European Commission - Questions and answers

Questions and Answers on an emergency intervention to address high energy prices

Brussels, 14 September 2022

1. Why has the Commission decided to intervene now in the market?

Gas and electricity prices reached record levels in 2021 and again hit all-time highs in 2022, especially following the Russian invasion of Ukraine. The skyrocketing electricity prices across Europe are intrinsically linked to the high price of gas, which increases the price of electricity due to the role of gas-fired power plants in covering demand and setting price. Prices started rising last summer when the world economy picked up after COVID-19 restrictions were eased. Subsequently, Russia's invasion of Ukraine and its weaponisation of gas supply have exacerbated this situation with electricity retail prices having increased by almost 50% year-on-year from July 2021.

Energy prices are expected to remain high due to uncertainty in the market spurred by the risk of further disruptions of Russian gas supplies to the EU. In parallel, the availability of electricity generation in the EU has been below usual levels in the last months due to increased maintenance works of power stations, lower output from hydropower generation due to extreme weather conditions in the summer, and closures of some older power. This has thus contributed to energy scarcity and high energy prices, constituting a burden for consumers and industry and dampening the economic recovery.

This dramatic increase in electricity prices is putting pressure on EU households, small and medium enterprises and industry at large. Vulnerable customers and the energy poor are hardest hit, but increasingly middle income households and SMEs also risk not being able to pay their energy bills. Today's proposed set of emergency measures is a response to the urgent priority of shielding EU consumers from higher energy prices this winter. The proposed emergency intervention represents a further step of the Commission's work on price mitigation tools, which started last October and continued over the past year.

2. When will these proposals enter into force and how long will they be applied for?

The proposed Council Regulation on an electricity emergency tool and a solidarity contribution of the fossil sector is based on Article 122 of the Treaty on the Functioning of the European Union. As such, the proposal requires a qualified majority vote in the Council to be approved, and its adoption will depend on the Council's internal procedures. In view of the emergency situation, Member States have already expressed their intention to swiftly work on the Commission's expected proposals.

The proposed measures are extraordinary in nature and should therefore be limited in time. The electricity emergency tool should apply no later than 1 December 2022 and until 31 March 2023. The Commission has committed to carry out a review of the electricity emergency tool by 28 February 2023, taking into account the electricity supply situation and electricity prices across the EU, and present a report on the main findings of that review to the Council.

The solidarity contributions of the fossil sector will be applied for one year after entering into force. The Commission will carry out a review by 15 October 2023, in view of the general situation of the fossil fuel sector and surplus profits generated and present a report on the main findings of that review to the Council.

The proposed Council Regulation contains regular reporting obligations, starting on 1 December 2022, through which the Commission will monitor the adoption and enforcement of measures by the Member States. This regular monitoring is important to preserve the functioning and integrity of the EU's internal market, as functioning cross-border energy markets are key to ensure security of supply in a situation of shortage.

3. How much will these measures save citizens and businesses on their energy bills?

The Commission has estimated that Member States would be able to collect up to **€117 billion** from the proposed temporary revenue cap on 'inframarginal' electricity producers, on an annual basis. The surplus revenues collected will have to be channelled by the Member States to final electricity consumers, be it private or commercial ones, who are exposed to high prices. These revenues can be used to provide income support, rebates, investments in renewables, energy efficiency or decarbonisation technologies. The support provided should keep an incentive for demand reduction. Decisions on the precise distribution will be taken at national level in line with the principles established in the Regulation.

The exact amount of revenues per Member State will depend on the amount of electricity generated from inframarginal technologies in the country and the level of electricity prices during the time of application of these measures. It will vary depending on the energy mix and the design of support schemes for renewable energy in each Member State.

The temporary solidarity contribution based on taxable surplus profits made in the fiscal year 2022 on energy undertakings in the oil, gas, coal and refinery sectors in the Union could bring an estimate of around **€25 billion** of public revenues, to be redistributed by Member States subject to compliance with Union law. Today's proposals state that these profits should go to households and companies, including energy-intensive industries, to mitigate the effects of sustained high energy prices, reduce energy consumption and boost the EU's energy autonomy.

In addition to the revenues generated for Member States, the demand reduction in the electricity sector can also help bringing down prices, by reducing the need for expensive gas power plants to meet demand.

