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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	DK comments on EMD (ST 7440/23)

Delegations will find in the annex the DK comments on EMD (ST 7440/23).

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Commission proposal	Drafting Suggestions	Comments
2023/0077 (COD) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL		
amending Regulations (EU) 2019/943 and (EU) 2019/942 as well as Directives (EU) 2018/2001 and (EU) 2019/944 to improve the Union's electricity market design		
(Text with EEA relevance)		
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,		
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,		

Electricity market design (ST 7440/23) // Commission Proposal **Deadline*: 24 March***

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Commission proposal	Drafting Suggestions	Comments
Having regard to the proposal from the European Commission,		
After transmission of the draft legislative act to the national parliaments,		
Having regard to the opinion of the European Economic and Social Committee,		
Having regard to the opinion of the Committee of the Regions,		
Acting in accordance with the ordinary legislative procedure,		
Whereas:		
(1) Very high prices and volatility in electricity markets have been observed since September 2021. As set out by the European		

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Agency for the Cooperation of Energy Regulators ('ACER') in its April 2022 assessment of EU wholesale electricity market design[1], this is mainly a consequence of the high price of gas, which is used as an input to generate electricity.		
(2) The escalation of the Russian military aggression against Ukraine, a Contracting Party of the Energy Community, and related international sanctions since February 2022 have disrupted global energy markets, exacerbated the problem of high gas prices, and have had significant knock-on impacts on electricity prices. The Russian invasion of Ukraine has also caused uncertainty on the supply of other commodities, such as hard coal and crude oil, used by power-generating installations. This has resulted in substantial additional increases in the volatility of price levels of electricity.		

[1] European Union Agency for the Cooperation of Energy Regulators, ACER's Final Assessment of the EU Wholesale Electricity Market Design, April 2022.

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(3) In response to this situation, the Communication on Energy Prices presented by the Commission in October 2021 contained a toolbox of measures that the EU and its Member States may use to address the immediate impact of high energy prices on households and businesses (including income support, tax breaks, gas savings and storage measures) and to strengthen resilience against future price shocks. In its Communication of 8 March 2022 entitled 'REPowerEU: Joint European Action for more affordable, secure and sustainable energy'[2] the Commission outlined a series of additional measures to strengthen the toolbox and to respond to rising energy prices. On 23 March 2022, the Commission also established a temporary State Aid regime to allow certain		

[2] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM/2022/108 final

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subsidies to soften the impact of high energy prices.[3]		
(4) On 18 May 2022 the Commission presented the REPowerEU plan[4] that introduced additional measures focusing on energy savings, diversification of energy supplies and accelerated roll-out of renewable energy aiming at ending the Union's dependency on Russian fossil fuels, including a proposal to increase the Union's 2030 target for renewables to 45%. Furthermore, the Communication on Short-Term Energy Market Interventions and Long-Term Improvements to the Electricity Market Design[5], in addition to setting out additional short-term measures to tackle high energy prices identified potential areas for improving the electricity market design and announced the		

[3] Communication from the Commission Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia C 131 I/01, C/2022/1890.

[4] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - REPowerEU Plan, COM(2022)230.

[5] 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 Improvements to the Electricity Market Design – a course for action, COM(2022) 236 final.

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intention to assess these areas with a view to change the legislative framework.		
(5) To address urgently the price crisis and security concerns and to tackle the price hikes for citizens, and based on a series of Commission proposals, the Union adopted a strong gas storage regime[6], effective demand reduction measures for gas and electricity[7], price limiting regimes to avoid windfall profits in both gas and electricity markets[8] and measures to accelerate the permit-granting procedures for renewable energy installations[9].		
(6) A well-integrated market which builds on the Clean Energy for all Europeans Package		

6 Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (Text with EEA relevance), OJ L 173

7 Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas, OJ L 206 and Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, OJ L 261

8 Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, OJ L 261.

9 Council Regulation (EU) 2022/2577 of 22 December 2022 laying down a framework to accelerate the deployment of renewable energy, OJ L 335, 29.12.2022.

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adopted in 2018 and 2019[10] should allow the Union to reap the economic benefits of a single energy market in normal market circumstances, ensuring security of supply and sustaining the decarbonisation process. Cross-border interconnectivity also ensures safer, more reliable and efficient operation of the power system.		
(7) The current electricity market design has also helped the emergence of new and innovative products, services and measures on retail electricity markets, supporting energy efficiency and renewable energy uptake and enhancing choice so as to help consumers reduce their energy bills also through small-scale generation installations and emerging		

[10] Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, OJ L 328, 21.12.2018, p. 1; Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast), OJ L 328, 21.12.2018, p. 82; Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency, OJ L 328, 21.12.2018, p. 210; Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (recast), OJ L 158, 14.6.2019, p. 22; Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), OJ L 158, 14.6.2019, p. 54; 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 (recast), OJ L 158, 14.6.2019, p. 125.

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services for providing demand response. Building on and seizing the potential of the digitalisation of the energy system, such as active participation by consumers, should be a key element of our future electricity markets and systems. At the same time, there is a need to respect consumer choices and allow consumers to benefit from a variety of contract offers.		
(8) In the context of the energy crisis, the current electricity market design has however also revealed a number of important shortcomings linked to the impact of high and volatile fossil fuel prices on short-term electricity markets, which expose households and companies to significant price spikes with effects on their electricity bills.		
(9) A faster deployment of renewable energy and clean flexible technologies constitutes the most sustainable and cost-effective way of structurally reducing the		

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demand for fossil fuels for electricity generation and for direct consumption through electrification and energy system integration. Thanks to their low operational costs, renewable sources can positively impact electricity prices across the Union and reduce direct consumption of fossil fuels.		
(10) The changes to the electricity market design should ensure that the benefits from rising renewable power deployment, and the energy transition as a whole, are brought to consumers, including the most vulnerable ones, and ultimately, shield them from energy crises and avoid more households falling into energy poverty trap. These should mitigate the impact of high fossil fuel prices, notably that of gas, on electricity prices, aiming to allow households and companies to reap the benefits of affordable and secure energy from sustainable renewable and low carbon sources in the longer term.		

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(11) The reform of the electricity market design should benefit not just household consumers but also the competitiveness of the Union's industries by facilitating their possibilities to make the clean tech investments they require to meet their net zero transition paths. The energy transition in the Union needs to be supported by a strong clean technology manufacturing basis. These reforms will support the affordable electrification of industry and the Union's position as a global leader in terms of research and innovation in clean energy technologies.		
(12) Well-functioning and efficient short-term markets are a key tool for the integration of renewable energy and flexibility sources in the market and facilitate energy system integration in a cost-effective manner.		
(13) Intraday markets are particularly important for the integration of variable		

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renewable energy sources in the electricity system at the least cost as they give the possibility to market participants to trade shortages or surplus of electricity closer to the time of delivery. Since variable renewable energy generators are only able to accurately estimate their production close to the delivery time, it is crucial for them to have a maximum of trading opportunities via access to a liquid market as close as possible to the time of delivery of the electricity.		
(14) It is therefore important for the intraday markets to adapt to the participation of variable renewable energy technologies such as solar and wind as well as to the participation of demand side response and storage. The liquidity of the intraday markets should be improved with the sharing of the order books between market operators within a bidding zone, also when the cross-zonal capacities are set to zero or after the gate closure time of the intraday market.		

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Furthermore, the gate closure time of the intraday market should be set closer to the time of delivery to maximize the opportunities for market participants to trade shortages and surplus of electricity and contribute to better integrating variable renewables in the electricity system.		
(15) In addition, the short-term electricity markets should ensure that small-scale flexibility service providers can participate by lowering the minimum bid size.		
(16) To ensure the efficient integration of electricity generated from variable renewable energy sources and to reduce the need for fossil-fuel based electricity generation in times when there is high demand for electricity combined with low levels of electricity generation from variable renewable energy sources, it should be possible for transmission system operators to design a peak shaving product enabling demand		

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response to contribute to decreasing peaks of consumption in the electricity system at specific hours of the day. The peak shaving product should contribute to maximize the integration of electricity produced from renewable sources into the system by shifting the electricity consumption to moments of the day with higher renewable electricity generation. As the peak shaving product aims to reduce and shift the electricity consumption, the scope of this product should be limited to demand side response. The procurement of the peak shaving product should take place in such a way that it does not overlap with the activation of balancing products which aim at maintaining the frequency of the electricity system stable. In order to verify volumes of activated demand reduction, the transmission system operator should use a baseline reflecting the expected electricity consumption without the activation of the peak shaving product.		

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(17) In order to be able to actively participate in the electricity markets and to provide their flexibility, consumers are progressively equipped with smart metering systems. However, in a number of Member States the roll-out of smart metering systems is still slow. In those instances where smart metering systems are not yet installed and in instances where smart metering systems do not provide for the sufficient level of data granularity, transmission and distribution system operators should be able to use data from dedicated metering devices for the observability and settlement of flexibility services such as demand response and energy storage. Enabling the use of data from dedicated metering devices for observability and settlement should facilitate the active participation of the consumers in the market and the development of their demand response. The use of data from these dedicated metering devices should be accompanied by quality requirements relating to the data.		

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(18) This Regulation establishes a legal basis for processing of personal data in compliance with Article 6(1)(c) GDPR. Member States should ensure that all personal data protection principles and obligations laid down in the GDPR are met, including on data minimisation. Where the objective of this Directive can be achieved without processing of personal data, providers should rely on anonymised and aggregated data.		
(19) Consumers and suppliers need effective and efficient forward markets to cover their long-term price exposure and decrease the dependence on short-term prices. To ensure that energy customers all over the EU can fully benefit from the advantages of integrated electricity markets and competition across the Union, the functioning of the Union's electricity forward market should be improved via the establishment of regional virtual hubs with a		

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view to overcome the existing market fragmentation and the low liquidity experienced in many bidding zones. Regional virtual hubs should cover multiple bidding zones while ensuring an adequate price correlation. Some bidding zones may not be covered by a virtual hub in terms of contributing to the hub reference price. However, market participants from these bidding zones should still be able to hedge through a hub.		
(20) Virtual hubs should reflect the aggregated price of multiple bidding zones and provide a reference price, which should be used by market operators to offer forward hedging products. To that extent, virtual hubs should not be understood as entities arranging or executing transactions. The regional virtual hubs, by providing a reference price index, should enable the pooling of liquidity and provide better hedging opportunities to market participants.		

