



European Economic and Social Committee

TEN/535
Internal electricity
market/public intervention

Brussels, 25 March 2014

OPINION

of the

European Economic and Social Committee

on the

**Communication from the Commission on Delivering the internal electricity market
and making the most of public intervention.**

C(2013) 7243 final

Rapporteur: **Mr Coulon**

Co-rapporteur: **Mr Ioniță**

On 5 August 2013, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission on Delivering the internal electricity market and making the most of public intervention
C(2013) 7243 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 March 2014.

At its 497th plenary session, held on 25 and 26 March (meeting of 25 March), the European Economic and Social Committee adopted the following opinion by 135 votes to 1 with 1 abstention.

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1. **Conclusions and recommendations**

- 1.1 The EESC welcomes the new communication aimed at providing Member States with guidance on how to make the most of public intervention. The EESC regards this as an opportunity to recalibrate policies in light of the experience acquired by the Member States and give a new impetus to the process of EU electricity market integration, by focusing more clearly on the benefits to the public (in particular the most vulnerable people) and the eradication of energy poverty in the EU.
- 1.2 The EESC recommends that the terms "public intervention" and "state aid" be clarified. Making the most of public intervention does not mean that intervention or aid should be systematically reduced or expanded, but rather that it should be optimised.
- 1.3 The EESC calls for a more coordinated approach to national and local public intervention across Europe to avoid any risk of it being counter-productive.
- 1.4 It advises the Commission to make sure that the communication's aims do not stand in the way of achieving the 2020 objectives.
- 1.5 A better integrated, deeper and fluid electricity market should benefit producers and consumers (including SMEs, artisans and other small-scale producers). However national borders continue to pose formidable obstacles in terms of regulations, transmission capacity and price structure, etc.
- 1.6 The EESC highlights the urgent need to develop transmission infrastructure and strengthen electricity interconnections.

- 1.7 The EESC supports the idea of "Europeanising" aid schemes for renewables and urges the Commission to do more to facilitate cooperation mechanisms between Member States to promote cross-border aid.
- 1.8 The EESC agrees that support for new technologies should be reconsidered as they mature. It thinks the Commission should provide a clear definition of the term 'mature energy source' - a definition that can develop over time.
- 1.9 The EESC agrees that the internal electricity market is not an end in itself. It must be designed for the benefit of all consumers, in particular those who are most vulnerable. The EESC subscribes to the idea of developing European-level measures to empower users as key players in the European electricity market, so that they become "consumer-actors". It calls on the Commission to step up its action in this respect and come up with measures and initiatives aimed at making the best possible use of public intervention to eradicate energy poverty.
- 1.10 The EESC emphasises that electricity is an essential basic commodity and must be managed as such. For the benefit of the general economy, Member States may insist that electricity producers meet certain public service obligations. Universal access to energy should be at the heart of Europe's energy policy and should be enshrined in the Treaty. In the interests of competition, making the most of public intervention in the energy sector should not result in any reductions in or limitations on public service obligations which Member States have already decided to put in place. The EESC urges the Commission to be especially vigilant on this point and to take measures to provide better safeguards for public service obligations and further strengthen them, irrespective of current austerity constraints.

2. **Introduction**

- 2.1 In 2008 the European Union set itself ambitious climate and energy objectives (3x20). The EESC will be issuing an opinion on the new 2030 climate/energy policy framework published on 22 January 2014. Member States have made progress towards achieving the renewable energy objectives, largely as a result of public intervention.
- 2.2 Moreover, in February 2011 the EU heads of state and government stated that the goal was to complete the internal energy market by 2014. The Commission has since published a number of documents to this end. On 15 November 2012 it published a communication entitled "Making the internal energy market work", with an initial assessment of the internal energy market and an action plan for its completion. The communication was followed by a public hearing on the internal energy market, energy generation capacity adequacy and capacity mechanisms.
- 2.3 On 5 November 2013 the Commission published another communication, "Delivering the internal electricity market and making the most of public intervention", together with five

documents produced by Commission departments containing guidance on capacity mechanisms, support mechanisms for renewable energy sources, cooperation arrangements between Member States in the area of renewables and demand-response solutions.

