



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Camera dei Deputati for its Opinions on the proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity (recast) {COM(2016) 861 final}, the proposal for a Regulation of the European Parliament and of the Council on risk-preparedness in the electricity sector {COM(2016) 862 final}, the proposal for a Regulation of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators (recast) {COM(2016) 863 final}, and the proposal for a Directive of the European Parliament and of the Council concerning common rules for the internal market in electricity (recast) {COM(2016) 864 final}.

The proposals are part of a package of ambitious measures, the "Clean Energy for All Europeans" package, adopted by the Commission in order to establish a stable and forward-looking regulatory framework for the upcoming energy challenges. The measures included in the package focus on the following three main objectives: energy efficiency first, achievement of a global leadership in renewable energies and a fair deal for consumers.

The Commission welcomes the Camera dei Deputati's thorough evaluation of the proposals in the package and has taken good note of its concerns. In response to the specific comments in the opinions, the Commission would like to refer the Camera dei Deputati to the attached annex.

The points made in this reply are based on the initial proposals presented by the Commission which are currently in the legislative process involving both the European Parliament and the Council. The Commission remains hopeful that an agreement will be reached in the near future.

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President of the Camera dei Deputati
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The Commission hopes that the clarifications provided in this reply address the issues raised by the Camera dei Deputati and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Miguel Arias Cañete
Member of the Commission*

Annex

The Commission has carefully considered each of the issues raised by the Camera dei Deputati in its Opinions and is pleased to offer the following clarifications:

On the proposal for a Regulation on the internal market for electricity (recast) {COM (2016) 861 final},

The Commission considers that there is still considerable room to optimise the electricity markets in Europe to ensure that price signals reflect where new investments are needed and to also support security of supply by ensuring that electricity flows will go to where they are most needed. The Commission however understands that Member States consider it important to be able to introduce a capacity mechanism if deemed necessary. This is why the Commission has provided a framework for capacity mechanisms to ensure that they are well-designed and least distortive.

In relation to Article 13 of the proposal, the Commission would like to stress that it has no intention to change the definition of a bidding zone. The Commission recognises that the wholesale market structure works well in Italy. In relation to the bidding zone configuration, the Camera dei Deputati's concern in relation to the role of national authorities is well noted.

As regards the Camera dei Deputati's concerns on Article 16, the Commission highlights that it does not intend to harmonise tariffs around Europe. The purpose of the provision is to task the European Union Agency for the Cooperation of Energy Regulators with drafting a best practice guide and for national authorities to consider this when drafting national tariff structures.

Regarding Article 20 of the proposal, the calculation of the reliability standard by national regulatory authorities is intended to provide the best value for consumers by ensuring that there is an efficient trade-off between the desired level of electricity reliability and the overall cost of this which, in the end, is borne by consumers. The Commission considers that national regulatory authorities are well-placed to take decisions at national level on this.

As regards the Camera dei Deputati's concerns relating to the powers of the European Network of Transmission System Operators and of the European Union Agency for the Cooperation of Energy Regulators in developing and approving a calculation methodology for a European-wide generation adequacy assessment, the Commission wishes to underline that to limit market distortions and ensure that the market can still send investment signals, it is necessary to base any capacity mechanism on an objective analysis, which takes full account of the available resources in neighbouring Member States. The proposed Regulation provides for significant improvements to both the process and the content of the existing European Network of Transmission System Operators' European-wide assessment, and the Commission is convinced that such an assessment based on a common methodology taking full account of cross-border resources and demand response is the best tool to ensure security of supply at the lowest cost and with optimal functioning of the internal energy market. As this

is an European Union wide assessment, the Commission trusts that the Agency is best placed to approve such a methodology.

The Commission would like to stress that this does not prevent Member States from conducting additional national assessments of generation adequacy. However, in order to assess the impact of a capacity mechanism on the internal market, and to assess whether such a market intervention can be justified under European rules, the joint European adequacy assessment which fully takes account cross-border effects is in the Commission's view the most appropriate basis.

