

## **The European Commission's Proposal to Improve the Electricity Market Design: Reform or Evolution?**

**On March 14**, the European Commission published the long-awaited proposal for a Regulation to "improve the design of the electricity market", showcasing its response to the current energy crisis in Europe, especially since last summer 2022. This proposal amends the current Electricity (EU) 2019/944 and Renewable Energy (EU) 2018/2001 Directives, the Electricity Regulation (EU) 2019/943 and the ACER Regulation (EU) 2019/942.

Starting from the assertion that the European energy market rules have worked for more than 20 years, the Commission's intention in its proposal is clear:

- Reduce volatility in energy markets by preserving short-term markets, while strengthening and removing barriers to long-term bilateral contracts for energy supply and demand (PPAs) that guarantee a stable energy price to consumers and revenues to producers.
- Protect consumers from future price spikes.
- Reduce the impact of fossil fuels on bills.
- Support demand-side management measures
- Boosting the development of renewable energies, which needs to "triple" by 2030 for the EU to meet its targets. In this sense, and for renewable projects whose investments require public support, this should be formalized through CfDs, in which the State guarantees the producer and the consumer a stable price and channels excess prices in favour of those most in need.
- Improving the competitiveness of European industry is also among the objectives of the proposal.

The proposal - which does not change the fundamental principle of marginal pricing - has provoked a multitude of reactions. For some, the Commission goes too far in its interventionism, for others it falls short. Is it or is it not a reform of the current electricity market rules? Or is it simply an adaptation to the current market situation? Finally, we could question whether the legislative vehicle used by the Commission, the Regulation, is the most appropriate form in view of the content of its articles or whether it is a Directive in the form of a regulation to avoid a lengthy transposition of the rule.

### **Empowerment and consumer protection**

The proposal focuses on new measures to support consumers so that they become active players in the energy market beyond those currently provided for in the Electricity Directive and which, in some cases, are pending transposition. These measures include, among others, that the consumer should have a wider range of contracts and that the information contained in them should be clearer and more precise, warning of their advantages and risks. The right of consumers to opt for fixed-price and long-term contracts is proposed, although the marketer is required to be protected to guarantee supply through PPA contracts during the time of exposure.

It is a novelty for consumers to have more than one electricity supply contract with the same or different suppliers. The same applies for different applications in the same household and with differentiated, fixed and variable prices. Charging of electric vehicles, heat pumps and general

consumption of a home can all allow consumers to benefit from low prices (for example, at night), thus shifting certain consumption to that time slot without requiring changes in their behaviour.

This will additionally make it possible to install multiple meters (sub-meters) at a single connection point, to which the distribution company will have access if necessary to operate flexible services.

In the search for consumers to have greater access to renewable energy, it is relevant the introduction of the right of consumers to share energy, which will allow, for example, the excess energy produced by a consumer on his roof to be sold to other neighbours. This legal framework will also apply to energy exchanges between consumers who are members of energy communities.

It also regulates the possibility that, in times of crisis, Member States may intervene in the setting of prices for the retail market in favour of domestic consumers and small businesses, with a limit of 80% of the previous year's average consumption for the former and 70% for SMEs.

Measures to protect vulnerable consumers include a ban on disconnection.

### **Demand response**

The proposal introduces the obligation for Member States to set national targets for demand response and storage in their National Energy and Climate Plans (NIEC) from January 1, 2025 and every two years for the next five years. Consumers will be able to increase or decrease their electricity demand by providing flexibility to the system. The Commission also advocates the improvement of energy storage to absorb or dump energy into the system as needed.

### **Transmission and distribution network operators**

The proposal includes new measures to incentivize, through tariffs, transmission and distribution network operators to carry out their investments even in advance and to use and obtain flexibility services - demand response and storage - to optimize the existing network. To this end, regulators should design tariffs combining capital and operating costs.

As a measure to support the development of renewable energies, grid operators must provide transparent, timely and updated information on the existing capacity in their networks to integrate renewables and must respond to connection requests from producers within a maximum period of three months.

Finally, it should be noted that as this is a Regulation, not a Directive, it will enter into force and will therefore be applicable after its publication in the official journal within the period established in the text (blank in the Commission's proposal, although a period of six months was mentioned in previous drafts). From that moment on, it will be law in the 27 member states without the need for transposition.

The proposed regulation will have to go through the co-decision procedure in the European Parliament and the Council until it is adopted. It is to be expected that the negotiations will be speeded up as much as possible due to the urgency to apply the proposed measures and the pressure to adopt the proposal in the current legislature of the European Parliament, which has elections in 2024, a year that also marks the end of the mandate of this European Commission. All this will mean that the Spanish presidency from July to December 2023 will play a relevant role in the negotiation and adoption of the proposed reform.



From GEODE we will follow in detail, as we have done thus far, the legislative development of the different proposals and measures of the Commission.

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**\*This article is a translation of a post originally published by [Verdia Legal](#)**