4. How should Member States reduce their demand for electricity?

The proposed electricity emergency tool combines an overall reduction of electricity demand from all consumers with a focus on demand reduction during peak price hours. According to the proposed Council Regulation, Member States should seek to implement measures to lower overall electricity consumption by at least 10% until 31 March 2023. All consumers can contribute, including those who are not yet equipped with smart metering systems or devices enabling them to adjust their consumption during the day. In addition, to specifically target the most expensive hours of electricity consumption when gas generally sets the marginal price, the Commission proposes an obligation of at least a 5% reduction in gross electricity consumption during selected peak price hours, covering at least 10% of the hours of each month, where prices are expected to be the highest. This obligation would result in selecting on average 3 to 4 hours per weekday, which would normally correspond to peak load hours, but can also include hours where electricity generation from renewables is expected to be low and the generation from marginal plants is necessary to cover the demand.

Overall, this targeted reduction can lead to a reduction of gas consumption estimated at around 1.2 bcm over 4 months. This represents a reduction of gas use for power by around 4% over the winter season across the EU. It will be up to the Member States to identify the peak demand hours in their market. Member States are also free to choose the appropriate measures to meet the foreseen demand reduction, provided that they are in line with the relevant EU competition and electricity market rules.

5. How will the revenue cap for inframarginal technologies work, and how was the level chosen?

The proposed cap aims to recover excess revenues from electricity generators with lower marginal costs, so called 'inframarginal technologies'. These include renewables, nuclear and lignite. Such electricity generators have seen unexpectedly large financial gains over the past months. By setting an EU-wide cap of €180 on realised market revenues per MWh of electricity produced, the Commission intends to minimise the impact that expensive price-setting marginal sources like coal or gas currently have on the final price of electricity while still ensuring a reasonable return on investment for the technologies covered.

The proposed revenue cap level, which is designed to apply until 31 March 2023, seeks to encompass the majority of inframarginal generators in the EU and to avoid jeopardising the availability and profitability of existing plants and future investment decisions for new inframarginal generation in line with the EU's 2030 and 2050 policy goals. To keep a necessary security margin, the cap level was calibrated significantly above the average market price expectations of market participants for peak hours, before Russia's invasion of Ukraine.

Having a uniform cap on revenues across the Union is necessary to preserve the functioning of the internal electricity market, as it allows maintaining price-based competition between electricity producers. To ensure a level playing field, the market revenue cap would apply to revenues from the generation of electricity for all inframarginal generators as defined in the Regulation and cover all market timeframes, regardless of whether the trading of electricity takes place bilaterally (over-the-counter) or in organized markets.

Revenues above the cap will be collected by Member State governments at the moment when transactions are settled or thereafter, and will have to be channeled to households, businesses and the industry at large, who are all exposed to high electricity prices. The proposed Regulation also foresees the possibility to share surplus revenues between Member States trading electricity, whereby the producing state can share part of the collected revenues for the benefit of end-consumers in the importing state. Member States are encouraged, in a spirit of solidarity, to conclude bilateral solidarity agreements to share part of the inframarginal revenues collected by the producing State for the benefit of end-users in the Member State with low electricity generation. The Regulation requires such agreements shall be concluded by 1 December 2022 in situations where a Member State's net imports of electricity are equal or higher than 100% in comparison with its main exporting country.

6. How will the solidarity contribution by fossil fuel companies work, and how was the level chosen?

The Commission has proposed an exceptional solidarity contribution from companies in the oil, gas, coal and refinery sectors, to ensure that the whole energy sector pays its fair share in these difficult times for many to address the extraordinary energy crisis resulting from the weaponisation of the energy supply by Russia.

This solidarity contribution will complement the revenue cap on inframarginal technologies and targets the surplus profits that the fossil fuel industry has made due to the energy crisis. It will be collected by Member States on 2022 profits which are above a 20% increase on the average profits of the previous three years, at a rate of at least 33%. This approach of setting a minimum rate ensures that the solidarity contributions are both fair and proportional.

Establishing this solidarity contribution as a European instrument will ensure that negative spillovers within the internal energy market stemming from uncoordinated national measures can be avoided and risks of litigation between companies and governments can be reduced substantially. Moreover, a coordinated approach will also ensure consistency with the objectives of REPowerEU.