- 2.4 The Commission notes that the creation of the internal market and the pursuit of climate/energy objectives has given rise to new challenges calling for new forms of public intervention, mostly at national level: hence the drive to develop and support renewable sources of energy and ensure adequate production capacities, etc.
- 2.5 The purpose of the Commission's present communication is to provide Member States with guidance on how to make the most of public intervention, adjust existing intervention measures and design new ones. If public intervention is not well-designed, it could seriously disrupt the market and drive up energy prices for households and businesses alike. The Commission has therefore come up with a list of actions to be taken prior to any public intervention: identifying a specific problem and its cause, demonstrating that the market is unable to solve it; assessing interplay with other energy policy objectives and coordinating the various public policy instruments; evaluating alternative options; minimising impact on electricity systems; keeping intervention costs down; considering the costs to manufacturers and private individuals; monitoring, evaluating and phasing out these measures once the objective has been reached.
- 2.6 According to the Commission, the aim is to gradually build up a European energy market where supply and demand function properly, price signals are in line with the policy goals, players are placed on an equal footing and energy generation is efficient. As technologies mature, they should gradually become subject to market prices, with support measures eventually being terminated. In practice this will mean phasing out feed-in tariffs and moving towards feed-in premiums and other support instruments to encourage producers to respond to market trends. The Commission is also urging Member States to better coordinate their renewable energy strategies in order to reduce consumer costs in terms of energy prices and taxes. Support schemes should be more closely aligned to one another.
- 2.7 The communication, although not legally binding, defines the basic principles that the Commission will apply when evaluating public intervention relating to support schemes for renewables, mechanisms affecting capacity and measures to adjust consumer demand. These principles will therefore have an impact on how European Union rules on state aid are applied and how EU legislation on energy is implemented. The Commission also intends to propose legal instruments to ensure that these principles are implemented in full.

3. **EESC comments**

- 3.1 The EESC has consistently said that it sees the internal energy market as an opportunity and that every step must be taken to ensure that it works to the advantage of industrial and

household consumers, closely involving civil society organisations, so as to prevent and combat energy poverty¹.

Towards a single market: eliminating borders

- 3.2 The EESC has always endorsed the Commission's initiatives aimed at completing the internal market in energy. The EESC also points out that to this end it supports the principle of establishing a European Energy Community (EEC). An EEC would make it possible to strengthen common governance of energy issues in an optimal way by promoting solidarity, cooperation and integration, particularly in matters pertaining to markets and infrastructure.
- 3.3 The internal market cannot exist as long as there are still "national borders" for trading energy, and cross-border capacity should be treated in exactly the same way lines or pipes that do not cross borders. The communication should emphasise that access to cross-border capacity, and not only differences in national regulations, are still a major obstacle to the de facto elimination of barriers in the internal energy market. For example, the generalisation of "entry-exit" pricing and capacity allocation methodology for transmission in all Member States might boost cross-border trade, being preferable to the "point-to-point" model as it creates the incentives for TSOs (transmission system operators) to invest in eliminating power bottlenecks such as they exist across the borders of their service areas. This will benefit all market players, including those in the market in intermittent renewables. The Commission and ACER (Agency for the Cooperation of Energy Regulators), apart from ENTSO-E (European Network of Transmission System Operators for Electricity), must review allocation mechanisms and impose responsibilities on TSOs regarding power exchanges. A review is needed to ensure that there are no potential "artificial bottlenecks" at national borders that may constrain energy flows among Member States. Such "artificial bottlenecks" may arise as a result of national protectionist policies aiming at introducing uniform domestic tariffs, or of potential commercial abuses of national TSOs that shift domestic power bottlenecks to their service area borders. Such rules would encourage TSOs to channel their investments into better cross-border interconnections of the transmission grids.
- 3.4 The EESC insists that stronger electricity interconnections are needed in order to complete the internal energy market. The EESC supports all initiatives to make electricity grids work more smoothly and efficiently, given the advances in the area of renewables; it therefore endorses coordinated initiatives such as Coreso, a fledgling European electricity dispatch service.

