

NORDREG RESPONSE TO THE EUROPEAN COMMISSION'S CONSULTATION ON A PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATIONS (EU) 2019/943 AND (EU) 2019/942 AS WELL AS DIRECTIVES (EU) 2018/2001 AND (EU) 2019/944 TO IMPROVE THE UNION'S ELECTRICITY MARKET DESIGN

NordREG would like to thank the European Commission for the opportunity to present our views on the proposal for a regulation of the European Parliament and of the Council amending among others the electricity regulation and electricity directive.

NordREG is a cooperative initiative between Nordic energy regulators. NordREG's work is linked to the integration of the Nordic electricity market and the efficient handling and implementation of EU-regulation in the Nordic Region. NordREG also undertakes other common initiatives to improve the functioning of the Nordic electricity market.

In general, NordREG is of the opinion that the short-term markets are functioning well and the current pan-European electricity market has generated substantial benefits over time. In this regard, NordREG finds that the Commission addresses important issues in its proposal. However, NordREG believes reshaping the electricity market design should be based on an impact assessment. The electricity markets are a complicated system with high interdependence between various segments that together constitute our current market design. By removing or adding functions to this complex system, one risks prompting unexpected chain reactions with unknown consequences. NordREG finds, a staff working paper is not sufficient given the extent of proposed changes to the electricity market design.

In this response, NordREG highlights a number of considerations following the publication of the Commission proposal for the future electricity market design.

THE FUNCTIONING OF THE SHORT-TERM MARKETS

PEAK SHAVING PRODUCTS AND ITS EFFECT ON THE SHORT-TERM MARKETS

The European Commission suggests introducing a peak shaving product aiming at reducing and shifting the electricity consumption.

NordREG questions the compatibility of separate peak shaving products with the current short-term market design and rules concerning the TSOs.

Moreover, NordREG finds it unclear for which purpose these products would be procured. The peak shaving product does not reduce electricity prices for most consumers in case of scarcity as 90% of electricity is bought in the day ahead market. Peak shaving products are activated, based on the day ahead market results. Therefore, the end consumer prices are locked in already when the product is activated. Hence, peak shaving does not shift electricity consumption to off peak hours nor reduce consumption for most consumers. Also, classifying

these products as ancillary service is also questionable because the operational security of the system is not endangered without this peak shaving.

Therefore, NordREG finds that peak shaving as proposed by the Commission is not needed in the electricity market design.

HEDGING

FORWARD MARKET

NordREG believes that functional forward markets are key in enhancing the stability and predictability of the cost of energy across EU. In this sense, NordREG commends the Commission for its efforts to improving the forward markets. However, NordREG has the view that the needed changes to the existing forward markets would benefit from further investigation with an impact assessment taking into account different starting points for the Member states since there already exist various cross-border products offered in EU.

ALTERNATIVE MEANS OF HEDGING

Competitive financial markets provide transparent price signals, which are pivotal in addressing the current challenges in the market. Efficient price formation in the financial markets may be threatened by actively supporting competing hedging products not traded in the exchange, such as bilateral PPAs. In principle, NordREG is sceptical towards actively promoting bilateral hedging and believes that the proposed measures should, instead, support the liquidity of the established financial instruments.

HEDGING REQUIREMENTS FOR SUPPLIERS

NordREG does not support a requirement for regulators ensuring mandatory hedging strategies of suppliers. The need for such requirement is clearly linked with existing national conditions on the market. In developed markets, it is more important that effective supplier switching regimes are in place, enabling un-interrupted supply for a period of time in case of suppliers' financial failures and defaults. Mandatory hedging strategies would unnecessarily regulate the markets where it is not needed, bring unnecessary costs and administrative burden which does not bring any benefits for customers but mere costs due to hindered competition.

SUPPORT SCHEMES

TWO-WAY CONTRACTS FOR DIFFERENCE

NordREG recognises the objective of providing secure and stable revenues for investments in large scale renewable developments and other fossil free power generation, whilst at the same time avoiding windfall profits in periods of high prices - to the benefits of consumers.

NordREG believes that any support schemes should be designed in a way that it:

- 1) Avoids distortions to the short term markets, e.g. by limiting the pay-out in periods with low or negative market prices
- 2) Minimises possible negative impact on the liquidity of forward markets
- 3) Keeps incentives for optimal dispatch intact
- 4) Provides incentives for the demand side to adapt to the price signal.

CONGESTION INCOME COMPENSATING OFFSHORE-WIND

NordREG is very critical towards the transmission access guarantee (TAG) proposed by the Commission.

