

## EFET amendments to the European Commission proposal on Electricity Market Design reform

Brussels, 27 April 2023 - [deletions in **barred red**; additions in **bold green**]

Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<b>Article 1(3) [a]</b>  <b>(art.7.1 Regulation 2019/943)</b>	<p>(3) Article 7 is amended as follows:</p> <p>[a] paragraph 1 is replaced by the following:</p> <p>‘1. Transmission system operators and NEMOs, or an entity designated by them, shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs shall cooperate at Union level or, where more appropriate, at a regional level in order to maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading. The obligation to cooperate shall be without prejudice to the application of Union competition law. In their functions relating to electricity trading, transmission system operators and NEMOs shall be subject to regulatory oversight by the regulatory authorities pursuant to Article 59 of Directive (EU) 2019/944 and ACER pursuant to Articles 4 and 8 of Regulation (EU) 2019/942.’</p>	<p>(3) Article 7 is amended as follows:</p> <p>[a] paragraph 1 is replaced by the following:</p> <p>‘1. Transmission system operators and NEMOs, <del>or an entity designated by them,</del> shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs shall cooperate at Union level or, where more appropriate, at a regional level in order to maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading. The obligation to cooperate shall be without prejudice to the application of Union competition law. In their functions relating to electricity trading, transmission system operators and NEMOs shall be subject to regulatory oversight by the regulatory authorities pursuant to Article 59 of Directive (EU) 2019/944 and ACER pursuant to Articles 4 and 8 of Regulation (EU) 2019/942.’</p>	<p>We do not support the establishment of a single entity for the operation of market coupling.</p> <p>We see the operation of market coupling by a single entity as a threat to the smooth operation of market coupling:</p> <ul style="list-style-type: none"> <li>• Market coupling has operated well for the past 10 years, including 5 as a regulated activity under CACM</li> <li>• Progress has recently been made by TSOs and NEMOs for better inclusion of market participants in decision making (via the Market Coupling Consultative Group)</li> <li>• A single entity would remove market participants’ leverage with NEMOs as direct clients</li> <li>• An additional layer of governance without guarantee of accountability is unlikely to improve MCO functioning, as exemplified by the JAO platform</li> <li>• We doubt that the single entity solution would improve the decision-making and resource problems</li> </ul> <p>Any reform of MCO governance should be discussed in the context of the review of the CACM Regulation (2015/1222)</p>

# POSITION

Article	European Commission proposal	Proposed EFET Amendments	Reasoning
			and not delay the implementation of the CACM Regulation as it currently stands.
<b>Article 1(3) [b]</b> <b>(art.7.2 Regulation 2019/943)</b>	(3) Article 7 is amended as follows: [b] paragraph 2 is amended as follows: (i) point (c) is replaced by the following: (c) maximise the opportunities for all market participants to participate in cross-zonal and intra-zonal trade in a non-discriminatory way and as close as possible to real time across and within all bidding zones;  (ii) the following point (ca) is inserted: '(ca) be organised in such a way as to ensure the sharing of liquidity between all NEMOs, both for cross-zonal and for intra-zonal trade;'	<b>[full support for the European Commission proposal]</b>	We fully support the sharing of order books throughout the operational window of the intraday market: <ul style="list-style-type: none"> <li>from the opening of the intraday market at 15:00 CET, with cross-zonal capacity effectively made available to the market</li> <li>to the closure of the national intraday market, including after the cross-zonal gate closure</li> </ul> <p>This is a no-regret measure to improve liquidity in the intraday market, throughout that timeframe, at European and national levels. Local technical or regulatory hurdles to this should be removed to ensure full compliance with this proposal.</p>
Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<b>Article 1(4)</b> <b>(art. 7a Regulation 2019/943)</b>	(4) the following Articles 7a and 7b are inserted: 'Article 7a Peak shaving product  1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours.	(4) the following Articles 7a and 7b are inserted: 'Article 7a Peak shaving product  1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours.	While we support the objective to promote a more flexible demand, we believe that demand should chiefly respond to market signals, rather than TSO-driven products.  Market drivers, including electricity prices on the market, are the primary drivers for demand response, in the short term but also months to years before delivery. Therefore, short-term TSO products will not necessary stimulate demand response in a manner that is sustainable and sufficiently long-term.