Renewables and generation adequacy

- 3.5 Moreover, the EESC has consistently championed increased use of renewable sources of energy². It supports the 2050 road map objectives.

¹ [OJ C 133 of 9.5.2013, pp. 27-29](#); [OJ C 68 of 6.3.2012, pp. 15-20](#); [OJ C 341 of 21.11.2013, pp. 21-26](#).

² [OJ C 77 of 31.3.2009, pp. 43-48](#); [OJ C 44 of 15.2.2013, pp. 133-139](#); [OJ C 229 of 31.7.2012, pp. 126-132](#).

- 3.6 The support arrangements for renewables were put in place at a time when the renewable share of energy was low and the technology in its infancy. Today, the renewables' share of the energy mix has grown considerably and will continue to do so in the long term. The EESC agrees with the Commission that public intervention must be evaluated, with due respect for the subsidiarity principle, in the light of the degree of maturity of energy sources and technologies. The EESC considers, however, that a clear definition of "mature energy source" should be provided by the European Commission and revised in the light of future technological progress. The EESC would also point out that the evaluation and adjustment of support arrangements for renewables should be made in such a way as to ensure that consumers, and particularly the most vulnerable ones, can benefit fully from the European electricity market. The EESC recommends that care be taken to ensure that this adjustment of support does not make it more difficult to achieve the Europe 2020 objectives. The EESC recommends that the Commission pay attention to this aspect when drafting the new Union Guidelines on environmental and energy state aid.
- 3.7 Along the same lines, support for renewables should be phased out for maturing technologies, but also properly coordinated with the development of a functional emissions market. The EESC agrees with the Commission that support for renewables should be flexible, proportionate, regressive and competitive, allowing renewables to increasingly respond to market signals and compete with conventional units. Direct support for renewables should gradually be replaced by a well-functioning ETS (emissions trading system) market, and phased out accordingly.
- 3.8 The EESC welcomes the Commission's initiatives aimed at "Europeanising" support for renewables. The Commission should further facilitate mechanisms for cooperation between Member States in order to promote cross-border support, little used at present. "Europeanisation" of support is also unlikely to become a reality as long as Member States are able to develop individual policies, "free riding" or imposing negative constraints on neighbouring countries (e.g. the support for fast development of renewables in Germany generates loop flows in Poland and the Czech Republic, which means additional electricity costs in these countries for balancing and security of supply). It is easier to tackle such problems now, while the system is still relatively young, rather than later, when path dependency effects become stronger.
- 3.9 One particular concern regarding the integration of renewables is the fact that their production is intermittent, requiring balancing, backup or reserve capacities. The communication highlights the risk that Member State support for backup capacities might in fact support inefficient power plants or subsidise fossil fuels. The problem should be mitigated first by the development of effective intraday, balancing and ancillary markets. If these are indeed effective, and work across borders, and with the right price signals, they might, in the end, regulate the market well enough to eliminate the need for an additional capacity mechanism.

All reserves or capacity remuneration mechanisms must be "market-based, technology-neutral, non-discriminatory and open for cross-border participation"³.

- 3.10 Standards and mechanisms for ensuring generation adequacy currently vary from one Member State to another, as problems with the balance of supply and demand differ between them. Public intervention is necessary to ensure security of supply and build up reserves that are national in character. However, as markets are increasingly interconnected and interdependent, and in order to prevent the co-existence of different, fragmented systems, consultation and cooperation should be encouraged between countries, in particular within the Electricity Coordination Group, and the Commission should look at the feasibility of a market for European generating capacity based on positive experience to date.

