Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (COM (2016) 864)

APPROVED FINAL DOCUMENT

The Committee on Economic Activities, Trade and Tourism of Italy's Chamber of Deputies,

having examined the proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (COM (2016) 864);

taking cognisance of the information and analyses acquired through the hearings that the Committee conducted in the course of considering the document in question;

subject to the considerations regarding all the proposals relating to the energy package as set out in the Final Document on the proposal for a Regulation on the internal market for electricity (COM (2016) 861);

and with the further premise that:

- The proposal for a Directive on common rules for the internal market in electricity (COM (2016) 864) amends the Directive currently in force, 2009/72/EC, through a series of measures that are primarily aimed at promoting the active market participation of consumers and small-scale self-producers;

- Article 5 of the proposal prescribes that electricity price setting shall be phased out over the five years following the adoption of the Directive. Therefore, all operators will be able to set electricity prices freely, and Member States' interventions on final electricity prices will be limited only to vulnerable customers and those in economic difficulty;

- Article 10 specifies that Member States must make sure that customers are given adequate information on alternatives to disconnection sufficiently in advance of the planned disconnection. These alternatives may refer to support measures to stop disconnections from going ahead, alternative payment plans, debt management advice, or a moratorium on disconnections, and should not constitute an extra cost for customers;

- To spur competition in the retail market, the proposal promotes the opening up of the market to new entrants and the introduction of new types of customer contract. Under Article 11, all final customers are entitled, on request, to a dynamic electricity price contract from their supplier that reflects the price in the spot market or in the day-ahead market at intervals at least equal to the market settlement frequency. In addition, consumers may choose to enter into a contract with an aggregator, even without the consent of their supplier;

- Article 17 of the proposal states that customers who intend to offer demand-response services, including through aggregators, may participate in all organised markets on an equal footing with producers. The proposal also defines an "energy community" as a legal entity

capable of generating power, managing a local distribution network or supplying it (directly or through aggregators), and requires Member States to adopt a specific regulatory framework that allows energy communities to carry out activities in the energy sector and enjoy access to all organised markets without suffering any discrimination;

- Article 18 provides that Member States shall ensure that bills meet the minimum invoicing and data disclosure standards set out in the relevant Annex;

- The proposal (Article 19 *et seq*.) requires Member States to see to the prompt installation of smart meters that meet the European standards defined in the proposal itself. If a cost-benefit analysis should indicate that the installation of smart meters throughout the national territory is not economically viable, then, under the terms of the proposal, individual consumers should nonetheless have the right to request and obtain the installation of a smart meter on fair and reasonable terms;

- Article 31 *et seq*. of the proposal gives distribution system operators a more active role than they have under the current market design. In particular, distribution system operators are assigned a key role in the integration of flexibility resources, in the acquisition of non-frequency ancillary services, in the provision of services relating to congestion management, as well as services for the exchange and management of information with a view to coordinating with transmission system operators (TSOs), and in the fulfilment of infrastructural needs, which may entail drawing up plans for the development of the distribution network;

- To facilitate the resolution of problems of congestion in the distribution network, the proposal (Article 32) affirms that Member States shall provide the necessary regulatory framework to allow distribution system operators to procure services to improve system efficiency, and to define the standardised market products for these services;

- The proposal reaffirms and reinforces the principle of grid neutrality and unbundling (Article 54) in relation to the use of energy storage facilities by distribution and transmission system operators. The latter in particular are debarred from owning or directly or indirectly controlling assets that provide ancillary services. These prohibitions may be waived if the national regulator has carried out a needs assessment and determined that, following an open and transparent tendering procedure, no third parties are interested in owning or controlling such assets, and if their presence is essential to the discharge of the operator's obligations;

