



## **Europex positions ahead of the electricity market design trilogue negotiations**

Four column table – Electricity Regulation and Directive

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## Draft recast of the Electricity Regulation

### 1. Delegated operators: Recital 7a; Art. 2(2)ff; Art. 3(1); Art. 5(10)

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<p><b>Art. 3(1)</b> 1. Member States, national regulatory authorities, transmission system operators, distribution system operators, and market operators shall ensure that electricity markets are operated in accordance with the following principles:</p> <p><b>Art. 5(10)</b> 10. Transmission system operators shall publish close to real-time information on the current balancing state of their control areas, the imbalance price and the balancing energy price.</p>	<p><b>Art. 3(1)</b> 1. Member States, national regulatory authorities, transmission system operators, distribution system operators, market operators <b>and third parties to whom responsibilities have been delegated or assigned</b>, shall ensure that electricity markets are operated in accordance with the following principles:</p> <p><b>Art. 5(10)</b> 10. Transmission system operators <b>or third parties to whom these responsibilities have been delegated by the relevant transmission system operator, Member State or regulatory authority</b> shall publish close to real-time information on the current balancing state of their control areas, the <b>estimated</b> imbalance price and the <b>estimated</b> balancing energy price.</p>	<p><b>Recital 7a</b></p> <p><b>The Balancing Guideline establishes in its Article 13 a process where transmission system operators are able to delegate all or part of their tasks to a third party. The delegating transmission system operators should remain responsible for ensuring compliance with the obligations in this Regulation. Likewise, Member States should be able to assign tasks and obligations to a third party. Such assignment should be limited to tasks and obligations executed at national level (such as imbalance settlement). The limitations to the assignment should not lead to unnecessary changes to the existing national arrangements. However, transmission system operators should remain responsible for the tasks entrusted to them pursuant to Article 40 of the [recast Electricity Directive].</b></p>	<p><b>Recital 7a; Art. 2(2)ff; Art. 3(1); Art. 5(10):</b> As Council.</p> <p><b>Justification:</b> ‘Delegated operators’ are non-TSO third parties who have been assigned or delegated essential tasks related to the balancing market by a Member State or a Transmission System Operator (TSO). This includes, for example, imbalance settlement and calculation or data publication.</p> <p>It is important that the European Parliament now aligns with the Council’s position to ensure clarity around these existing arrangements.</p> <p>These delegated operators have already been recognised in the Network Code on Emergency and Restoration (NC ER) and the Electricity Balancing Guideline (EB GL) as ‘third parties’. Europex published</p>

		<p><b>Art 2(2)ff</b></p> <p><b>'delegated operator' means an entity to whom specific tasks or obligations entrusted to a transmission system operator or nominated electricity market operator under this Regulation or any other Regulation, Directive, Network Code or Guideline have been delegated by that transmission system operator or nominated electricity market operator or have been assigned by a Member State or [ ] Regulatory Authority;</b></p> <p><b>Art 3(1)</b></p> <p><b>Member States, national regulatory authorities, transmission system operators, distribution system operators, [ ] market operators and delegated operators shall ensure that electricity markets are operated in accordance with the following principles:</b></p> <p><b>Art 5(10)</b></p> <p>Transmission system operators shall publish, <b>as soon as possible but not later than 30 minutes after [ ] real-time, the information on the current system balance [ ] of their [ ] scheduling areas and the estimated [ ]</b></p>	<p>a paper in November 2017 explaining these arrangements in more detail.<sup>1</sup></p>
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<sup>1</sup> <https://www.europex.org/position-papers/the-essential-tasks-of-third-party-market-operators-in-the-electricity-market/>

		balancing energy prices. <b>To the extent that responsibility for provision of this information has been assigned or delegated to a third party, in accordance with [ ] the Balancing Guideline adopted on the basis of Article 18 of the Regulation 714/2009</b> Article, those parties will be responsible for meeting the requirements of this Article.	
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## 2. The role of long-term markets: Art. 3(1)

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<b>Principles regarding the operation of electricity markets - Art. 3(1)</b> (n) long-term hedging opportunities, which allow market participants to hedge against price volatility risks on a market basis, and eliminate uncertainty on future returns on investment shall be tradable on exchanges in a transparent manner subject to compliance with EU treaty rules on competition.	(n) long-term hedging opportunities, which allow market participants to hedge against price volatility risks on a market basis, and <b>mitigate</b> uncertainty on future returns on investment shall be tradable on exchanges in a transparent manner subject to compliance with EU treaty rules on competition <b>while current products offered on exchanges should be further expanded and promoted at Union level; Regulatory changes shall take into account effects on both short-term and long-term forward and futures markets and products.</b>	(n) <b>in order to [ ]</b> allow market participants <b>to be protected [ ]</b> against price volatility risks on a market basis, and <b>[ ] mitigate</b> uncertainty on future returns on investment, <b>long-term hedging opportunities</b> shall be tradable on exchanges in a transparent manner <b>and long- term supply contracts shall be negotiable over the counter</b> , subject to compliance with EU treaty rules on competition.	<b>Art. 3(1):</b> As Parliament.  <b>Justification:</b> Europex welcomes the Parliament's recognition that any regulatory changes must take into account effects on both short-term and long-term forward and futures markets and products. The importance of long-term markets and products should be reflected in the final text.  The Council's General Approach includes a mention of over the counter (OTC) long-term hedging opportunities. Europex believes that the choice of

			instruments for long-term hedging should be left up to market participants, and there is no need to specify the mix of instruments in this Regulation.
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### 3. Balancing responsibility: Art. 4

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<p><b>Balancing responsibility (Art. 4)</b></p> <p>1. All market participants shall aim for system balance and shall be financially responsible for imbalances they cause in the system. They shall either be balance responsible parties or delegate their responsibility to a balance responsible party of their choice.</p> <p>2. Member States may provide for derogation from balance responsibility in respect of:</p> <p>(a) demonstration projects;</p> <p>(b) generating installations using renewable energy sources or high-</p>	<p><b>2a. When a Member State chooses to provide a derogation in accordance with Article 4(2), it shall ensure that the financial responsibilities for imbalances are fulfilled by another party.</b></p>	<p>Balance[ ] responsibility (Art. 4)</p> <p>All market participants [ ] shall be [ ] responsible for the imbalances they cause in the system [ ]. <b>To that end, the market participants [ ] shall either be balance responsible parties or contractually delegate their responsibility to a balance responsible party of their choice. In accordance with the Balancing Guideline adopted on the basis of Article 17 and 18 of the Regulation 714/2009, each balance responsible party shall be financially responsible for its imbalances and strive to be balanced or help the power system to be balanced.</b></p> <p>Member States may provide [ ] <b>derogations</b> from [ ] <b>balancing</b></p>	<p><b>Art. 4(2):</b> Member States may provide [ ] derogations from [ ] balancing responsibility only in the following cases:</p> <p><del>(b) power generating facility, using renewable energy sources or high efficiency cogeneration with a total installed electricity capacity of less than [ ] 250 kW;</del></p> <p><b>Justification:</b> The most efficient way to achieve emissions reduction and an overall increase in welfare is through technology neutral market rules. Well-functioning spot, long-term and balancing markets, which properly reflect the market value of power, provide the necessary price signals to drive optimal technology choices and investment.</p>