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(21) To enhance the possibilities of market participants for hedging, the role of the single allocation platform established in accordance with Commission Regulation (EU) 2016/1719 should be expanded. The single allocation platform should offer trading of financial long-term transmission rights between the different bidding zones and the regional virtual hubs. The orders submitted by market participants for financial transmission rights shall be matched by a simultaneous allocation of long term cross zonal capacity. Such matching and allocation should be performed on a regular basis, to ensure enough liquidity and, hence, efficient hedging possibilities to market participants. The long-term transmission rights should be issued with frequent maturities (ranging from month ahead to at least three years ahead), in order to be aligned with the typical hedging time horizon of market participants. The single allocation platform should be subject to monitoring and		

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enforcement to ensure that it performs its tasks properly.		
(22) Network tariffs should incentivise transmission and distribution system operators to use flexibility services through further developing innovative solutions to optimise the existing grid and to procure flexibility services, in particular demand response or storage. For this purpose, network tariffs should be designed so as to take into account the operational and capital expenditures of system operators or an efficient combination of both so that they can operate the electricity system cost-efficiently. This would further contribute to integrating renewables at the least cost for the electricity system and enable final customers to value their flexibility solutions.		
(23) Offshore renewable energy sources, such as offshore wind, ocean energy and floating photovoltaic, will play an instrumental role in		

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building a power system largely based on renewables and in ensuring climate neutrality by 2050. There are, however, substantial obstacles to their wider and efficient deployment preventing the massive scale up needed to achieve those objectives. Similar obstacles could arise for other offshore technologies in the future. These obstacles include investment risks associated with the unique topographical situation of offshore hybrid projects connected to more than one market. In order to reduce investment risk for these offshore project developers and to ensure that the projects in an offshore bidding zone have full market access to the surrounding markets, transmission system operators should guarantee access of the offshore project to the capacity of the respective hybrid interconnector for all market time units. If the available transmission capacities are reduced to the extent that the full amount of electricity generation that the offshore project would have otherwise been able to export		

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cannot be delivered to the market, the transmission system operator or operators responsible for the need to limit the capacity should, in future, be enabled to compensate the offshore project operator commensurately using congestion income. This compensation should only be related to the production capability available to the market, which may be weather dependent and excludes the outage and maintenance operations of the offshore project. The details, including the conditions under which the measure may expire, are intended to be defined in an implementing Regulation.		
(24) In the day-ahead wholesale market, the power plants with lower marginal costs are dispatched first, but the price received by all market participants is set by the last plant needed to cover the demand, which is the plant with the highest marginal costs, when the markets clear. In this context, the energy crisis has shown that a surge in the price of gas and		

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hard coal can translate into exceptional and lasting increases of the prices at which the gas and coal-fired generation facilities bid in the day-ahead wholesale market. That in turn has led to exceptionally high prices in the day-ahead market across the Union, as gas and coal-fired generation facilities are often the plants with the highest marginal costs needed to meet the demand for electricity.		
(25) Given the role of the price in the day-ahead market as a reference for the price in other wholesale electricity markets, and the fact that all market participants receive the clearing price, the technologies with significantly lower marginal costs have consistently recorded high revenues.		
(26) To reach the Union's decarbonisation targets and the objectives set out in REPowerEU to become more energy independent, the Union needs to accelerate the deployment of		

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renewables at a much faster pace. In view of the investment needs required to achieve these goals, the market should ensure that a long-term price signal is established.		
(27) In this framework, Member States should strive to create the right market conditions for long-term market-based instruments, such as power purchase agreements ('PPAs'). PPAs are bilateral purchase agreements between producers and buyers of electricity. They provide long-term price stability for the customer and the necessary certainty for the producer to take the investment decision. Nevertheless, only a handful of Member States have active PPA markets and buyers are typically limited to large companies, not least because PPAs face a set of barriers, in particular the difficulty to cover the risk of payment default from the buyer in these long-term agreements. Member States should take into consideration the need to create a dynamic		

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PPA market when setting the policies to achieve the energy decarbonisation objectives set out in their integrated national energy and climate plans.		
(28) According to Article 15(8) of Directive (EU) 2018/2001 of the European Parliament and of the Council, Member States are to assess the regulatory and administrative barriers to long-term renewables PPAs, and shall remove unjustified barriers to, and promote the uptake of, such agreements. In addition, Member States are to describe policies and measures facilitating the uptake of renewables PPAs in their integrated national energy and climate plans. Without prejudice to that obligation to report on the regulatory context affecting the PPA market, Member States should ensure that instruments to reduce the financial risks associated to the buyer defaulting on its long-term payment obligations in the framework of PPAs are accessible to companies that face entry barriers to the PPA		

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market and are not in financial difficulty in line with Articles 107 and 108 TFEU. Member States could decide to set up a guarantee scheme at market prices. Member States should include provisions to avoid lowering the liquidity in the electricity markets, such as by using financial PPAs. Member States should not provide support to PPAs that purchase generation from fossil fuels. While the default approach should be non-discrimination between consumers, Member States could decide to target these instruments to specific categories of consumers, applying objective and non-discriminatory criteria. In this framework, Member States should take into account the potential role of instruments provided at Union level, for instance by the European Investment Bank ('EIB').		
(29) Member States have at their disposal several instruments to support the development of PPA markets when designing and allocating		

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public support. Allowing renewable energy project developers participating in a public support tender to reserve a share of the generation for sale through a PPA would contribute to nurture and grow PPA markets. In addition, as part of these tender evaluation Member States should endeavour to apply criteria to incentivise the access to the PPA market for actors that face entry barriers, such as small and medium-sized enterprises ('SMEs'), giving preference to bidders presenting a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face difficulties to access the PPA market.		
(30) Where Member States decide to support publicly financed new investments ("direct price support schemes") in low carbon, non-fossil fuel electricity generation to achieve the Union's decarbonisation objectives, those schemes should be structured by way of two-way		

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contracts for difference such as to include, in addition to a revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. New investments for the generation of electricity should include investments in new power generating facilities, investments aimed at repowering existing power generating facilities, investments aimed at extending existing power generating facilities or at prolonging their lifetime.		
(31) Such two-way contracts for difference would ensure that revenues of producers stemming from new investments in electricity generation which benefit from public support become more independent from the volatile prices of fossil fuels-based generation which typically sets the price in the day-ahead market.		
(32) However, to the extent that the limitation to set out direct price support schemes in the form of two-way contracts for difference		

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narrows down the types of direct price support schemes that Member States can adopt as regards renewable energy sources, it should be limited to low carbon, non-fossil fuel technologies, with low and stable operational costs and to technologies which typically do not provide flexibility to the electricity system, while excluding technologies that are at early stages of their market deployment. This is necessary to ensure that the economic viability of generation technologies with high marginal costs is not jeopardised and to maintain the incentives of the technologies which can offer flexibility to the electricity system to bid in the electricity market based on their opportunity costs. In addition, the limitation to set out direct price support schemes in the form of two-way contracts for difference should not apply to emerging technologies for which other types of direct price support schemes may be better placed to incentivise their uptake. The limitation should be without prejudice to the possible		

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exemption for small-scale installations and demonstration projects pursuant to Article 4 (3) of (EU) 2018/2001 of the European Parliament and of the Council and consider the specificities of renewable energy communities in accordance with Article 22 (7) of that Directive.		
(33) In view of the need to provide regulatory certainty of producers, the obligation for Member States to apply direct price support schemes for the production of electricity in the form of two-way contracts for difference should apply only to new investments for the generation of electricity from the sources specified in the recital above.		
(34) Thanks to the upward limitation of the market revenues direct price support schemes in the form of two-way contracts for difference should provide an additional source of revenues for Member States in periods of high energy prices. To further mitigate the impact of high		

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electricity prices on the energy bills of consumers, Member States should ensure that the revenues collected from producers subject to direct price support schemes in the form of two-way contracts for difference are passed on to all final electricity customers, including households, SMEs and industrial consumers, based on their consumption. The redistribution of revenues should be done in a way that ensures that consumers are still to some extent exposed to the price signal, so that they reduce their consumption when the prices are high, or shift it to periods of lower prices (which are typically periods with a higher share of RES production). Member States should ensure that the level playing-field and competition between the different suppliers is not affected by the redistribution of revenues to the final electricity consumers.		
(35) Furthermore, Member States should ensure that the direct price support schemes,		

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irrespective of their form, do not undermine the efficient, competitive and liquid functioning of the electricity markets, preserving the incentives of producers to react to market signals, including stop generating when electricity prices are below their operational costs, and of final customers to reduce consumption when electricity prices are high. Member States should ensure that support schemes do not constitute a barrier for the development of commercial contracts such as PPAs.		
(36) Thus, two-way contracts for difference and power purchase agreements play complementary roles in advancing the energy transition and bringing the benefits of renewables and low carbon energy to consumers. Subject to the requirements set out in the present Regulation, Member States should be free to decide which instruments they use to achieve their decarbonisation objectives. Through PPAs, private investors contribute to		

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additional renewable and low carbon energy deployment while locking low and stable electricity prices over the long-term. Likewise, through two-way contracts for difference, the same objective is achieved by public entities on behalf of consumers. Both instruments are necessary to achieve the Union's decarbonisation targets through renewable and low carbon energy deployment, while bringing forward the benefits of low-cost electricity generation for consumers.		
(37) The accelerated deployment of renewables necessitates a growing availability of flexibility solutions to ensure their integration to the grid and to enable the electricity system and grid to adjust to the variability of electricity generation and consumption across different time horizons. Regulatory authorities should periodically assess the need for flexibility in the electricity system based on the input of transmission and distribution system operators.		