	<p>2. Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements:</p> <p>(a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs;</p> <p>(b) the procurement of a peak shaving product shall be based on objective, transparent,</p>	<p>2. Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned <b>after due implementation of Commission Regulation (EU) 2015/1222, Commission Regulation (EU) 2017/2195, Commission Regulation (EU) 2017/2196 and Regulation (EU) 2019/941</b>. The proposal of the transmission system operator shall comply with the following requirements:</p> <p>(a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs, <b>taking into account all sources of flexibility. The dimensioning process shall be transparent and consulted with market participants;</b></p> <p>(b) the procurement of a peak shaving product shall be based on objective, transparent, non-</p>	<p>Should the option for TSO peak-shaving products be kept in the Regulation, we suggest adding the following conditions:</p> <ul style="list-style-type: none"> <li>• for the sake of consistency across different EU Regulations, a TSO intending to procure a peak shaving product shall first ensure that the full national implementation of the relevant measures under market network codes and guidelines and the Risk Preparedness Regulation, together with the short-term market integration, are not sufficient to guarantee the secure operation of the system.</li> <li>• the development of TSO peak shaving products should be based on an impact assessment of their effect on the intraday market and existing balancing mechanisms – this impact assessment should be made public</li> <li>• the dimensioning of the TSO peak shaving products shall be consistent with the rules and conditions set at national level and be transparent and consulted with market participants</li> <li>• the activation of TSO peak shaving products should be restricted to the balancing operating window, i.e. after the closure of the intraday market</li> <li>• the TSO peak shaving products should be procured through a competitive process, considering other flexibility/balancing resources.</li> </ul>
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# POSITION

	<p>non-discriminatory criteria and be limited to demand response;</p> <p>(c) the procurement of the peak shaving product shall take place using a competitive bidding process, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria;</p> <p>(d) contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day;</p> <p>(e) the activation of the peak shaving product shall not reduce cross-zonal capacity;</p> <p>(f) the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market;</p> <p>(g) the peak shaving product shall not imply starting generation located behind the metering point.</p> <p>3. The actual reduction of consumption resulting from the activation of a peak shaving product shall be measured against a baseline, reflecting the expected electricity</p>	<p>discriminatory criteria and be limited to demand response;</p> <p>(c) the procurement of the peak shaving product shall take place using a competitive bidding process, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria;</p> <p>(d) contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day;</p> <p>(e) the activation of the peak shaving product shall not reduce cross-zonal capacity;</p> <p>(f) the activation of the peak shaving product shall take place <del>after the closure of the day-ahead market and before the start of the balancing market</del> <b>after the intraday gate closure;</b></p> <p>(g) the peak shaving product shall not imply starting generation located behind the metering point;</p> <p><b>(f) the TSOs have published an impact assessment demonstrating that the activation of the peak shaving product does not negatively affect the intraday market and balancing mechanisms.</b></p> <p>3. The actual reduction of consumption resulting from the activation of a peak shaving product shall be measured against a baseline, reflecting the expected electricity</p>	
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	consumption without the activation of the peak shaving product. Transmission system operators shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority.  4. Regulatory authorities shall approve the proposal of the transmission system operators seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs.	consumption without the activation of the peak shaving product. Transmission system operators shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority.  4. Regulatory authorities shall approve the proposal of the transmission system operators seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs.	
Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<b>Article 1(5)</b> <b>(art. 8.1 Regulation 2019/943)</b>	(5) Article 8 is amended as follows:  (a) paragraph 1 is replaced by the following:  ‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’	(5) Article 8 is amended as follows:  (a) paragraph 1 is replaced by the following:  ‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest <del>30</del> 15 minutes ahead of real time.’	We fully support the setting of the cross-zonal intraday gate closure as close to real time as possible.  While the European Commission’s proposal is a progress compared to the current cross-zonal intraday gate closure time set at one hour before real time, we believe this can be set even closer.  By 2025 the imbalance settlement period in all EU Member States will be set at 15 minutes before real time, and corresponding 15-minute intraday products will be in place already. An intraday cross-zonal gate closure time at 15 minutes before real time should hence be the ambition for 2028.  We emphasise that the cross-zonal GCT shall always be the same for all coupled bidding zones for the sake of consistency and integrity of the intraday cross-zonal market.

