

Opinion of the European Economic and Social Committee on the proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2019/943 and (EU) No 2019/942 as well as Directives (EU) 2018/2001 and (EU) 2019/944 to improve the Union's electricity market design

(COM(2023) 148 final — 2023/0077 (COD))

(2023/C 293/17)

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Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
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1. Policy recommendations

1.1. Energy, including the infrastructure for the transport and distribution, cannot be treated like any other commodity: it is an essential building block of our economic and social system and thus a central part of the provision of public services. Therefore, energy supply is classified as a service of general interest. It is therefore necessary to create regulatory framework conditions for future energy that guarantee both an environmentally-friendly, affordable and reliable supply of energy and the right to energy. This also means that energy market design must take into account the requirements associated with decarbonisation. In order to ensure affordable basic energy supply, the European Economic and Social Committee (EESC) believes that the new market design must guarantee basic energy supply at regulated prices.

1.2. The EESC believes that the Commission should have taken more steps in its proposal for the electricity market reform to adapt market design to the new reality which requires simultaneous management of three objectives: sustainability, affordability and security of supply. The new reality will also be based on renewable energy, with a growing role for prosumers and other small market participants alongside large producers.

1.3. A system that considers these changes can only function if the merit order system is abolished and replaced with a model where electricity prices are based on the respective production costs. This system must take into account the average costs in the pricing.

1.4. In the context of a reform of the electricity market, liberalisation must be critically examined in terms of its sustainability, affordability and security of supply. In addition, it must not be forgotten since the current crisis shows that liberalized energy markets are unable to meet these needs and do not create enough incentives and investment security for renewable energy. Moreover, governments will be responsible for delivering these three objectives (sustainability, affordability and security of supply) over a long period, because the market will not combine and realize them spontaneously.

1.5. Therefore the EESC opts for a hybrid model, where market forces and target-driven management jointly lead to optimal market functioning within the framework of the stipulated objectives. The heart of this model is a government-established 'E-facility' which buys the electricity from the producers and sells it to the suppliers of household customers, SMEs, Citizen Energy Communities and large consumers, and where appropriate and possible to other countries, using the three objectives as a framework for decision making. This facility would conclude long-term contracts

with electricity producers on the basis of tenders. These contracts would be of various types, such as power purchase agreements (PPA), contracts for difference (CfD) and cost+ contracts.

1.6. The Committee strongly supports the Commission's proposal to empower consumers by creating the right to share renewable energy directly. This requires, among other things, that all relevant information must be clear and accessible to consumers, so that they can fulfil an independent role in the electricity market, as user and producer. The EESC also considers that the market must be organised so as to enable consumers who also generate their own electricity (prosumers) or other small market participants to benefit as much as possible from the electricity they generate themselves, even if they feed it into the grid. One example of how this can be organised in another, more honest way for small producers is an 'electricity bank'.

1.7. In addition to the request to accelerate the development of green gases, the Committee calls on the Commission to include a regulation for the market design of natural gas in the H2 and low-carbon gases package. In this way, a single integrated and secure natural gas market at EU level would accelerate the electrification of the energy system by guaranteeing greater price equality and security for consumers.

1.8. In order to achieve a high level of renewable energy systems integration and accelerate the transition to a decarbonised system, storage and generating your own electricity will not be enough. What is needed are flexibility markets that in the best scenario also signal the situation prevailing on the grid. When establishing these flexibility markets, it makes sense to differentiate between the voltage levels.

1.9. As the reform will take time to be fully effective, the EESC recommends that the inframarginal rent cap mechanism stay in place until the reform is fully operational. Revenues should be directed toward the most vulnerable, with the option of lowering prices in light of recent developments in wholesale prices.

1.10. The Committee urges the Commission to monitor the effects of this proposed reform of the electricity market. This is important because the electricity market is in the middle of a paradigm shift that is far from complete and will certainly require further adjustments in the coming years. It is also important because no impact assessment has been prepared for the Commission's current proposal. This increases the uncertainty about the effects of this reform.

2. Substantiation of the policy recommendations

General aspects

2.1. The EESC has been calling for a reform of the EU electricity market for some time ⁽¹⁾. This is because, in practice, the risks to which the EU electricity market is exposed are mainly passed on to consumers, a conclusion that the European Court of Auditors also drew in its *Special Report: Integrating the internal market for electricity* ⁽²⁾.

