

## Update – Priorities ahead of the Trilogue Meeting on 13th November 2018 on the Market Design Regulation

### Balancing responsibility (Regulation, article 4 §2)

The Electricity Market Design Regulation should take into account the specificities of small-scale renewables installations and the different market structure in these segments. Such applications are usually more complex as they are implemented in a building related environment and have to fulfill special construction requirements which are increasing the costs of the installations. Moreover the investors are often not specialized in energy related issues and need clear, coherent and non-bureaucratic regulation following the EU principles of good governance. This in turn will reduce efforts for national authorities and administrations. Hence, there should be exemptions from balancing responsibility for installations with an installed capacity of less than 500 kW.

For biomass plants the assessment basis should not be the installed electric capacity, but the average electric capacity, so as not to discriminate against biogas plants that operate flexibly nor against those with bio methane upgrading. In general, there should be a clear signal to existing renewable system owners that they will not face any retroactive changes in respect to balancing responsibility. Should Member States decide to incentivize existing installations to take on balancing responsibility this should include compensations for additional costs.

- *Recommendation: Support threshold of 500 kW in Commission proposal for article 4 §2 (b) and add extra reference for biomass plants. Support first sentence of GA proposal for article 4 §2 (c) and add reference to appropriate compensation.*

### Priority dispatch (Regulation, article 11 §2)

Investment security and calculated incomes from renewable energy installations are of great importance for the deployment and financing of renewable energy technologies. Priority dispatch minimizes risks for investors. This is even more relevant when non-institutional – sometimes not energy-related – private actors are planning to invest in renewables. These actors are taking possible risks even more into account. Therefore, priority dispatch must be maintained for installations with an installed capacity of less than 500 kW, if the market does not fulfil certain conditions in terms of market liquidity, competitiveness and fair access to aggregation and balancing services. For renewable energy communities Member States should be able to decide to apply higher thresholds, as market structures may differ nationally. For biomass plants the assessment basis should not be the installed electric capacity, but the average electric capacity, so as not to discriminate against biogas plants that operate flexibly nor against those with bio methane upgrading. Generally, it is crucial for investment security and investor confidence that the grandfathering principle is preserved for all existing installations. In this context a tolerance band of 20% should be allowed for modifications in the form of generation capacity<sup>1</sup> increases.

- *Recommendation: Support threshold of 500 kW in EP amendment 51 and support EP amendment 52. Add extra reference for biomass plants. Support first sentence of GA proposal*

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<sup>1</sup> It is assumed that „generation capacity“ refers to the installed capacity.

*for article 11 §4 and add “by more than 20% of the total system capacity and results in an increase of the average electric capacity”*

#### Access to balancing markets for renewable energies (Regulation, article 5 § 10)

Electricity generators should be incentivized to respond actively to the system balance state in very close to real time operation. To set a clear point of time can help to further progress in heading for this – in some countries ambitious – timeframe.

- *Recommendation: Support EP amendment 39 and support reference to a disclosure time of “not later than 30 minutes after real-time” in GA proposal for article 5 §10*

#### Transparency and rule of last curtailment for renewable energies (Regulation, article 12 §3, §5)

The rule of last curtailment for renewable energies must be consistently applied, to ensure the highest possible CO<sub>2</sub>-neutral penetration in the electricity mix. Deviations must be well justified and documented. Any curtailment or negative redispatch of renewables has to demonstrably reduce macroeconomic costs, based on a holistic assessment of the effects on the overall system including climate effects. They should not lead to an increase in CO<sub>2</sub>-emissions. Transparent, comprehensive procedures for curtailment and negative redispatch with the obligation on part of grid operators for verification of volumes, costs and rationale for redispatch (positive and negative) and curtailment measures per technologies are essential. This includes especially that grid operators provide verification which is comprehensible for third-party experts without further information and without request. Possible “must-run”-arrangements for technical network-related reasons must be disclosed and kept at an absolute minimum.