Public intervention

- 3.11 The EESC agrees with the Commission that public intervention plays an important role in achieving European energy and climate policy objectives. It believes that making the most of public intervention should not necessarily mean reduction or expansion, but rather optimisation of public efforts. It considers that intervention of this kind ought to play an even greater role in efforts to combat energy poverty, feels that better use should be made of public intervention in this domain and calls on the Commission to put forward proposals and initiatives on these aspects.
- 3.12 It would, however, stress how important it is to take steps to ensure that public intervention at national, regional and local level is consistent across Europe; under certain circumstances such intervention can be counter-productive at European level.
- 3.13 At the same time, the EESC points out that the energy mix is part of national sovereignty, so long as it does not significantly distort competition and it complies with state aid rules. Since such interventions impact on other European countries, the EESC believes that coordination between Member States should be stepped up, particularly in the Electricity Coordination Group, in order to achieve greater consistency at European level.
- 3.14 The EESC points out in this connection that it would be appropriate for the Commission to make a clear distinction between public intervention and state aid.
- 3.15 Public intervention has an impact on electricity costs and prices. The Commission recognises that it is difficult to determine the cost of each energy technology on a comparable basis and thus to evaluate the level of public intervention needed. In a forthcoming opinion, the EESC will be taking a close look at the Commission's 22 January 2014 communication and report on energy prices and costs in Europe. The EESC reiterates its recommendation that the

³ Eurelectric, 17 January 2014.

Commission provide in this report an analysis of energy poverty in the Union and a European strategy and roadmap for combating it.

- 3.16 The larger, deeper and more liquid the electricity market is, the more its stability will be assured and the need will diminish for various forms of ad hoc or temporary public intervention, which are currently creating coordination problems.

Competitiveness

- 3.17 The Commission quite properly pointed out issues such as security of supply or loss of price competitiveness for the EU economy which are not always compatible with the "20-20-20" objectives or with the 2050 targets. Thus, achieving the goals of the climate package increases energy costs for individuals and industry, hampering competitiveness. On the other hand, support for renewables may lead to excessively low wholesale electricity prices and distort investment signals in reserve capacities. The instruments to achieve the "20-20-20" objectives must be properly monitored to ensure that distortions do not outweigh the benefits.
- 3.18 At the same time, the Commission's proposal to promote long-term contracts to build new power plants, to be concluded between electricity producers and future end-consumers in order to ensure competitiveness of energy-intensive industries, raises additional concerns. The Commission recognises that there are risks of foreclosure of markets, and such contracts should be carefully examined to see whether the benefits outweigh the costs or whether in fact they actually hamper competition. In addition, energy-intensive consumers tend to be more interested in conventional fuel plants, which supply energy reliably. Support for these might defeat other EU policies, from support for renewables to compliance with the Industrial Emissions Directive. In extreme situations, it is particularly embarrassing for the decision-maker if the industrial consumer in the end decides to relocate, for whatever reason.

Empowering consumers/combating energy poverty

- 3.19 The EESC fully agrees that the internal electricity market is not an end in itself. The electricity market must benefit everyone, particularly the most vulnerable people. Efforts to complete it are needed because the market is at present too fragmented. This has a negative impact on European consumers' freedom of choice of suppliers and budgets (prices are too high), on the security of energy supply and on efforts to tackle climate change and energy transition. European energy policy should reinforce its efforts to eradicate energy poverty.
- 3.20 Demand-response and energy efficiency offer enormous potential in reducing consumption peaks. They remain under-exploited despite technological progress. The EESC strongly advocates encouraging consumers to be empowered in shaping their energy "life" and to become "consumer-actors". Technologies such as smart meters must genuinely be designed for all consumers, including the most vulnerable, and be fully effective and useful by providing easily understood, transparent information without additional costs, thus facilitating

smart adaptation of energy demand (and ensuring the safety/confidentiality of data). The EESC supports the promotion of research and development in the energy sector (mainly in smart tools and energy storage).