<p>efficiency cogeneration with an installed electricity capacity of less than 500 kW;</p> <p>(c) installations benefitting from support approved by the Commission under Union State aid rules pursuant to Articles 107 to 109 TFEU, and commissioned prior to [OP: entry into force]. Member States may, subject to Union state aid rules, incentivize market participants which are fully or partly exempted from balancing responsibility to accept full balancing responsibility against appropriate compensation.</p> <p>3. From 1 January 2026, point (b) of paragraph 2 shall apply only to generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 250 kW.</p>		<p><b>responsibility only in the following cases:</b></p> <p>(a) demonstration projects <b>for emerging technologies as defined in Article 66 and 67 of Regulation (EU) 2016/63112;</b></p> <p>(b) <b>power generating facility</b>, using renewable energy sources or high-efficiency cogeneration with a <b>total</b> installed electricity capacity of less than [ ] <b>250 kW;</b></p> <p>(c) <b>Without prejudice to contracts concluded before [entry into force of the legislation], and</b> installations benefitting from support approved by the Commission under Union State aid rules pursuant to Articles 107 to 109 TFEU, and commissioned prior to [OP: entry into force]. Member States may, [ ] <b>without prejudice to Articles 107 and 108 TFEU</b>, incentivise market participants which are fully or partly exempted from balancing responsibility to accept full balancing responsibility. [ ]</p> <p><b>2a. When a Member State chooses to provide a derogation according to Article 4 (2), they need to ensure that the financial responsibilities of imbalances are fulfilled by another party.</b></p>	<p>It is vital that all market participants are financially responsible for imbalances they cause. Derogations for renewable producers are inefficient market distortions and may generate excess costs ultimately borne by the consumer. Renewable producers can normally delegate their balance responsibility to a third-party provider of their choice in order to fulfil the obligation.</p> <p>As very-low marginal cost renewable generation has been growing rapidly, and over time has become increasingly cost-competitive, this principle on balance responsibility is important already today. It will become increasingly important in the future as the share of renewable production will grow even further while conventional thermal power plants can be expected to gradually be phased out.</p> <p>If some RES generators are exempted from imbalance responsibility, a potentially massive deployment could impact the system operation and the market in such a way that could actually incentivise a discriminatory treatment by system operators through implicit or explicit preventive measures aimed to limit such impact.</p>
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		3. For <b>power generating facilities commissioned</b> after 1 January 2026, point (b) of paragraph 2 shall apply only to renewable energy sources or high-efficiency cogeneration with an <b>total</b> installed electricity capacity of less than [ ] 150 kW. <b>Member States may apply a lower threshold.</b>	
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#### 4. Balancing market: Art. 5

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<b>Art. 5 Balancing market</b>  2. Balancing markets shall be organised in such a way as to ensure effective non-discrimination between market participants taking account of the different technical capability of generation from variable renewable sources and demand side response and storage.  8. The procurement of balancing capacity shall be facilitated on a regional level in accordance with point 8 of Annex I. The procurement shall be based on a primary market and organised in such a way as to be non-	2. Balancing markets shall be organised in such a way as to ensure effective non-discrimination between market participants. <b>All generation, including from variable renewable sources, demand side response and storage shall be enabled to participate on equal footing in balancing markets,</b> taking account of the different technical capability.  8. The procurement of balancing capacity shall be <b>performed by the transmission system operators.</b> The procurement shall be based on a	[ ]  2. Balancing markets, <b>including prequalification processes,</b> shall be organised in such a way as to:  <b>(a)</b> ensure effective non-discrimination between market participants taking account of the different technical <b>needs of the power system, a transparent and technologically neutral definition of services and their transparent, market based procurement [ ],</b>	<b>Art. 5(2):</b> As Council.  <b>Justification:</b> With respect to balancing markets, Europex supports the principles of transparent and technologically neutral definition of services and market-based procurement.  <b>Art. 5(8):</b> As Council.  <b>Justification:</b> The allocation of cross-zonal capacity for the exchange of balancing capacity is already addressed in the Electricity Balancing Guideline (Chapter 2 of Title IV), which provides TSOs with a number of options. Setting a



<p>discriminatory between market participants in the prequalification process individually or through aggregation.</p> <p>10. Transmission system operators shall publish close to real-time information on the current balancing state of their control areas, the imbalance price and the balancing energy price.</p>	<p>primary market and organised in such a way as to be non-discriminatory between market participants in the prequalification process, <b>whether market participants participate individually or through aggregation subject to technical constraints inherent in managing networks. The reservation of cross-zonal capacity for the exchange of balancing capacity shall be limited to 5% of the available capacity for the exchange of energy of the previous relevant calendar year between the respective bidding zones.</b></p> <p>10. Transmission system operators or third parties to whom these responsibilities have been delegated by the relevant transmission system operator, Member State or regulatory authority shall publish close to real-time information on the current balancing state of their control areas, the <b>estimated</b> imbalance price and the <b>estimated</b> balancing energy price.</p> <p><b>10a. Member States shall report on the functioning and transparency of, and access to, in particular by small providers, the balancing markets, in particular for the purpose of Article 4,</b></p>	<p><b>(b) ensure access to all prequalified market participants, be it individual or through aggregation;</b></p> <p><b>(c) respect the need to accommodate increasing shares of variable generation as well as increased demand responsiveness and the advent of new technologies.</b></p> <p>[ ]</p> <p>8. The procurement of balancing capacity shall be <b>performed by the transmission system operators, [ ] facilitated on a regional level [ ] in accordance with Balancing Guideline adopted on the basis of Article 18 of the Regulation 714/2009.</b> The procurement of balancing capacity shall be market-based [ ] and organised in such a way as to be non- discriminatory between market participants in the prequalification process individually or through aggregation <b>in accordance with paragraph 4 of Article 40 of the [recast Electricity Directive]. [ ]</b></p> <p><b>10. Transmission system operators shall publish, as soon as possible but not</b></p>	<p>percentage limit as in Art. 5(8) as amended by the Parliament) would cut across these provisions in the EB GL, which entered into force in December 2017.</p> <p>Any pre-allocation of cross-zonal capacity should be subject to strict economic and operational justification, as well as transparency provisions if and when applied, since it affects the price formation in the intraday, day ahead and forward markets.</p> <p><b>Art. 5(10):</b> The Electricity Balancing Guideline (EB GL) and the Transparency Regulation<sup>2</sup> already contain provisions on the publication of system balance information. The publication of imbalance prices and balancing energy prices are also addressed by the Transparency Regulation.</p> <p>Introducing new requirements in this Regulation, while different requirements are already in force, would lead to overlapping and potentially incoherent legislation. This should be avoided, and the wording of the existing legislation maintained.</p>
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<sup>2</sup> Commission Regulation (EU) of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council.