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The assessment of the flexibility needs of the electricity system should take into account all existing and planned investments (including existing assets that are not yet connected to the grid) on sources of flexibility such as flexible electricity generation, interconnectors, demand side response, energy storage or the production of renewable fuels, in view of the need to decarbonise the energy system. On this basis, Member States should define a national objective for non-fossil flexibility such as demand side response and storage which should also be reflected in their integrated national energy and climate plans.		
(38) To achieve the national objective for non-fossil flexibility such as demand side response and storage investment needs, Member States can design or redesign capacity mechanisms in order to create a green and flexible capacity mechanism. Member States that apply a capacity mechanism in line with the		

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existing rules should promote the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design.		
(39) To support environmental protection objectives the CO2 emissions' limit, set out in Article 22(4) of Regulation (EU) 2019/943 of the European Parliament and of the Council, should be seen as an upper limit. Therefore, Member States could set technical performance standards and CO2 emissions' limits that restrict participation in capacity mechanisms to flexible, fossil-free technologies in full alignment with the Guidelines on State aid for climate, environmental protection and energy[11] which encourage Member States to introduce green criteria in capacity mechanisms.		

[11] Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ C 80, 18.2.2022, p. 1).

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(40) In addition, if Member States do not apply a capacity mechanism or if the additional criteria or features in the design of their capacity mechanism are insufficient to achieve national objective for demand response and storage investment needs they could apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.		
(41) The connection of new generation and demand installations, in particular renewable energy plants, often faces delays in grid connection procedures. One of the reasons for such delays is the lack of available grid capacity at the location chosen by the investor, which implies the need for grid extensions or reinforcements to connect the installations to the system in a safe manner. A new requirement for electricity system operators, both at transmission and distribution levels, to publish and update information on the grid capacity		

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available in their areas of operation would contribute to decision-making by investors on the basis of information of grid capacity availability within the system and thus to the required acceleration in the deployment of renewable energy.		
(42) Furthermore, to tackle the problem of lengthy reply times on requests for connection to the grid, transmission and distribution system operators should provide clear and transparent information to system users about the status and treatment of their connection requests. Transmission and distribution system operators should endeavour to provide such information within a period of three months from the submission of the request.		
(43) During the energy crisis, consumers have been exposed to extremely volatile wholesale energy prices and had limited opportunities to engage in the energy market.		

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Consequently, many households, have been facing difficulties when paying their bills. Vulnerable consumers and the energy poor are the hardest hit[12], but middle-income households have also been exposed to such difficulties. It is therefore important to update consumer rights and protections, allowing consumers to benefit from the energy transition, decouple their electricity bills from short term price movements on energy markets and rebalance the risk between suppliers and consumers.		
(44) Consumers should have access to a wide range of offers so that they can choose a contract according to their needs. However, suppliers have reduced their offers, fixed-price contracts have become scarce, and the choice of offers has become limited. Consumers should always have the possibility to opt for an affordable fixed price and fixed term contract		

[12] Particular groups are more at risk of being affected by energy poverty or more susceptible to the adverse impacts of energy poverty, such as women, persons with disabilities, older persons, children, and persons with a minority racial or ethnic background.

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and suppliers should not unilaterally modify the terms and conditions before such contract expires.		
(45) When suppliers' do not ensure that their electricity portfolio is sufficiently hedged changes in wholesale electricity prices can leave them financially at risk and, result in their failure, passing on costs to consumers and other network users. Hence, it should be ensured that suppliers are appropriately hedged when offering fixed price contracts. An appropriate hedging strategy should take into account the suppliers' access to its own generation and its capitalisation as well as its exposure to changes in wholesale market prices.		
(46) Consumers should be able to choose the supplier which offers them the price and service which best suits their needs. Advances in metering and sub-metering technology combined with information and communication		

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technology mean that it is now technically possible to have multiple suppliers for a single premises. If they so wish, customers should be able to use these possibilities to choose a separate supplier notably for electricity to power appliances such as heat pumps or electric vehicles which have a particularly high consumption or which also have the capability to shift their electricity consumption automatically in response to price signals. Moreover, with fast-responding dedicated metering devices which are attached to or embedded in appliances with flexible, controllable loads, final customers can participate in other incentive-based demand response schemes that provide flexibility services on the electricity market and to transmission and distribution system operators. Overall, such arrangements should contribute to the increased uptake of demand response and to consumer empowerment allowing them to have more control over their energy use and bills,		

Commission proposal	Drafting Suggestions	Comments
while providing to the electricity system additional flexibility in order to cope with demand and supply fluctuations.		
(47) Due to the increasing complexity of energy offers and different marketing practices, consumers have often difficulties to fully understand what they sign up to. In particular, there is a lack of clarity on how the price is set, the conditions for the renewal of the contract, the consequences of terminating a contract or the reasons for changing conditions by the supplier. Therefore, the key information on energy offers should be provided to consumers by suppliers or market participants engaged in aggregation in a short and easily understandable manner prior to signing the contract.		
(48) To ensure continuity of supply for consumers in case of supplier failure, Member States should be obliged to appoint suppliers of last resort which may be treated as the provider		

Commission proposal	Drafting Suggestions	Comments
of universal service. That supplier might be the sales division of a vertically integrated undertaking which also performs distribution functions, provided that it meets the unbundling requirements of Article 35 of Directive (EU) 2019/944 of the European Parliament and of the Council. However, this does not imply an obligation of Member States to supply at a certain fixed minimum price.		
(49) Energy sharing can create resilience against the effects of high and volatile wholesale market prices on consumers' energy bills, empowers a wider group of consumers that do not otherwise have the option of becoming an active customer due to financial or spatial constraints, such as energy poor and vulnerable consumers, and leads to increased uptake of renewable energy by mobilising additional private capital investments and diversifying remuneration pathways. With the integration of appropriate price signals and storage facilities,		

Commission proposal	Drafting Suggestions	Comments
electricity sharing can help lay the foundation to help tap into the flexibility potential of smaller consumers.		
(50) Active customers that own, lease or rent a storage or generation facility should have the right to share excess production and empower other consumers to become active, or to share the renewable energy generated or stored by jointly leased, rented or owned facilities, either directly or through a third-party facilitator. Energy sharing arrangement are either based on private contractual agreement between active customers or organised through a legal entity. A legal entity that incorporates the criteria of a renewable energy community as defined in Directive (EU) 2018/2001 of the European Parliament and of the Council or a citizen energy community as defined in Directive (EU) 2019/944 of the European Parliament and of the Council can share with their members electricity generated from facilities they have in full		

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ownership. The protection and empowerment framework for energy sharing should pay particular attention to energy poor and vulnerable consumers.		
(51) Energy sharing operationalises the collective consumption of self-generated or stored electricity injected into the grid by more than one jointly acting active customers. Member States should put in place the appropriate IT infrastructure to allow for the administrative matching within a certain timeframe of consumption with self-generated or stored renewable energy for the purpose of calculating the energy component of the energy bill. The output of these facilities should be distributed among the aggregated consumer load profiles based on static, variable or dynamic calculation methods that can be pre-defined or agreed upon by the active customers.		

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(52) Vulnerable customers should be adequately protected from electricity disconnections and should, as well, not be put in a position that forces them to disconnect. The role of suppliers and all relevant national authorities to identify appropriate measures, in both the short and the long-term, which should be made available to vulnerable customers to manage their energy use and costs remain essential, including by means of close cooperation with social security systems.		
(53) Public interventions in price setting for the supply of electricity constitute, in principle, a market-distortive measure. Such interventions may therefore only be carried out as public service obligations and are subject to specific conditions. Under this Directive regulated prices are possible for energy poor and vulnerable households, including below costs, and, as a transition measure, for households and micro-enterprises. In times of crisis, when wholesale		

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and retail electricity prices increase significantly, and this is having a negative impact on the wider economy, Member States should be allowed to extend, temporarily, the application of regulated prices also to SMEs. For both households and SMEs, Member States should be temporarily allowed to set regulated prices below costs as long as this does not create distortion between suppliers and suppliers are compensated for the costs of supplying below cost. However, it needs to be ensured that such price regulation is targeted and does not create incentives to increase consumption. Hence, such price regulation should be limited to 80% of median household consumption for households, and 70% of the previous year's consumption for SMEs. The Commission should determine when such an electricity price crisis exists and consequently when this possibility becomes applicable. The Commission should also specify the validity of that determination, during which the temporary extension of regulated prices		

Commission proposal	Drafting Suggestions	Comments
applies, which may be for up to one year. To the extent that any of the measures envisaged by the present Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 TFEU.		
(54) The measures envisaged by the present Regulation are also without prejudice to the application of Directive 2014/65/EU, Regulation (EU) 2016/1011 and Regulation (EU) 648/2012.		
(55) Regulation (EU) 2019/942 of the European Parliament and of the Council, Regulation (EU) 2019/943 of the European Parliament and of the Council, Directive (EU) 2019/944 of the European Parliament and of the Council and Directive (EU) 2018/2001 of the European Parliament and of the Council should be amended accordingly.		

