



## Central Europe Energy Partners' (CEEP) Recommendations for Trilogues on a Regulation and Directive on the internal market for electricity

**Brussels, June 25<sup>th</sup>, 2018**

Regulation and Directive on the internal market for electricity will provide a bedrock for the future electricity market in the European Union. From Central Europe Energy Partners' (CEEP) point of view, the regulatory framework should acknowledge all particularities and discrepancies of electrical systems of EU Member States. While creating a reliable and secure Energy Union with a common set of rules for all European market players, we must take into account the differences among the structures of generation mixes, adequacy outlooks and differing energy system development strategies. Therefore, we strongly believe that these pieces of legislation should guarantee the principle of technology neutrality, which implies a free, market-based choice of energy sources to achieve the expected economic and environmental goals necessary to fulfill the EU's energy and climate targets for 2030. We also would like to emphasize the importance of the level playing field for all market participants, which will be competing to deliver the best solutions on an equal footing. Moreover, CEEP steadily supports a regional approach to European energy policy. From our perspective, increased interdependencies between national electricity systems and cross-border exchanges are a logical step in the process of establishing a liquid internal market. However, we would like to point out, the current bottlenecks and persisting problems that limit such a regional approach and which the legislator should address.

Bearing in mind the potential for further improvement of this file, CEEP calls for inclusion in the trilogue's negotiations on the following issues:

### Adequacy assessment

**We support the Council position expressed in art. 19a paragraph 1** that foresees two-tier adequacy assessment: national based on the ENTSO-E methodology and European adequacy assessment. Crucially, such an outlook could also be extended by additional assessment conducted by a national entity. Due to the fact that it would be based on different assumptions and a different methodology, it would cover a wider range of scenarios and better reflect all particularities.

**We also support the article art. 18 paragraph 3a** that includes a procedure of consultancy between the national body conducting assessment and ENTSO-E and ACER in case of divergences in assessment. This design of procedures guarantees comprehensive assessments, taking into account national specificities and providing a forum for the constructive exchange of opinions and improvements in methodologies. We also assume that at the current stage of internal electricity market development, in line with the subsidiarity principle, national adequacy assessment should determine resource adequacy concerns, justifying the introduction of any form of capacity mechanism.

### Capacity mechanisms design principles

As indicated by the Commission's recent decisions approving capacity mechanisms ("CMs") in eight Member States (Belgium, France, Germany, United Kingdom, Ireland, Poland, Greece, and Italy) in various forms, such as: strategic reserves, capacity markets, demand response schemes and interruptibility schemes, the capacity mechanisms have a key importance for the functioning



of electricity systems by guaranteeing supply for foreseen demand at national level translated into reliability standards. All recently approved capacity mechanisms respect the principle of technology neutrality and fully respects state aid rules. Properly designed CMs allow cross-border participation, thus promoting trade, and facilitate the development of new technologies including DSR. Moreover, CMs offer the most cost-effective way to secure electricity supply. Importantly, within the CEE region, capacity mechanisms are also meant to mobilize capital needed for the modernization of the electricity system, which due to disturbed pricing formation, are not generated by the market.

**Therefore, we support the Council's position on art. 23 of the Regulation**, introducing a transitional period, which allows receiving payments for existing installations that have obtained a final investment decision before the date of entry into force of the Regulation. It should be acknowledged that the energy utilities in the CEE region are conducting a capital-consuming investments, which were launched several years prior to the Commission's proposal. Thus, the 10-year transitional period (up to 2030), with the possibility of finalizing contracts with a remaining duration of not more than 5 years, concluded before 31 December 2030, appears to be an adequate solution. Moreover, the protection of legitimate expectations based on the finally adopted Commission's decisions approving existing capacity mechanisms should be ensured by the proper transitional rules. Such provisions envisage a compromise that reflects the diversity of energy mixes within the EU and provides the necessary time for the power sector to implement investments in low carbon-generating resources.

**Furthermore we oppose the amendments proposed by the European Parliament in article 18a**, particularly related to review of already applied capacity mechanisms by limiting their duration to a maximum of 5 years, and shortening the capacity contracts to a maximum of 1 year (article 23 paragraph 1). Such intervention would require retroactive changes to existing capacity mechanisms and contracts, in what would, in essence, amount to a breach of the general principles of EU law involving legal certainty and the protection of legitimate expectations.

**Moreover, we are surprised that not all capacity mechanisms are treated equally in the Parliament position.** The strategic reserve gains in the final text a lot of regulatory preferences, including exclusion from the emissions standard at the level of 550 CO<sub>2</sub> gr/kWh. Proposed by the Parliament in the article 23 paragraph 2 threshold, sets out the special dedicated only to the strategic reserves emissions standard at the level of the 200 CO<sub>2</sub> kg/kW per year, which is not a real disadvantage for the already functioning i.a. coal-based strategic reserves. This double standards approach proposed by the Parliament is far from a level playing field.