			<p>This will facilitate efficient renewable integration and use of resources, including storage, between different bidding zones.</p> <p>This measure is complementary with the proposal of sharing order books (new art. 7.2.ca of Regulation 2019/943). Both measures will maximise the opportunities for all market participants to engage in cross-zonal and intra-zonal trade in a non-discriminatory manner and as close as possible to real time across.</p>
Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<p><b>Article 1(6)</b> <b>(art. 9</b> <b>Regulation</b> <b>2019/943)</b></p>	<p>(6) Article 9 is replaced by the following: Article 9 Forward Markets</p> <p>1. By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:</p> <p>(a) define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs;</p>	<p>[keep the original version of art.9, complemented with voluntary market making and transmission rights issued at least 3 years ahead of delivery]</p> <p>(6) Article 9 is replaced by the following: Article 9 Forward Markets</p> <p><del>1. — By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:</del></p> <p><del>(a) — define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs;</del></p>	<p>As things stand, the benefits and drawbacks of the regional virtual hubs concept (and accompanying zone-to-hub long-term transmission rights) have not been evidenced. Hence, this concept deserves more discussion before being enacted as mandatory in a – directly applicable – European Regulation.</p> <p>We worry that regional virtual hubs will rather split the existing liquidity on forward markets, and hence make them less efficient and more expensive to trade on. This would have a detrimental effect on the capacity of market participants to hedge themselves, and hence reduce exposure to price volatility for end-consumers. The concept of regional virtual hubs, the boundaries of which be regulated based on price correlations, also entails a high risk of isolating regions from one another: there is so far no option for forward trading from hub to hub.</p> <p>Hence, until a full assessment of benefits and drawbacks is established – and properly consulted with power exchanges</p>

	<p>(b) include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria;</p> <p>(c) include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market;</p> <p>(d) maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs.</p> <p>2. Within six months of receipt of the proposal on the establishment of the regional</p>	<p><del>(b) — include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria;</del></p> <p><del>(c) — include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market;</del></p> <p><del>(d) — maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs.</del></p> <p><b>In accordance with Regulation (EU) 2016/1719, transmission system operators shall issue long-term transmission rights or have equivalent measures in place to allow for market participants, including owners of power-generating facilities using renewable energy sources, to hedge price risks across bidding zone borders, unless an assessment of the forward market on the bidding zone borders performed by the competent regulatory authorities shows that there are sufficient hedging opportunities in the concerned bidding zones.</b></p> <p><del>2. — Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall</del></p>	<p>and market participants – we suggest not introducing the concept of regional virtual hubs into Regulation 2019/943.</p> <p>The details of regional virtual hubs functioning, if assessed as positive and ultimately applied, should in any case be detailed in the FCA Regulation (2016/1719). Until then, the fundamentals of the current article 9 of Regulation 2019/943 should remain, including the maximisation of cross-zonal capacity to be made available to the market as per the TSOs calculations at the moment of allocation.</p> <p>On a final note, we welcome the inclusion of a reference to the voluntary market marking and the allocation of long-term transmission rights at least three years ahead of real time, which we both suggest to add to the original art.9.</p>
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	<p>virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.</p> <p>3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council.</p> <p>4. The single allocation platform shall:</p> <p>(a) offer trading of long-term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long-term transmission rights to a virtual hub or to other bidding zones that are part of the same capacity calculation region;</p> <p>(b) allocate long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross-zonal capacity shall support the efficient functioning of the forward market;</p> <p>(c) offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead.</p>	<p><del>evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.</del></p> <p>3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council.</p> <p>4. — The single allocation platform shall:</p> <p>(a) — offer trading of long-term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long-term transmission rights to a virtual hub or to other bidding zones that are part of the same capacity calculation region;</p> <p>(b) — allocate long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross-zonal capacity shall support the efficient functioning of the forward market;</p> <p>(c) — offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead.</p>	
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	<p>5. Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone.</p>	<p><b>Long-term transmission rights shall be allocated in a transparent, market based and non-discriminatory manner through a single allocation platform</b>, with frequent maturities of up to at least three years ahead.</p> <p>1. Where <del>a</del> the regulatory <del>authority</del> <b>authorities of a capacity calculation region</b> considers that there are insufficient hedging opportunities available for market participants, and after consultation of <b>market participants and</b> relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), <del>it</del> <b>they</b> may require power exchanges or transmission system operators <b>of the capacity calculation region</b> to implement additional measures, such as <b>voluntary</b> market-making activities, to improve the liquidity of the forward market. <b>Such measures shall be implemented in a transparent, voluntary, and non-discriminatory manner.</b> Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone.</p>	
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Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<b>Article 1(7) [a]</b>  <b>(art. 18.2 Regulation 2019/943)</b>	<p>[a] paragraph 2 is replaced by the following:</p> <p>2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection”;</p>	<p>[a] paragraph 2 is replaced by the following:</p> <p>2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection. <b>ACER shall ensure that tariff methodologies applied in different Member States are harmonised to ensure a level playing field among different technologies.”;</b></p>	<p>Greater alignment of tariff methodologies – not necessarily of tariffs themselves – is key to improve the competitive environment, especially as investment in new technologies will become increasingly necessary.</p>
<b>Article 1(8) [b]</b>  <b>(art. 19.2 (c) Regulation 2019/943)</b>	<p>[b] the following point (c) is added:</p> <p>‘(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical</p>	<p>[b] the following point (c) is added:</p> <p>‘(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements</p>	<p>We reserve our position with regard to the opportunity to establish offshore bidding zones as such, and to compensate offshore generation plants operating in such offshore bidding zones in case of reduced access to the interconnected network.</p> <p>However, it is key to make sure that the principle of maximisation of cross-zonal capacity is retained throughout</p>