2.2. The energy price increases in 2021 and 2022 were accelerated after Russia began its war of aggression against Ukraine; the war affected the prices of fossil fuels, especially gas, and the resulting increases were passed on to the end consumers following the merit order ⁽³⁾. This made it clear that the existing electricity market structure is unable to keep electricity prices manageable for consumers and businesses.

⁽¹⁾ Opinion of the European Economic and Social Committee on the Public investment in energy infrastructure as part of the solution to climate issues (own-initiative opinion) (OJ C 486, 21.12.2022, p. 67) and Opinion of the European Economic and Social Committee on Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Short-Term Energy Market Interventions and Long-Term Improvement to the Electricity Market Design — a course for action (COM(2022) 236 final) (OJ C 75, 28.02.2023, p. 185).

⁽²⁾ https://www.eca.europa.eu/Lists/ECADocuments/INSR23_03/INSR_Energy_Union_EN.pdf

⁽³⁾ Merit order: the order of power plants based on the level of their marginal costs, starting with the lowest marginal costs and ending with the highest marginal costs. So, power plants with higher marginal costs are added until the demand is met. The order is: renewable energy, nuclear energy, coal, oil and gas. In today's electricity market design, the last power plant from the merit order (mostly gas) sets the price using its marginal costs.

2.3. It is also important to realise that there is a fundamental economic reason to redesign the electricity market: the marginal costs of renewable energy systems are zero. It is plain that a market system with a price mechanism where the marginal costs of the last power plant sets the clearing price does not work in the future electricity sector dominated by renewable energy systems (or other CAPEX-intensive system). This is why we need a contract for difference (CfD) as a remuneration scheme for all renewable energy producers, where the levelised costs of energy (or average costs) are used to establish the reference price.

2.4. The fundamental reason for CfD are the marginal costs of renewables. Other than suggested by the Commission, price stability will be only partially, if at all, achieved by CfD. This is true as long as CfD only cover the electricity as produced and not more complex products — such as a combination of renewable generation, storage and demand side management. The reason for this is that for periods when renewable generation is low residual energy needs to be purchased, and the respective costs can become considerably high. The Commission ignores this effect and makes promises to end-consumers that eventually won't be fully deliverable.

2.5. The EESC points out that energy, including the infrastructure for the transport and distribution, is not a commodity like any other: it is an essential building block of our economic and social system and thus a central part of the provision of public services. Therefore, energy supply is classified as a service of general interest. It is therefore necessary to create regulatory framework conditions for future energy that guarantee both an environmentally-friendly, affordable and reliable supply of energy and the right to energy. This also means that energy market design must take into account the requirements associated with decarbonisation. In order to ensure affordable basic energy supply, the EESC believes that the new market design must guarantee basic energy supply at regulated prices. Reimbursement of costs to energy suppliers should be based on costs evidence. In return, energy suppliers must be permanently required to provide a certain share of energy for basic supply.

2.6. It is clear that recent developments in the electricity market have highlighted the importance of finding a new and proper balance between public and private presence in the electricity market. The Committee has explored this issue thoroughly in its TEN/771 opinion on *Public investment in energy infrastructure as part of the solution to climate issues* (see footnote 1). At the same time, the EESC firmly believes that electricity market reforms are desperately needed in order to achieve the aforementioned objectives of sustainability, affordability and security of supply.

2.7. On 14 March 2023, the Commission published the legislative proposal 'to reform the EU's electricity market design to accelerate a surge in renewables and the phase-out of gas, make consumer bills less dependent on volatile fossil fuel prices, better protect consumers from future price spikes and potential market manipulation, and make the EU's industry clean and more competitive' (*).

2.8. The EESC welcomes this proposal as a first step in the right direction: the energy system of tomorrow that should be decarbonised, based on renewable and carbon free sources of energy and centred on consumers. Consumers for whom all relevant information must be clear and accessible, so that they can fulfil an independent role in the electricity market, as user and producer.

2.9. The Committee urges the Commission to monitor the effects of this proposed reform of the electricity market. This is important because the electricity market is in the middle of a paradigm shift that is far from complete and will certainly require further adjustments in the coming years. It is also important because no impact assessment has been prepared for the Commission's current proposal. This increases the uncertainty about the effects of this reform.