- *Recommendation: support EP amendments 59 and 56. And add “upward redispatching” to amendment 56-3-b.*

#### Compensation of curtailed renewable energy plants (Regulation, article 12 §4, §6)

The text introduces as a tool in grid planning the possibility for grid operators to take into account limited curtailment of up to 5% of either the renewables capacity installed or of the annual generated electricity from renewables installations in their area. In Germany a threshold of up to 3% of the annual generated electricity from renewables installations is used for more efficient grid planning, following the concept of not extending the grid to the last produced kWh, and for a steady feed-in. To enable a better utilisation of existing grid capacity, annual generation should be the reference value instead of installed capacity. However, this is under the precondition that financial disadvantages for the respective renewable energy plants must be excluded and a full compensation provided whenever financial losses incurred by curtailment exceed 1% of their annual revenues.

- *Recommendation: support the reference to “annual generated electricity in installations” in the GA proposal for article 12 §4 (a) and reject “except in the case of generators accepting connection agreement in which firm delivery of energy is not guaranteed” in GA proposal for article 12 §6*

### CRMs (Regulation, article 18 §6, article 23)

Generally, the introduction of CRMs must be avoided. CRMs should be a temporary last resort option and made conditional to strict rules. Before CRMs are introduced, attempts should be made to address possible adequacy concerns through other measures e.g. to reduce the annual peak load by including flexible consumers. The design of CRMs should be reviewed at least every 5 years, and phased out immediately if the latest adequacy assessment demonstrates that the risk for security of supply no longer exists. An ambitious Emissions Performance Standard must be applied for eligible power plants to participate in capacity mechanisms other than a strategic reserve.

- *Recommendation: support EP amendments 97-6*

## General remarks

### Market-based redispatch (Regulation, article 12 § 1)

The introduction of the concept of mandatory market-based mechanisms for curtailment or redispatch raises many questions in terms of implementation, such as what is to be considered as market-based process. Generally, it should be noted that, while it is desirable that decentralized flexibilities receive price signals from the market and the grid, renewable energy plant operators should not be incentivized to optimize production towards curtailment/negative redispatch, while inflexible conventional generation continues production and feed-in. In any case, risks of strategic bidding should be avoided.

### Allocation of cross-border grid capacities (Regulation, article 11 § 5, article 14 § 7)

In order to further integrate the EU internal energy market, it is generally desirable to increase the availability of interconnectors for cross-border electricity and to ensure that adequate infrastructure exists. However, it should be noted that an increase of interconnector availability for electricity trades would very likely translate into increased physical flows via Germany. Due to the already strained grid situation, this will at least until the grid expansion within Germany has progressed, come at the cost of increased curtailment/negative redispatch of renewable energy generation, which should be avoided. Generally, due to geography Germany has a unique position as a central transit state within the EU also in terms of energy transport. As such there is naturally a higher “traffic load” than it might be the case in other regions and there should be room to manoeuvre for transmissions system operators to respond to grid requirements to ensure system stability.

Due to costs of grid expansion and the high degree of simultaneity of renewable energy, all grid restrictions cannot be solved permanently only by network expansion. Therefore, an increase of interconnector availability must also be flanked by a market for additional demand. This could be achieved, for example, by including additional loads in the redispatch processes.

## ANNEX

GA – General approach      AM – EP amendment

### Commission proposal – article 4 § 2 (b)

*(b) generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 500 kW;*

*(b)(i) gaseous biomass fuel plants with an average electric capacity of less than 500 kW*

### GA – article 4 §2 (c)

*(c) Without prejudice to contracts concluded before [entry into force of the legislation], and installations benefitting from support approved by the Commission under Union State aid rules pursuant to Articles 107 to 109 TFEU, and commissioned prior to [OP: entry into force]. Member States may, [ ] without prejudice to Articles 107 and 108 TFEU, incentivise market participants which are fully or partly exempted from balancing responsibility to accept full balancing responsibility ~~+~~ against appropriate compensation.*

### AM 51

*(a) generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 500 kW; [ ]*

*(a)(i) gaseous biomass fuel plants with an average electric capacity of less than 500 kW*

### AM 52

*(b) generating installations which are demonstration projects for innovative technologies; Member States may apply higher limits to local energy communities as established in the Directive (EU) ... [recast of Directive 2009/72/EC as proposed by COM(2016) 864/2].*