	network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.	affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market. <b>National regulatory authorities shall ensure that the relevant transmission system operators offer the maximum available transmission capacity for cross-zonal trade, while respecting operational security limits, in accordance with article 16.'</b>	the European electricity grid, in accordance with article 16 of Regulation 2019/943.
Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<b>Article 1(9)</b> <b>(new Chapter IIIa and articles 19a to 19f Regulation 2019/943)</b>	(9) The following chapter IIIa is inserted:  Chapter IIIa  Specific investment incentives to achieve the Union's decarbonisation objectives  Article 19a  Power purchase agreements  1. Member States shall facilitate power purchase agreements ('PPAs') with a view to reaching the objectives set out in their integrated national energy and climate plan with respect to the dimension decarbonisation referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets.	[9] The following chapter IIIa is inserted:  Chapter IIIa  Specific investment incentives to achieve the Union's decarbonisation objectives  Article 19a  Power purchase agreements  1. Member States shall <b>facilitate remove barriers to the conclusion of</b> power purchase agreements ('PPAs') with a view to reaching the objectives set out in their integrated national energy and climate plan with respect to the dimension decarbonisation referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets.  <b>1.a In order to facilitate the conclusion of renewable PPAs in particular, Member States shall ensure that all operators of generating plants from renewable sources are awarded</b>	We welcome the strong focus of the European Commission's proposal on provisions to improve the Union's capacity to reach its decarbonisation objectives.  <b>On article 19a – PPAs:</b>  <ul style="list-style-type: none"> <li>• We support the attention given to commercial PPAs as a primary instrument for investment, especially for the uptake of renewable electricity production.</li> <li>• We support the attention given to reducing financial risk related to the conclusion of such long-term contracts in paragraphs 2 and 3.</li> <li>• We advise the addition of a paragraph 1a to ensure that all renewable generation capacity is awarded Guarantees of Origin, whether or not they benefit from public support schemes: indeed, Guarantees of Origin are necessary for the conclusion of PPAs.</li> </ul>