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Commission proposal	Drafting Suggestions	Comments
(56) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.		
HAS ADOPTED THIS REGULATION:		
Article 1		
Amendments to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity		
Regulation (EU) 2019/943 is amended as follows:		

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Commission proposal	Drafting Suggestions	Comments
(1) Article 1 is amended as follows:		
[a] point (b) is replaced by the following:		
'(b) set fundamental principles for well-functioning, integrated electricity markets, which allow all resource providers and electricity customers non-discriminatory market access, enable the development of forward electricity markets to allow suppliers and consumers to hedge or protect themselves against the risk of future volatility in electricity prices, empower consumers, ensure competitiveness on the global market, enhance flexibility through demand response, energy storage and other non-fossil flexibility solutions, ensure energy efficiency, facilitate aggregation of distributed demand and supply, and enable market and sectoral integration and market-based remuneration of electricity generated from renewable sources;'		We find the additional focus on forward markets positive.

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Commission proposal	Drafting Suggestions	Comments
[b] the following point is added:		
'(e) support long-term investments in renewable energy generation and enable consumers' to make their energy bills less dependent from fluctuations of short-term electricity market prices, in particular fossil fuel prices in the medium to long-term.'	'(e) support long-term investments in renewable energy generation that are well-integrated into the electricity markets and enable consumers' to ~~make~~ manage risks in their ~~energy~~ electricity bills ~~less dependent from~~ due to fluctuations of short-term electricity market prices~~, in particular fossil fuel prices in the medium to long-term~~.'	It is important that the electricity regulation ensures market-friendly support of renewables and avoid schemes that distort short-term and long-term markets. For consumers it is important to handle their risks and not in any case make bill independent of short-term prices.
(2) In Article 2, the following points are added:		
'(72) 'peak hour' means an hour with the highest electricity consumption combined with a low level of electricity generated from renewable energy sources, taking cross-zonal exchanges into account;		
(73) 'peak shaving' means the ability of market participants to reduce electricity consumption at		

Commission proposal	Drafting Suggestions	Comments
peak hours determined by the transmission system operator;		
(74) 'peak shaving product' means a market-based product through which market participants can provide peak shaving to the transmission system operators;		
(75) 'virtual hub' means a non-physical region covering more than one bidding zone for which an index price is set in application of a methodology;		
(76) 'two-way contract for difference' means a contract signed between a power generating facility operator and a counterpart, usually a public entity, that provides both minimum remuneration protection and a limit to excess remuneration; the contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the electricity markets and complies with the		What if a member states want a share in a project without granting aid, does that then mean it is a support scheme and have to be a two-way CfD?

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Commission proposal	Drafting Suggestions	Comments
principles set out in Article 4(2) and Article 4(3), first and third subparagraphs, of Directive (EU) 2018/2001;		
(77) 'power purchase agreement' or 'PPA' means a contract under which a natural or legal person agrees to purchase electricity from an electricity producer on a market basis;		
(78) 'market revenue' means realised income an electricity producer receives in exchange for the sale and delivery of electricity in the Union, regardless of the contractual form in which such exchange takes place, and excluding any support granted by Member States;		
(79) 'dedicated metering device' means a device attached to or embedded in an asset that sells demand response or flexibility services on the electricity market or to transmission and distribution system operators;		

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(80) 'flexibility' means the ability of an electricity system to adjust to the variability of generation and consumption patterns and grid availability, across relevant market timeframes.'		The definition is very broad. It does not seem operational for the present purposes of a legal text, and fitting to all places where it is used. E.g. in the context of the COM proposal of article 19 c, it would seem more appropriate to define flexibility more operationally in relation to a demand from system operators for system users to adjust their generation/consumption patterns. DK would therefore like to see a more operational definition.
(3) Article 7 is amended as follows:		
[a] paragraph 1 is replaced by the following:		
'1. Transmission system operators and NEMOs, or an entity designated by them, shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs		

Commission proposal	Drafting Suggestions	Comments
shall cooperate at Union level or, where more appropriate, at a regional level in order to maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading. The obligation to cooperate shall be without prejudice to the application of Union competition law. In their functions relating to electricity trading, transmission system operators and NEMOs shall be subject to regulatory oversight by the regulatory authorities pursuant to Article 59 of Directive (EU) 2019/944 and ACER pursuant to Articles 4 and 8 of Regulation (EU) 2019/942.'		
[b] paragraph 2 is amended as follows:		
(i) point (c) is replaced by the following:		
(c) maximise the opportunities for all market participants to participate in cross-zonal and intra-zonal trade in a non-discriminatory way		We support this change

Commission proposal	Drafting Suggestions	Comments
and as close as possible to real time across and within all bidding zones;		
(ii) the following point (ca) is inserted:		
'(ca) be organised in such a way as to ensure the sharing of liquidity between all NEMOs, both for cross-zonal and for intra-zonal trade;'		We support this change
(4) the following Articles 7a and 7b are inserted:		
'Article 7a		
Peak shaving product		
1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours.		DK finds it important to ensure that the peak shaving product does not distort the established short-term markets (e.g. day ahead, intraday and the balancing markets). If the peak shaving product introduces distortions to the markets in one country, it will

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		probably also introduce distortions to the markets in another European country.
2. Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements:		
(a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy	(a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. ~~The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority~~. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy	The Transmission system operator has, within current leglislation, the competence to develop necessary products to secure electricity of supply without taking a reliability standard or objective and transparent grid criteria into account. Products and methods are developed in close coordination with TSO's from Member States within same synchronous and/or market

Commission proposal	Drafting Suggestions	Comments
sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs;	sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs. The cost/benefit analysis shall take into account the effect on other established short-term markets (e.g. day ahead, intraday and the balancing markets).	area. Products and methods are approved by the regulatory authority of the Member State. Further requirements to a proposal regarding a new "peak shaving product" will delay market development and create a barrier for demand response/consumption flexibility. Especially in Member States where a reliability standard is not yet set. On the other hand a peak shaving product in between day ahead and intraday could move flexibility from day ahead to peak shaving and increase prices in day ahead as a consequence. The cost/benefit analysis must therefore take into account the effect not only on the day ahead, intraday and balancing markets in the Member States but also crossborder. The abovementioned provisons in the current legislation should be maintained as this flexible regarding competent authority takes account of

Commission proposal	Drafting Suggestions	Comments
		different institutional arrangements and division of responsibilities in Member States. DK would furthermore like to ask the Commission if it can provide a definition of *'an objective and transparent grid stability criteria'*?
(b) the procurement of a peak shaving product shall be based on objective, transparent, non-discriminatory criteria and be limited to demand response;		
(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;		
(d) contracts for a peak shaving product shall not be concluded more than two days		

Commission proposal	Drafting Suggestions	Comments
before its activation and the contracting period shall be no longer than one day;		
(e) the activation of the peak shaving product shall not reduce cross-zonal capacity;		
(f) the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market;		
(g) the peak shaving product shall not imply starting generation located behind the metering point.		
3. The actual reduction of consumption resulting from the activation of a peak shaving product shall be measured against a baseline, reflecting the expected electricity consumption without the activation of the peak shaving product. Transmission system operators		

Commission proposal	Drafting Suggestions	Comments
shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority.		
4. Regulatory authorities shall approve the proposal of the transmission system operators seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs.		
Article 7b		
Dedicated metering device		
1. "Member States shall allow transmission system operators and distribution system operators to use data from dedicated metering devices for the observability and settlement of		

Commission proposal	Drafting Suggestions	Comments
demand response and flexibility services, including from storage systems.		
2. Member States shall establish requirements for a dedicated metering device data validation process to check and ensure the quality of the respective data.’;		
(5) Article 8 is amended as follows:		
(a) paragraph 1 is replaced by the following:		
‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’	‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 20~~28~~31, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’	DK supports the aim of reducing gate-closure time but finds that it will require more time to implement the necessary system that ensure faster reaction. With shorter gate closure time, sufficient capacity must be ready to react in a shorter time frame as well.
(b) paragraph 3 is replaced by the following:		

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'NEMOs shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 100kW or less, to allow for the effective participation of demand-side response, energy storage and small-scale renewables including direct participation by customers.'		DK supports lower minimum bid sizes.
[6] Article 9 is replaced by the following:		
Article 9		
Forward markets		
1. By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:	1. By 1 December 20246 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:	To allow for a realistic timeline on a proposal and assessment of regional virtual trading hubs, we propose a longer timeline. We understand that this is also an issue raised by TSOs.
(a) define the geographical scope of the virtual hubs for the forward market, including		

Commission proposal	Drafting Suggestions	Comments
the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs;		
(b) include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria;		
(c) include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market;		
(d) maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term		

Commission proposal	Drafting Suggestions	Comments
transmission rights from bidding zones to virtual hubs.		
	1a. By 31. December 2023 all TSOs shall submit to ACER and ESMA, a proposal of implementation of improvements to the current auctioning of financial longterm transmission rights to be implemented by 1 January 2024. 1) The improvements shall consist of but not be limited to the following: a) Auctions for monthly, quarterly and yearly products; b) Product maturities up to three years; c) Development of a secondary market. 2) Within three months of receipt of the proposal on improvements for the forward market, ACER and ESMA shall jointly evaluate it and either approve or amend it. The adopted proposal shall be published on ACER's website and is to be implemented by all TSOs within 3 months of the approval.	DK suggests a new paragraph to ensure swift implementation of already identified short-term measures to improve forward markets and auctioning of long-term transmission rights that will have a more immediate effect before introducing other more complex measures like virtual hubs.