EXPRESSES A FAVOURABLE OPINION

with the following remarks:

a) The European Commission is to be commended for its holistic approach to the preparation of the Energy Package. Achieving the objectives and aims of the various proposals will require regulatory coherence and coordination, and the avoidance of non-necessary detail;

b) Excessive regulation, even when referring to specifics and detailed matters, runs the risk of fostering solutions that are not optimal or efficient in all contexts. Consequently, there is a trade-off between harmonising regulations at a European level and optimising them with reference to local specificities. The European-level option should be preferred only where it effectively contributes to the development of a broader, more integrated and more competitive market. Otherwise, EU-wide regulation runs the risk of penalising consumers and adversely affecting some systems, especially more advanced ones such as Italy's, that have already introduced innovative solutions for the regulation of electricity distribution, notably through the installation of second-generation (2 G) smart meters. As for the superseding of electricity price regulation and the protection of vulnerable consumers envisaged in the proposal, the Italian Parliament is currently examining measures that will put an end to the regulated market regime as of 1 July 2019 (which, moreover, is an earlier date than that set in the proposal), and that will also review the arrangements for supporting the economically disadvantaged and seriously ill;

c) We must avoid the risk of crystallising the regulatory framework around inflexible solutions because we cannot be certain of how markets and technology will evolve, nor can we ignore the wide and enduring differences between Member States;

d) As regards billing (Article 18), it is to be hoped that the rules adopted will be inspired by the objective of improving the retail market and protecting consumers with as few regulations as possible. Likewise, it is to be hoped that the new rules will not impose restraints that might reverse progress, and that they will not weaken the robust guarantees already afforded to consumers in some Member States, including Italy;

e) Another instance of excessive zeal for detail is to be found in Article 10 of the proposal referring to disconnection alternatives. As Italy has already introduced several instruments, such as instalment payment plans, the proposal for a Directive would seem to imply additional administrative costs, the benefit of which for final users is unclear;

f) Concerning dynamic pricing contracts, an evaluation needs to be made of whether, instead of proposing specific types of contract, the proposal might do better to leave the question of pricing to the competitive dynamics of a free and open market, such as the supply market now is, where innovative and new commercial practices can emerge – removing, if necessary, any obstacles that may stand in their way;

g) As regards the option granted to single consumers to request and obtain the installation of an individual smart meter on fair and reasonable terms, the proposal for a Directive needs to take into account the extent of change to the regulatory framework it would take to enable the smart metering of those final users who have opted for installation;

h) More clarity is needed regarding customers' rights to information about suppliers (by, for example, defining measurement and consumption data), and the procedures for obtaining information also need to be simplified;

i) The proposal's vision of the functions to be assigned to local energy communities that manage a distribution network (Article 16) poses the risk that the principle of network unity will be compromised, which would be to the detriment of the efficiency of the networks themselves. Consequently, local energy communities should forfeit the right to manage distribution networks where their doing so would compromise the unified administration of distribution systems;

j) The proposal for a Directive brings many changes to the rules governing electricity distribution and gives distribution system operators many additional functions, which are warranted by the new market design, whose aim is to encourage bottom-up active participation. In particular, Article 32 of the proposal requires Member States to provide a regulatory framework that permits the coexistence of different types of markets/procedures for the sourcing of flexibility resources for which both the TSOs and the DSOs would be responsible. But an assessment needs to be made of the proposed design in case it leads to the uneconomical management of resources, which would weaken the security of the electricity system as a whole;

k) More generally, the several roles and responsibilities of TSOs and DSOs need to be clarified, overlaps need to be avoided, and the two bodies need to coordinate closely on network development planning, on addressing the problem of local congestion on medium- and low-voltage grids, and on the necessary task of controlling the voltage of the grid. It seems advisable that the relationship between TSOs and DSOs be regulated at a European level on the basis of general principles rather than on the basis of excessively detailed rules;

l) A more balanced solution to what is proposed is needed with respect to the prohibition of TSOs from even indirectly owning assets capable of offering ancillary network services, a right to which they are entitled under existing national law;

m) With particular regard to the right of TSOs to own energy storage facilities, experiments currently under way in Italy suggest that an opportunity exists to differentiate between the various applications according to the underlying service/product. In light of the foregoing, it might be best to review the prohibition so that TSOs are debarred from owning "energy-driven" storage facilities but keep their right to use, under regulated conditions and in response to network needs, facilities owned by market operators.