	<p>2. Member States shall ensure that instruments such as guarantee schemes at market prices, to reduce the financial risks associated to off-taker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. For this purpose, Member States shall take into account Union-level instruments. Member States shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria.</p> <p>3. Guarantee schemes for PPAs backed by the Member States shall include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from fossil fuels.</p> <p>4. In the design of the support schemes for electricity from renewable sources, Member States shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the</p>	<p><b>Guarantees of Origin in relation to the quantities produced, whether or not they benefit from public support schemes.</b></p> <p>2. Member States shall ensure that instruments such as guarantee schemes at market prices, to reduce the financial risks associated to off-taker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. For this purpose, Member States shall take into account Union-level instruments. Member States shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria.</p> <p>3. Guarantee schemes for PPAs backed by the Member States shall include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from fossil fuels.</p> <p>4. In the design of the support schemes for electricity from renewable sources, Member States shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the</p>	
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	<p>project's generation from one or several potential buyers that face entry barriers to the PPA market.</p> <p>5. PPAs shall specify the bidding zone of delivery and the responsibility for securing cross-zonal transmission rights in case of a change of bidding zone in accordance with Article 14.</p> <p>6. PPAs shall specify the conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in accordance with Union competition law.</p> <p>Article 19b</p> <p>Direct price support schemes for new investments in generation</p> <p>1. Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of a two-way contract for differences. New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime.</p>	<p>project's generation from one or several potential buyers that face entry barriers to the PPA market.</p> <p>5. <b>Where necessary</b>, PPAs shall specify the bidding zone of delivery and the responsibility for securing cross-zonal transmission rights in case of a change of bidding zone in accordance with Article 14.</p> <p>6. PPAs shall specify the conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in accordance with Union competition law.</p> <p>Article 19b</p> <p>Direct price support schemes for new investments in generation</p> <p>1. <b>For projects wishing to benefit from public support</b>, direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of a two-way contract for differences. New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime.</p>	<p><b>On article 19b – Two-way CfDs:</b></p> <ul style="list-style-type: none"> <li>• It is of utmost importance that the new provisions on two-way CfDs apply only to new generation, as provided in the European Commission proposal.</li> <li>• Further, the future Regulation needs to make sure that investments which are fully market-based (i.e. the ones that have not asked for public subsidies) are not subject to this article.</li> <li>• We also advise the addition of a 4<sup>th</sup> paragraph to ensure that this new method of awarding public support to new generation capacity complies with State aid rules and competition law.</li> </ul>
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	<p>2. Paragraph 1 shall apply to new investments in generation of electricity from the following sources:</p> <ul style="list-style-type: none"> <li>(a) wind energy;</li> <li>(b) solar energy;</li> <li>(c) geothermal energy;</li> <li>(d) hydropower without reservoir;</li> <li>(e) nuclear energy;</li> </ul> <p>3. Direct price support schemes in the form of two-way contracts for difference shall:</p> <ul style="list-style-type: none"> <li>(a) be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);</li> <li>(b) ensure that the distribution of the revenues to final electricity customers is designed so as not to remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers;</li> </ul>	<p>2. Paragraph 1 shall apply to new investments in generation of electricity from the following sources:</p> <ul style="list-style-type: none"> <li>(a) wind energy;</li> <li>(b) solar energy;</li> <li>(c) geothermal energy;</li> <li>(d) hydropower without reservoir;</li> <li>(e) nuclear energy;</li> </ul> <p>3. Direct price support schemes in the form of two-way contracts for difference shall:</p> <ul style="list-style-type: none"> <li>(a) be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);</li> <li>(b) ensure that the distribution of the revenues to final electricity customers is designed so as not to remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers;</li> </ul> <p><b>4. Direct price support scheme shall be voluntary and compliant with State aid rules and competition law.</b></p>	
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	<p>Article 19c</p> <p>Assessment of flexibility needs</p> <p>1. By 1 January 2025 and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3.</p> <p>2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand side response and storage to fulfil this need, both at transmission and distribution levels. The report shall distinguish between seasonal, daily and hourly flexibility needs.</p> <p>3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation of</p>	<p>Article 19c</p> <p>Assessment of flexibility needs</p> <p>1. By 1 January 2025 and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3.</p> <p>2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand side response and storage to fulfil this need, both at transmission and distribution levels, <b>alongside all other types of flexible assets and services.</b> The report shall distinguish between seasonal, daily and hourly flexibility needs. <b>The report shall provide full transparency on data and assumptions used and be consulted with market participants.</b></p> <p>3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation of the</p>	<p><b>On article 19c – Assessment of flexibility needs:</b></p> <ul style="list-style-type: none"> <li>• Such assessments are welcome and can help guide market investments.</li> <li>• The attention to all types of flexibility, including seasonal flexibility is very much welcome.</li> <li>• We propose a few additions to ensure full transparency on data and assumptions used in the reports, as well as secure the consultation of market participants.</li> </ul>
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	<p>the report referred to in paragraph 1 to the regulatory authority.</p> <p>4. The ENTSO for Electricity and the EU DSO entity shall coordinate transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular, they shall:</p> <p>(a) define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities;</p> <p>(b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system;</p> <p>5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.</p> <p>6. By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the</p>	<p>report referred to in paragraph 1 to the regulatory authority.</p> <p>4. The ENTSO for Electricity and the EU DSO entity shall coordinate transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular, they shall:</p> <p>(a) define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities;</p> <p>(b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system;</p> <p><b>(c) consult market participants and ensure transparency.</b></p> <p>5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.</p> <p>6. By 1 March 2024, <b>after consulting market participants</b>, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER</p>	
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	<p>proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.</p> <p>7. The regulatory authorities shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities.</p> <p>Article 19d</p> <p>Indicative national objective for demand side response and storage</p> <p>Based on the report of the regulatory authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand side response and storage. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.</p>	<p>shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.</p> <p>7. The regulatory authorities shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities.</p> <p>Article 19d</p> <p>Indicative national objective for <del>demand side response and storage</del> flexibility</p> <p>Based on the report of the regulatory authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for <del>demand side response and storage</del> flexibility. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.</p>	<p><b>On article 19d – Indicative national objective:</b></p> <ul style="list-style-type: none"> <li>• The European Commission proposal, solely focusing on demand response and storage, seems disconnected from articles 19c, 19e, and 19f, which concern all types of flexible assets and services.</li> <li>• We suggest that the indicative national target referred to in 19d concern all types of flexibilities, and not only demand response and storage.</li> </ul>
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	<p>Article 19e</p> <p>Flexibility support schemes</p> <p>1. Member States which apply a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design of the capacity mechanism.</p> <p>2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with 19d, Member States may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.</p> <p>3. Member States which do not apply a capacity mechanism may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.</p>	<p>Article 19e</p> <p>Flexibility support schemes</p> <p>1. Member States which apply a capacity mechanism in accordance with Article 21 shall <b>fully comply with Chapter IV of this Regulation to ensure</b> <del>consider the promotion of</del> the participation of <b>all flexible assets and services in capacity mechanisms</b> <del>non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design of the capacity mechanism.</del></p> <p>2. Where the measures introduced in accordance with paragraph 1 <del>to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms</del> are insufficient to achieve the flexibility needs identified in accordance with 19d, Member States may apply flexibility support schemes <del>consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage,</del> <b>for all types of assets and services, in line with the assessment made under article 19c.</b></p> <p>3. Member States which do not apply a capacity mechanism may apply flexibility support schemes <del>consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage,</del> <b>for all types of assets and services, in line with the assessment made under article 19c.</b></p>	<p><b>On article 19e – Flexibility support schemes:</b></p> <ul style="list-style-type: none"> <li>• We believe that the primary source of activation and remuneration of flexible assets and services is the electricity market.</li> <li>• As a complement, if well designed and developed in a non-discriminatory manner, capacity mechanisms – just like ancillary services – will participate to the activation and remuneration of the necessary sources of flexibility. Hence, we suggest that paragraph 1 insist on the proper application of the Regulation provision on capacity mechanisms, rather than include flexibility criteria in them.</li> <li>• Further, we question the necessity of dedicated flexibility schemes. However, we propose amendments to ensure that the mechanisms do not pre-emptively pick specific types of flexibility (demand response and storage, as mentioned in the initial draft), but rather leave the mechanism open to any type of flexible assets or services that can match the flexibility needs identified in the reports at article 19c and set as targets according to article 19d.</li> </ul>
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	<p>Article 19f</p> <p>Design principles for flexibility support schemes</p> <p>Flexibility support scheme for non-fossil flexibility such as demand response and storage applied by Member States in accordance with Article 19e(2) and (3) shall:</p> <p>(a) not go beyond what is necessary to address the identified flexibility needs in a cost-effective manner;</p> <p>(b) be limited to new investments in non-fossil flexibility such as demand side response and storage;</p> <p>(c) must not imply starting fossil fuel-based generation located behind the metering point;</p> <p>(d) select capacity providers by means of an open, transparent, competitive, non-discriminatory and cost-effective process;</p> <p>(e) prevent undue distortions to the efficient functioning of the electricity markets including preserving efficient operation incentives and price signals and the exposure to price variation and market risk;</p> <p>(f) provide incentives for the integration in the electricity market in a market-based and market-responsive way, while avoiding unnecessary distortions of electricity markets as well as taking into account possible system integration costs and grid stability;</p>	<p>Article 19f</p> <p>Design principles for flexibility support schemes</p> <p>Flexibility support scheme for non-fossil flexibility such as demand response and storage applied by Member States in accordance with Article 19e(2) and (3) shall:</p> <p>(a) not go beyond what is necessary to address the identified flexibility needs in a cost-effective manner;</p> <p>(b) be limited to new investments in <del>non-fossil flexibility such as demand side response and storage</del> <b>in all types of flexible assets and services;</b></p> <p><del>(c) must not imply starting fossil fuel-based generation located behind the metering point;</del></p> <p>(d) select capacity providers by means of an open, transparent, competitive, non-discriminatory and cost-effective process;</p> <p>(e) <b>be transparent and</b> prevent undue distortions to the efficient functioning of the electricity markets including preserving efficient operation incentives and price signals and the exposure to price variation and market risk;</p> <p>(f) provide incentives for the integration in the electricity market in a market-based and market-responsive way, while avoiding unnecessary distortions of electricity markets as well as taking into account possible system integration costs and grid stability;</p>	<p><b>On article 19f – Design principles for flexibility support schemes:</b></p> <ul style="list-style-type: none"> <li>• Bearing in mind our reservations concerning flexibility schemes, we welcome the introduction in the Regulation of design principles, largely mirroring those of capacity remuneration mechanisms.</li> <li>• We reiterate that, should flexibility schemes be implemented, they be technology neutral as to the type of assets and services that are best suited to fit the flexibility needs, including behind the meter.</li> <li>• We propose one addition to ensure that the schemes are transparent in their functioning.</li> </ul>
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	<p>(g) set out a minimum level of participation in the market in terms of activated energy, which takes into account the technical specificities of storage and demand response;</p> <p>(h) apply appropriate penalties to capacity providers which do not respect the minimum level of participation in the market referred to in point (g), or which do not follow efficient operation incentives and prices signals;</p> <p>(i) be open to cross-border participation.’;</p>	<p>(g) set out a minimum level of participation in the market in terms of activated energy, <del>which takes into account the technical specificities of storage and demand response;</del></p> <p>(h) apply appropriate penalties to capacity providers which do not respect the minimum level of participation in the market referred to in point (g), or which do not follow efficient operation incentives and prices signals;</p> <p>(i) be open to cross-border participation.’;</p>	
Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<b>Article 1(13) (article 59.1 (b) Regulation 2019/943)</b>	<p>(13) in Article 59 (1), point (b) is replaced by the following:</p> <p>“(b), capacity-allocation and congestion-management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling including the possibility of being operated by a single entity, the firmness of allocated cross-zonal capacity, congestion income distribution, the allocation of financial long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging,</p>	<p>(13) in Article 59 (1), point (b) is replaced by the following:</p> <p>“(b), capacity-allocation and congestion-management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling <del>including the possibility of being operated by a single entity</del>, the firmness of allocated cross-zonal capacity, congestion income distribution, the allocation of financial long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging, nomination procedures, and capacity</p>	<p>We do not support the establishment of a single entity for the operation of market coupling.</p> <p>We see the operation of market coupling by a single entity as a threat to the smooth operation of market coupling:</p> <ul style="list-style-type: none"> <li>• Market coupling has operated well for the past 10 years, including 5 as a regulated activity under CACM</li> <li>• Progress has recently been made by TSOs and NEMOs for better inclusion of market participants in decision making (via the Market Coupling Consultative Group)</li> <li>• A single entity would remove market participants’ leverage with NEMOs as direct clients</li> <li>• An additional layer of governance without guarantee of accountability is unlikely to improve MCO functioning, as exemplified by the JAO platform</li> </ul>