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Commission proposal	Drafting Suggestions	Comments
2. Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.		
3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council.		
4. The single allocation platform shall:		
(a) offer trading of long-term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long-term transmission rights to a virtual hub or to other		

Commission proposal	Drafting Suggestions	Comments
bidding zones that are part of the same capacity calculation region;		
(b) allocate long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross--zonal capacity shall support the efficient functioning of the forward market;		
(c) offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead.		
5. Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward		

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markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone.		
(7) Article 18 is amended as follows:		

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[a] paragraph 2 is replaced by the following:		
"2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection";	"2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration, including of renewable energy, and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection";	DK finds that an integration of renewable energy is a priority that also will need to be reflected in the tariff structures.
[b] paragraph 8 is replaced by the following:		

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"8. Transmission and distribution tariff methodologies shall provide incentives to transmission and distribution system operators for the most cost-efficient operation and development of their networks including through the procurement of services. For that purpose, regulatory authorities shall recognise relevant costs as eligible, shall include those costs in transmission and distribution tariffs, and shall introduce performance targets in order to provide incentives to transmission and distribution system operators to increase efficiencies in their networks, including through energy efficiency, the use of flexibility services and the development of smart grids and intelligent metering systems."		
[c] in paragraph 9, point (f) is replaced by the following:		

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'(f) methods to ensure transparency in the setting and structure of tariffs, including anticipatory investments;'		
[d] in paragraph 9, the following point (i) is added:		
'(i) incentives for efficient investments in networks, including on flexibility resources and flexible connection agreements.'		
[8] in Article 19, paragraph 2 is amended as follows:		
[a] point (b) is replaced by the following:		
(b) maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network		

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investments that are relevant to reduce interconnector congestion; or		
[b] the following point (c) is added:		
'(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.'	'(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market as expected without capacity reductions.'	It should be noted that generation capability that exceeds the maximum transmission capacity due to overplanting should not be compensated. Morover, offshore bidding zone is not clearly defined. It might be relevant also to include bidding zones that include certain onshore areas or islands if the grid structure requires such areas to be included in the bidding zone.
[9] The following chapter IIIa is inserted:		
Chapter IIIa		

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Commission proposal	Drafting Suggestions	Comments
Specific investment incentives to achieve the Union's decarbonisation objectives		
Article 19a		
Power purchase agreements		
1. Member States shall facilitate power purchase agreements ('PPAs') with a view to reaching the objectives set out in their integrated national energy and climate plan with respect to the dimension decarbonisation referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets.	1. Member States shall facilitate power purchase agreements ('PPAs') and other frameworks that provide long term price signals with a view to reaching the objectives set out in their integrated national energy and climate plan with respect to the dimension decarbonisation referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets.	DK finds that PPA's should not be promoted above other instruments which provide long-term price signals, as PPA's are traded bilaterally and thereby outside the longterm market withdrawing liquidity, especially from forwardmarkets. Furthermore, they can cause challenges to the balance in the electricity system, making it more difficult and more expensive for transmission system operators to secure balancing.
2. Member States shall ensure that instruments such as guarantee schemes at market prices, to reduce the financial risks associated to off-taker payment default in the	2. Member States may choose to implement instruments such as guarantee schemes at market prices or other alternative instruments, to reduce the financial risks associated to off-taker	It should be clarified, that it is up to the Member States to assess, whether there are entry barriers to the PPA-market, and that Member States have the flexibility to choose how to assess this,

Commission proposal	Drafting Suggestions	Comments
framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. For this purpose, Member States shall take into account Union-level instruments. Member States shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria.	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 in line with Articles 107 and 108 TFEU. For this purpose, Member States shall take into account Union-level instruments. Member States shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria. It is in the competency of Member States to assess whether customers face entry barriers to the PPA market. Furthermore Member States decide how to carry out the assessment.	which is also consistent with the Renewable Energy Directive art. 15(8). It is especially important for Member States to have the flexibility to choose, what instruments are used, if the presence of entry barriers are detected by the Member States. As the COM has explained this could also be just existing market tools available and thus not schemes that the MS are implementing.
3. Guarantee schemes for PPAs backed by the Member States shall include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from fossil fuels.	3.Guarantee schemes for PPAs or comparable instruments related to other products, such as those traded on forward markets, that Members States choose to implement to remove unjustified barriers ~~backed by the Member States~~ shall include provisions to avoid lowering the liquidity in electricity markets and shall not	Schemes chosen by Member States can be related to other products as well. Such schemes should prevent lowering liquidity as well.

Commission proposal	Drafting Suggestions	Comments
	provide support to the purchase of generation from fossil fuels. To this end, PPA's shall be financially settled, if backed by a Member state scheme.	
4. In the design of the support schemes for electricity from renewable sources, Member States shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face entry barriers to the PPA market.	4. In the design of the support schemes for electricity from renewable sources, Member States ~~shall~~ may allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face entry barriers to the PPA market.	It should be up to the member states to choose the role of PPA's regarding support schemes, as it should be avoided to create incentives which burdens the system for both producers and consumers. It is important that this does not become the main evaluation criteria, as it may undermine the most economic selection of bids in the public tenders.
5. PPAs shall specify the bidding zone of delivery and the responsibility for securing		Member States do not have direct influence on private contract design. It might be necessary to

Commission proposal	Drafting Suggestions	Comments
cross-zonal transmission rights in case of a change of bidding zone in accordance with Article 14.		define a fallback clause that lays out what happens in case that the parties do not specifiy responsibility for securing transmission rights.
6. PPAs shall specify the conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in accordance with Union competition law.		Member States do not have direct influence on private contract design. It might be necessary to define a fallback clause that lays out what happens in case that the parties do not specifiy fees and notice periods.
Article 19b		
Direct price support schemes for new investments in generation		
1. Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of a two-way contract for differences. New investments for the generation of electricity shall include investments in new	Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 ~~shall~~ may take the form of a two-way contract for differences or other relevant forms. Member States can decide the specific design of these.	We strongly disagree with the proposal to limit choice of support scheme to CfDs. Member States should be able to choose, how to promote the establishment of new energy generation especially when it comes to renewable energy where many different schemes could be relevant.

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power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime.	New investments for the generation of electricity shall include investments in new power-generating facilities, ~~investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime.~~	CfDs should be voluntary, even if Member States see the need for support. It is also essential that it will not affect existing capacity or have retroactive effect. We suggest that the wording of the proposal considers how barriers for green hydrogen production linked to electricity production can be avoided. Therefore, it is preferred if electricity generation combined with green hydrogen and PtX-generation is exempted in order to enable the PtX-sector to provide flexibility in the electricity system and help decarbonize the hard-to-abate sectors. Other types of energy storage and consumption coupled directly to electricity generation should be exempted as well.
2. Paragraph 1 shall apply to new investments in generation of electricity from the following sources:		

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Commission proposal	Drafting Suggestions	Comments
(a) wind energy;		
(b) solar energy;		
(c) geothermal energy;		
(d) hydropower without reservoir;		
(e) nuclear energy;		
3. Direct price support schemes in the form of two-way contracts for difference shall:		
(a) be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);	(a~~) be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);~~	In general, there should be flexibility for Member States to use revenues as see fit, as we are skeptic towards earmarking.

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Commission proposal	Drafting Suggestions	Comments
(b) ensure that the distribution of the revenues to final electricity customers is designed so as not to remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers;		
	(c) be designed to preserve incentives for generators to operate and participate efficiently in the day-ahead, intraday, balancing and potential flexibility markets.	In line with the above percieved goal for (b) we would also want to preserve incentives for generators to be systemfriendly and to be active in the short term marktes.
Article 19c		
	DK option 1: alternative proposal Assessment of flexibility potential 1. By 1 January 2026 and every two years thereafter, each Member State shall assess and draw up a report on the flexibility potential from demand side response and energy storage for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, contributing to	Denmark suggests several alternative proposals regarding article 19 c. As **option 1,** Danmark suggests that Member States assess flexibility <u>potential</u> instead of flexibility <u>need</u>. Flexibility need can in its nature be infinite while flexibility potential takes into account the technical and economic possibilities of being flexible. Flexibility potential will also take into

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Commission proposal	Drafting Suggestions	Comments
	the stability and reliability of the system and the efficient management and development of electricity networks, and taking into account the integration of different sectors. 3. The report shall be based on the analysis of the potential flexibility contributions of different segments at seasonal, daily and hourly intervals, including as a minimum demand side and energy storage solutions of different types, e.g. PtX, datacenters, electricle vehicles, heat storage, batteries, compressed air energy storage etc. The assessment referred to in paragraph 1 shall be carried out on the basis of a methodology developed by the Member State in consultation with system operators and all relevant system users. 4. Member States shall submit the assessment referred to in paragraph 1 to the Commission and publish them. On the basis of the reports, the Commission may issue redommendations for a best practise	account the state of digitalisation in the Member State. Establishing an estimate of the flexibility potential at seasonal, daily and hourly intervals 5-10 years ahead to cover a given flexibility need at a given time in a technically feasible and cost-efficient manner is an important tool for the TSO and DSO's in their analyses of the electricity system and the efficient management and development of their networks. The assessment would be carried out on the basis of an analysis of the potential flexibility contributions of different segments, for example heat pumps of different varieties, green hydrogen production, datacenters, electrical vehicles of different varieties, different types of energy storage etc. on the basis of a methodology to be developed at Member State level. The analysis could be used both at TSO and DSO level. For example in connection with

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Commission proposal	Drafting Suggestions	Comments
	methodology, taking into account of national specificies.	TSO yearly assessment of security of supply and DSOs development of network development plans.
Assessment of flexibility needs		
1. By 1 January 2025 and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3.	1. By 1 January ~~2025~~ 2026 or at the latest 2 years after ACERs approval of the methodology and every two years thereafter, the regulatory authority of each Member State or another authority designated by the Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, contributing to the stability and reliability of the system and the efficient management and development of electricity networks, and taking into account the integration of different sectors.	As option 2, Denmark suggest amendments to the proposed article 19 c, para. 1.

