IE comments on the EMD (WK 14230/23, WK 14229/23, WK 14218/23)

Ireland appreciates the work done by the presidency on this dossier and notes the large number of good compromises that the presidency has already made.

Preparation for further work with the EP:

Wk14230

EMD Regulation: Suggestions for compromise amendments to Articles 4, 11, 15a, 18a, 27a of Electricity Directive 2019/944 and article 7b of Regulation 2019/943 (Consumer/retail market related aspects); art. 19c to 19f of Regulation 2019/943 (flexibility provisions) and art. 21, 22 of Regulation 2019/943 (CRMs and connected aspects)

Article 4: Directive

Article 2, first paragraph, point (2), amending provision, third paragraph

Line 231

Member States shall ensure that all customers are free to purchase electricity from suppliers of their choice. Member States shall ensure that all customers are free to have more than one electricity supply contract [or energy sharing agreement] 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. [Where technically feasible, smart metering systems deployed in accordance with Article 19, may be used to allow customers to have more than one electricity supply contracts at the same time.]

Question:*Does a consumer have the choice of an energy sharing agreement or more than one electricity supply contract? Or is this saying that if an energy sharing agreement is available then there is no need for a member state to provide for the original intention of this article? The two alternatives are not directly comparable.*

Ireland approves of the draft agreement language and believes that this is use of conditional language is essential for member states like Ireland who's electricity market relies on the fundamental aspect of one meter and billing point per premises.

The Commission for the Regulation of Utilities in Ireland has noted that it would be a long term and onerous process to fundamentally change the structure of Ireland's electricity market to allow for consumers to have more than one metering and billing point covered by the single connection point for their premises.

Notwithstanding this, Ireland remains committed to mechanisms that will ultimately provide energy consumers with more alternatives in managing their energy costs and empowering them to participate in flexibility services.

Article 2, first paragraph, point (2), amending provision, third paragraph a

Line 231a

[Member States shall ensure that metering arrangements guarantee that all suppliers operating at a single connection point comply with their responsibilities and are treated in a non-discriminatory manner. For this purpose, metering points shall comply, where applicable, with the same requirements and functionalities and shall be clearly distinguished from each other and suppliers shall have balancing responsibility only for the metering and billing points to which they supply electricity];

Ireland approves the draft agreement.

Article 11:

Article 2, first paragraph, point (3)(b), amending provision, numbered paragraph (1)

Line 236

Member States shall ensure that the national regulatory framework enables suppliers to offer fixed-term, fixed-price electricity supply 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 supply 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.

[By way of derogation from the first subparagraph, Member States may exempt a supplier with more than 200 000 final customers from the obligation to offer fixed term fixed price contracts if that supplier only offers dynamic price contracts and the exemption does not have a negative impact on competition or sufficient choice of fixed term fixed price contract for customers.]

Ireland agrees with draft agreement. In relation to the proposed requirement on suppliers to offer fixed term fixed price contracts, this should be a competitive matter for suppliers to offer, and be determined by a) consumer desire for such a product, b) and the suppliers ability to deliver a competitive fixed price contract. The availability of these contracts will give certainty to consumers but may also create upward pressure on prices, due to increased costs for suppliers.

Article 2, first paragraph, point (3)(c), amending provision, first paragraph a

Line 238a

[1b Member States shall ensure that final customers with fixed-term, fixed-price electricity supply contracts are not excluded from their participation, when they decide so, in demand response and energy sharing and from actively contributing to the achievement of the national electricity system flexibility needs].

Ireland agrees with the Draft Agreement

Article 2, first paragraph, point (3)(d), amending provision, numbered paragraph (2)

Line 240

Member States shall ensure that final customers are fully informed by the suppliers of the opportunities, costs and risks of the respective types of electricity contracts, and shall ensure that suppliers are required to provide information to the final customers accordingly, including with regard to the need to have an adequate electricity meter installed. [Regulatory authorities shall:

a) monitor the market developments and assess the risks that the new products and services may entail and deal with abusive practices.
b) take appropriate measures where impermissible termination fees are identified

Ireland approves the Draft Agreement text. The EP mandate placed the responsibility of market monitoring unnecessarily on the state as well as the regulator.

