

The Electricity Market Design trilogues: ensuring a more decentralized and democratic internal energy market

Introduction

The Clean Energy for all Europeans Package (CEP) represented an unprecedented acknowledgment by the European Union (EU) that consumer empowerment and citizen participation are indispensable for a successful energy transition. Since then, the creation and implementation of enabling frameworks for Renewable Energy Communities (RECs) and Citizen Energy Communities (CECs) has remained elusive in many Member States. And yet, the energy crisis has only further driven interest by citizens and local communities to take ownership and become active. If the energy crisis has shown anything, it is that energy communities have a large role to play in building up local renewable energy production and ending Europe's reliance on imported fossil energy.

The Electricity Market Design (EMD) reform proposed by the EU Commission (Commission) represents a pivotal opportunity to clarify and improve upon the new concepts that originated in the CEP, particularly energy sharing, and to make the internal energy market (IEM) more accessible to the EU's citizens. However, significant questions remain about whether the resulting EMD will prioritise the right approach towards building the foundations of decentralised energy markets, and ensuring consistency with the EU's original vision of putting citizens at the core of the energy system where they can take ownership of the energy transition.¹

In particular, there is significant room, and therefore risk, for utilities and investors - the very ones that have been pushing up wholesale market energy prices since post-covid -

¹ Commission (EU) 2015. A framework strategy for a resilient energy union with a forward-looking climate change policy. COM(2015) 080 final.

to creep in and dominate the development of decentralised energy markets. As the EU finalises the foundations of decentralised energy markets in the EMD, the EU institutions should ensure that clear rules are put in place to ensure that smaller, less-professionalised and non-commercial market actors (local authorities, non-profit, social economic enterprises) are not simply pushed out by larger for-profit energy companies. Otherwise, the EMD could make it harder for citizens, small and medium enterprises (SMEs), local authorities and energy communities to be meaningful participants in the energy transition. This would go against the aims of the CEP and the European Green Deal, and ultimately the original goal of the Energy Union.

Key recommendations for the Trilogues on the Electricity Market Design

The EMD needs to clarify and improve the EU rules by which active customers and energy communities are able to operate in specific segments of the IEM, including production, retail supply and energy sharing. In order to deliver a more democratic energy market based on the EU legal principle of equal treatment, the Trilogues between the European Parliament (Parliament) and the Council should ensure that:

In the Electricity Regulation:

1. The Parliament's proposal to ensure a level playing field for energy communities is recognised as an underlying objective of the EU's internal electricity market is accepted by the Council (Article 3);
2. The Parliament's proposals to strengthen provisions on PPAs that require Member States to support energy communities, SMEs and local authorities to enter into PPAs, including through instruments such as State-backed guarantees, are accepted by the Council (Article 19a);
3. Provisions on contracts for difference (CfDs) are further clarified by the Parliament and the Council so that they do not undermine energy communities' ability to access national support, particularly those that supply and use their own production to meet their members' consumption needs (Article 19b); and
4. The European Parliaments' proposals to strengthen duties of TSOs and DSOs, to publish and provide transparency on available grid capacity and treatment of connection requests, and to cooperate in doing so, are accepted by the Council (Articles 50 and 57).

In the Electricity Directive:²

1. The Parliament's proposal to clarify the Commission's proposed definition of energy sharing should be accepted by the Council (Article 2);
2. The Parliament's proposed amendments on actors that have the right to participate in energy sharing should be clarified so that this right is exclusively granted to households, SMEs and public bodies - not large enterprises;
3. Energy sharing promotes optimisation of consumption close to renewables production (i.e. a decentralised approach):
 - a. The Parliament's proposal to limit the geographical area should be clarified so that Member States are allowed to limit energy sharing in line with their own characteristics such as grid topography and political organisation at different levels;
 - b. Decentralised production close to consumption is incentivised through components in the network tariff that acknowledge reduced use of the grid;
4. The provision of energy sharing-related services by third parties are subject to the following safeguards and consumer protections:
 - a. Third party ownership should be regulated on a non-profit basis, and limited non-profit organisations, energy communities and local authorities;
 - b. Active customers who share energy should maintain ownership and decision making rights over the price of shared production, regardless of whether third party ownership is allowed;
 - c. Active customers should be able to choose who they appoint as an organiser;
 - d. Third party service providers should remain subject to the direction of active customers engaging in energy sharing;
 - e. Active customers that use a third party service provider to facilitate energy sharing, including organisation, leasing and/or management of production facilities or demand management equipment, should benefit from all consumer rights, including the right to switch; and
 - f. voluntary template contracts should apply to organisation, leasing, management by third parties, grid connection agreements with the DSO, and should be developed and overseen by the national regulator;

²Unless otherwise stated, all amendments pertain to Article 15a of the Electricity Directive.