2.10. The electricity market reform proposal plans to introduce a peak shaving service and products; this refers to the ability of market participants to reduce electricity consumption at peak hours which are determined by the transmission system operator. According to Article 7a, contracts for peak shaving products may not be concluded more than two days before they are activated and the contracting period cannot be longer than one day. Such a short period is desirable to prevent abuse, especially by large consumers, but could prevent many consumers (and independent aggregators) from supplying these products. The Committee therefore asks the Commission to examine under what conditions the contracting period could be extended.

(*) https://ec.europa.eu/commission/presscorner/detail/en/IP_23_1591

2.11. Furthermore, the Committee believes that the Commission has come up with some good proposals for adjusting the electricity market. However, it considers that the Commission should have taken more steps to adapt market design to the new reality which requires simultaneous management of three objectives: sustainability, affordability and security of supply. It will also be based on renewable energy, with, according to the promise of the Commission, a growing role for prosumers and small market participants alongside large producers⁽⁹⁾. However, the Commission's proposal does not sufficiently reflect this, which is why, in addition to the Commission's proposal, the Committee submits two other proposals that would fit in the legislative proposal.

2.12. A system that considers these changes can only function if the merit order system is abolished and replaced with a model where electricity prices are based on the respective production costs. This system must take into account the average costs in the pricing.

A government facility

2.13. Since 1996, the EU has been committed to liberalising the electricity market. However, in the context of a reform of the electricity market, liberalisation must be critically examined in terms of its sustainability, affordability and security of supply. Account must be taken of past and future developments in the electricity market, including major changes in production facilities with very different cost prices. Moreover, governments will be responsible for delivering these three objectives over a long period, because the market will not combine them spontaneously.

2.14. The EESC believes that it would be better to opt for an effective mix of liberalisation and regulation in order to combine the merits of the liberalised market with the desired direction on the part of governments; this would ensure that the objectives are safeguarded.

2.15. As already pointed out in EESC opinion TEN/771 the Committee is convinced that particular attention should be paid to defining grid development as an overriding public interest, including climate protection as a regulatory objective and, more generally, synchronising the planning of renewable energies and the electricity grid more effectively. There is an urgent need for specific provisions under EU law.

2.16. The model outlined here by the EESC for the reformed electricity market is therefore based on the following principle: liberalised where possible and regulated where necessary. It would be a hybrid model, where market forces and target-driven management jointly lead to optimal market functioning within the framework of the stipulated objectives.

2.17. The model, which is also already possible under the current regulations, should create a government-established 'E-facility' which buys the electricity from the producers and sells it to suppliers of household customers, SMEs, Citizen Energy Communities and large consumers, and where appropriate and possible to other countries, using the three objectives as a framework for decision making. This facility would conclude long-term contracts with electricity producers on the basis of tenders. These contracts would be of various types, such as power purchase agreements (PPA), contracts for difference (CfD) and cost+ contracts. Since CfD are intended to be an instrument for promoting new investments generating electricity from renewable energy systems, this tool must not prevent the producer from striving to optimise their power generation. For a CfD auction it is necessary to define a threshold price (minimum price) and a ceiling price (maximum price), which are based on a dynamic benchmark based on the LCOE (levelized cost of energy) of the technologies considered (solar, wind, et al). Therefore, the Member States must be required to set minimum and maximum remunerations so that power producers have an incentive to optimise their production. For marginal power supply (e.g. from renewable gases or batteries) special provisions should apply.

2.18. Given the production possibilities available and in line with the three objectives, the facility can enter into contracts with various types of production companies. The long-term contracts concluded by the facility ensure both an acceptable price guaranteed by the state for end users and investment security for producers.

2.19. The facility then sells the purchased electricity on to distribution companies, large users and other market participants. Various types of contracts can also be concluded for this, determined partly by the wishes of the participants. Resale price caps are set to prevent over-profits.

⁽⁹⁾ A small market participant is, for example, a municipality, energy cooperative or region that generates electricity by means of wind and/or sun and that supplies part of that electricity to the grid rather than using it all directly.

Electricity bank

2.20. The Committee strongly supports the approach described in the Commission's European Energy Union, to empower consumers and putting them at the heart of politics, among other things by creating the right to share renewable energy directly. We are therefore pleased that the Commission has included in its proposal that consumers will be able to sell excess rooftop solar electricity to neighbours. The EESC also considers that the market must be organised so as to enable consumers who also generate their own electricity (prosumers and renewable energy communities — REC) or other small market participants or producers to benefit as much as possible from the electricity they generate themselves, even if they feed it into the grid. One example of how this can be organised in another, more honest way for small producers is an 'electricity bank', an example that can be further thought through and worked out.