	nomination procedures, and capacity allocation and congestion management cost recovery;”;	allocation and congestion management cost recovery;”;	<ul style="list-style-type: none"> <li>We doubt that the single entity solution would improve the decision-making and resource problems</li> </ul> <p>Any reform of MCO governance should be discussed in the context of the review of the CACM Regulation (2015/1222) and not delay the implementation of the CACM Regulation as it currently stands.</p>
Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<b>Article 1(15) (annex I point 1.2 Regulation 2019/943)</b>	(15) in Annex I point 1.2 is replaced by the following: “1.2. Coordinated capacity calculation shall be performed for all allocation timeframes”.	(15) in Annex I point 1.2 is replaced by the following: “1.2 Coordinated capacity calculation shall be performed for the day-ahead and intraday timeframes, <b>and if assessed as providing welfare benefits, in the forward timeframe as well</b> ”.	<p>In principle coordination of capacity calculation is a positive objective. In spot markets, it has proved beneficial. However, coordinated calculation may not be easy and beneficial to implement in the forward timeframe: TSOs have expressed their incapacity to perform coordinated NTC calculation in the forward timeframe</p> <p>Coordinated flow-based calculation and allocation in the forward timeframe poses serious concerns in terms of the efficiency of cross-zonal capacity usage, highlighted repeatedly by TSOs, NEMOs and market participants</p> <p>It is important to ensure that practical – rather than theoretical – benefits in terms of capacity being made available to the market are adequately assessed and weighed against the costs and complexity of processes, in particular with regards to allocation of capacity.</p>
Article	European Commission proposal	Proposed EFET Amendments	Reasoning
<b>Article 2(4) (new article 18a Directive 2019/944)</b>	(4) The following Articles are inserted: [...] “Article 18a Supplier risk management	(4) The following Articles are inserted: [...] “Article 18a Supplier risk management	We welcome that the European Commission’s proposal in terms of supplier risk management draw a clear line between the suppliers’ own commitment towards end-consumers, and their hedging strategies.