Good practice to give regulator power to monitor termination fines. This puts an obligation on the CRU.

Article 15a

Article 2, first paragraph, point (4), amending provision, numbered paragraph (1)
All [final customers, in particular] households, small and medium sized enterprises and public bodies shall have the right to participate in energy sharing as active customers, [within the same bidding zone or a more limited geographical area as determined by the Member State].

Article 2, first paragraph, point (4), amending provision, numbered paragraph (1), point (a)
Active customers shall be entitled to share renewable energy between themselves based on private agreements or through a legal entity. [Energy sharing arrangements shall be notified to the relevant market participants, including the relevant system operators & suppliers

IE approves the Draft agreement

Article 2, first paragraph, point (4), amending provision, numbered paragraph (1), point (b)
Active customers may [appoint a third party as an energy sharing agent for purposes of communication on the energy sharing arrangements with other relevant entities, such as suppliers and grid operators, including for the settlement of applicable tariffs and charges, taxes or levies.

The energy sharing agent may provide support at managing and self-balancing the behind the-meter flexible loads, distributed renewable generation and storage assets that are part of the relevant energy sharing arrangement.]
In case the active customer uses, for purposes of facilitating energy sharing, the energy sharing agent or another third party that owns or manages a storage or renewable energy generation facility [of up to 6 MW] for installation, operation, including metering and maintenance, that third party will not be considered an active customer.

Ireland approves the draft agreement

Article 2, first paragraph, point (4), amending provision, numbered paragraph (1), point (ba)
Member States shall ensure that active customers participating in energy sharing:
…
(c) are not required to comply with supplier obligations where energy is shared between households with an installed capacity up to 10.8 kW for single households and up to [50 kW // 100kW] for multi-apartment blocks;

IE approves the draft agreement

Article 2, first paragraph, point (4), amending provision, numbered paragraph (1), point (bb)
[(d) customers engaged in energy sharing agreements providing for a remuneration are billed, directly or through their energy sharing agent, on the basis of their actual consumption and benefit via a third party from rights on billing and billing information provided for in Article 18(1) to (5), and basic contractual rights provided for in Article 10 that are granted to final electricity customers;1]

Article 2, first paragraph, point (4), amending provision, numbered paragraph (1), point (j)
j)(a) monitor, collect, validate and communicate metering data related to the shared electricity with relevant final customers and market participants at least every month, and in accordance with Article 23. [For that purpose, Member States shall endeavour to ensure that relevant operators implement the appropriate IT systems];

IE supports the draft agreement. This places an obligation/cost on DSO/TSO

Article 2, first paragraph, point (4), amending provision, numbered paragraph (2c)
2c. Member States shall promote the introduction of plug-in mini- solar systems of up to 800 W capacity in and on buildings, for example on balconies, and remove technical and administrative barriers for customers. Active customers sharing electricity from a plug-in mini-

solar installation of up to 800 W capacity shall be entitled to have the shared electricity injected into the grid deducted from their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable non-discriminatory taxes, levies and cost-reflective network charges. Member States may consider exempting the resulting shared electricity from those taxes, levies and cost-reflective
[CAN YOU SUPPORT THIS PROPOSAL FROM THE PARLIAMENT? TO WHAT EXTENT?]

IE can agree to part of the first sentence. We can ***promote the introduction of plug-in mini-solar systems of up to 800 W capacity in and on buildings, for example on balconies.*** Ireland cannot agree at this time to removing the technical and administrative barriers for such customers to patriciate in energy sharing schemes, as this is not currently technically feasible.