5. Active customers enjoy the following rights and proportionate obligations:
 - a. A right for active customers involved in energy sharing should not to be subjected to supplier obligations;
 - b. A right to enter into an energy sharing agreement and to have multiple metering and billing points should be accepted by the Council (Article 4);
 - c. A right not to be subjected to discriminatory treatment or charges by other market actors;
 - d. A right to participate in different markets;

6. System operators have clearer duties and requirements around facilitating energy sharing including:
 - a. A duty to take specificities of energy communities into consideration when designing their grid connection procedures (Article 31), supported by a requirement for the Commission to adopt further guidance on ensuring a level playing field for energy communities;
 - b. A duty to calculate (correct and allocate) metering data for shared energy so it can be separated from residual electricity that needs to be provided by the traditional retail supplier;
 - c. A duty to put in place appropriate IT infrastructure to operationalise energy sharing within one year; and
 - d. Provide the possibility for active customers to choose between adopting a dynamic sharing co-efficient or a static co-efficient developed by the system operator;

7. Energy poor and vulnerable households are able to benefit from energy sharing arrangements, particularly those driven by local authorities; and

8. Energy communities that engage in retail supply are able to meet hedging requirements in a flexible manner that is consistent with their inherent characteristics as non-commercial market actors whose main aim is supply and use their own production to meet their members' consumption needs at the lowest possible cost (Article 18a).

Electricity Regulation

1. A level playing field for energy communities as an objective of the internal electricity market

The IEM should be anchored in a principle of ensuring that citizens, public authorities and SMEs are able to take up local ownership of production and supply of renewable energy through energy communities. This will provide a strong legal basis that so that national decision makers and system operators can provide energy communities have a level playing field when trying to access local sites, including publicly owned sites, for the installation of renewable energy production, available grid connection and access capacity, and when entering and participating in retail supply of electricity.

Aspects to be supported

While the Commission neglected to include any proposals on this in its legislative proposal, the Parliament included proposed such language through amendments to Article 3 of the IEMR. To ensure that future developments related to the IEM maintain a level playing field for energy communities to participate, we strongly urge that this position be supported by the Council.

2. Support for energy communities and other small actors to access PPAs

Without mechanisms to support small actors, PPAs will be in practice dedicated to big actors (industrial ones). Energy communities face several barriers preventing them from entering into PPAs. Many of them have small production facilities, whereby it might be difficult to provide enough production to make a PPA interesting. Furthermore, because of their small size and non-commercial nature (e.g. registration as a cooperative), it can often be difficult to obtain adequate financing from lending institutions, due to the perceived high risk nature of the project.

Aspects to be supported

Article 19a of the Commission's proposal included provisions to make it easier for energy communities and other SMEs to enter into PPAs to help finance projects. In its position, the Parliament strengthened this proposal by including amendments that would require Member States to put in place instruments, in particular guarantees, and to make sure energy communities, SMEs and households are targeted by these instruments. We

strongly urge that this position be supported by the Council, with the one caveat that local authorities should also be added to the list of targeted actors for these instruments.

3. Make sure two-way CfDs do not negatively impact energy communities

Member States should be able to take back windfall profits that many for-profit companies are making to help ease the crisis' impact on consumers. However, CfDs are not suitable for smaller community suppliers or producers, as they negatively impact the business model by capping their ability to hedge on behalf of their members and provide other socially innovative services. Specifically, CfDs undermine the ability of community suppliers to supply self-owned production to the members at the lowest possible price by capping revenue they get from selling electricity to the market, while forcing them to purchase it back from the market at a higher price. The ability to sell the electricity at the higher price would allow the supplier to hedge when they have to go to the wholesale market to purchase electricity. A two-way CfD would take away this ability.

What still needs to be improved

While the Parliament's position includes text in the recitals that CfDs should not apply to renewables projects under 6 MW where the project is developed by a CEC or a REC, partly mirroring the existing State aid guidelines (CEEAG), the threshold introduced by the same guidelines for wind projects is missing. While we support a reference to the CEEAG, which can help promote legal clarity in the application of CfDs at the national level, the CEEAG also exempts wind projects up to 18 MW from competitive bidding, and it only pertains to projects that are 100% owned by an energy community. This inconsistency should be rectified in the recitals of the IEMR to ensure legal clarity.