	through the reporting procedure on the internal energy market laid down in Article 21 of Regulation .../... [Governance of the Energy Union].	later than 30 minutes after [ ] real-time, the information on the current system balance [ ] of their [ ] scheduling areas and the estimated [ ] balancing energy prices. To the extent that responsibility for provision of this information has been assigned or delegated to a third party, in accordance with [ ] the Balancing Guideline adopted on the basis of Article 18 of the Regulation 714/2009Article, those parties will be responsible for meeting the requirements of this Article.	
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## 5. Day-ahead and intraday markets: Art. 6(3)

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<b>Art. 6(3) day-ahead and intraday markets</b>  3. Market operators shall be free to develop products and trading opportunities that suit market participants' demand and needs and ensure that all market participants are able to access the market individually or through aggregation. They shall respect the need to accommodate increasing shares of variable generation as well as increased demand responsiveness and the advent of new technologies.	3. Market operators shall be free to develop products and trading opportunities that suit market participants' demand and needs and ensure that all market participants are able to access the market individually or through aggregation. They shall respect the need to accommodate increasing shares of variable generation <b>and energy storage</b> as well as increased demand responsiveness and the advent of new technologies.	[deleted]	<b>Art. 6(3):</b> Market operators, such as NEMOs, need to be given sufficient flexibility to develop innovative and competitive products as well as trading opportunities suiting market participants' needs, as initially foreseen in the Commission's proposal (Art. 6(3)). Naturally, this flexibility to implement products would be subject to the fulfilment of all relevant regulation.

## 6. Trade on day-ahead and intraday markets: Art. 7(1)

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<p><b>Art. 7(1) Trade on day-ahead and intraday markets</b></p> <p>1. Market operators 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 determined in accordance with Article 59 of Regulation (EU) 2015/1222.</p> <p>2. Market operators shall provide market participants with the opportunity to trade in energy in time intervals at least as short as the imbalance settlement period in both day-ahead and intraday markets.</p> <p>3. Market operators shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 1 Megawatt or less, to allow for the effective participation of demand-side response, energy storage and small-scale renewables.</p>	<p>1. Market operators shall allow market participants to trade energy as close to real time as possible and at least up to <b>15 minutes before real time across all bidding zones</b>.</p> <p>2. Market operators shall provide market participants with the opportunity to trade in energy in <b>national and cross- border markets</b> in time intervals at least as short as the imbalance settlement period in both day-ahead and intraday markets.</p> <p>3. Market operators shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of <b>500 Kilowatt</b>, to allow for the effective participation of demand-side response, energy storage and small-scale renewables <b>including directly by customers</b>.</p> <p>4. By 1 January <b>2021</b>, the imbalance settlement period shall be 15 minutes in all control areas.</p>	<p><b>1. Nominated electricity market</b> operators 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 determined in accordance with [ ] <b>the capacity allocation and congestion management guideline adopted on the basis of Article 18 of Regulation (EU) 714/2009</b>.</p> <p><b>2. Nominated electricity market</b> operators shall provide market participants with the opportunity to trade in energy in time intervals at least as short as the imbalance settlement period in both day-ahead and intraday markets <b>in accordance with [ ] the balancing guideline adopted on the basis of Article 18 of Regulation (EU) 714/2009</b>.</p> <p><b>3. Nominated electricity market</b> operators shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 1 Megawatt [ ], to allow for the effective</p>	<p><b>Art. 7(1):</b> As Commission.</p> <p><b>Justification:</b> The Parliament's positions on gate closure time is in direct contradiction to some of the arrangements being developed under the Electricity Balancing Guideline (EB GL), which came into force only 5 months ago. The 15-minute gate closure text cuts across the proposal for the intraday cross-zonal gate closure time, which has recently been set at one hour before the start of each market time unit on most bidding zone borders by ACER following a proposal of the TSOs to the detriment of NEMOs.</p> <p>The Commission's text allows for a gradual evolution of the intraday cross-zonal gate closure time (IDCZGCT) depending on the reality of the market. Such an evolution may have an impact on the European balancing platform for replacement reserve which is currently under development.</p> <p><b>Art. 7(3):</b> Market operators shall provide products for trading in day-</p>

<p>4. By 1 January 2025, the imbalance settlement period shall be 15 minutes in all control areas.</p>		<p>participation of demand-side response, energy storage and small-scale renewables <b>in accordance to the methodologies developed in the [ ] capacity allocation and congestion management guideline adopted on the basis of Article 18 of Regulation (EU) 714/2009.</b></p> <p>4. [ ] By 1 January 2021, the imbalance settlement period shall be 15 minutes in all [ ] <b>scheduling</b> areas <b>unless [ ] regulatory authorities have granted a derogation or an exemption in accordance with [ ] the balancing guideline adopted on the basis of Article 18 of the Regulation 714/2009.</b> [ ]</p>	<p>ahead and intraday markets which are sufficiently small in size, <del>with minimum bid sizes of 1 Megawatt or less,</del> to allow for the effective participation of demand-side response, energy storage and small-scale renewables.</p> <p><b>Justification:</b> There is no reason to stipulate minimum or, for that matter, maximum size of bids in day-ahead or intraday markets in the regulation. Currently at least ranges between 0.1 and 1.0 MWh/h are used. The minimum limits used should be freely adaptable based on the evolution of the markets, while respecting any technical limits that may apply to handle the price formation.</p> <p><b>Art. 7(4):</b> As Council.</p> <p><b>Justification:</b> Both the proposal made by European Commission and the Parliament's amendments are in contradiction to other legislation currently in force, particularly Art. 53 (1) and Art. 62 (1) of the Electricity Balancing Guideline (EB GL). Keeping different provisions and subsequent deadlines in two EU legislative acts creates legal inconsistency and confusion for the market.</p>
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## 7. Dispatching of generation and demand response: Art. 11

