

Europex response to the Council Revision of the Electricity Regulation and Directive (recasts)

Improvements still needed to achieve efficient markets

Brussels, 24 October 2017 | Europex supports the efforts of the Council to increase clarity on certain market design aspects in the proposed recasts of the Electricity Regulation¹ and Directive². As previously set out in our position paper of 9 Aug. 2017³, Europex believes the Commission proposals broadly recognise the importance of enabling well-functioning wholesale markets and strong market price signals in all Member States.

However, as the texts are further discussed in the Council and the European Parliament, Europex calls for the following important points to be taken into account.

- **Full and equal balancing responsibility for renewables (Art 4):** Europex emphasises the need for all market participants to assume balancing responsibility in a non-discriminatory manner, regardless of technology type. While we welcome the market-based provision of balancing reserves by renewable energy sources, including wind power, this participation should be based on technology neutral values: for example, the *imbalance volume* should be calculated in the same way for all generation types, in line with the provisions of the Electricity Balancing Guideline (EB GL).
- **Recognition of third-party market operators:** Certain parties, such as imbalance settlement administrators, have already been recognised in the Network Code on Emergency and Restoration (NC ER) and the Electricity Balancing Guideline (EB GL) as ‘third parties’, providing expertise in their areas of responsibility. The Council text fails to recognise existing arrangements where a non-TSO is used for such services. It is vital for the text to always ensure consistency with the relevant Network Code or Guideline.

¹ Council Revision of 15 Sept. 2017, Proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity (recast) <http://data.consilium.europa.eu/doc/document/ST-10681-2017-INIT/en/pdf>

² Council Revision of 15 Sept. 2017, Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast) <http://data.consilium.europa.eu/doc/document/ST-10691-2017-INIT/en/pdf>

³ <http://www.europex.org/position-papers/the-recasts-of-the-electricity-regulation-and-the-electricity-directive-our-six-key-messages/>

- **The role of long-term markets:** Europex welcomes the recognition of the role short-term markets play in improving liquidity and competition (for example in new Recital 10 of the Regulation). However, the text should highlight the crucial role of long-term forward and futures markets in hedging against price volatility risks, as well as the need for liquid forward markets to ensure competitiveness in the power market.
- **Long-term visibility on bidding zones:** Any bidding zone review (Art. 13) should explicitly include the full involvement of all key market stakeholders, including spot market operators and long-term forward and futures market operators. Regarding the process, Europex supports Rapporteur Kariņš' amendments to Article 13(4), whereby the Commission steps in only if there is no agreement, e.g. between the relevant NRA(s) and the TSO(s).
- **Excluding price caps:** The revised Council text positively recognises the necessity of excluding both minimum and maximum price caps. However, Europex maintains its original position on Art. 9(1) and (2), supporting a text with reference to the relevant Network Code, and with recognition of technical limits on clearing prices (in the day ahead and intraday timeframes), as well as those associated with IT systems.
- **Avoidance of overlapping definitions:** The revised Council text introduces further definitions (Art. 2(2)) of the Regulation, many of which are already defined in the draft Electricity Balancing Guideline. These include: “balancing”; “balancing energy”; “balancing service provider”, among others. This introduces additional uncertainty, particularly when the definition differs. All definitions which are already specified in a Network Code or Guideline should be deleted in the Regulation and the relevant Network Code or Guideline referenced instead.

See the table below for a full list of our comments on the revised Council text.