2.21. This is how an electricity bank might work: you have solar panels on your roof and on sunny days they produce more than you consume that day. You deliver this excess electricity via the grid to the distribution company with which you have a contract. The company can read how much electricity you have supplied via your smart meter and this amount will partly (maybe between 70 % and 90 %, depending on how much you supply to the grid; smaller suppliers are credited with a larger share) be credited to your kWh account. It is only partly credited for three reasons: firstly, to finance the company's services, secondly the company must take into account possible price differences between the moment you supply electricity and the moment you want to purchase electricity and, thirdly, because incentives should be built into the system to add storage capacity (even just a small generator) to make the entire electricity network more resilient. An example: you have supplied 100 kWh and the bank then credits 80 kWh to your account. Then you need to get electricity from your provider, for example for your own household, or charge your car battery at a charging station using a charging card from your electricity provider. Suppose you need 200 kWh: the first 80 kWh will be debited from your account and you pay nothing for it. For the next 120 kWh you buy, you pay the price stipulated by your contract with the electricity company.

2.22. So rather than paying for the electricity bank's services in euro, you pay in kWh. Of course, the price of the electricity you get delivered by grid includes the normal external costs, such as network fees, surcharges, levies and taxes.

The need for green gas, flexibility and security of supply

2.23. So far, the EU has decided to rely on LNG to replace Russian gas. However, this is a short-term solution as it has an environmental impact (such as shale gas from the US that is then shipped to Europe), an economic impact (the molecule is costlier than it was for Russian gas) and a geopolitical impact (the EU may become reliant on other partners, who are undemocratic and/or harm human rights). Therefore, two measures are paramount. First is reducing the marginality of gas. The use of gas plants will continue to be necessary as a mid-term flexible back-up system, and so a rapid transition to green gas, such as certain forms of biogas and green hydrogen, will be required. The reform should also try to identify ways and means to do so, with compulsory objectives at peak times.

2.24. According to the various scenarios devised by the Commission, natural gas will continue to play an important role for the short-term in guaranteeing a supply of thermal energy to the EU production system. The production capacity for biogas must accelerate and the cost of green hydrogen must go down in order to allow natural gas to be replaced as quickly as possible. In addition to the request to accelerate the development of green gases, the Committee calls on the Commission to include a regulation for the market design of natural gas in the H2 and low-carbon gases package. In this way, a single integrated and secure natural gas market at EU level would accelerate the electrification of the energy system by guaranteeing greater price equality and security for Europeans and improving coordination to support the phasing out of natural gas use as quickly as possible.

2.25. In 2030, according to the European Commission's modelling scenario, renewable electricity should represent around 70 % of EU power generation. In order to achieve such a high level of renewable energy systems integration and accelerate the transition to a decarbonised system, it will be necessary to ensure that the short-term market is more efficient, enhance storage by means of facilitated access to financing and permits, and encourage consumers to use electricity they have generated themselves. However, storage and generating your own electricity will not be enough, and the short-term

market is unlikely to offer an effective solution. What is needed are flexibility markets that in the best scenario also signal the situation prevailing on the grid. The reform should also avoid any risk of fragmentation by carefully monitoring the implementation of the newly adopted measures.

2.26. When establishing these flexibility markets, it makes sense to differentiate between the voltage levels. On a high and medium voltage level, large scaled flexibility options, such as big storages, are needed and it could be an option to entitle and oblige grid operator to integrate them to their operation as own resources. On a low voltage level the task is rather to aggregate small flexibility options that are provided by prosumers, e.g. households with a own PV installation, a small storage and a heat pump. Digital platforms operated by grid operator or other market actors could become an important tool for marketing flexibility as system service provision and to integrating them into the electricity system.

2.27. Dynamic tariffs, including dynamic grid fees, can serve as strong incentives for end-consumers to act in a system friendly way. However, this requires a digital infrastructure since in the dynamic tariffs the grid status should be reflected. Also, in the grid fees, generation that is close to consumption should be incentivized as this can be one approach how to limit grid expansion.