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<p><b>Dispatching of generation and demand response (Art. 11)</b></p> <p>1. Dispatching of power generation facilities and demand response shall be non-discriminatory and market based unless otherwise provided under paragraphs 2 to 4.</p> <p>2. When dispatching electricity generating installations, transmission system operators shall give priority to generating installations using renewable energy sources or high- efficiency cogeneration from small generating installations or generating installations using emerging technologies to the following extent:</p> <p>(a) generating installations using renewable energy sources or high- efficiency cogeneration with an installed electricity capacity of less than 500 kW; or</p> <p>(b) demonstration projects for innovative technologies.</p>	<p>2(a) generating installations using renewable energy sources or high- efficiency cogeneration with an installed electricity capacity of less than 500 kW;</p> <p>(b) generating installations which are demonstration projects for innovative technologies;</p> <p>Member States may apply higher limits to local energy communities as established in the Directive (EU) ... [recast of Directive 2009/72/EC as proposed by COM(2016) 864/2].</p>	<p>1. Dispatching of power generation facilities and demand response shall be non- discriminatory, <b>transparent</b> and, <b>unless otherwise provided under Article 11 (2) to Article 11 (4)</b>, market based. [ ]</p> <p><b>2. [ ] Without prejudice to [ ] Articles 107 to 109 TFEU Member States may provide for electricity generated [ ] using renewable energy sources or high- efficiency cogeneration from small [ ] power generating facility or power generating facility using emerging technologies to be granted priority dispatch up to the following extent:</b></p> <p>(a) [ ] <b>power generating facility</b> using renewable energy sources or high- efficiency cogeneration with an installed electricity capacity of less than [ ] <b>250 kW; or</b></p> <p>(b) demonstration projects for <b>emerging [ ] technologies as defined [ ] in the network code on requirements</b></p>	<p><del>Art. 11(2) (a) [ ] power generating facility using renewable energy sources or high- efficiency cogeneration with an installed electricity capacity of less than [ ] 250 kW; or</del></p> <p><b>Justification:</b> All technologies must compete fairly in the market, which includes market-based dispatching. A properly functioning intraday and balancing market, combined with market-based and non-discriminatory rules for curtailment effectively removes the need for priority dispatch. This approach is the most efficient and ensures the lowest cost to the consumer.</p> <p>As renewable generation rapidly grows and becomes increasingly cost- competitive, it is vital to ensure the cost- efficient market integration of renewables at this stage.</p>

		for generators adopted on the basis of Article 6 of Regulation 714/2009.  []	
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## 8. Definition of bidding zones: Art. 13

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<b>Definition of bidding zones (Art. 13)</b>  1. Bidding zone borders shall be based on long-term, structural congestions in the transmission network and bidding zones shall not contain such congestions. The configuration of bidding zones in the Union shall be designed in such a way as to maximise economic efficiency and cross-border trading opportunities while maintaining security of supply.  [...]	<b>1. The configuration of bidding zones in the Union shall be designed in such a way as to ensure liquidity of day-ahead and intraday markets, and thus to maximise economic efficiency and cross-border trading opportunities while maintaining security of supply.</b> Bidding zone borders shall be based on long-term, structural congestions in the transmission network and bidding zones shall not contain such congestions <b>unless they have no impact on neighbouring bidding zones, or their impact is mitigated by remedial actions.</b>  [...]	<b>Measures to address congestion and definition of bidding zones (Art. 13)</b>  <b>1. Member States shall take all appropriate measures to [ ] address congestions.</b> Bidding zone borders shall be based on long-term, structural congestions in the transmission network [ ]. <b>Bidding zones shall not contain such structural congestions unless they have no impact, or their impact on neighbouring bidding zones is mitigated through the use of remedial actions and they do not lead to reductions of cross zonal trading capacity.</b> The configuration of the bidding zones in the Union shall be designed in such a way as to maximise economic efficiency and <b>in order to maximise</b> cross-border trading	<b>Art. 13:</b> Any bidding zone configuration needs to take into account existing long-term structural congestion. However, it is also imperative to consider the impacts of any changes on the stability of markets. It is also key to consider not only splitting of bidding zones but also mergers where they are justified.  Europex welcomes the Council's position to take all appropriate measures to address congestions, to avoid reductions of cross-zonal trading capacity and to maximise cross-border trading opportunities.  Maximising cross-zonal trading capacity available to the market is of vital importance. When it comes to bidding zones configuration, predictability is crucial for trading confidence. For more

		opportunities, [ ] with due respect to the provisions in Article 14.  [...]	details about how this is ensured, see Europex' position on Article 14 below.  Europex welcomes the Parliament's recognition of the need for a reliable market environment when assessing current bidding zones.
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## 9. General principles of capacity allocation and congestion management: Art. 14

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<b>General principles of capacity allocation and congestion management (Art. 14)</b>  3. The maximum capacity of the interconnections and/or the transmission networks affecting cross-border flows shall be made available to market participants, complying with safety standards of secure network operation. Counter-trading and redispatch, including cross-border redispatch, shall be used to maximise available capacities unless it is demonstrated that it is not beneficial to economic efficiency at Union level.	3. The maximum capacity of the interconnections and/or the transmission networks affecting cross-border flows shall be made available to market participants, complying with safety standards of secure network operation. Counter-trading and redispatch, including cross-border redispatch, shall be used to maximise available capacities unless it is demonstrated that it is not beneficial to economic efficiency at Union level.  <b>When allocating cost of remedial actions between transmission system operators, regulators shall analyse to what extent unscheduled flows leaving</b>	<b>3. Unless otherwise provided in paragraphs 7, 7a, 7b, 7d and [ ], 2a</b> the maximum <b>level of</b> capacity of the interconnections and/or the transmission networks affected <b>by</b> cross-border [ ] <b>capacity</b> shall be made available to market participants, complying with safety standards of secure network operation. [ ] Counter-trading and redispatch, including cross-border redispatch, shall be used to optimize available capacities [ ] <b>and a coordinated and non-discriminatory process for cross-border remedial actions shall be applied to enable this, following the implementation of the re-dispatching and countertrading cost</b>	<b>Art. 14(3):</b> Europex supports the principle stated in Article 16(3) of Regulation 714/2009 and confirmed by the Commission in Article 14(3) of the proposal which calls for <i>'The maximum capacity of the interconnections and/or the transmission networks affecting cross-border flows shall be made available to market participants, complying with safety standards of secure network operation. Counter-trading and redispatch, including cross-border redispatch, shall be used to maximise available capacities unless it is demonstrated that it is not beneficial to economic efficiency at Union level'</i>