Furthermore, there is still no language acknowledging the specific situation of energy communities that perform retail supply. As such, we urge the Parliament and the Council to add language to article 19b(3) clarifying that the design of CfDs should not undermine the ability for energy communities to supply their members or to hedge on their behalf.

4. Communication and transparency on available grid capacity and treatment of connection requests by grid operators

Locally-owned energy sharing initiatives, particularly those driven by energy communities and non-professionals, require access to clear and practical information that can help them plan projects, including information on available grid capacity, applicable procedures and timelines, and treatment of their connection request.

Aspects to be supported

We welcome the Parliament's position on Articles 50 and 57, which would require TSOs and DSOs to publish information on available capacity for new connections, and provide information to system users regarding the status and treatment of their requests, including timelines for responses of three months. Furthermore, we welcome that in calculating available grid capacity, system users would need to be consulted, and that this process would be overseen by the national regulator. Such requirements will help system users gain better clarity when embarking on project planning, as well as provide certainty for applicants as they navigate through complex grid connection procedures. We urge this position to be supported by the Council.

Electricity Directive

1. A definition of energy sharing to promote legal clarity

A concrete definition of energy sharing is essential to help build clarity around this new and emerging activity-based concept. It should strike a good balance between aiming to clarify an existing concept and building out the scope of how it works in practice, without creating something entirely new.

The Commission's proposed energy sharing definition is worded too vaguely and does not provide enough specificity to provide legal clarity. In particular, its definition and the proposed changes to the active customer definition create a logical incoherency with the RED II. In Article 2(14) of the RED II it is stated that Member States have discretion whether to allow off-site production to qualify as self-consumption. The Commission's proposal fundamentally amends this rule, by proposing to change the active customer definition, which encompasses language to reflect renewables self-consumption as one of the activities that active customers perform.

Aspects to be supported

The Parliament proposed language that would more closely align energy sharing with renewables self-consumption and jointly-acting renewables self-consumption. While the provision could still be further clarified by making necessary links with the RED II, we ask that the Council support the Parliament's proposed revisions to the energy sharing definition.

2. Energy sharing should be for smaller active customers only

To promote decentralisation and to ensure that energy sharing does not contribute to congestion of the grid, energy sharing should be limited to small and medium sized final consumers. If large enterprises, which have larger financial resources, are given the right to share larger production or consumption loads with each other and across great distances, they are likely to take up disproportionate capacity on the grid that should be reserved for smaller market actors.

Aspects to be supported

We support the Commission's proposal not to include large enterprises within the scope of energy sharing and we urge the Parliament and the Council to support this position. The Parliament's position still leaves room for interpretation that energy sharing is open to large customers. We strongly urge the Parliament and Council to agree to adopt the Commission's original proposal to limit energy sharing to households, SMEs and local authorities.

3. The geographic scope of energy sharing should promote optimisation of consumption close to production

If energy sharing can be performed all the way across the country, it will result in very little added benefit to the grid or to customers in terms of energy bill savings. We recommend a more localized or regionalised geographical scope, taking into account the way that different Member States have politically organised themselves into different administrative units (e.g. regions, municipalities, etc). Nevertheless, there should also be scope to expand the geographic proximity beyond one distribution network management area where it makes sense, for instance in Member States, such as Germany, that have many small distribution networks.

The counter-argument to this approach is that encouragement of production close to consumption should be pursued through economic incentives, for instance through specific components of network charges. However, this would require more explicit language in Article 15a that network charges for energy sharing should include components that reward reduced use of the grid in order to carry out the activity. We instead propose to ensure that active customers engaging in energy sharing can supply electricity and other services to the energy system, including at distribution and transmission level, by providing them with a right to participate in other markets (*this recommendation is highlighted in section 5 below regarding rights of active customers who engage in energy sharing*). This will ensure a balanced approach between encouraging the optimisation of local consumption close to production and ensuring an integrated system-wide approach.

Aspects to be clarified

- **Refinement of the geographical scope under which energy sharing can take place:** We do not support the Commission's proposal to use bidding zones as a limit for energy sharing, as it is much too broad. We would instead prefer the Parliament's position, although this should also be further clarified in order to promote legal clarity and acknowledgment of the different ways that Member States organise themselves geographically.
- **Incentives to share energy close to production:** On the other hand, we would urge the Council and the Parliament to negotiate and agree on language that would require, or at least encourage, network operators to acknowledge and reward reduced use of the grid in the design of network tariffs for energy sharing. If Article 15a would include such language, this could substantially reduce the risk of having a broader geographical scope for energy sharing. Regardless, we urge the Parliament and the Council to agree on an approach to defining the geographical scope around energy sharing in a way that promotes system optimisation and makes it easier for grid operators, in particular DSOs, to integrate distributed renewable energy production.