Requiring that active consumers using plug-in solar are compensated via a net metering process would be administratively burdensome as it does not align with Ireland's current mechanism for microgeneration compensation; the Clean Export Guarantee. This therefore means that a new framework would be needed for plug-in solar installations, rather than integrating those customers within the existing framework administered by CRU. More consideration would be needed to understand the technical aspects of such plug-in mini solar systems, before they could be incorporated into any energy sharing or export schemes, which require suitable metering/measurement for retail market purposes.

IE would need further clarification on the technical aspects of plug-in mini solar systems, before it could support this proposal. Ireland supports all measures that empower consumers to reduce their energy costs, including through micro-generation systems used to produce renewable electricity for the purposes of self-consumption. However electrical safety and quality standards regarding components and workmanship must take precedence.

Article 18a

Article 2, first paragraph, point (4), amending provision, numbered paragraph (1)
1. *Regulatory authorities, or where a Member State has designated an alternative independent competent authority for that purpose, such designated competent authority, shall ensure, taking into account the size of the supplier or its market structure, that electricity suppliers:*
a) have in place and implement appropriate hedging strategies, to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets;
b) take all reasonable steps to limit their risk of supply failure;]
In order to achieve the objective of the first paragraph, regulatory authorities or alternative independent competent authority, may perform regular stress tests to verify the ability of electricity suppliers to face major changes in the market dynamics and their technical and economic capacity to ensure resilience.]

IE restates its concern regarding the possible impact of mandatory hedging requirements on suppliers including:
- Upward pressure on prices
- Barriers to entry in particular for smaller suppliers leading to reduced competition

- The requirement to establish a monitoring system

IE, for the reasons outlined above, in addition to the capacity to designate this function to an alternate independent competetent authority endroses the council position that provides greater flexibility to Member States in terms of application.

Performing stress tests on suppliers will require new processes to be developed other than what is currently in place. The CRU does not currently have any remit over supplier hedging strategies as this is a commercial decision each individual supplier makes themselves.

The CRU does not monitor the quantity of energy purchased by each supplier, their hedging strategies nor their margins. These are commercial strategy decisions taken by energy suppliers. While the Electricity Regulation Act still contains some powers relating to price setting for the ESB and what is now Gas Networks Ireland (section 9(1)(dc)), these powers have been defunct since the full deregulation of electricity prices in 2011 followed by gas prices in 2014.

Ireland approves the language that member states "may" perform regular stress tests. Ireland also notes further clarity as to the competent authority responsible for stress testing would be helpful.

Article 2, first paragraph, point (4), amending provision, numbered paragraph (3)

3. Member States shall endeavour to ensure the accessibility of hedging products for citizen energy communities and renewable energy communities and [to put in place enabling conditions with this aim] "

Ireland approves the draft agreement. Places an obligation on the regulator.

Article 27a

Article 2, first paragraph, point (5), amending provision, numbered paragraph (5)

5. Member States may require a supplier of last resort to supply electricity to household customers [and small and medium enterprises] who do not receive market based offers. In such cases, the conditions set out in Article 5 shall apply."

Ireland supports the inclusion of small and medium enterprises in the draft agreement.

Ireland has a functioning SoLR framework that successfully moved customers from exiting suppliers to the SoLR in electricity and gas 3 times in 2022. The CRU is currently carrying out a review of Ireland's SoLR framework with a view to incorporate lessons learned from the 3 supplier exits in 2022. This will include a review of certain aspects including, but not limited to, the SoLR selection, determining an appropriate mechanism to facilitate cost recovery for the designated SoLRs for both electricity and gas, and providing advice for how this mechanism is to be funded, based on learnings and to support markets and customers.

Art. 21, 22 of Regulation 2019/943 (CRMs and connected aspects)

Overall we welcome the important changes introduced by both the EP and the Council which acknowledge the need to review the framework of **Capacity Mechanisms** (CMs) to ensure adequacy. See below.