NordREG believes that congestion income should be used for the purpose of reducing congestion and not for subsidizing generation. Giving a guarantee in this way would be a subsidy available only to a single technology (offshore wind) which is not available to other sources of renewable energy, including onshore generators, which cannot be guaranteed access to larger markets. All other technologies are only guaranteed 70% available capacity, which does not apply during cable outages nor in the instances, where a derogation has been given. Thus, TAG discriminates all other technologies, including onshore generators.

While NordREG recognizes the aim of the transmission access guarantee, NordREG believes the same objective can be achieved through other means, without diverting congestion income away from priority use and reducing congestion.

OBJECTIVE, ASSESSMENT AND SUPPORT SCHEMES FOR DEMAND SIDE RESPONSE AND STORAGE

In general, NordREG views that well-functioning markets for electricity and market-based procurement of ancillary services and congestion management, in principle, will ensure that the value of flexible resources is reflected on the market, and if so, they will also imply an optimal volume of demand response and storage. Therefore, flexibility objectives, especially quantitative, should be avoided, as they are very unlikely to be set at the optimal level. In this respect, NordREG proposes deleting article 19(d)-(f) and thus, also deleting article 19(c). NordREG considers the proposed flexibility assessment can become an unnecessary administrative burden in a situation where limited market participation from flexible resources is addressed in other ways than through a support scheme for flexibility.

In well-functioning markets, support for demand response and storage should not be necessary. If support schemes for demand response and storage are introduced on well-functioning markets, they are likely to be distortive.

If markets are not functioning well, the reasons for the dysfunction should be targeted. For instance, if barriers to entry are an issue, this should be addressed by market opening, not support. NordREG believes that support schemes should not be used as an alternative for the improvement of market functioning.

It is important to keep in mind that support in line with state-aid rules is already possible, and also addressed in the governance regulation.

As described above NordREG sees no need for a quantitative objective on demand response and storage. However, if an indicative objective and subsequent support schemes are implemented on a voluntary basis, a flexibility assessment is relevant. If an assessment is to be made the administrative burden should be minimized. In this regard, NordREG emphasizes that ACER is already gathering extensive data on flexibility from NRAs through annual questionnaires and other reporting.

We also want to stress the importance of being careful when defining flexibility in article 2 (80). Deleting article 19(c)-(f) would open up for the option to exclude a definition of flexibility. Flexibility is already used as a word in the current EMD which has been implemented in many MS. Flexibility occurs for example in the contexts of *flexibility services*, the *use of flexibility* and *demand flexibility* and our interpretation is that the meaning of flexibility here is not fully in line with the suggested definition, but rather refers to the ability of a resource than the ability of the system. Since the word flexibility is today used in various contexts and can be used both to describe the properties of a resource, the behavior of a household, a property of an electricity system, etc., it is important to be mindful when making a firm definition.

ENERGY SHARING

NordREG appreciates and supports the wish to empower small end consumers and to enable them to become active customers. Energy sharing, if enabled in an efficient way, could be one possible way to achieve this. However, NordREG sees a number of technical obstacles and potential adverse effects with the proposed provisions for energy sharing.

First of all, it remains unclear to NordREG how the positive effects will be enabled in practice and whether customers will only be able to net production and demand taking place in the same time period or also across different time periods. NordREG would like to point out that the value of electricity differs significantly between different time periods. In this regard, NordREG finds that article 15a(d) is not sufficiently clear and leaves room for different interpretations. In addition, it may also be necessary to specify in articles 2(10a), 15a(a) and/or 15a(d) that only the economic value of electricity may be shared, not energy volumes.

Secondly, NordREG is concerned that the proposal may trigger substantial and costly changes to the metering value chain (e.g. datahubs) to be able to net electricity across metering points whilst maintaining the same level of applicable taxes, levies and network charges. In this regard, NordREG wants to point out that these technical changes need to be implemented before any energy sharing can take place. Otherwise, there is a risk of cross-subsidization from ordinary end consumers towards prosumers (by the latter not paying relevant taxes, levies and network charges). A situation where costs are not divided fairly and objectively is not acceptable, particularly from an energy poverty point of view.

Moreover, NordREG is wondering whether the proposal may lead to inconsistencies as regards to the balance responsibility of market participants when electricity is netted between

two different metering points that have two different balance responsible parties (BRPs). In such a scenario, one BRP may be left with paying for imbalances caused by the actions of the netting BRP and thus would be in breach with the “polluter-pays” principle.

NordREG is happy to provide clarifications and more in-depth explanations to the points above.

Kind regards,
NordREG Board