About

Europex is a not-for-profit association of European energy exchanges with 27 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

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Detailed comments on the Council Revision of the Electricity Regulation and Directive (recasts)

Article (Regulation)	Council REV 1: Council changes to original EC proposal are shown ⁴	Proposed Europex amendments	Reasoning
New Recital (10) Reg	Short-term markets will improve liquidity and competition by enabling more resources to participate fully in the market, especially those that are more flexible. Effective scarcity pricing will encourage market participants to be available when the market most needs it and ensures that they can recover their costs in the wholesale market. It is therefore critical to ensure that, as far as possible, administrative and implicit price caps are removed to allow scarcity prices to increase up to the value of lost load. When fully embedded in the market structure, short-term markets and scarcity pricing will contribute to the removal of other measures, such as capacity mechanisms, to ensure security of supply. At the same time, scarcity pricing without price caps on the wholesale market should not jeopardize the possibility for reliable and stable prices for final customers, in particular households and SMEs.	Short-term markets, in cooperation with liquid and long-term markets, will improve liquidity and competition and enhance liquidity by enabling more resources to participate fully in the market, especially those that are more flexible. Effective scarcity pricing will encourage market participants to be available when the market most needs it and ensures that they can recover their costs in the wholesale market. It is therefore critical to ensure that, as far as possible, administrative and implicit price caps are removed to allow scarcity prices to increase up to the value of lost load. When fully embedded in the market structure, short-term markets and scarcity pricing will contribute to the removal of other measures, such as capacity mechanisms, to ensure security of supply. At the same time, scarcity pricing without price caps on the wholesale market should not jeopardize the possibility for reliable and stable prices for final customers, in particular households and SMEs.	Europex fully agrees with the removal of price caps; however, the role of long-term forward markets should also be highlighted alongside short-term markets. We also suggest the removal of the reference to final customers, since free price formation is key for both wholesale and retail markets.
New Recital (14)	To efficiently steer necessary investments,	To efficiently steer necessary investments,	As already put forward in the original

⁴ Council Revision of 15 Sept. 2017, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the internal market for electricity (recast) <http://data.consilium.europa.eu/doc/document/ST-10681-2017-INIT/en/pdf>

Reg	prices also need to provide signals where electricity is most needed. In a zonal electricity system, correct locational signals require a coherent, objective and reliable determination of bidding zones via a transparent process. In order to ensure efficient operation and planning of the Union electricity network and to provide effective price signals for new generation capacity, demand response or transmission infrastructure, bidding zones should reflect structural congestion. In particular, cross-zonal capacity should not be reduced in order to resolve internal congestion.	prices also need to provide signals where electricity is most needed. In a zonal electricity system, correct locational signals require a coherent, objective and reliable determination of bidding zones via a transparent process <i>involving all affected stakeholders, including market operators</i> . In order to ensure efficient operation and planning of the Union electricity network and to provide effective price signals for new generation capacity, demand response or transmission infrastructure, <i>any bidding zones configuration change should take into account the effect on spot and forward and futures markets. Structural congestions should also be considered in the configuration of bidding zones. In particular, Cross-zonal capacity should not be reduced in order to resolve internal congestion.</i>	Europex amendments, congestions should not be the only criterion to configure bidding zones on. Market efficiency and grid extension shall be taken into account.
New Recital (28)	Prior to introducing capacity mechanisms, Member States should assess regulatory distortions contributing to the related resource adequacy concern. They should be required to adopt measures to eliminate the identified distortions including a timeline for their implementation. Capacity mechanisms should only be introduced for the residual concerns that cannot be addressed through removing such distortions.	Prior to introducing capacity mechanisms, Member States should assess regulatory distortions contributing to the related resource adequacy concern. <i>A regional capacity adequacy assessment should be undertaken to evaluate capacity shortages, taking into account capacities beyond national borders.</i> They should be required to adopt measures to eliminate the identified distortions including a timeline for their implementation. Capacity mechanisms should only be introduced for the residual concerns that cannot be addressed through removing such distortions <i>and only as a measure of last resort.</i>	The text should explicitly say that capacity mechanisms are a measure of last resort. In addition, a regional resource assessment should be put in place prior to introducing capacity mechanisms.
New Recital (43)	Experience with the development and	Experience with the development and	Adding a right to change late in the