4. The roles of third parties that facilitate energy sharing should be subject to safeguards and consumer protections

We support the Commission's proposal to open up energy sharing beyond energy communities. Not all energy communities perform energy sharing as an activity, and not all market actors that want to facilitate energy sharing are interested in setting up an energy community. We also acknowledge the usefulness of third parties in providing services that can facilitate energy sharing. We support the Parliament's proposal to provide a right for active customers to appoint an organiser that can be in charge of communicating with the network operator and to represent them on their behalf.

However, we do not support third party ownership by for-profit undertakings. One of the main added benefits of energy sharing is that it gives consumers control over their own means of production. When shared electricity is sold by a third party, they have an incentive to drive up the price to increase the profit margin or to realise a quicker return on investment. Furthermore, because the size of the margin and the duration of the return may change over time, profit incentives can lead to price volatility. In a crisis, when the difference between the price of shared electricity and the wholesale market becomes larger, the incentive for the third party to capture more profits by increasing the price of shared electricity becomes greater. This is exactly what we have seen with the selling price of prosumer surplus during the energy crisis.

If third party ownership is allowed on a for-profit basis, it will undermine consumers' ability to determine for themselves what price should be paid for the production, further exposing them if the third party owner decides to raise prices or withdraw the installation.

Aspects to be clarified and improved

In order to ensure that third party service providers act in the best interest of consumers, we urge the EP and Council to clarify the following aspects:

- **The scope of third party ownership should be narrowed to prevent commercial supply by stealth:** We oppose the Commission's proposal to allow third parties to own production installations. Furthermore, while the Parliament's approach tries to take a middle ground, it does more harm than good. For instance, capping third party ownership at 6 MW will not help protect household customers or maintain a level playing field for energy communities, as their focus lies on installations with a smaller production capacity. Instead, it would simply disallow third party ownership of larger installations, which ironically are more ideal for third party ownership because of their size and complexity. Furthermore, the threshold does not just apply to ownership, it also applies to management. Again, this would actually do more harm than good because the larger the installation, the greater the need and desire for a third party to manage the installation. We urge the EP and the Council to negotiate and agree on an approach that effectively regulates energy sharing as a non-profit activity. Specifically, we propose to limit third party ownership to non-profit organisations, local authorities and energy communities that want to focus on delivering social benefits through energy sharing (i.e. providing vulnerable and energy poor households with access);
- **Active customers should maintain ownership and decision making control over production that is shared:** Regardless of whether production installations or demand management assets are owned by a third party, we urge the Parliament and the Council to negotiate and agree on language that makes it clear that the active customers engaging in energy sharing maintain ownership rights and decision making over what they pay for the renewable energy production shared between them. This will protect active customers against utility based models that want to price shared energy against prevailing wholesale market prices, ensuring that they retain the added value of energy sharing.
- **Active customers should be entitled to choose the organiser according to their context and needs:** While we support the Parliament's proposal to entitle active customers to appoint an organiser for energy sharing, its proposal should be clarified. Specifically, it should acknowledge the scope of different types of organisers that could be appointed. For instance, the organiser may be chosen from among the participating customers themselves, the legal entity under which the energy sharing takes place (e.g. an energy community or local authority), or through a third party. Otherwise, this option may be limited by national legislation

to commercial providers, preventing active customers from being able to reap the full benefits of energy sharing.