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Commission proposal	Drafting Suggestions	Comments
	The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3.	
2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand side response and storage to fulfil this need, both at transmission and distribution levels. The report shall distinguish between seasonal, daily and hourly flexibility needs.	2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand side response, energy storage and renewable dispatchable production capacity to fulfil this need, both at transmission and distribution levels. The report shall distinguish between seasonal, daily and hourly flexibility needs.	As option 2, Denmark suggest amendments to the proposed article 19 c, para.2. DK finds promotion of non-fossil flexibility and demand side response positive. Although it is important to secure that flexibility and storage investment in existing low-carbon capacity (eg. renewable and low-carbon dispatchable production capacity) is included, existing renewable and low-carbon dispatchable production capacity is critical to the security of supply why market conditions for the existing capacity must be maintained.
3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation	3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation	As option 2, Denmark suggest amendments to the proposed article 19 c, para.3.

Commission proposal	Drafting Suggestions	Comments
of the report referred to in paragraph 1 to the regulatory authority.	of the report referred to in paragraph 1 to the regulatory authority or the authority designated by the Member State for this task. The analyses provided by transmission and distribution system operators shall be based on the analytical base assumptions developed by the Member State for use in its energy planning and policy.	
4. The ENTSO for Electricity and the EU DSO entity shall coordinate transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular, they shall:		
(a) define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities;	(a) define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities or the authorities designated by the Member States;	As option 2, Denmark suggest amendments to the proposed article 19 c, para. 4 (a).
(b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into	(b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into	As option 2, Denmark suggest amendments to the proposed article 19 c, para.4 (b).

Commission proposal	Drafting Suggestions	Comments
account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system.	account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system. The methodology shall allow for the analysis to take into account individual Member States' analytical base assumptions developed by the Member State for use in its energy planning and policy, such as, for example, targets for security of electricity supply and projections for the development of supply and demand in their electricity systems.	It is important that the analysis carried out by TSOs and DSOs can take account for the individual situation in Member States. This has to be reflected in the (EU-harmonised) methodology.
5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.	5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.	
6. By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory	6. By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory	

Commission proposal	Drafting Suggestions	Comments
authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.	authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.	
7. The regulatory authorities shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities.	7. The regulatory authorities or the authorities designated by the Member States shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities or the authorities designated by the Member States.	As option 2, Denmark suggest amendments to the proposed article 19 c, para. 7.
Article 19d		

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Commission proposal	Drafting Suggestions	Comments
Indicative national objective for demand side response and storage	Indicative national objective for demand side response and energy storage	
Based on the report of the regulatory authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand side response and storage. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.	Based on the report of the regulatory authority or another authority designated by the Member State pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand side response and energy storage. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.	
Article 19e		
Flexibility support schemes		

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Commission proposal	Drafting Suggestions	Comments
1. Member States which apply a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design of the capacity mechanism.	1. Member States which apply a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility such as demand side response, energy storage and renewable dispatchable production capacity by introducing additional criteria or features in the design of the capacity mechanism.	
2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with19d, Member States may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.	2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response, energy storage and renewable dispatchable production capacity in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with19d, Member States may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and energy storage and renewable dispatchable production capacity.	

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Commission proposal	Drafting Suggestions	Comments
3. Member States which do not apply a capacity mechanism may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.	Member States which do not apply a capacity mechanism may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response, energy storage and renewable dispatchable production capacity.	There should be a paragraph specifying how "flexibility support schemes" should/could be implemented. Do MS have to follow the same application process as for a capacity mechanism in accordance to Article 21, or can the flexibility schemes just be implemented given the design principles in Article 19f?
Article 19f		
Design principles for flexibility support schemes		
Flexibility support scheme for non-fossil flexibility such as demand response and storage applied by Member States in accordance with Article 19e(2) and (3) shall:	Flexibility support scheme for non-fossil flexibility such as demand response, energy storage and renewable dispatchable production capacity applied by Member States in accordance with Article 19e(2) and (3) shall:	

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Commission proposal	Drafting Suggestions	Comments
(a) not go beyond what is necessary to address the identified flexibility needs in a cost-effective manner;		
(b) be limited to new investments in non-fossil flexibility such as demand side response and storage;	(b)be limited to ~~new investments in~~ non-fossil flexibility such as demand side response, energy storage and renewable dispatchable production capacity.	The article implies that support schemes are limited to "new investments" in non-fossil fleksibility. This implies that support schemes for existing flexibility are not included. This deminishes the market conditions of existing flexibility capacity, and is unreasonable due to the criticality of the current flexibility capacity including renewable and low-carbon dispatchable production capacity.
(c) must not imply starting fossil fuel-based generation located behind the metering point;		
(d) select capacity providers by means of an open, transparent, competitive, non-discriminatory and cost-effective process;		

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Commission proposal	Drafting Suggestions	Comments
(e) prevent undue distortions to the efficient functioning of the electricity markets including preserving efficient operation incentives and price signals and the exposure to price variation and market risk;		
(f) provide incentives for the integration in the electricity market in a market-based and market-responsive way, while avoiding unnecessary distortions of electricity markets as well as taking into account possible system integration costs and grid stability;		
(g) set out a minimum level of participation in the market in terms of activated energy, which takes into account the technical specificities of storage and demand response;		
(h) apply appropriate penalties to capacity providers which do not respect the minimum level of participation in the market referred to in		

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Commission proposal	Drafting Suggestions	Comments
point (g), or which do not follow efficient operation incentives and prices signals;		
(i) be open to cross-border participation.’;		
(10) in Article 37 (1), point (a) is replaced by the following:		
“(a), carrying out the coordinated capacity calculation in accordance with the methodologies developed pursuant to the forward capacity allocation guideline, the capacity allocation and congestion management guideline and the electricity balancing guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;”;		
(11) Article 50 is amended as follows:		
(a) the following paragraph 4a is added:		

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Commission proposal	Drafting Suggestions	Comments
"4a. Transmission system operators shall publish in a clear and transparent manner, information on the capacity available for new connections in their respective areas of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly.		Why are only flexible energy storage connections mentioned in regard to congested areas?
Transmission system operators shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of three months from the submission of the request ";		
(12) in Article 57, the following paragraph 3 is added:		
"3. Distribution system operators and transmission system operators shall cooperate with each other in publishing information on the		

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Commission proposal	Drafting Suggestions	Comments
capacity available for new connections in their respective areas of operation in a consistent manner and giving sufficient granular visibility to developers of new energy projects and other potential network users.		
(13) in Article 59 (1), point (b) is replaced by the following:		
"(b), capacity-allocation and congestion-management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling including the possibility of being operated by a single entity, the firmness of allocated cross-zonal capacity, congestion income distribution, the allocation of financial		

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Commission proposal	Drafting Suggestions	Comments
long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and congestion management cost recovery;”;		
(14) The following Article 69a is added:		
Article 69a		
Interaction with Union financial legislation		
Nothing in this Regulation shall derogate from the provisions of Directive (EU) 2014/65, Regulation (EU) 648/2012 and Regulation (EU) 600/2014 when market participants or market operators engage in activities related to financial instruments in particular as defined under Article 4(1)(15) of Directive (EU) 2014/65.		
(15) in Annex I point 1.2 is replaced by the following:		

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Commission proposal	Drafting Suggestions	Comments
"1.2. Coordinated capacity calculation shall be performed for all allocation timeframes".		
Article 2		
Amendments to 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		
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 is amended as follows:		
(1) Article 2 is amended as follows:		
(a) points (8) and (49) is replaced by the following:		

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Commission proposal	Drafting Suggestions	Comments
"(8) 'active customer' means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or self-generated or shared electricity within other premises located within the same bidding zone, or who sells self-generated electricity or participates in flexibility or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity."; 		
"(49) 'non-frequency ancillary service' means a service used by a transmission system operator or distribution system operator for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability, island operation capability and peak shaving;"		
(b) the following points are added:		

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(15a) 'fixed term, fixed price electricity supply contract' means an electricity supply contract between a supplier and a final customer that guarantees the same contractual conditions, including the price, while it may, within a fixed price, include a flexible element with for example peak and off peak price variations;		
(10a) 'energy sharing' means the self-consumption by active customers of renewable energy either:		
(a) generated or stored offsite or on sites between them by a facility they own, lease, rent in whole or in part; or		
(b) the right to which has been transferred to them by another active customer whether free of charge or for a price.		

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Commission proposal	Drafting Suggestions	Comments
(10b) 'peer-to-peer trading' of renewable energy means peer-to-peer trading as defined in point (18) of Article 2 of Directive (EU) 2018/2001.		
(24a) 'supplier of last resort' means a supplier who is designated by a Member State to take over the supply of electricity to customers of a supplier which has ceased to operate;		
(2) Article 4 is replaced by the following:		
"Article 4		
Free choice of supplier		
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		

Commission proposal	Drafting Suggestions	Comments
covered by the single connection point for their premises.”		
(3) Article 11 is amended as follows:		
(a) the title is replaced by the following:		
‘Entitlement to a fixed term, fixed price and dynamic electricity price contract’;		
(b) paragraph 1 is replaced by the following:		
1. 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	1. 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 with at least 50% of consumption at a fixed price of a	It is suggested to make the fixed-term fixed-price product more subtle by setting a lower threshold for the fixed-price part of the consumption on the contract of 50%. This will allow individual suppliers to design their products according to their individual customer base and business strategy, thus increasing the likelihood of the product being taken up by consumers. Importantly, it will give consumers an incentive to act flexibly in relation to the spot

Commission proposal	Drafting Suggestions	Comments
supplier and with every supplier that has more than 200 000 final customers.	duration of at least one year, with at least one supplier and with every supplier that has more than 200 000 final customers.	prices, while maintaining a high degree of consumer protection though more stable electricity bills.
(c) the following paragraph 1a is inserted:		
1a. Prior to the conclusion or extension of any contract, final customers shall be provided with a summary of the key contractual conditions in a prominent manner and in concise and simple language. This summary shall include at least information on total price, promotions, additional services, discounts and include the rights referred to in points (a), (b), (d), (e) and (f) of Article 10(3). The Commission shall provide guidance in this regard.		
(d) paragraph 2 is replaced by the following:		
2. Member States shall ensure that final customers are fully informed by the suppliers of the opportunities, costs and risks of dynamic		

Commission proposal	Drafting Suggestions	Comments
electricity price 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 monitor the market developments and assess the risks that the new products and services may entail and deal with abusive practices.		
(4) The following Articles are inserted:		
"Article 15a"		It is important to make it clear in the article, that imbalances are handled according to article 5 in regulation (EU) 2019/943
Right to energy sharing		
1. All households, small and medium sized enterprises and public bodies have the right to participate in energy sharing as active customers.		

