

The Sprint is over: Like hastily done homework, Europe's Electricity Market Design has lost the plot

Energy Sharing has been clarified as an activity, but creates more questions than answers for energy communities

Brussels, 14 December 2023 - Last night, the European Parliament and the Council reached a deal on the Electricity Market Design. The package includes revisions to the Electricity Directive, the Electricity Regulation, and the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT). The changes are intended to address immediate impacts of Europe's ongoing energy price crisis with a view towards more structural long-term market reform to diversify away from fossil fuels. Among the issues agreed to were increasing access to power purchase agreements (PPAs) for smaller actors, clarification of rules for energy sharing, system operator duties for grid connections, promotion of flexibility, hedging obligations for suppliers, and moving towards two-way contracts for difference (CfDs) when providing public funding to help remunerate renewable energy production.

The good

Importantly for energy communities and active consumers, rules around energy sharing are now clarified. There is an established definition, a set of rights and obligations for actors that want to share energy with each other, measures to ensure that energy poor and vulnerable households can access energy sharing schemes and more clear duties around what system operators need to do to facilitate energy sharing. **Now that there will be clearer rules around how to facilitate the activity, this should provide legal clarity in order to further develop the activity, which many energy communities are interested in undertaking.**

The bad

First, the circumstances of this legislative process were not ideal. The Commission drafted its proposal very rapidly, the European Parliament and Council were pushed to negotiate their positions within several months, and the Trilogues only started at the end of October. This has led to a hasty Trilogue negotiation process, and it shows in many of the odd compromises that will have to be deciphered at the national level. This will create almost as many questions as answers provided by this new legislation.

For instance, on energy sharing, the compromise allows Member States to establish their own perimeters for energy sharing, while also giving them discretion to allow larger enterprises to share energy. While we wait to see the final text, it seems that guidance or safeguards for how this should be done are missing. **This could result in challenges in getting grid access, and further restrictions and/or discrimination of energy communities and other local initiatives that want to share energy.** The compromise also establishes several arbitrary thresholds on the installed production capacity that can be used to share energy, and even to use a service provider. Finally, **the compromise is unclear about which obligations apply to energy sharing initiatives, creating a risk that energy sharing is regulated as traditional supply, which would kill the business model.**

Furthermore, the compromise largely fails to protect energy communities, who have a right to engage in energy sharing, from increasing penetration of commercial market actors. The compromise merely contains a requirement for the Commission to issue guidance on how to maintain a level playing field for energy communities in energy sharing. Meanwhile, **provisions on two-way CfDs and hedging obligations only vaguely mention energy communities and do little to mitigate the risks of imposing such obligations on energy communities that act as a retail supplier for their members.**

The ugly

The inclusion of nuclear in the article on State support through CfDs and continuation of the support for coal-fired power plants will considerably delay Europe's energy transition. Such topics monopolised the discussion for the duration of the negotiations, leaving little space for the proper evaluation of other provisions, including energy sharing.

Dirk Vansintjan, President of REScoop.eu explains: *"We welcome clarification from the EU about what is expected from Member States to enable energy sharing, but the compromise agreed last night just made it harder for energy communities to emerge."* Continuing, he says, *"As it stands, the Electricity Market Design is not finished - there is still a need to make EU rules more coherent with providing a level playing field for energy communities and a more decentralised energy system"*.

While the final legislation has been agreed, several minor details still need to be ironed out through technical meetings. Then the agreement will be finalised and it will be presented for a vote within the European Parliament and the Council.

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