<p>7. Transmission system operators shall not limit the volume of interconnection capacity to be made available to other market participants in order to solve congestion inside their own control area or as a means of managing flows on a border between two control areas observed even without any transaction, that is to say flows over control areas caused by origin and destination within one control area.</p> <p>Upon request by a transmission system operator, the relevant regulatory authority may grant a derogation from the first subparagraph where it is necessary for maintaining operational security or where it is beneficial to economic efficiency at Union level. Such a derogation, which may not relate to curtailment of already allocated capacities pursuant to paragraph 5, shall be limited in time, strictly limited to what is necessary, and avoid discrimination between internal and cross-zonal exchanges. Before granting a derogation, the relevant regulatory authority shall consult the regulatory authorities of other Member States forming part of an affected capacity calculation region. In case a regulatory authority disagrees with the proposed derogation, the Agency shall decide on the derogation pursuant to Article 6(8)(a) [recast of Regulation (EC) No 713/2009 as proposed by COM(2016)</p>	<p><b>and re- entering a bidding zone contribute to the congestion observed between two bidding zones and allocate the counter-trading and redispatch costs in proportion to their contribution to the congestion.</b></p> <p>7. Transmission system operators shall not limit the volume of interconnection capacity to be made available to other market participants in order to solve congestion inside their own control area or as a means of managing flows on a border between two control areas observed even without any transaction, that is to say flows over control areas caused by origin and destination within one control area.</p> <p><b>Without prejudice to the forth subparagraph of Article 13(5), this paragraph shall be considered to be complied with if the following minimum levels of available capacity for cross-zonal trade, which is calculated pursuant to the capacity allocation and congestion management guideline adopted on the basis of Article 18 of Regulation (EU) 714/2009 taking account of contingencies, are reached:</b></p> <p><b>(i) for borders using a coordinated net transfer capacity approach, if at least 75 % of the net transfer capacity pursuant to capacity allocation and congestion</b></p>	<p><b>sharing methodology in accordance with [ ] the capacity allocation and congestion management guideline adopted on the basis of Article 18 of Regulation (EU) 714/2009 [ ].</b></p> <p>7. Transmission system operators [ ] shall not limit the volume of interconnection capacity to be made available to [ ] market participants in order to solve congestion inside their own <b>bidding zone [ ] or as a means of managing flows leaving and re-entering the same bidding zone without being scheduled unless otherwise provided under paragraph 7a or 7b.</b></p> <p><b>Without prejudice to the application of the derogations under paragraph 7a and 7b, this paragraph shall be considered to be complied with if the following minimum levels of available capacity for cross-zonal trade, which is calculated pursuant to the capacity allocation and congestion management guideline adopted on the basis of Article 18 of Regulation (EU) 714/2009 taking account of N-1 criterion, are reached:</b></p> <p><b>(i) For borders using a coordinated net transmission capacity approach, 75% of the net transfer capacity pursuant to capacity allocation and congestion management guideline adopted on the</b></p>	<p>It is crucial to have continuous transparency on the underlying reasons and justifications for any cross zonal capacity restrictions linked to the competitive markets, e.g. forward, day-ahead and intraday.</p>
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<p>863/2]. The justification and reasons for the derogation shall be published. Where a derogation is granted, the relevant transmission system operators shall develop and publish a methodology and projects that shall provide a long-term solution to the issue that the derogation seeks to address. The derogation shall expire when the time limit is reached or, once the solution is applied, whichever is earlier.</p>	<p><b>management guideline are made available for cross-border trade;</b></p> <p><b>(ii) for borders using a flow-based approach, if on cross-zonal and internal critical network elements considered in the flow-based calculation at least 75 % of the thermal capacity after reduction of the amount required to secure the N-1 principle pursuant to the capacity allocation and congestion management guideline is used as an input for capacity allocation.</b></p>	<p><b>basis of Article 18 of the Regulation 714/2009;</b></p> <p><b>(ii) For borders using a flow-based approach, 75% of the remaining available margin on internal and cross border critical network elements made available for cross border flows pursuant to capacity allocation and congestion management guideline adopted on the basis of Article 18 of the Regulation 714/2009.</b></p> <p><b>The derogations pursuant to paragraph 7a shall not result with a value below this threshold.</b></p> <p><b>7a. [ ] Based on a proposal by all transmission system operators of a capacity calculation region , the relevant [ ] regulatory authorities by way of derogation from paragraph 7 [ ] shall approve [ ] the level of [ ] total available cross-zonal capacity at each bidding zone border, [ ] which shall be used in the capacity calculation methodology, to take account of cross-zonal unscheduled flows to the extent that could be expected [ ] without structural congestions in a bidding zone. [ ]</b></p> <p><b>(Part of 7, moved as 7b below)</b></p> <p><b>7b. Upon request by [ ] transmission system operators of a capacity</b></p>	
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		<p><b>calculation region</b> [ ] the relevant regulatory authorities may grant a derogation from [ ] <b>paragraph 7 for foreseeable reasons</b> [ ] where it is necessary for maintaining operational security <b>other than the ones covered under paragraph 7a, for instance in case of grid maintenance measures.</b> [ ] Such a derogation, which may not relate to curtailment of already allocated capacities pursuant to paragraph 5, shall be limited [ ] <b>to one year at a time, or up to maximum [ ] two years with a significantly decreasing level of the derogation each year,</b> strictly limited to what is necessary, and avoid discrimination between internal and cross-zonal exchanges. [ ] The justification and reasons for the derogation shall be published. Where a derogation is granted, the relevant transmission system operators shall develop and publish a methodology and projects [ ] that shall provide a long-term solution to the issue that the derogation seeks to address. The derogation shall expire when the time limit is reached or, once the solution is applied, whichever is earlier.</p>	
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## 10. Capacity remuneration mechanisms: Arts. 23 and 24