The Camera dei Deputati also outlined concerns regarding the proposals for increased cooperation between transmission system operators at regional level. The Commission wishes to reassure the Camera dei Deputati that these proposals build on current good practice and the Regional Security Coordinator framework so that there is no overlap. It is perhaps useful to clarify that, under the proposals for new tasks for the Regional Operational Centres, the transmission system operators will retain full responsibility for the operation of the system in real time and it will always be possible for the national transmission system operators to deviate from a recommendation or a decision for operational security reasons.

In relation to the Camera dei Deputati's comments on Article 53 of the proposal, the Commission fully understands that there are differences between how transmission system operators and distribution system operators operate in different Member States and that a one-size-fits-all approach would not be efficient. However, due to the rapid growth in the deployment of renewables at the level of distribution system operators, the Commission sees the role and importance of distribution system operators increasing until 2030. It therefore considers the requirement for transmission system operators and distribution system operators to cooperate as very important to ensure the safe operation of the system. The Commission does not impose a model for cooperation; it simply requires that cooperation takes place and would expect this to be in a way that is well suited to national specificities.

On the proposal for a Regulation on risk-preparedness in the electricity sector {COM (2016) 862 final},

This proposal aims at ensuring that citizens in Europe are better protected against black-outs at a lesser cost. It would ensure that all Member States put in place appropriate tools to prevent, prepare for, and manage electricity crisis situations. The initiative also requires Member States to cooperate with each other in a spirit of solidarity, to ensure that electricity goes where it is most needed in an electricity crisis situation.

Better risk preparedness would bring better security of supply at a lower cost. Increased regional co-operation will help optimise the utilisation of resources and burden-sharing at a regional level, thus reducing the risk of black-outs. Analysis shows that the percentage of electricity not supplied due to a black-out significantly decreases in scenarios of co-operation, from a value of 0.36% in a scenario of non-cooperation to 0.02% when regional cooperation takes place. This in turn leads to EUR 3 to 7.5 billion in cost savings.

Regarding the Camera dei Deputati's question whether the regional approach for the risk preparedness is the most effective and adequately takes into account national specificities, the Commission wishes to underline that the increasing interconnection of electricity markets in the European Union requires the coordination of security of supply measures. In the absence of such coordination, it is likely that measures adopted solely at national level could jeopardise the internal market and the security of supply in other Member States or across the Union. However, the proposal ensures that national specificities are taken into account, in particular, when Member States define their crisis scenarios at national level and prepare their Risk-Preparedness Plans.

The Commission would like to assure the Camera dei Deputati that transmission system operators are and remain responsible for the operational management of an electricity crisis and that this proposal does not affect their obligations to carry out national adequacy assessments according to the guideline on electricity transmission system operation¹.

The Commission would also like to point out that the role of the regional operational centres in the context of the risk preparedness is rather limited. They should identify the electricity crisis scenarios at regional level and carry out seasonal adequacy outlooks if the European Network of Transmission System Operators delegates those tasks to regional operational centres. In addition the regional operational centres in cooperation with the competent authorities are to carry out annual crisis simulations.

Regarding the role of the European Union Agency for the Cooperation of Energy Regulators in cases where the competent authorities are not able to reach an agreement on regional measures, the Commission wishes to highlight that the Agency may be requested to facilitate an agreement, e.g. to make suggestions for the details to be included in a potential agreement. However, it is for the competent authorities to accept such a proposal.

