, especially what are "unrelated costs supporting other policy objectives". We recommend that the wording is clarified. This can be achieved by referring to the policy objectives that are allowed in the Clean Energy Package, or the policies to be delivered by Distribution and Transmission Network Operators established in this Regulation and the Proposal for a Directive on the common rules for the internal market in electricity (Article 9).
- Oppose the Parliament's amendment 79 on global competitiveness as this would represent an addition to an unrelated policy objective to those that the network charges should address. However, support the Parliament's proposal in amendment 79 that tariffs should not create disincentives for energy storage, demand response or self-generation.
- Support the Parliament's amendment 84 to adopt and regularly report on performance indicators for the Transmission and Distribution System Operators.
- Reject the Commission's proposal on the progressive convergence of transmission and distribution tariffs and support the Council's proposal in Article 16.9 for the Agency to provide best practices. At the same time, support the Parliament's amendment 179 as EU network codes should not be extended to the harmonisation of distribution tariff structures.
- Support the Parliament's amendment 83 so that the Agency's feasibility study on the convergence of transmission and distribution tariff methodologies includes the effects on different network users.

3. Chapter IV: Resource adequacy

3.1. Resource adequacy (Article 18)

The resource adequacy assessment of each Member State should be comprehensive and comparable in order to provide system operators, policy makers, and consumers with the information needed to ensure the effective and fair functioning of electricity markets. Member States should therefore not only monitor but also report on and publish resource adequacy within their territory.

Markets can be well regulated while still failing to deliver resource adequacy, for example through non-regulatory barriers to entry for new resources. Such market failures should also be identified by using the European resource adequacy assessment methodology, so that the best solution to the concern can be found.

Last but not least, it is inappropriate to automatically prohibit price caps when Member States address resource adequacy concerns. The opportunity for Governments to intervene where competition is not working should not be time limited, even though the actual interventions themselves may be time-bound.

BEUC demands:

- Adopt the Parliament's amendment 89 ensuring resource adequacy assessments are publicly available.
- Support the Parliament's amendment 90 and the Council's text on Article 18.2 to monitor not only regulatory distortions but also market failures in resource adequacy assessments.
- Oppose the Parliament's amendment 91 on Article 18.3b) proposing to automatically remove price caps when Member States address resource adequacy concerns.
- Adopt the Parliament's amendment 91 on Article 18.3e) to enable self-generation, storage, energy efficiency and demand side response by removing regulatory obstacles.

3.2. Principles for capacity mechanisms (Articles 18 and 23)

Security of supply should be ensured at the lowest costs for consumers and reasons to introduce capacity mechanisms should be properly scrutinised. Costs of capacity mechanisms and their impact on consumers' bills should be carefully assessed.

If deemed necessary, capacity mechanisms should be non-discriminatory and open to all generation technologies, interconnection capacities, demand-side response resources, storage and energy efficiency. These mechanisms should be designed in the least intrusive way possible, the costs should be fairly distributed and should not create unnecessary burden on household consumers.

The long-term objective should be to limit new mechanisms and unwind the existing ones. Therefore, capacity mechanisms should only be a temporary measure of last resort, limited in time and accompanied by a clear exit strategy.

BEUC demands:

- Support the Parliament's amendment 91 requiring Member States with resource adequacy concerns to publish an implementation plan with a timeline for adopting measures. This should however include also a clear phase-out strategy for capacity mechanisms.
- Support the Parliament's amendment 97 creating a new Article 18a, particularly:
 - paragraph 1 ensuring that capacity mechanisms are a measure of last resort.
 - paragraph 2 requesting Member States to conduct a study on possible effects of capacity mechanisms on the neighbouring countries. However, the final text should also include assessment of the impact of the capacity mechanism on energy prices and the impact on household energy bills in relevant Member State. This assessment shall be public.
 - paragraph 6 allowing capacity mechanisms only as a temporary measure,
 - paragraph 7 avoiding subsidies for highly polluting power plants.
- Support the Parliament's amendment 112 to ensure that strict criteria are in place and the introduction of capacity mechanisms is properly scrutinized.

4. Chapter VI: Distribution system operation

4.1. European Entity for Distribution system operators (Articles 49, 50, 51, 52)

Distribution System Operators are central to the success of the energy transition and should continue acting as neutral market facilitators in the future energy markets. While they have a changing mix of roles throughout the EU and many of their responsibilities are best decided at the national level, BEUC is in favour of creating a European Entity for Distribution system operators (EU DSO entity). At the same time, we support additional proposals to strengthen the independence of the EU DSO entity and to ensure balanced representation. ACER should be assigned an oversight role for the texts drafted by this entity.

In view of the decisions taken by the EU DSO entity and their importance to consumers, transparency and a robust consultation and drafting process of network codes is essential, both for new drafts and amendments. It should be ensured that consumer delivery is designed in from the outset and that investments offer the greatest value for consumers. The process should facilitate input from non-technical experts that can provide insight on the functioning of the market place.

BEUC demands:

- Support the Parliament's amendments 168 and 170 as well as the Council's proposal on Article 49.1a on the independence of the EU DSO entity.
- Adopt the Parliament's amendment 175 to facilitate monitoring by the ACER. The Agency should be involved also in the preparation of the EU DSO founding documents.
- Reject the Parliament's addition in amendment 176 (Article 52) which makes the consultation mandatory only when participating in the elaboration of new network codes.
- Support the Council's proposal on Article 52.1 as DSOs should not be part of the consultation on the network codes drafted by themselves.



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