Commission proposal COM(2016) 861 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) Document: 15879/17	Europex position
<p><b>Capacity remuneration mechanisms (Art. 23)</b></p> <p>3. Capacity mechanisms shall not create unnecessary market distortions and not limit cross-border trade. The amount of capacity committed in the mechanism shall not go beyond what is necessary to address the concern.</p> <p>4. Generation capacity for which a final investment decision has been made after [OP: entry into force] shall only be eligible to participate in a capacity mechanism if its emissions are below 550 gr CO<sub>2</sub>/kWh. Generation capacity emitting 550 gr CO<sub>2</sub>/kWh or more shall not be committed in capacity mechanisms 5 years after the entry into force of this Regulation.</p> <p>5. Where the European resource adequacy assessment has not identified a resource adequacy concern, Member States shall not apply capacity mechanisms.</p>	<p><b>Any capacity mechanism shall:</b></p> <p><b>(a) not create undue market distortions and not limit cross-border trade;</b></p> <p><b>(b) not go beyond what is necessary to address the adequacy concern;</b></p> <p><b>(c) select capacity providers by means of a transparent, non-discriminatory and market-based process;</b></p> <p><b>(d) be technology neutral;</b></p> <p><b>(e) provide incentives for capacity providers to be available in times of expected system stress;</b></p> <p><b>(f) ensure that the remuneration is determined through a market-based process;</b></p> <p><b>(g) set out the required technical conditions for the participation of capacity providers in advance of the selection process;</b></p> <p><b>(h) be open to participation of all resources, including storage and demand side management that are capable of providing the required technical performance;</b></p>	<p><b>2a. When a capacity mechanism is designed as a strategic reserve, resources in the strategic reserve shall only be dispatched in case transmission system operators [ ] are likely to exhaust [ ] their balancing resources to establish an equilibrium between demand and supply [ ]. This requirement is without prejudice to activating resources ahead of actual dispatch in order to respect their ramping constraints and operating requirements. During periods where resources in the strategic reserve were dispatched imbalances in the market shall be settled at least at the bidding limit pursuant to Article 9 [ ]. The [ ] resources taking part in the strategic reserve shall not get remunerated through [ ] wholesale electricity markets or balancing markets.</b></p> <p>3. Capacity mechanisms shall:</p> <p><b>(a) not create unnecessary market distortions and not limit cross [ ] zonal trade;</b></p> <p><b>b) be market-based;</b></p>	<p><b>Art. 23:</b> A properly functioning energy market minimises the need for capacity remuneration mechanisms, and maximises welfare for the European consumer.</p> <p>Capacity mechanisms should be implemented only as a last resort, and only after both a national and regional and preferably also a European adequacy assessment have been carried out, clearly demonstrating a need which cannot be met in any other secure way.</p> <p>The approach taken by the Parliament in Article 18a 'General principles for capacity mechanisms' is in line with this – i.e. to <i>not</i> introduce a capacity mechanism where the adequacy concern has not identified a need, or where the detailed implementation plan to address adequacy concerns as required under Article 18(3) has not received a positive decision from the Commission.</p> <p>Europex welcomes the additional actions proposed by the Parliament in</p>

	<p>(i) apply appropriate penalties to capacity providers when not available in the event of system stress; (j) ensure that capacity contracts for existing installations are rewarded for a maximum length of 1 year.</p> <p><b>2. Capacity mechanisms in the form of strategic reserves shall:</b></p> <p>(a) be held outside the market;</p> <p>(b) be dispatched only where day-ahead and intraday markets have failed to clear and transmission system operators have exhausted their balancing resources to establish an equilibrium between demand and supply;</p> <p>(c) ensure that during periods where strategic reserves were dispatched, imbalances are settled at the technical price limit applied by the market operators pursuant to Article 9 or at the value of lost load, whichever the higher.</p> <p>(d) be limited to maximum emissions of 200kg/CO<sub>2</sub>/kW for the electricity production per year. The electricity generated, or the load reduction achieved by resources in the strategic reserve shall not be sold through wholesale electricity markets.</p>	<p>(c) be open to participation of all resources that are capable of providing the required technical performance in a technology neutral manner and through fair and transparent rules, including but not limited to participation of storage, energy efficiency and demand response [ ];</p> <p>(d) be temporary, but are permitted, in accordance with state aid rules, as long as the relevant resource adequacy assessment identifies a resource adequacy concern;</p> <p>(e) [ ] not go beyond what is necessary to address the resource adequacy concern. [ ]</p> <p><b>4. [ ] In the design of a capacity mechanism, Member States shall apply the following requirements regarding CO<sub>2</sub> emission limits:</b></p> <p>(a) Generation capacity emitting more than 550 gr CO<sub>2</sub>/kWh of energy or more than 700 kg CO<sub>2</sub> on average per year per installed kW for which a final investment decision has been made after [OP: date of entry into force] shall not receive payments or commitments for future payments under a capacity mechanism as of 31 December 2025.</p>	<p>Article 18(3) to address adequacy concerns, and considers these as necessary conditions for properly functioning markets.</p> <p>The proposed detailing of limits on strategic reserves in the Parliament's proposal has flaws which we would like to be re-considered as follows:</p> <ul style="list-style-type: none"> <li>• There should not be additional limitations placed on strategic reserves versus how other capacity mechanisms may be applied.</li> <li>• Thus, as an example: While we agree that capacity mechanisms should not interfere with the ordinary free markets, there should be an allowance for activation of Strategic Reserves as a last resort measure linked to the organized markets after all ordinary orders have been utilised, e.g. at the maximum (harmonised) clearing price limit in the markets. The reason being, among others, that a significant share of the production and consumption reserves are of the type that require a reasonable lead time (X hours) before activation to manage efficiently from economic and system security perspective.</li> </ul>
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	<p>3. In addition to the requirements laid down in paragraph 1, capacity mechanisms other than strategic reserves shall:</p> <p>(a) be constructed so as to ensure that the price paid for availability automatically tends to zero when the level of capacity supplied is expected to be adequate to meet the level of capacity demanded;</p> <p>(b) remunerate the participating resources merely for their availability and ensure that the remuneration does not affect decisions of the capacity provider whether or not to generate;</p> <p>(c) ensure that capacity obligations are transferable between eligible capacity providers.</p>	<p>(b) Generation capacity emitting more than 550 gr CO<sub>2</sub>/kWh of energy or more than 700 kg CO<sub>2</sub> on average per year per installed kW for which a final investment decision has been made before [OP: <i>date of entry into force</i>] shall not receive payments or commitments for future payments under a capacity mechanism as of 31 December 2030, except for contracts with a remaining duration of not more than 5 years concluded before 31 December 2030. Between 31 December 2025 and 31 December 2030, the capacity receiving remuneration for this participation should be reduced by 5% per year.</p> <p>(c) The emission limit of 550 gr CO<sub>2</sub>/kWh of energy and the limit of 700 kg CO<sub>2</sub> on average per year per installed kW shall be calculated based on the design efficiency of the generation unit as provided by an accredited certification organisation.</p>	<p><b>Art. 23(4):</b> We disagree with provisions for maximum emission limits for capacity mechanism resources. All market related arrangements should be technology neutral; thus, the functioning of the market clearing and power system balancing should not be subject to limits on which resources can be used, not least since there are costs placed on resources emitting CO<sub>2</sub> and other pollutants via other mechanisms.</p>
<p><b>Art. 24 Existing mechanisms</b></p> <p>Member States applying capacity mechanisms on [OP: entry into force of this Regulation] shall adapt their mechanisms to comply with Articles 18, 21 and 23 of this Regulation.</p>	<p>Member States applying capacity mechanisms on [OP: entry into force of this Regulation] shall adapt their mechanisms to comply with Articles 18, <b>18a</b>, 21 and 23 of this Regulation.</p>	<p>Member States applying capacity mechanisms on [OP: <i>entry into force of this Regulation</i>] shall adapt their mechanisms to comply with Articles 18, 21 and 23 of this Regulation [ ] <b>without prejudice to commitments or contracts, concluded before that date, and without prejudice to the Union State aid rules pursuant to Articles 107 to 109 TFEU, including state aid</b></p>	<p>In order to avoid regulatory uncertainty, and to ensure legal security and predictability, this provision should only apply to mechanisms which have not already been approved by the Commission under the Energy and Environment State Aid Guidelines.</p>