Energy poverty

2.28. As the objective of the reform was to shield consumers from the volatility of the wholesale market, the EESC welcomes the proposal that protects the end consumer (supplier of last resort, avoid disconnection to consumers in need, etc.). However, the EESC notes that the inframarginal rent cap has not been extended. As the reform will take time to be fully effective, the EESC recommends that the mechanism stay in place until the reform is fully operational. Revenues should be directed toward the most vulnerable (such as people suffering from energy poverty and SMEs), with the option of lowering prices in light of recent developments in wholesale prices.

2.29. In order to guarantee an affordable basic energy supply, the EESC believes that the new market design must guarantee basic energy consumption at regulated prices. Costs for energy suppliers should be reimbursed on the basis of costs evidence. In return, energy suppliers must be permanently required to provide a certain share of energy for basic supply.

3. Amendments to the legislative proposal

3.1. Regulation (EU) 2019/943 of the European Parliament and of the Council ⁽⁶⁾

Amendment 1

Insert a new recital 21a after recital 21:

Text proposed by the Commission	Amendment
	<p>(21a) <i>Since 1996, the EU has been committed to the liberalization of the electricity market, a process that started with Directive 96/92/EC of 19 December 1996 concerning common rules for the internal market in electricity. However, in the context of electricity market reform, this liberalization should be viewed from the perspective of sustainability, affordability and security of supply. Past and future developments in the electricity market must be taken into account, including major changes in production facilities with widely varying cost prices. In order to achieve these goals, the Member States have to provide an appropriate regulatory framework. This includes legal requirements for companies in the energy sector. The requirements shall be non-discriminatory. One way in which this can be achieved is a government-established ‘E-facility’ that buys electricity from producers and sells it to distributors and major consumers; the three objectives would thereby function as a framework for decision-making. This facility would conclude long-term contracts with electricity producers based on tenders, such as power purchase agreements and two-way contracts for difference. Such a model is already possible under the actual legislation.</i></p>

Reason

See point 2 paragraphs 2.18 — 2.21.

⁽⁶⁾ Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

Amendment 2

Insert a new recital 50a after recital 50:

Text proposed by the Commission	Amendment
	<p>(50a) <i>The right to share electricity is an important incentive for consumers and other small market parties to invest in generating their own electricity. A further incentive will be to organize the market in such a way that consumers who generate their own electricity (prosumers) or other small market participants can profit as much as possible from the electricity they generate themselves, even if they supply it first to the grid. Electricity companies in several Member States already have schemes that make this possible.</i></p>

Reason

See point 2 paragraphs 2.22 — 2.24.

Amendment 3

Article 1 is amended as follows:

Text proposed by the Commission	Amendment
	<p>(a) <i>ensure that energy is not a commodity like any other, but an essential basis of our economic and social system. Therefore, energy supply is classified as a service of general interest. The main task of the energy sector is a secure, affordable, and sustainable supply of energy.</i></p>

Reason

See point 2 paragraphs 2.5 and further.

Amendment 4

Article 1 is amended as follows:

Text proposed by the Commission	Amendment
	<p>(b) <i>Create a system where consumer prices for electricity must reflect actual production costs (plus an appropriate profit mark-up). This means that the wholesale price must correspond to the average costs of all types of electricity production and not the maximum price, as is currently the case. In order to ensure appropriate remuneration for electricity producers, investment security, and the expansion of renewable energy, technology-dependent prices are necessary.</i></p>

Reason

See point 2 paragraph 2.13.

Amendment 5

Article 19b is amended as follows:

Text proposed by the Commission	Amendment
	<p>3. [...]</p> <p>(c) <i>For the ‘two-way contracts for differences’, technology-specific maximum prices are to be set in each Member State. The maximum prices shall be based on the costs required to operate a cost-efficient, state-of-the-art plant. The costs shall include depreciation and an appropriate return on equity and debt capital for the investment.</i></p>

Reason

See point 2 paragraph 2.19.

Amendment 6

Article 7a point 2(c) is amended as follows:

Text proposed by the Commission	Amendment
<p>(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;</p>	<p>(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, <i>competitive bids can both rely on fixed and variable prices;</i></p>

Reason

See point 2 paragraph 2.11.

Amendment 7

Article 19b 3. is amended as follows:

Text proposed by the Commission	Amendment
	<p>(c) <i>Member States shall define minimum and maximum remuneration of two-way contract for differences which have to reflect the technology specific actual production costs so that power producers are encouraged to optimize their production. The strike price of two way contracts is determined by the Member States considering the levelized cost of energy of the specific state-of-the-art technology object of the contract. The costs shall include depreciation and an appropriate return on equity and debt capital for the investment.</i></p>

Reason

See point 2 paragraph 2.19.

