



Council of the
European Union

Brussels, 17 March 2023
(OR. en)

7455/23

Interinstitutional Files:
2023/0077(COD)
2023/0076(COD)

ENER 128
ENV 254
CLIMA 141
COMPET 212
CONSOM 85
FISC 47
CODEC 384

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	7435/23 + ADD 1 7440/23 + ADD 1
Subject:	Electricity Market Design - Policy debate

In view of the TTE (Energy) Council on 28 March 2023, delegations will find in Annex the Presidency background note on the Revision of the EU Electricity Market Design.

Revision of the EU Electricity Market Design

Presidency background note

On 14 March 2023 the Commission proposed a reform of the EU's electricity market design to accelerate renewables growth and the phase-out of gas, make consumer's bills less dependent on volatile fossil fuel prices, better empower consumers and protect them from future price spikes and potential market manipulation, and make the EU's industry clean and more competitive. The reform comprises two legislative proposals: a Regulation to amend the relevant electricity market legislation¹ and a second Regulation focused on improving the Union's protection against market manipulation through better monitoring and transparency².

The proposals seek to address a number of shortcomings identified by the Commission during the recent energy crisis relating in particular to the impact of high and volatile fossil fuel prices on short-term electricity markets that exposed households and companies to significant price spikes and excessive electricity bills. The set of proposed measures plan to tackle this exposure to fossil fuel prices, bring the benefits of lower cost renewables to consumers and address our affordability, decarbonisation and security of supply goals.

In order to make the energy bills of European consumers and companies more independent from the short-term price fluctuations while providing stable revenues to investors in renewables and nuclear power, the proposal seeks to improve the way the long-term market works by:

¹ Regulations (EU) 2019/943 and (EU) 2019/942, Directives (EU) 2018/2001 and (EU) 2019/944

² Regulations (EU) No 1227/2011 and (EU) 2019/942

- boosting the market of power purchase agreements (PPAs) by ensuring that products to cover payment default risk are available and leveraging renewable energy tenders;
- stabilizing the prices of electricity, providing stable investment incentives and curbing excessive revenues of energy producers by requiring the use of two-way contracts for difference (CfDs) for new investments in renewable and nuclear where public funding in the form of operational support is needed; and
- improving the forward electricity markets so that they become more liquid and better integrated.

To enable an accelerated deployment of renewables and the phase out of gas, the Commission's proposal includes measures to:

- secure market access for offshore renewable energy production;
- improve the efficiency of short-term markets;
- facilitating and incentivising development of flexibility solutions such as demand response and storage, through measures on network tariffs, specific products, and growing the market for flexibility, including the possibility of specific support schemes.

The Commission's proposal also seeks to improve consumer protection and further empower consumers, through:

- establishing suppliers of last resort, in case of a supplier's failure, and extra protection from disconnections for vulnerable consumers;
- allowing Member States to intervene in price setting in retail markets during a crisis, to ensure households and SMEs have access to a minimum amount of electricity at an affordable price;
- hedging requirements for suppliers under certain conditions;
- giving consumers wide choice of contracts, including fixed price contracts;
- enabling consumers to have direct access to renewable generation through energy sharing and self-consumption.

Finally, the reform intends to increase market monitoring and transparency by means of amending the Regulation on wholesale energy market integrity and transparency (REMIT), and provide better protection against market manipulation and abuse through:

- a stronger role for ACER in investigations of significant cross-border “REMIT” cases;
- harmonisation of fines set by regulatory authorities at national level for “REMIT” breaches; and
- better data collection and market monitoring by ACER and regulatory authorities.

Against this background the Council would like to hear the Member States’ views on the following questions:

- 1. Could Member States indicate what changes, if any, are needed, in the Commission’s proposals to strike the right balance between the need of improvements and keeping what works well within the existing market design, while protecting consumers and increasing investments in new production capacity?**
- 2. Could Member States indicate what, if any, aspects in the Commission’s proposals would need further adjustments?**