	<p>1. National Regulatory Authorities shall ensure that suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets.</p> <p>2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law.</p> <p>3. Member States shall endeavour to ensure the accessibility of hedging products for citizen energy communities and renewable energy communities.”</p>	<p>1. National Regulatory Authorities shall ensure that suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets.</p> <p>2. Supplier hedging strategies may include the use of power purchase agreements <b>or any other instruments available in the forward market. Supplier shall be in charge of their own hedging strategy and the conclusion of hedging contracts.</b> <del>Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law.</del></p> <p>3. Member States shall endeavour to ensure the accessibility of hedging products for citizen energy communities and renewable energy communities.”</p>	<p>However, we suggest avoiding singling out specific types of contracts, let alone making their conclusion mandatory, when seeking to incentivise hedging by retail suppliers. Retail suppliers should be left fully in charge of their hedging strategies, including the choice of contracts and instrument. Mandating a specific type of instrument may make hedging more complex and costly, at the ultimate expense of the end-consumer.</p>
Article	European Commission proposal	Proposed EFET Amendments	Reasoning
Article 2(10)	(10) the following Article 66a is inserted “Article 66a	(10) the following Article 66a is inserted “Article 66a	We welcome this provision in the European Commission proposal, aiming to secure the internal energy market from national intervention in normal times, and provide visibility in exceptional times.