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(a) Active customers shall be entitled to share renewable energy between themselves based on private agreements or through a legal entity.		It is also essential that the rights concerning energy sharing will not be changed in a way that implies a right to establish a distribution network. It is furthermore essential that energy sharing arrangements are implemented in a manner which does not circumvent applicable taxes, levies and network charges.
(b) Active customers may use a third party that owns or manages for installation, operation, including metering and maintenance a storage or renewable energy generation facility for the purpose of facilitating energy sharing, without that third party being considered an active customer.		
(c) Member States shall ensure that active customers participating in energy sharing:		
	x) have an obligation to be financially responsible for the imbalances that they cause in the electricity system; to that extent they shall	

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Commission proposal	Drafting Suggestions	Comments
	be balance responsible parties or shall delegate their balancing responsibility in accordance with Article 5 of Regulation (EU) 2019/943	
(d) are entitled to have the shared electricity netted with their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable taxes, levies and network charges;	(d) are entitled to have the shared electricity netted with their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable taxes, levies and network charges. The "shared electricity" relates only to the energy consumed or produced.	We note that it is positive that energy sharing must take place via the collective electricity grid. It is important that electricity grid tariffs and electricity taxes are not affected by the new article. In regards to "total metered consumption" it should be clarified if the entitlement to have the shared electricity nettet applies to an individual active customer's "total metered consumption", or if it applies to the "total metered consumption" of a group of active customers, or both? DK suggests to make it clear that energy sharing of energy and netting of energy consumption (and production) only applies for the energy consumption/production. In DK, an electricity trading company that offers the supply of electricity to household consumers must, upon request for delivery and against payment, deliver any electrical product

Commission proposal	Drafting Suggestions	Comments
		to household consumers within the grid area(s) where the electricity trading company offers electrical products. In relation to this article concerning energy sharing, it can be more difficult for the electricity trading companies to find out how they shall deliver these products to active customers engaging in energy sharing arrangements. DK would like to have it specified, how the settlement of the shared electricity should take place between different active customers with different electricity traders? The active customers can have one electricity trader for production and another for their consumption. The Commission should therefore elaborate on how payment flows are handled within countries with a wholesale model (a supplier centric model), including in a peer-to-peer context.
(e) benefit from all consumer rights and obligations as final customers under this Directive, except in case of energy sharing between households with an installed capacity up to 10.8 kW and up to 50 kW for multi-		

Commission proposal	Drafting Suggestions	Comments
apartment blocks using peer-to-peer trading agreements;		
(f) have access to template contracts with fair and transparent terms and conditions for peer-to-peer trading agreements between households, and for agreements on leasing, renting or investing in storage and renewable energy generation facilities for the purpose of energy sharing; in case of conflicts arising over such agreements, final customers shall have access to out of court dispute settlement in accordance with Article 26;	(f) have access to template contracts with fair and transparent terms and conditions for ~~peer-to-peer~~ ~~trading~~ energy sharing agreements between households, and for agreements on leasing, renting or investing in storage and renewable energy generation facilities for the purpose of energy sharing; in case of conflicts arising over such agreements, final customers shall have access to out of court dispute settlement in accordance with Article 26;	
(g) are not subject to unfair and discriminatory treatment by market participants or their balance responsible parties;		
(h) are informed of the possibility for changes in bidding zones in accordance with Article 14 of Regulation (EU) 2019/943 and of the fact that the right to share energy is		

Commission proposal	Drafting Suggestions	Comments
restricted to within one and the same bidding zone.		
(i) Member States shall ensure that relevant transmission or distribution system operators or other designated bodies:		
(j) 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;		It should be clarified from the Commission in more detail the different parts of the data concerning the shared electricity, which the transmission or distribution system operators should communicate to relevant final customers, and the form it should be delivered?
(k) provide a relevant contact point to register energy sharing arrangements, receive information on relevant metering points, changes in location and participation, and, where applicable, validate calculation methods in a clear, transparent and timely manner.		

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Commission proposal	Drafting Suggestions	Comments
2. Member States shall take appropriate and non-discriminatory measures to ensure that energy poor and vulnerable households can access energy sharing schemes. Those measures may include financial support measures or production allocation quota.		
	3. Member States may require active customers engaging in energy sharing to pay financial compensation to other market participants or to the market participants' balance responsible parties, if those market participants or balance responsible parties are directly affected by the energy sharing. Such financial compensation shall not create a barrier to market entry for market participants engaged in energy sharing. In such cases, the financial compensation shall be strictly limited to covering the resulting costs incurred by the suppliers of active customers or the suppliers' balance responsible parties during the energy sharing. The method for calculating compensation may take account of the benefits brought about by the active customers to other	

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	market participants for example distribution system operators and, where it does so, the participating active customers may be required to contribute to such compensation but only where and to the extent that the benefits to all suppliers, customers, their balance responsible parties and distribution system operators do not exceed the direct costs incurred. The calculation method shall be subject to approval by the regulatory authority or by another competent national authority.	
"Article 18a		
Supplier risk management		
1. National Regulatory Authorities shall ensure that suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity		

Commission proposal	Drafting Suggestions	Comments
supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets.		
2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law.	~~2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law.~~	DK generally believes that PPA's should not be forced to be included in supplier hedging strategies, as this will negatively affect liquidity in the electricity markets. It will also affect Member State negatively if this is implemented in other Member States. We therefore suggest to remove this option for all Member States. Suppliers can still voluntarily enter into PPA's if they wish to do so. If the provision remains in this article, it is important that it remains on a voluntary basis for suppliers to use PPA's as a part of their price hedging portfolio.

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Commission proposal	Drafting Suggestions	Comments
3. Member States shall endeavour to ensure the accessibility of hedging products for citizen energy communities and renewable energy communities."		
(5) The following Article XX is inserted:		
"Article 27a		There already today is a framework for universal service in place in DK, as also mentioned by other MS.
Supplier of last resort		
1. 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.	1. Member States shall ensure that a system is in place regarding delivery and continuity of service to household customers. Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory procedure.	
2. Final customers who are transferred to suppliers of last resort shall not lose their rights		

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Commission proposal	Drafting Suggestions	Comments
as customers, in particular those rights laid down in Articles 4, 10, 11, 12, 14, 18 and 26.		
3. Member States shall ensure that suppliers of last resort promptly communicate the terms and conditions to transferred customers and ensure seamless continuity of service for those customers for at least 6 months.	3. Member States shall ensure that suppliers of last resort promptly communicate the terms and conditions to transferred customers ~~and ensure seamless continuity of service for those customers for at least 6 months~~.	The sentence "*...ensure seamless continuity of service for those customers for at least 6 months*" may be misunderstood in two ways: Either that 1) the new supplier is not obliged to deliver the service for more than 6 months, and 2) the supplier is under any condition obliged to deliver the service, i.e. even if the customer does not pay for the delivery.
4. Member States shall ensure that final customers are provided with information and encouragement to switch to a market-based offer.		
5. Member States may require the supplier of last resort to supply electricity to household customers who do not receive market based		

Commission proposal	Drafting Suggestions	Comments
offers. In such cases, the conditions set out in Article 5 shall apply."		
Article 28a		
Protection from disconnections for vulnerable customers		
Member States shall ensure that vulnerable customers are protected from electricity disconnections. This shall be provided as part of the concept of vulnerable customers pursuant to Article 28 (1) of this Directive and without prejudice to the measures set out in Article10(11).	Member States shall strive to ensure that vulnerable customers are protected from electricity disconnections. This shall be provided as part of the concept of vulnerable customers pursuant to Article 28 (1) of this Directive and without prejudice to the measures set out in Article10(11).	It can be difficult to assess the practical consequences of the proposed provision, i.e. it should reflect there should be implemented strenghtened requirements aimed at making it very difficult for suppliers to disconnect customers/vulnerable customers.
(6) in Article 27, paragraph 1 is replaced by the following:		
"1. Member States shall ensure that all household customers, and, where Member States consider it appropriate, small enterprises,		

Commission proposal	Drafting Suggestions	Comments
enjoy universal service, namely the right to be supplied with electricity of a specified quality within their territory at competitive, easily and clearly comparable, transparent and non-discriminatory prices. To ensure the provision of universal service, Member States shall impose on distribution system operators an obligation to connect customers to their network under terms, conditions and tariffs set in accordance with the procedure laid down in Article 59(7). This Directive does not prevent Member States from strengthening the market position of the household customers and small and medium-sized non-household customers by promoting the possibilities for the voluntary aggregation of representation for that class of customers."		
(7) In Article 31, paragraph 3 is replaced by the following:		

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Commission proposal	Drafting Suggestions	Comments
"3. The distribution system operator shall provide system users with the information they need for efficient access to, including use of, the system. In particular, the distribution system operator shall publish in a clear and transparent manner information on the capacity available for new connections in its area of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly.		Why are only flexible energy storage connections mentioned in regard to congested areas?
Distribution system operators shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of three months from the submission of the request."		
(8) Article 40 is amended as follows:		
[a] a new paragraph is added after paragraph 6:		