- 3.21 Public intervention is critical also because demand-side response (DSR)/demand-side management (DSM) tend to unduly burden vulnerable consumers. The type of support offered to vulnerable consumers must therefore be adapted to their particular situation and the criteria for eligibility should be fair and predictable.
- 3.22 The EESC considers that DSM/DSR technologies are not in themselves sufficient to adapt and reduce demand. The EESC has advocated stepping up citizens' awareness-raising and empowerment at European level through various initiatives supported by an energy solidarity fund⁴. The EESC supports energy-efficiency improvements in buildings (with professional energy certification) to deal with buildings which "leak" energy and to gradually phase out the practice of selling or renting out such buildings.
- 3.23 European energy consumers are among the most dissatisfied with the market. Major issues that must be addressed on the consumers' side to support the development of a well-functioning energy market include: access to energy; objective, reliable information on offers, including independent comparisons; transparency in contractual terms; protection against misleading and aggressive marketing practices; a single point of contact for information; understandable consumer information; effective implementation of the Energy Efficiency Directive; ease of switching; effective means of redress in the event of justified complaints⁵ and measures to fight energy poverty. Independent monitoring of energy markets is also critical to ensure fair competition and to benefit the consumer. Progress on these dimensions may garner wider social and political support for EU energy policies.
- 3.24 The EESC supports local production of renewable energy by consumers ("prosumers"⁶). This phenomenon is developing rapidly in many countries, particularly Germany and the UK. This is crucial for the energy balance in Europe, a cheaper energy supply and the reduction of CO₂ emissions. The prosumers' role in the energy market is linked to the fight against energy poverty. Thanks to smart grids and smart meters, a prosumer can provide an exchange of energy services generated by a small power plant. By the end of 2020 in the UK there will be approximately 8 million installations of this type producing about 40 GW of electricity. The number of people employed will exceed 100 000. Prosumers should receive public support for the removal of legislative obstacles and financial/operational support in the form of assembly and maintenance services, in particular in the investment field. Effective regulation

4 [OJ C 341 of 21.11.2013, pp. 21-26.](#)

5 *Consumer rights in electricity and gas markets* – BEUC position paper, December 2013.

6 Prosumers are small, independent producers of electricity generated most often in small backyard installations (e.g. small wind turbines, solar panels and heat recovery using heat pumps, etc.). The defining characteristic of prosumers is that their production can be for their own use or for selling into the larger network.

must also be in place, however, to ensure that prosumers are properly accountable for any imbalances they may generate when they supply energy to the system, and to create market-based instruments and pricing mechanisms that incentivise them to reduce such imbalances.

- 3.25 Electricity is not a commodity like any other. It is an essential basic commodity and must be managed as such. For the benefit of the general economy, Member States may insist that electricity producers meet certain public service obligations. The EESC has repeatedly called for universal access to energy to be included among the goals of the EU's energy policy and to be enshrined in the Treaty. The EESC therefore stresses that care must be taken to ensure that, where they have been put in place under the terms of Directive 2009/72/EC, public service obligations relating to the general interest (in particular security, access to energy and to affordable energy, regularity, quality and price of electricity, as well as environmental protection, including energy efficiency and climate protection, as defined in Articles 3(2) and 3(3) of the directive) are not watered down in the process of rationalising public intervention, in accordance with the principle of competition. The EESC calls upon the Commission to exercise maximum vigilance here, and requests that it report annually on this essential aspect, including not only a more specific, detailed evaluation of Member States' compliance with public service obligations in its annual report on the internal market, but also specific initiatives so that these obligations are better safeguarded - and even strengthened - at European level.

Governance

- 3.26 Transparency and integrity in wholesale energy trading are in the end crucial for the protection of everyone's interests to avoid overcharging final consumers and support good governance of energy companies, whether these companies are state-owned or private. The Commission should evaluate the implementation of the REMIT Regulation and propose solutions if necessary. Transparency in wholesale trading would allow fast detection of issues such as market abuse or anti-competitive behaviour and support the intervention of competition authorities.

Brussels, 25 March 2014

The President
of the European Economic and Social Committee

Henri Malosse