Section	Comment
(Recital 40a and Art. 21(1));	a) We welcome the deletion of provisions considering CMs as last resort market design measure (Recital 40a and Art. 21(1));
(Art. 69(4)).	b) We welcome the request by the EC to quickly assess possibilities of streamlining and simplifying the process of applying a CM, to be followed by concrete proposals (Art. 69(4)).
Furthermore, we fully support the EP proposal requesting the EC to assess the implications of introducing CMs as a structur*al element of the electricity market (Art.69(5)).*	

Wk14229

Preparation for further work with the EP:

EMD Regulation: Suggestions for compromise amendments to Articles 19a to 19ac

of Regulation 2019/943 (PPAs and related aspects) and art. 50&57 of Regulation

2019/943 and art. 31 of Directive 2019/944 (provision of information TSO/DSOs)

Article 19a: Power purchase agreements

Article 1, first paragraph, point (9), amending provision, numbered paragraph (1)

Line 150/150a, there seems to be a bit of a conflict between it being on a voluntary basis, but the Commission may then force it on a legislative basis?

Article 1, first paragraph, point (9), amending provision, numbered paragraph (2)

Line 151, we are still fundamentally opposed to this provision. PPAs are private contracts and MS should not be mandated to underwrite private commercial arrangements. As proposed the Draft agreement dictates that MS must develop the instruments but finishes with MS may determine what categories of customer are targeted by the instruments. Item 152 opens with an “if”, so it appears that they intend this to be an optional exercise which should follow through in the text.

Proposed revision:

Member States in a coordinated manner ~~shall ensure that~~ may develop instruments to reduce the financial risks associated to off-taker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty.

Such instruments may include, but are not limited to, state-backed guarantee schemes at market prices, private guarantees, or facilities pooling demand for PPAs, and [other Union-level facilities] in compliance with relevant Union law. For this purpose, Member States shall ensure appropriate coordination, including with relevant Union-level facilities. Member States may determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria to the different categories of customers.

Article 1, first paragraph, point (9), amending provision, twenty-fourth paragraph

Line 155l IE welcomes the new additions

Article 1, first paragraph, point (9), amending provision, twenty-fifth paragraph

Line 155m IE welcomes the new additions

Wk14218

Preparation for further work with the EP:

Suggestions for compromise amendments to Articles 7, 7a, 8, 9, 18 and 19 of

Regulation 2019/943.

We are broadly comfortable with the direction of travel. With regarding to congestions rents this is a suggestion that would be an improvement on the Presidency suggestion:

Article 19

Article 1, first paragraph, point (8)(b), amending provision, first paragraph
Line 144

(c) compensating offshore renewable electricity generation plant operators in an offshore bidding zone directly connected to two or more bidding zones if access to interconnected markets has been reduced in such a way that it results in the offshore renewable electricity plant operator not being able to export its electricity generation capability to the market and, where relevant, a corresponding price decrease in the offshore bidding zone, as compared to without capacity reductions. The compensation applies where one or more transmission system operators have not made available the capacity agreed in connection agreement on the interconnector ~~or~~ **and** have not made available the capacity on the critical network elements pursuant to the capacity calculation rules in Article 16(8). The transmission system operators which are responsible for the reduction of access to interconnected markets shall be responsible for the compensation to offshore renewable electricity generation plant operators. ***Only the excess interconnector revenue shall be used for the compensation of offshore renewable generators.*** On an annual basis, ~~this~~ ***the total*** compensation ***of all generators in the concerned bidding zone*** shall not exceed the total congestion income generated on interconnectors between the ~~concerned~~ ***offshore bidding zone and neighbouring*** bidding zones ***concerned during the specific*** **market** ***settlement periods where such compensation applies*****.** -

Council of the European Union
General Secretariat

Brussels, 09 November 2023

WK 14627/2023 INIT

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	IE comments on the EMD (WK 14230/23, WK 14229/23, WK 14218/23)

Delegations will find in the annex the IE comments on the EMD (WK 14230/23, 14229/23, WK 14218/23).