- **Third party service providers should remain at the direction of the active customers engaging in energy sharing:** According to Article 21 of the Renewable Energy Directive, production facilities for renewables self-consumption may be owned or managed by a third party, as long as they remain subject to the direction of the self-consumer. This protection prevents consumers from being able to exercise choice when dealing with third party services providers. This protection should equally apply to energy sharing, given that there is strong interest by commercial third party service providers to facilitate the activity. We strongly urge the EP and the Council to adopt this requirement for third parties that provide services to active customers in energy sharing.
- **Consumers should be guaranteed the right to switch service providers:** One of the risks of allowing commercial market actors to develop energy sharing for household customers is that utilities that are already largely integrated (e.g. combining production, supply, distribution, supply services) will be able to 'capture' groups of customers by integrating production, organisation and management services for the purposes of energy sharing. This could create a lock-in effect, whereby contractual provisions for one service may be inextricably linked to the provision of other services, forcing consumers to take it or leave it. This could also prevent prospective energy communities from gradually taking over services from a third party in order to undertake them on their own. None of the existing positions from the Commission, Parliament, or Council include this protection, which we identify as a significant risk. Furthermore, it creates inconsistency with existing EU legislation, as Article 12 of the IEMD already applies to both suppliers and aggregators. We strongly urge the Parliament and Council to apply the same consumer protection to the provision of services for energy sharing.
- **Voluntary template contracts should be developed by the national energy regulator:** We support the Commissions' inclusion of template contracts in its legislative proposal, and we welcome the Parliament's proposal to make them voluntary, and to expand their scope to include dispute resolution. However, these provisions should be further clarified to ensure that template contracts should cover different services that may be provided to facilitate energy sharing, and are developed and overseen by the Regulator. This will ensure that unfair contractual provisions can be identified as different services are provided to consumers, and so they can be dealt with appropriately.

5. Rights and proportionate obligations for active customers that engage in energy sharing

Under Article 15 paragraph of the IEMD, active customers are already subject to balancing responsibilities in accordance with Article 5 of the IEMR, which also allows

Member States to exempt smaller renewable energy production facilities.³ The Commission's proposal would have provided additional exemption to guaranteeing consumer rights and obligations to active customers for installations under one of two thresholds: 10.8 kW for sharing between households and 100 kW for peer-to-peer trading within apartment blocks. We oppose this language because it is not clear and adds complexity.

Aspects to be improved

We do not support either the Parliament's or the Council's proposed clarification in this provision. The Council's General Approach only proposes aesthetic changes, and it does not add any additional clarity. The EP's position, however, is even more of a risk - it implies that active customers have to carry supplier obligations, which would defeat the entire purpose of defining and regulating energy sharing as a distinct activity. By definition, active customers who engage in energy sharing should not be subject to supplier obligations, unless the activity is already being undertaken via a licensed retail supplier. As we have already suggested previously, we urge the Parliament and Council to delete this text entirely. The provision's original aim is not clear, it will result in legal complexity, and it could be used to impose disproportionate duties on active customers that share energy.

Aspects to be supported

- In Article 4 of its position, the Parliament proposed to guarantee a right for consumers to enter into an energy sharing agreement and to have multiple metering and billing points. This should be accepted by the Council;
- In Article 15a, the Parliament expanded on the Commission's proposal to ensure that active customers are not subjected to discriminatory treatment by other market actors, expanding it to charges. We strongly urge the Council to accept this position; and
- In Article 15a, the Parliament proposed to entitle energy sharing initiatives to participate in different markets. This should be accepted by the Council.

³ Before 1 January 2026, this applies to production facilities with an installed capacity of less than 400 kW; after 1 January 2026, the threshold will be lowered to production facilities with an installed capacity of less than 200 kW.

6. Clear roles and responsibilities for system operators to facilitate energy sharing and maintain a level playing field for energy communities

The lack of concrete and clear duties for DSOs in facilitating energy sharing is a significant barrier to the rollout of energy sharing, both from the perspective of system operators and energy communities/active customers. Furthermore, the unique characteristics of energy communities, including their choice of business model, non-commercial purpose, size, professional and organisational structure, and way of financing projects, make it harder for them to find suitable spaces to install production and navigate administrative procedures around licenses, permits and grid connections. As such, they face an inherent competitive disadvantage vis-a-vis larger commercial market actors when it comes to registering an energy sharing project and obtaining a grid connection.

Aspects to be supported

We strongly support the EPs proposal to require DSOs to take the specificities of energy communities into account when designing grid connection procedures. This would allow system operators to integrate special provisions into their procedures to ensure communities can obtain a grid connection on a level playing field with more professionalised market actors. The EP position also includes a requirement for the Commission to issue further guidance on ensuring a level playing field for energy communities. We strongly urge the Council to support this proposal.

We also support the Commission's proposal to elaborate more concrete duties for system operators, particularly around information provision and providing a contact point for registration. Furthermore, we support the Parliament's proposal to add a requirement for system operators to update their IT infrastructure, which is a prerequisite to operationalising energy sharing, as well as broadening the scope of information requirements for system operators to the dissemination of practical information needed by active customers when developing a project, through a single-contact point.