Member States will be in charge of collecting the solidarity contribution, and redistributing the profits subject to compliance with Union law. The revenues from the solidarity contribution should be used to provide financial support measures to households, especially vulnerable households, and hard-hit companies to mitigate the effects of high energy prices, as well as to help the reduction of energy consumption, support energy-intensive industries, promote investments by final customers in renewables, energy efficiency or other decarbonisation technologies; and cross-border projects in line with the REPowerEU objectives.

The solidarity contribution is proposed as an exceptional measure to mitigate the impact of the energy crisis on households and companies across the EU. Tackling energy poverty and addressing the social consequences of the crisis, in particular to protect workers in exposed industries, are also a matter of European solidarity. Member States should focus, in particular, on those most affected by the soaring energy prices. This includes vulnerable households and energy intensive companies or those under pressure to accelerate their green transition.

To maximise the impact of the solidarity contribution and prevent the risk of fragmentation of the Single Market, Member States should act in a spirit of solidarity and devote a share of the revenues to the common financing of measures to reduce the harmful impact of the energy crisis or to promote investments in renewables and energy efficiency.

7. Will existing national measures be compatible with this new EU framework?

A united EU-wide response is needed to tackle the increase of electricity prices and their impact on households, businesses and industry. A coordinated approach through Union-wide electricity demand reduction, in the spirit of solidarity, is necessary to minimise the risk of potential major disruptions during the winter months when electricity consumption and electricity production from gas will be higher. Member States should be free to choose the appropriate measures to achieve the demand reduction targets, including expansion of existing schemes or national incentives to develop demand response.

To preserve the functioning of the electricity system and cross-border trade and investments, a common approach to revenue limitations for inframarginal technologies is also necessary. It will ensure that power continues to flow around Europe to avoid a high-price crisis becoming a security of supply crisis.

At the same time, Member States retain the right to introduce more ambitious measures both in terms of demand reduction and the limitation of revenues of electricity producers, as long as they are proportionate, do not distort the functioning of electricity wholesale markets, do not jeopardise investment signals and they are in line with Union Law.

On the solidarity contribution, the Commission has proposed a minimum rate that is considered both fair and proportionate. Member States could decide to go above this minimum and apply a higher rate, or can combine the new contribution with existing similar measures already introduced at national level. They can also choose to apply the solidarity contribution to a broader set of companies, as long as this remains compatible with the proposed Regulation.

8. What is the situation on futures electricity markets at the moment?

The current stress on electricity markets is primarily due to Russia's aggression against Ukraine and its manipulation of gas supply. This is an exceptional situation for energy markets, with some secondary effects on derivatives markets. Our focus is to ensure that risks are contained and adequately mitigated in the financial system. Futures electricity markets play a role here. They allow energy companies to hedge their risks e.g. the wholesale price they have to pay for their supplies or the output price at which they can expect to sell gas or electricity.

Most of the trading in energy derivatives is conducted on regulated (futures) markets and is cleared centrally via central clearing counterparties (CCPs). In such markets, the current regulatory framework provides the necessary safeguards, such as margin requirements for clearing between buyers and sellers: if one party defaults, the other market participants are protected from this risk.

The collateral requirements ensure financial stability and contribute to reassure financial markets. Amid the sharp rise in gas and electricity prices over the past year, energy companies have been required to post correspondingly higher amounts of cash collateral to CCPs as margin calls have risen in line with prices. This has resulted in problems of liquidity for energy companies and prompted calls for amendments to the rules governing collateral requirements for margin calls.

On 9 September, the Energy Council called on the Commission to design emergency liquidity instruments that would ensure that market participants have at their disposal sufficient collateral to meet margin calls and that would address increased volatility in futures markets, and consider reviewing relevant guidelines to integrate the rules on safeguards. The Commission, in cooperation with the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA), is already working on the above, as requested by the Council, as well as a range of options to ensure that the financial system supports actions to ease the current situation, while preserving financial stability.

For more information

Press release

Factsheet

QANDA/22/5490

Press contacts:

Tim McPHIE (+ 32 2 295 86 02)
Giulia BEDINI (+32 2 295 86 61)
Ana CRESPO PARRONDO (+32 2 298 13 25)

General public inquiries: Europe Direct by phone 00 800 67 89 10 11 or by email