### Priority dispatch

RES technologies are becoming more efficient and market mature, which results in a steady decrease in the price of electricity. Taking into account the prognosis of the main international institutions, the RES market in the EU will develop dynamically in the coming years, outpacing other types of generation capacity. The philosophy of a "Clean Energy Package" assumes the establishment of the market which will be fit for the market-based development of RES and consequently CEEP supports tightening provisions on priority dispatch as in the longer-term, it could undermine the cost-effective development of such technologies. In particular, priority dispatch may be a disincentive to develop RES characteristics necessary to ensure the proper functioning of the dynamic market envisaged in the package, such as greater flexibility and more accurate forecasts.



The priority dispatch criterion should also be analyzed in terms of the consequences for the security of supply for end customers, and the resulting total costs for the end customer category by considering the condition and specific features of regional systems as well as sustainable development strategies based on the differences among remaining domicile energy potentials of EU Member States.

**Therefore, we support the Council's position in Art. 11, which further limits cases of priority dispatch.**

### **Bidding zones**

Loop flows of electricity have been an unresolved problem for several Central European states for a long period of time. By limiting cross-border capacities available for trade, they pose a threat to the reliability of electricity supply and management of the grid network. In this regard, we call for a depoliticized approach to bidding zones review and design according to a clear rule that the border of bidding zones is the structural congestion. We would like also to point out that division into several bidding zones is a feasible process which would not affect the reliability of the electricity system nor the economic nor political coherence of any Member State. Therefore we assume that the procedure of reconfiguration of bidding zones in the electricity regulation should be understandable, transparent and effective in accordance with the political role and competencies of the EU entities and Member States.

**We support the European Commission's position in art. 13 but with adequate involvement of Member States in the decision-making process. The Commission shall be entitled to act where the Member States are unable to reach a unanimous decision and only after ACER gives the positive opinion.**

### **Cross zonal capacity calculation**

Trade in electricity contributes to the more efficient use of generation resources and convergence of prices, providing customers with the best offers. Further strengthening of the European electricity market requires improvement of grid infrastructure, properly designed bidding zones, and adoption of a regulatory framework that will set general rules and requirements for cross zonal capacity calculation and allocation. These general rules should ensure that minimum capacity targets should not be politically defined as the outcome of the capacity calculation process. Cross-border capacities stem from available physical infrastructure and the applied market rules and processes, such as CACM Regulation and regional capacity calculation methodologies. If any special minimum capacities are necessary to facilitate increased cross-border trade or as a catalyst to bidding zone reconfiguration, these targets should be defined regionally, based on economic and physical analysis, so that EU-wide political thresholds threatening the operational security of the interconnected European power system are avoided.

Moreover, as the national TSOs remain responsible for capacity calculation and management of the entire process in order to maintain operational security limits, they should be allowed to deviate from achieving capacity targets when system security is at stake, and when it is not demonstrated that the overall socio-economic efficiency is higher by achieving the target. Congestion on internal network elements with significant cross-border relevance and loop flows should be considered in the cross-zonal capacity calculation process. In order to maintain a balance between the transmission system operators and to create a market-based system of

capacity allocation and congestion management, a reasonable and fair cost-sharing methodology is required.

**Therefore, CEEP supports EC's position on art. 14 of the Regulation, underlining that that arbitrary targets should not compromise economic efficiency and system security aspects but points out that the issue of congestions on internal network elements with significant cross-border relevance and loopflows should be recognized in capacity calculation process. Regulation in art. 14 should also address fair redispatching cost-sharing methodology.**

### **Regional Security Coordinators**

Development of an internal market requires a stronger regional cooperation of TSOs. Increasing interconnectivity and cross-border trade, cross-border participation in capacity mechanisms, implementation of network codes and development of coordinated emergency procedures inevitably require better interoperability and communication between national TSOs.

For this reason, we support the Council's recognition of the need for continuity in the efforts taken to implement RSCs and stronger regional cooperation within ETNSO-E. Crucially, TSOs are responsible for the functioning of electricity systems and flows of electricity and, in order to effectively fulfill such duties, they should have a right to refrain from the implementation of coordinated actions and recommendations advised by RSC in duly justified situations in order to ensure system security and also to gain efficiency.

**Therefore, we support the Council's position concerning RSC establishment process present in art. 32 – 39, with a recommendation to strengthen the possibility for TSOs to deviate from coordinated actions.**

### **Distribution System Operators (DSOs)**

Development of a decentralized energy system, the emergence of active consumers of energy, and exploitation of the potential of demand-side response changes the role of distribution system operators, which are becoming increasingly responsible for the integration of RES and securing the stability of the system. Such tasks are impossible without comprehensive data management. In order to fulfill such tasks, closer cooperation between TSOs and DSOs will be necessary, particularly related to balancing services indispensable for maintaining the stability of the system.

**Therefore, we support Council position in art. 31 of the Directive, which explicitly strengthens cooperation between TSOs and DSOs.**