3.2. Directive (EU) 2019/944 of the European Parliament and of the Council ⁽⁷⁾

Amendment 8

Article 4 is amended as follows:

Text proposed by the Commission	Amendment
<p>Member States shall ensure that all customers are free to purchase electricity from the supplier 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.</p>	<p>Member States shall ensure that consumer prices for electricity reflect actual production costs (plus an appropriate profit mark-up) and that all customers are free to purchase electricity from the supplier 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.</p>

Reason

See point 2 paragraph 2.9.

Amendment 9

Article 4b 1. is amended as follows:

Text proposed by the Commission	Amendment
<p>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.</p>	<p>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 an affordable fixed price and fixed term 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.</p>

Reason

See point 2 paragraph 2.9.

⁽⁷⁾ Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

Amendment 10

Article 27a 1. is amended as follows:

Text proposed by the Commission	Amendment
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.	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. All energy suppliers must be available as suppliers of last resort in accordance with their market share.

Reason

It is fair that all energy suppliers can be appointed as supplier of last resort.

Amendment 11

Article 27a 2. is amended as follows:

Text proposed by the Commission	Amendment
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.	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. The contractual conditions of a supplier of last resort must not be discriminatory or deterrent. The contract conditions must reflect the actual production costs (plus appropriate mark-up).

Reason

This is necessary for fair treatment of customers.

Amendment 12

Article 66a is amended as follows:

Replacing paragraphs 1-4 as follows:

Text proposed by the Commission	Amendment
<p>1. The Commission may by decision declare a regional or Union-wide electricity price crisis, if the following conditions are met:</p> <p>(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;</p> <p>(b) sharp increases in electricity retail prices of at least 70 % occur which are expected to continue for at least 6 months; and</p> <p>(c) the wider economy is being negatively affected by the increases in electricity prices.</p>	<p>1. If the following conditions are met:</p> <p>very high prices in wholesale electricity markets: an average price of at least euro 100 per megawatt hour for two consecutive months.</p>

Text proposed by the Commission	Amendment
<p>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.</p> <p>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:</p> <p>(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;</p> <p>(b) comply with the conditions set out in Article 5(4) and (7);</p> <p>(c) where relevant, comply with the conditions set out in Paragraph 4.</p> <p>4. Where the Commission has adopted a decision 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:</p> <p>(a) the price set for households only applies to at most 80 % of median household consumption and retains an incentive for demand reduction;</p> <p>(b) there is no discrimination between suppliers;</p> <p>(c) suppliers are compensated for supplying below cost; and</p> <p>(d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis.</p>	<p>2. Member States may for the duration of condition in 1. met exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled:</p> <p>(a) the price set for households only applies to at most 80 % of median household consumption and retains an incentive for demand reduction;</p> <p>(b) the price must not exceed 10 cent per kilowatt hour.</p> <p>(c) there is no discrimination between suppliers;</p> <p>(d) if suppliers can prove that they are supplying below cost, suppliers are compensated for that.</p> <p>(e) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis.</p> <p>3. The compensation in 2. (d) must be financed by the revenues of cap on market revenues for the generation of electricity from inframarginal technologies.</p>

Reason

Current energy prices have shown that in the event of corresponding market distortions, measures are necessary to ensure the basic supply of energy for private households, but also business enterprises. However, the mechanism proposed by the Commission under Article 66a is complicated and ineffective. At the same time, the co-financing of the measure is completely excluded.

We propose a simple but effective mechanism, modelled on the Austrian 'Stromkostenzuschussgesetz'. This could come into force automatically and should be financed by skimming off windfall profits.