		decisions taken thereafter before that date.	
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## Draft recast of the Electricity Directive

### 11. Market based supply prices: Art. 5

Commission proposal COM(2016) 864 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) 15886/17	Europex position
<p><b>Market based supply prices (Art. 5)</b></p> <p>3. By way of derogation from paragraphs 1 and 2, Member States which apply public interventions in price setting for the supply of electricity for energy poor or vulnerable household customers at the [OP: please insert the date of entry into force of this Directive] may continue to apply such public interventions until [OP: insert the date – five years from the entry into force of this Directive]. Such public interventions shall pursue a general economic interest, be clearly defined, transparent, non-discriminatory, verifiable and guarantee equal access for Union electricity companies to customers. The interventions shall not go beyond what is necessary to achieve the general economic interest which they pursue, be limited in time and proportionate as regards their beneficiaries.</p>	<p>4. <b>Between</b> [OP – insert the date – five years from the entry into force of this Directive] <b>and</b> [OP – insert the date – ten years from the entry into force of this Directive], Member States may still apply public interventions in the price-setting for the supply of electricity for vulnerable household customers. Such interventions shall comply with all the following conditions:</p> <p><b>(a) they shall not go beyond what is necessary to achieve the general economic interest which they pursue;</b></p> <p><b>(b) they shall be limited in time;</b></p> <p><b>(c) they shall be proportionate as regards their beneficiaries;</b></p> <p><b>(d) they shall be limited to energy poor and vulnerable customers;</b></p>	<p>3. By way of derogation from paragraphs 1 and 2, Member States [] may apply public interventions in price setting for the supply of electricity subject to the conditions in paragraphs 3a and 3b [].</p> <p><b>3a. [] Public interventions pursuant to paragraph 3 shall: (a) pursue a general economic interest;</b></p> <p><b>(b) be clearly defined, transparent, non-discriminatory and verifiable [];</b></p> <p><b>(c) guarantee equal access for Union electricity companies to customers. The interventions shall not go beyond what is necessary to achieve the general economic interest which they pursue,</b></p> <p><b>(d) be limited in time and proportionate as regards their beneficiaries.</b></p>	<p><b>Art. 5(4): After</b><del>[OP – insert the date – five years from the entry into force of this Directive], Member States may still apply public interventions in the price setting for the supply of electricity for vulnerable household customers in so far as it is strictly necessary for reasons of extreme urgency. Such interventions shall comply with the conditions set out in paragraph 3. [...]</del></p> <p><b>Justification:</b> Regulated electricity supply (retail) prices prevent fair competition, hamper new market entrants, discourage innovation and ultimately prevent consumers from getting the best deal.</p> <p>The possibility of intervening in (end user) price setting in the draft recast of the Electricity Directive should be categorically excluded and existing</p>

<p>4. After[OP – insert the date – five years from the entry into force of this Directive], Member States may still apply public interventions in the price-setting for the supply of electricity for vulnerable household customers in so far as it is strictly necessary for reasons of extreme urgency. Such interventions shall comply with the conditions set out in paragraph 3.</p> <p>Member States shall notify the measures taken in accordance with the first subparagraph to the Commission within one month after adoption and may apply them immediately. The notification shall be accompanied by an explanation why other instruments could not sufficiently address the situation and how the beneficiaries and the duration of the measure have been determined. The notification shall be considered as complete if, within two months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.</p> <p>The Commission may take a decision asking the national authorities to amend or withdraw the measures within two months from receipt of a complete notification where it considers that the requirements set out in the first subparagraph are not</p>	<p><b>(e) they shall not impede market entry by new participants;</b></p> <p><b>(f) they shall not negatively impact the wholesale electricity market;</b></p> <p><b>(g) they shall not result in additional costs for market participants in a discriminatory way; and</b></p> <p><b>(h) all beneficiaries of such public intervention shall have the possibility to choose competitive market offers and shall be directly informed of the availability of offers and savings on the competitive market, in particular dynamic electricity price contracts, at least every quarter and they shall be provided with assistance to switch to a market based offer.</b></p>	<p><b>3b. Public interventions pursuant to paragraph 3 shall:</b></p> <p><b>(-a) avoid influencing the wholesale electricity market;</b></p> <p><b>(a) not result in additional costs for market participants in a discriminatory way;</b></p> <p><b>(b) not lead to direct cross-subsidisation between customers supplied at free market prices and those supplied at regulated supply prices;</b></p> <p><b>(c) ensure that all beneficiaries of such public intervention have the possibility to choose competitive market offers and are directly informed of the availability of offers and savings on the competitive market, in particular dynamic electricity price contracts, at least every quarter and that they are provided with assistance to switch to a market based offer;</b></p> <p><b>(d) ensure that, pursuant to Article 19 and 21, all beneficiaries of such public interventions are entitled to and are offered to have smart meters being installed at no extra costs for these customers and are directly informed of the possibility to install smart meters</b></p>	<p>interventions should urgently be phased out.</p> <p>The Council's proposal of introducing unspecified wholesale market price setting safeguards is insufficient and potentially misleading.</p>
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<p>fulfilled. The decision-making period can be extended with the consent of both the Commission and the Member State concerned.</p> <p>The public intervention applied on the basis of this paragraph shall be deemed valid as long as the Commission has not taken a decision asking the national authorities to amend or withdraw the measure.</p>		<p><b>and are provided with necessary assistance.</b></p> <p>[...]</p>	
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## 12. Tasks of distribution system operators in the use of flexibility: Art. 32(1) para 2