On the proposal for a Regulation establishing a European Union Agency for the Cooperation of Energy Regulators (recast) {COM (2016) 863 final},

Regarding the Camera dei Deputati's concerns on the European Union Agency for the Cooperation of Energy Regulators' powers in approving the terms and conditions and methodologies developed under network codes, the Commission considers that the current decision-making process applying to the development of proposals for terms and conditions or methodologies for the implementation of network codes and guidelines is lengthy and cumbersome. It has proved to be inefficient, taking place in two rounds, first at the level of national regulatory authorities and then at the level of the Agency who is already involved today whenever at least one national regulatory authority does not agree to the proposal. The proposal aims at streamlining the procedure. It does not create new powers for the Agency in this field as it is already involved on the basis of the current procedure foreseen in the network codes and guidelines.

¹ Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation, OJ L 220, 25.8.2017, p. 1–120

As regards the decision-making process in the Board of Regulators, the current rules require a two thirds majority. The Commission suggests replacing it by a simple majority rule in order to facilitate decision-making and align the voting rules with the ones applying in other European Union agencies. In addition, the Commission has experienced that the two-thirds majority has created blockages in the past, preventing the European Union Agency for the Cooperation of Energy Regulators from taking important decisions in the interest of the internal energy market.

On the proposal for a Directive concerning common rules for the internal market in electricity (recast) {COM (2016) 864 final},

On a general note, the Commission would like to recall that the objective of this proposal is to provide a common minimum framework throughout the European Union. However the Member States, if they wish, may adopt more advanced or more country-specific measures as long as they are compatible with European Union law.

The Commission notes that Articles 10 and 18 of the proposal provide basic contractual rights for consumers including provisions on minimum billing information and disconnection. The Commission considers the rights established in those articles essential for consumers to take informed decisions and participate in the market, while giving Member States the possibility to define concrete measures to protect consumers, for example from disconnections.

Article 11 of the proposal aims at ensuring that all final customers can participate in price-based demand response, for which access to a dynamic price contract as well as a fully functional smart meter are preconditions. Other alternative pricing schemes should develop freely on the market.

Concerning Article 21 of the proposal and the entitlement to a smart meter, it is expected that national regulatory frameworks, where this measure is relevant, will be adjusted to incorporate this entitlement. The proposal takes this into consideration, given that it provides Member States with the responsibility to set the respective arrangements (technical, administrative) for carrying out this entitlement.

Regarding Article 23 of the proposal relating to access to data, the Commission notes that the data concerned are those collected from the customer's meter (consumption data, metering data, and data for switching) and are not strictly defined in the proposal since they depend on the process that they are used for (e.g. switching, billing, support to demand side flexibility services, etc.).

Furthermore, the proposal leaves it to Member States to decide on the national operational arrangements for the management and exchange of these data, fully complying with the requirement that personal data be treated in accordance with the General Data Protection Regulation².

With regard to Article 16, the Commission recalls that the recognition of the new type of market actors – local energy communities, is not intended to intervene into the national arrangements for distribution networks and the way the Members States safeguard the network efficiency principle.

Article 32 of the proposal allows distribution system operators to actively manage the distribution networks in order to operate them more efficiently. The precise rules under which distribution system operators can purchase flexibility while ensuring system stability need to be set by the national regulatory authority taking into account national conditions.

Article 53 of the proposed Regulation ensures that transmission system operators and distribution system operators cooperate to ensure system stability by setting some general guiding principles. Detailed rules for the cooperation can be established at national level as already set out in the context of the proposal for a Regulation on the internal market for electricity.

Regarding the offering of ancillary services by transmission system operators, please note that these operators are able to procure balancing services and to manage congestion according to rules set out in Articles 5, 12 and 13 of the proposal on the internal market for electricity (recast). These provisions ensure that transmission system operators can operate the networks efficiently but at the same time ensure that transmission system operators do not distort the market by carrying out activities that can be provided by non-regulated entities.

As regards storage ownership by transmission system operators, Article 54 of the proposal states clearly that transmission system operators should be involved in storage only for system operation purposes when the market does not deliver the required services i.e. when a tender procedure does not deliver. In general, storage facilities can be more efficiently developed in the market and provide services to transmission system operators, distribution system operators or other interested parties.

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.