	adoption of network codes has shown that it is useful to streamline the development procedure by clarifying that the Agency has the right to revise draft electricity network codes before submitting them to the Commission.	adoption of network codes has shown that it is useful to streamline the development procedure by clarifying that the Agency has the right to revise draft electricity network codes before submitting them to the Commission <i>provided it has consulted on these amendments with all affected stakeholders.</i>	process does not “streamline” the process, it rather allows changes to network code texts that have not been widely reviewed and subject to the earlier consultations with stakeholders.
New Recital (54)	With regard to balancing markets, efficient and non-distortive price formation in the procurement of balancing capacity and balancing energy requires that balancing capacity does not set the price for balancing energy	With regard to balancing markets, efficient and non-distortive price formation in the procurement of balancing capacity and balancing energy requires that balancing capacity does not set the price for balancing energy	If there is a cost associated with buying the balancing capacity, it should form part of the price along with the energy component, but only when that energy is being bought at the same time.
Art. 2(2) Reg (Definitions)	(e) 'structural congestion' means congestion in the transmission system that is predictable, is geographically stable over time, and is frequently reoccurring under normal power system conditions;	'structural congestion' means congestion in the transmission system that is predictable, is geographically stable over time, is frequently reoccurring under normal power system conditions <i>and that cannot be efficiently solved by other congestion management tools;</i>	A congestion qualifies as structural if it cannot be solved by other grid management tools” e.g. redispatch
Art. 2(2) Reg (Definitions)	“'value of lost load' means an estimation in €/MWh, of the maximum electricity price that customers are willing to pay to avoid an outage”.	n/a	The proposed definition of VoLL is too vague since there is no single VoLL. There are rather different VoLLs per bidding zone, Member State, across Europe, depending on what share and group of consumption is considered.
Art. 2(2) Reg (Definitions)	See Regulation	n/a	There are many terms that are already in the Electricity Balancing Guideline that are defined here as well. This is bad practice, particularly if the definitions end up being different, as many are already here. These include: “balancing”;

			<p>“balancing energy”; “balancing service provider”; “balancing capacity”; “balance responsible party”; “imbalance settlement period”; “imbalance price”; “imbalance price area” to name a few. All definitions which are already specified in a Network Code or Guideline should be deleted in the Regulation and the relevant Network Code or Guideline referenced instead.</p>
Art. 2(2) Reg (Definitions)	See Regulation	n/a	<p>Similarly, “market participant” is already defined, again in a different way, in REMIT. It is better to include a cross-reference to REMIT rather than to create a different definition for the same term.</p>
Art. 3(1) Reg (Principles regarding the operation of electricity markets)	<p>1. Member States, national regulatory authorities, transmission system operators, distribution system operators, and market operators shall ensure that electricity markets are operated in accordance with the following principles:</p>	<p>1. Member States, national regulatory authorities, transmission system operators, distribution system operators, and market operators <i>and third parties to whom responsibilities have been delegated or assigned where relevant</i> shall ensure that electricity markets are operated in accordance with the following principles:</p>	<p>Certain parties, e.g. imbalance settlement administrators have already been recognised in the Network Code on Emergency and Restoration (NC ER) and Electricity Balancing Guideline (EB GL) as ‘third parties’. In order to align the regulation with the recognition of third parties who perform certain TSO tasks and in this respect, recognise the existing arrangements within Member States, we propose the amendment of this Article in order to allow Member States, or where applicable a relevant regulatory authority, to assign tasks or obligations otherwise entrusted to TSOs to one or more third parties.</p>