<p><b>(new article 66a Directive 2019/944)</b></p>	<p>Access to affordable energy during an electricity price crisis</p> <p>1. The Commission may by decision declare a regional or Union-wide electricity price crisis, if the following conditions are met:</p> <p>(a) very high prices in wholesale electricity markets at least two and a half times the average price during the previous 5 years which is expected to continue for at least 6 months;</p> <p>(b) sharp increases in electricity retail prices of at least 70% occur which are expected to continue for at least 6 months; and</p> <p>(c) the wider economy is being negatively affected by the increases in electricity prices.</p> <p>2. The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which may be for a period of up to one year.</p> <p>3. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision apply targeted public interventions in price setting for the supply of electricity to small and medium sized enterprises. Such public interventions shall:</p> <p>(a) be limited to at most 70% of the beneficiary's consumption during the same period</p>	<p>Access to affordable energy during an electricity price crisis</p> <p>1. The Commission may by decision declare a regional or Union-wide electricity price crisis, if the following conditions are met:</p> <p>(a) very high prices in wholesale electricity markets at least two and a half times the average price during the previous 5 years which is expected to continue for at least 6 months;</p> <p>(b) sharp increases in electricity retail prices of at least 70% occur which are expected to continue for at least 6 months; and</p> <p>(c) the wider economy is being negatively affected by the increases in electricity prices.</p> <p>2. The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which may be for a period of up to one year.</p> <p>3. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision apply targeted public interventions in price setting for the supply of electricity to small and medium sized enterprises. Such public interventions shall:</p> <p>(a) be limited to at most 70% of the beneficiary's consumption during the same period of the previous year and retain an incentive for demand reduction;</p>	<p>We welcome the centralisation by the European Commission of the decision to declare a regional or Union-wide electricity price crisis, and the clear criteria for this in paragraphs 1, 2 and 3.</p> <p>Regarding the possibility for Member States to set a price of electricity below costs, we warn against such possibility across the board, as it would deter demand response and could send counter-productive investment signals. Hence, we propose: Restricting this measure to vulnerable consumers only, so as to maintain demand response signals for those consumers who are not under threat of energy poverty.</p> <p>Ensuring that this flexibility given to Member States does not affect the internal electricity market by creating an inconsistent application of the crisis measures. We have experienced such inconsistency since the summer of 2021: 439 national measures identified by ACER in 18 months have fragmented the internal electricity market, drastically reduced liquidity in some Member States (making hedging far more expensive, or impossible), and damage investments in new (especially renewable) capacity.</p>
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# POSITION

	<p>of the previous year and retain an incentive for demand reduction;</p> <p>(b) comply with the conditions set out in Article 5(4) and (7);</p> <p>(c) where relevant, comply with the conditions set out in Paragraph 4.</p> <p>4. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision, by way of derogation from Article 5(7), point (c), when applying targeted public interventions in price setting for the supply of electricity pursuant to Article 5(6) or paragraph 3 of this Article, exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled:</p> <p>(a) the price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction;</p> <p>(b) there is no discrimination between suppliers;</p> <p>(c) suppliers are compensated for supplying below cost; and</p> <p>(d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis.</p>	<p>(b) comply with the conditions set out in Article 5(4) and (7);</p> <p>(c) where relevant, comply with the conditions set out in Paragraph 4.</p> <p>4. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision, by way of derogation from Article 5(7), point (c), when applying targeted public interventions in price setting for the supply of electricity pursuant to Article 5(6) or paragraph 3 of this Article, exceptionally and temporarily set a price for the supply of electricity <b>to vulnerable consumers only</b> which is below cost provided that the following conditions are fulfilled:</p> <p>(a) the price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction;</p> <p>(b) there is no discrimination between suppliers;</p> <p>(c) suppliers are compensated for supplying below cost; <del>and</del></p> <p>(d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis; <b>and</b></p> <p><b>(e) measures proposed do not distort the internal electricity market.</b></p>	
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