### GA – article 11 §4

*4. [ ] Without prejudice to contracts concluded before [entry into force of the legislation], power generating facility using renewable energy sources or high-efficiency cogeneration which have been commissioned prior to [OP: entry into force] and have, when commissioned, been subject to priority dispatch under Article 15(5) of Directive 2012/27/EU of the European Parliament and of the Council or Article 16(2) of Directive 2009/28/EC of the European Parliament and of the Council shall [ ] continue to benefit from priority dispatch. Priority dispatch shall no longer be applicable from the date where the [ ] power generating facility is subject to significant modifications, which shall be the case at least where a new connection agreement is required or the generation capacity is increased by more than 20% of the total system capacity and results in an increase of the average electric capacity.*

### AM 39

*10. Transmission system operators or third parties to whom these responsibilities have been delegated by the relevant transmission system operator, Member State or regulatory authority*

shall publish close to real-time information on the current balancing state of their control areas, the **estimated** imbalance price and the **estimated** balancing energy price.

#### GA – article 5 §10

10. Transmission system operators shall publish, [ ] **as soon as possible but not later than 30 minutes after real-time, the information on the current [ ] system balance of their [ ] scheduling areas [ ] and the estimated [ ] balancing energy prices. To the extent that responsibility for provision of this information has been assigned or delegated to a third party, in accordance with the Balancing Guideline adopted on the basis of Article 18 of the Regulation 714/2009 Article, those parties will be responsible for meeting the requirements of this Article.**

#### AM 56

3. The responsible system operators shall report at least once per year to the competent regulatory authority, **which shall be transmitted to the Agency, on:**

- (a) the level of development and effectiveness of market-based curtailment or redispatching mechanisms for generation and demand facilities;**
- (b) the reasons, volumes in MWh and type of generation source subject to curtailment or downward redispatching and upward redispatching;**
- (c) the measures taken to reduce the need for the curtailment or downward redispatching of generating installations using renewable energy sources or high-efficiency cogeneration in the future including investments in digitalisation of the grid infrastructure and in services that increase flexibility;**
- (d) requests and contractual arrangements made with generating units for them to operate at a certain level of electricity infeed, the necessity of which the system operators shall justify,, specifying to what extent those services could not be provided by other units. The competent regulatory authority shall publish the data referred to in paragraphs (a) to (d) together with recommendations for improvement where necessary. Curtailment or redispatching of generating installations using renewable energy sources or high-efficiency cogeneration shall be subject to compensation pursuant to paragraph 6.**

#### AM 59

(a) generating installations using renewable energy sources shall only be subject to downward redispatching or curtailment if no other alternative exists or if other solutions would result in **significantly disproportionate costs or significant risks to network security;**

#### GA – article 12 §4 (a)

(a) **guarantee the capability of transmission and distribution networks to transmit electricity produced from renewable energy sources or high-efficiency cogeneration with minimum possible [ ] redispatching. That shall not prevent network planning from taking into account limited [ ] redispatching where this is shown to be more economically efficient and, [ ] does not exceed 5 % of [ ] the annual generated electricity in installations using renewable energy sources [ ] and which are directly connected to their respective grid, unless otherwise provided by a Member State in which electricity from power generating facility using renewable energy sources or high-efficiency cogeneration represents more than 50 % of annual gross final consumption of electricity;**

**GA – article 12 §6**

6. Where non-market based [ ] redispatching is used, it shall be subject to financial compensation by the system operator requesting the [ ] redispatching to the [ ] operator of the [ ] redispatched generation or demand facility **except in the case of generators accepting connection agreement in which firm delivery of energy is not guaranteed**. Financial compensation at least be equal to the highest of the following elements or a combination of them if applying one of the elements would lead to an unjustifiably low or unjustifiably high compensation:

**AM 97**

6. Capacity mechanisms shall be temporary. They shall be approved by the Commission for no longer than five years. They shall be phased out or the amount of the committed capacities shall be reduced based on the implementation plan pursuant to Article 18(3). Member States shall continue the application of the implementation plan after the introduction of the capacity mechanism.