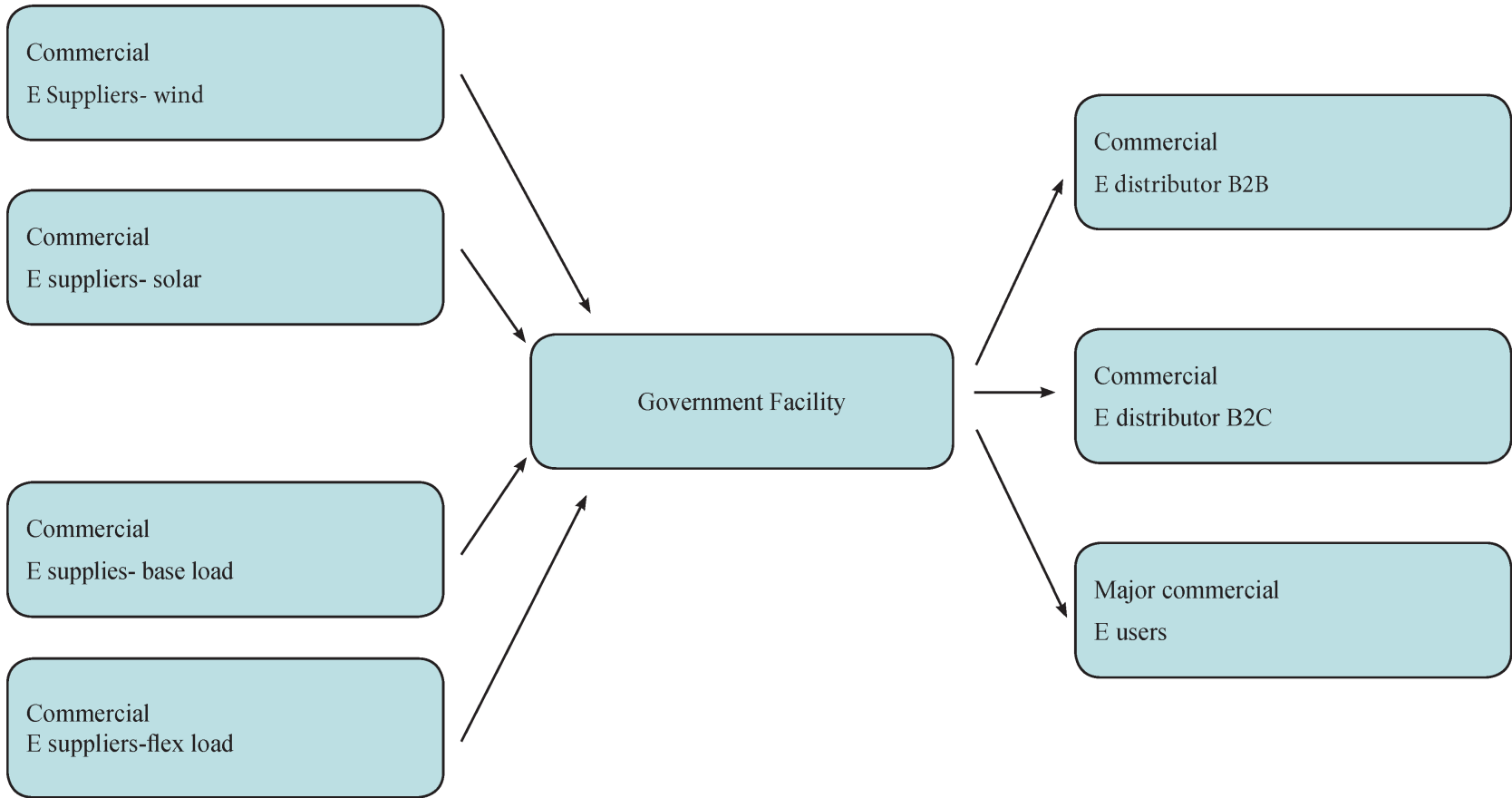
- The electricity price for the purchase of a basic supply quantity may not exceed the price of 10c net per kWh.
- If the average electricity exchange price in two consecutive months is more than 100 euros/MWh, suppliers who have to offer below their actual procurement costs have the right to compensation for their differential costs.
- The energy suppliers have to prove the costs.
- This 'price brake' is financed by skimming off excess revenues in the area of inframarginal generation.

Brussels, 14 June 2023.

The President
of the European Economic and Social Committee
Oliver RÖPKE

ANNEX

Benefits of a central governmental E-facility



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- Buys at various prices depending on sourcing
 - Allow market parties to tender and provides certainty in the market
 - Sells at a long term fixed pricing
 - Good for the market and good for consumers
 - Ensures Security of Supply based on an appropriate E mix
 - Consider and steer international fuel sourcing
 - Ensure E demand can be met in view of the forecasted 2-3 fold increase in E demand (electrification)
 - Fund, introduce and manage new technologies in the context of the existing and anticipated growth towards sustainability
 - Leaves government in control and ensures market freedom.
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