Aspects to be clarified

We urge the Council to support the further changes that have been proposed by the Parliament, which will provide more clarity for active customers and facilitate a more effective process for system operators to communicate with their network users. Nevertheless, there are several very important aspects that are missing from the Commission, Parliament and Council position, but which would further improve the potential of energy sharing to benefit both consumers and the system. Specifically:

- **The duty to correct and allocate metering data on behalf of the energy sharing initiative separating it from surplus electricity that must be provided by other suppliers that are active on the same connection point a retail supplier should be provided to the system operator.** Providing this duty to DSOs would ensure that no additional energy imbalance costs are invoked for retail suppliers that provide the active customer with residual supply. First, with its IT system to collect, store and send data to different market actors, this role can act as market facilitating service. It also makes sense for the system operator to perform such calculations, because they already have the necessary metering data that must be provided by the active customers. Second, suppliers have an inherent conflict of interest to calculate shared energy in a way that maximises the amount of consumption needed from the supplier. Providing this duty to the DSO can help alleviate potential administrative burdens for suppliers that still supply electricity to the final customer.
- **Active customers should be entitled to adopt dynamic sharing co-efficients.** Active customers have the possibility to choose different methods of allocating shared energy between themselves, most notably through a static sharing coefficient or through a dynamic sharing coefficient. Under static sharing coefficients, a fixed part of the generation is shared with each consumer. Dynamic sharing coefficients allow sharing according to the generation and consumption profiles of the different participants. This can help to optimize production facilities, allowing a larger portion of the generated energy to be shared without impacting the grid, further improving the potential for energy communities, but also the potential benefits to the system operator. We urge the Parliament and the Council to negotiate and agree on provisions that entitle active customers to choose between a static sharing coefficient developed by the system operator and a dynamic co-efficient. Furthermore, it must be possible for this coefficient to be modified over time in order to allow members to easily enter and leave the initiative.

7. Making sure that energy poor and vulnerable households are able to benefit from energy sharing

Energy poor and vulnerable households are the ones that are mostly exposed to energy price fluctuations and the ones that have the least tools to react. Given that energy sharing aims to enable local actors to produce and consume their own renewable energy allowing them to control the price and shielding them from the price fluctuations caused in the context of the energy crisis, Member States should be required to make sure that this activity provides space for vulnerable households to access and benefit from energy sharing agreements. Local authorities have a very important role to play in this regard.

Aspects to be supported and clarified

We support the Commission's position to require Member States to take appropriate and non-discriminatory measures to ensure that energy poor and vulnerable households can access energy sharing schemes. It should also be ensured that those measures include financial support measures or production allocation quotas. We also support Parliament's addition, which recognises the role of local authorities and urges Member States to ensure that the energy sharing projects owned by public authorities provide at least 20% of the amount of shared electricity to vulnerable customers. Given that in several cases local authorities are not equipped with the necessary tools, skills and knowledge to develop such projects, it is necessary for Member States to provide access to information, trainings, capacity building and funding to make sure that local authorities can materialize such projects and adhere to their obligation to provide shared electricity to vulnerable customers.

8. Providing energy communities with the flexibility to hedge appropriately

Energy communities that supply electricity from self-owned renewable energy production, particularly cooperatives, have a non-commercial business model that is dissimilar from other suppliers that focus on profit-making activities. This leads to different hedging strategies, such as securing own-productions to protect their consumer-members. Due to their small size, cooperative suppliers also often experience difficulty financing guarantees necessary to trade on wholesale and forward markets, a challenge that has been made more difficult through national interventions in response to the energy price crisis. The electricity market design must ensure that the imposition of hedging requirements does not result in hurdles to community-owned electricity suppliers' ability to prioritise supply of own-production at cost and on a not-for-profit basis to their members.

While we support the Commission's inclusion of language that acknowledges the need to make hedging products available to energy communities, it was worded in non-binding language, specifically using the word 'may'. This would still expose energy communities to discriminatory treatment in Member States that decide not to exercise this discretion. Furthermore, the language on using PPAs as a form of hedging was unclear, providing even the impression that a requirement to use PPAs to hedge could be imposed on suppliers, which would discriminate against energy communities due to their difficulty entering into PPAs.

Aspects to be supported

The Parliament's proposal improves the Commission's original proposal, making it a binding requirement to ensure hedging products are available to energy community suppliers. Furthermore, the Parliament's proposal would guarantee a level playing field for energy communities. Furthermore, the Parliament's position clarifies that PPAs do not need to be the only method of hedging, providing much-needed legal clarity. As such, we strongly urge the Council to support the Parliament's position.