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Commission proposal	Drafting Suggestions	Comments
The requirements in paragraphs 5 and 6 shall not apply with regard to the peak shaving product procured in accordance with Article 7a of Regulation (EU) 2019/943.		
(9) Article 59 is amended as follows:		
[a] In paragraph 1, subparagraph (c) is replaced by the following:		
(c), in close coordination with the other regulatory authorities, ensuring the compliance of the single allocation platform established in accordance with Regulation (EU) 2016/1719, the ENTSO for Electricity and the EU DSO entity with their obligations under this Directive, Regulation (EU) 2019/943, the network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of Regulation (EU) 2019/943, and other relevant Union law, including as regards cross-border issues, as well		

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Commission proposal	Drafting Suggestions	Comments
as with ACER's decisions, and jointly identifying non-compliance of the single allocation platform, the ENTSO for Electricity and the EU DSO entity with their respective obligations; where the regulatory authorities have not been able to reach an agreement within a period of four months after the start of consultations for the purpose of jointly identifying non-compliance, the matter shall be referred to the ACER for a decision, pursuant to Article 6(10) of Regulation (EU) 2019/942;		
[b] In paragraph 1, subparagraph (z) is replaced by the following:		
(z) The regulatory authority shall have the following duties: monitoring the removal of unjustified obstacles to and restrictions on the development of consumption of self-generated electricity and citizen energy communities, including related to the connection of flexible distributed energy generation within a		

Commission proposal	Drafting Suggestions	Comments
reasonable time in accordance with Article 58(d).		
[c] paragraph 4 is replaced by the following:		
4. The regulatory authority located in the Member State in which the single allocation platform, the ENTSO for Electricity or the EU DSO entity has its seat shall have the power to impose effective, proportionate and dissuasive penalties on those entities where they do not comply with their obligations under this Directive, Regulation (EU) 2019/943 or any relevant legally binding decisions of the regulatory authority or of ACER, or to propose that a competent court impose such penalties.		
(10) the following Article 66a is inserted		
“Article 66a		

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Commission proposal	Drafting Suggestions	Comments
Access to affordable energy during an electricity price crisis		
1. The Commission may by decision declare a regional or Union-wide electricity price crisis, if the following conditions are met:		It is important this decision is maintained by the Commission, and that strict conditions are maintained when the decision is put forward and during the period of the declared price crisis.
(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;		
(b) sharp increases in electricity retail prices of at least 70% occur which are expected to continue for at least 6 months; and		
(c) the wider economy is being negatively affected by the increases in electricity prices.		
2. The Commission shall specify in its decision declaring a regional or Union-wide	The Commission shall specify in its decision declaring a regional or Union-wide electricity	It is important that a state of crisis is not maintained for a longer time. Therefore,

Commission proposal	Drafting Suggestions	Comments
electricity price crisis the period of validity of that decision which may be for a period of up to one year.	price crisis the period of validity of that decision which has a sunset clause after one year, and therefore cannot be extended longer than one year. ~~may be for a period of up to one year.~~	Denmark considers it important to incorporate a sunset clause in the paragraph (i.e. as it will not be possible to prolong with another year thereafter).
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:		
(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;		
(b) comply with the conditions set out in Article 5(4) and (7);		

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(c) where relevant, comply with the conditions set out in Paragraph 4.		
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:		
(a) the price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction;		
(b) there is no discrimination between suppliers;		

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Commission proposal	Drafting Suggestions	Comments
(c) suppliers are compensated for supplying below cost; and		
(d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis.		
(11) in Article 71, paragraph 1 is replaced by the following:		
'1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 8 and 49, Articles 3 and 5, Article 6(2) and (3), Article 7(1), point (j) and (l) of Article 8(2), Article 9(2), Article 10(2) to (12), Article 11(3) and (4), Articles 12 to 24, Articles 26, 28 and 29, Article 31(1), (2) and (4) to (10; Articles 32 to 34 and 36, Article 38(2), Articles 40 and 42, point (d) of Article 46(2), Articles 51 and 54, Articles 57 to 58, Article 59(1) points (a), (b) and (d) to (y),		

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Article 59(2) and (3), Article 59(5) to (10), Articles 61 to 63, points (1) to (3), (5)(b) and (6) of Article 70 and Annexes I and II by 31 December 2020. They shall immediately communicate the text of those provisions to the Commission.		
However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with:		
(a) point (5)(a) of Article 70 by 31 December 2019;		
(b) point (4) of Article 70 by 25 October 2020.		
Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 10a, 10b, 15a, 24a, Article 4, Article 11(1), (1a) and (2), Article15a, Article 18a, Article 27(1), Article 27a, Article 28a, Article 31(3), Article		

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Commission proposal	Drafting Suggestions	Comments
40(7), Article 59(1) points (c) and (z), Article 59(4) and Article 66a by six months after entry into force of this Regulation.		
When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.'		
Article 3		
Amendment to Directive (EU) 2018/2001of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources		

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Directive (EU) 2018/2001 is amended as follows:		
(1) Article 4(3) is amended as follows:		
(a) the second subparagraph is replaced by the following:		
'To that end, with regard to direct price support schemes, support shall be granted in the form of a market premium, which could be, inter alia, sliding or fixed. This sentence shall not apply to support for electricity from the renewable sources listed in Article 19b(2) of Regulation (EU) 2019/944, to which Article 19b(1) of that Regulation applies.'		
(2) in Article 36, paragraph 1 is replaced by the following:		

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Commission proposal	Drafting Suggestions	Comments
'1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2 to 13, 15 to 31 and 37 and Annexes II, III and V to IX, by 30 June 2021. However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 4(3), second subparagraph, by [six months after entry into force of this Regulation].		
They shall immediately communicate the text of those measures to the Commission.		
When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how		

Commission proposal	Drafting Suggestions	Comments
such reference is to be made and how that statement is to be formulated.'		
Article 4		
Amendments to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators		
Regulation (EU) 2019/942 is amended as follows:		
(1) Article 2 is amended as follows:		
(a) point (a) is replaced by the following:		
'(a) issue opinions and recommendations addressed to transmission system operators, the ENTSO for Electricity, the ENTSO for Gas, the EU DSO Entity, the single allocation platform		

Commission proposal	Drafting Suggestions	Comments
established in accordance with Regulation (EU) 2016/1719, regional coordination centres and nominated electricity market operators , on approving the methodologies, terms and conditions in accordance with Article 4(4), Article 5(2), (3) and (4); on bidding zones reviews as referred to in Article 5(7); on technical issues as referred to in Article 6(1); on arbitration between regulators in accordance with Article 6(10); related to regional coordination centres as referred to in Article 7(2), point (a); on approving and amending methodologies and calculations and technical specifications as referred to in Article 9(1); on approving and amending methodologies as referred to in Article 9(3); on exemptions as referred to in Article 10; on infrastructure as referred to in Article 11 point (d); on matters related to wholesale market integrity and transparency pursuant to Article 12;'		
(b) point (d) is replaced by the following:		

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Commission proposal	Drafting Suggestions	Comments
" (d) issue individual decisions on the provision of information in accordance with Article 3(2), Article 7(2), point (b), and Article 8, point (c); on approving the methodologies, terms and conditions in accordance with Article 4(4), Article 5(2), (3) and (4); on bidding zones reviews as referred to in Article 5(7); on technical issues as referred to in Article 6(1); on arbitration between regulators in accordance with Article 6(10); related to regional coordination centres as referred to in Article 7(2), point (a); on approving and amending methodologies and calculations and technical specifications as referred to in Article 9(1); on approving and amending methodologies as referred to in Article 9(3); on exemptions as referred to in Article 10; on infrastructure as referred to in Article 11, point (d); on matters related to wholesale market integrity and transparency pursuant to Article 12, on approving and amending proposals from the		

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Commission proposal	Drafting Suggestions	Comments
ENTSO for electricity related to the regional virtual hubs pursuant to Article 5(9); and on approving and amending proposals from the ENTSO for electricity and the EU DSO entity related to the methodology concerning the data and analysis to be provided as regards the flexibility needs pursuant to Article 5(10). ”;		
(2) in Article 3(2), the following fourth subparagraph is added:		
“This paragraph shall also apply to the single allocation platform established in accordance with Regulation (EU) 2016/1719.”;		
(3) in Article 4, the following paragraph 9 is added:		
“9. Paragraphs 6, 7 and 8 shall also apply to the single allocation platform established in accordance with Regulation (EU) 2016/1719.”;		

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(4) in Article 5(8), the following second subparagraph is added:”;		
ACER shall monitor the single allocation platform established in accordance with Regulation (EU) 2016/1719.		
(5) In Article 5, the following paragraph 9 is added:		
“9. ACER shall approve and where necessary amend the proposal from the ENTSO for electricity on the establishment of the regional virtual hubs for the forward market pursuant to Article 9(2) of Regulation (EU) 2019/943.”		
(6) In Article 5. the following paragraph 10 is added:		
“10. ACER shall approve and where necessary amend the joint proposal from the ENTSO for electricity and the EU DSO entity related to the		

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Commission proposal	Drafting Suggestions	Comments
methodology concerning the data and analysis to be provided as regards the flexibility needs pursuant to Article 19e(5) of Regulation (EU) 2019/943."		
(7) in Article 15, the following paragraph 5 is added:		
"5. ACER shall issue a report analysing the national assessments of the flexibility needs and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities pursuant to Article 19e(6) of Regulation (EU) 2019/943.";		
Article 5 Entry into force		
This Regulation shall enter into force on the [xxx] day following that of its publication in the Official Journal of the European Union.		

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Commission proposal	Drafting Suggestions	Comments
This Regulation shall be binding in its entirety and directly applicable in all Member States.		
Done at Strasbourg,		
For the European Parliament For the Council		
The President The President		
	End	End