Commission proposal COM(2016) 864 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) 15886/17	Europex position
<p><b>Tasks of distribution system operators in the use of flexibility – Art. 32(1) para 2</b></p> <p>Distribution system operators shall define standardised market products for the services procured ensuring effective participation of all market participants including renewable energy sources, demand response, and aggregators. Distribution system operators shall exchange all necessary information and coordinate with</p>	<p><b>Standardised market products for such services shall be defined at least at the national level.</b> Distribution system operators shall, <b>in a transparent and participatory process that includes all relevant system users, the national regulatory authority and the transmission system operator</b>, define standardised market products for the services procured ensuring effective participation of all market participants including renewable energy sources, demand response, <b>storage</b> and</p>	<p><b>1a.</b> Distribution system operators <b>subject to an oversight by the regulatory authority, or the regulatory authority itself</b>, shall define [] <b>the specifications</b> for the <b>flexibility</b> services procured <b>in close cooperation with the transmission system operators. The specifications shall ensure an [] effective and non-discriminatory</b> participation of all market participants including renewable energy sources, demand response, <b>energy storage facilities</b> and [] <b>market participants</b></p>	<p><b>Art. 32(1):</b> As Council.</p> <p><b>Justification:</b> Competition among all types of resources and easy market-access driven by market-based solutions are the most efficient way to enable and deliver flexibility.</p> <p>The integration and optimal use of flexibility will be a key ingredient of the future power market. Reliable wholesale price signals exhibit an efficient signal to steer activity.</p>

transmission system operators in order to ensure the optimal utilisation of resources, ensure the secure and efficient operation of the system and facilitate market development. Distribution system operators shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information and communication technologies expenses, including expenses which correspond to the necessary information and communication infrastructure.	aggregators. Distribution system operators shall exchange all necessary information and coordinate with transmission system operators in order to ensure the optimal utilisation of resources, ensure the secure and efficient operation of the system and facilitate market development. Distribution system operators shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information and communication technologies expenses, including expenses which correspond to the necessary information and communication infrastructure.	<b>engaged in aggregation.</b> Distribution system operators shall exchange all necessary information and coordinate with transmission system operators in order to ensure the optimal utilisation of resources, ensure the secure and efficient operation of the system and facilitate market development. Distribution system operators shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding <b>reasonable costs</b> [], including the necessary information and communication technologies expenses and [] infrastructure <b>costs</b> .	As well as non-discriminatory market participation, it will be important to address the following market design aspects: <ul style="list-style-type: none"> <li>• Clear definition of roles and responsibilities;</li> <li>• Efficient, transparent and open market venues;</li> <li>• Where suitable and over time seek to establish product standardisation, which can increase liquidity on the market;</li> <li>• Addressing counter party default risk mitigation (clearing).</li> <li>• Interaction with organized markets and Ancillary Services on Wholesale and “TSO” level.</li> </ul>
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### 13. Tasks of transmission system operators: Art. 40 (4) and (5)

Commission proposal COM(2016) 864 final/2 published 23 Feb 2017	European Parliament (ITRE report as voted 21 Feb 2018)	Council (General Approach published 20 Dec 2017) 15886/17	Europex position
<b>Tasks of transmission system operators – Art. 40</b>  4. In performing the task described in point (i) of paragraph 1, the	<b>5a. Member States shall provide the necessary regulatory framework to allow and incentivise transmission system operators to procure services in order to improve efficiencies in the</b>	4. In performing the task described in point (i) of paragraph 1, the transmission system operators shall []	<b>Art. 40:</b> See position on Art 32(1)

<p>transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit analysis, non-frequency ancillary services, is:</p> <p>(a) transparent, non-discriminatory and market-based;</p> <p>(b) ensures effective participation of all market participants including renewable energy sources, demand response, energy storage facilities and aggregators, in particular by requiring regulatory authorities or transmission system operators in close cooperation with all market participants, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.</p> <p>5. Transmission system operators shall not own assets that provide ancillary services save under the conditions set out in Article 54.</p>	<p><b>operation and development of the transmission system, including local congestion management. In particular, regulatory frameworks shall ensure that transmission system operators can procure services from resources such as demand response or storage and consider energy efficiency measures, when such services cost-effectively supplant the need to upgrade or replace electricity capacity and which support the efficient and secure operation of the transmission system. Transmission system operators shall procure those services in accordance with transparent, non-discriminatory and market based procedures.</b></p> <p>[...]</p>	<p><b>procure balancing services [] according to:</b></p> <p>(a) transparent, non-discriminatory and market-based <b>procedures</b>;</p> <p>(b) ensures effective participation of all <b>qualified electricity undertakings and</b> market participants including renewable energy sources, demand response, energy storage facilities and <b>[] market participants engaged in aggregation. For that purpose, []</b> regulatory authorities <b>[] and</b> transmission system operators <b>shall</b>, in close cooperation with all market participants, <b>[]</b> define technical modalities for participation in these markets on the basis of the technical requirements of these markets <b>in accordance with the Commission Regulation 2017/1485 establishing a guideline on electricity transmission system operation []</b>.</p> <p>5. []</p> <p><b>5a. The requirements of paragraph 4 shall apply to the provision of those non-frequency ancillary services by transmission system operators, unless the regulatory authority has assessed that the market-based provision of non-frequency ancillary services is</b></p>	
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		<p>economically not efficient and has granted a derogation.</p> <p>5b. This obligation to procure non-frequency ancillary services does not apply to fully integrated network components.</p>	
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## About

Europex is a not-for-profit association of European energy exchanges with 26 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

## Contact

Europex – Association of European Energy Exchanges

Address: Rue Archimède 44, 1000 Brussels, Belgium

Phone: +32 2 512 34 10

Website: [www.europex.org](http://www.europex.org)

Email: [secretariat@europex.org](mailto:secretariat@europex.org)

Twitter: Europex\_energy