<p>Art. 4 Reg (Balance responsibility)</p>	<p>1. All market participants [shall aim for system balance and] shall be financially responsible for the imbalances they cause in the system. They shall either be balance responsible parties or contractually delegate their responsibility to a balance responsible party of their choice. Market rules shall incentivise all market participants to aim for system balance.</p>	<p>Market rules shall incentivise all market participants to aim for system balance to be balanced.</p>	<p>The suggested formulation will ensure consistency with the EB GL which has not yet been published or implemented. The explicit mention of the possibility to incentivise all market participants to be balanced is important.</p> <p>However, it should be noted that incentivising system balancing can be interpreted as a different requirement from incentivising your own individual balancing. For example, if your over-generation (your imbalance) is assisting the system shortage of generation, we don't necessarily want to incentivise the balance responsible party (BRP) to reduce its imbalance in real time. It also may also cut across the requirements of the Electricity Balancing Guideline which states: "In real time, each balance responsible party shall strive to be balanced or help the power system to be balanced."</p> <p>Furthermore, while Europex welcomes the market-based provision of balancing reserves by renewable energy sources, including wind power, this participation should be non-discriminatory and based on technology neutral values. For example, while there have been suggestions to calculate imbalance volume for wind power using AAP</p>
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			(Available-Active-Power), Europex believes it is important for the imbalance volume to be based on values in line with Guideline on Electricity Balancing (EB GL) – i.e. using metred output. This will ensure that all technologies assume equal balancing responsibility, which is vital for the proper functioning of energy markets as we see an increasing amount of renewables in the energy mix.
Art. 5(2) Reg (Balancing market)	(c) respect the need to accommodate increasing shares of variable generation as well as increased demand responsiveness and the advent of new technologies.	respect the need to accommodate increasing shares of variable generation as well as increased edding demand responsiveness and the advent of new technologies.	We suggest the use of the word “increasing” to highlight the fact that demand side response is not automatically occurring but should be incentivised.
Art. 5(5) Reg (Balancing market)	5. [Marginal pricing shall be used for] The settlement of balancing energy shall be based on marginal pricing . Market participants shall be allowed to bid as close to real time as possible, and [at least after] balancing energy gate closure times shall not be before intraday cross-zonal gate closure time determined in accordance with Article 59 of Commission Regulation (EU) 2015/12221. Transmission system operator applying a central dispatching model may define additional rules in accordance with paragraph six Article 24 of the [Commission Regulation (EU) 2017/XXX on establishing a guideline on electricity balancing]	5. [Marginal pricing shall be used for] The settlement of balancing energy shall be based on marginal pricing. Market participants shall be allowed to bid as close to real time as possible, and [at least after] balancing energy gate closure times shall not be before intraday cross-zonal gate closure time determined in accordance with Article 59 of Commission Regulation (EU) 2015/12221. Transmission system operator applying a central dispatching model may define additional rules in accordance with paragraph six Article 24 of the [Commission Regulation (EU) 2017/XXX on establishing a guideline on electricity balancing]	Again, there is repeated replication of the Electricity Balancing Guideline (EB GL). We do not see any value in re-inventing the Guideline here, particularly when the Regulation doesn’t do it as well as the Guideline does. We therefore suggest deletion of this Article.
Art. 5(8) Reg (Balancing)	The procurement of balancing capacity shall be performed by the transmission system	The allocation of cross-zonal capacity for the exchange of balancing capacity or sharing of	The mention of an “economic efficiency analysis” which is included in Art. 42.2 of

market)	operators and facilitated on a regional level in accordance with point 8 of Annex I. The procurement shall be based on a primary market and organised in such a way as to be non-discriminatory between market participants in the prequalification process individually or through aggregation. The allocation of cross-zonal capacity for the exchange of balancing capacity or sharing of reserve shall be limited to 5% of the available capacity for the exchange of energy of the previous relevant calendar year between the respective bidding zones.	reserve <i>based on an economic efficiency analysis</i> shall be limited to 5% of the available capacity for the exchange of energy of the previous relevant calendar year between the respective bidding zones	the EB GL should be maintained. Even a reserve of 5% of cross-zonal capacity away from day ahead and intraday markets must be justified by the TSOs since it impacts price formation and market efficiency.
Art. 5(10) Reg (Balancing market)	10. Transmission system operators shall publish, as soon as possible but not later than 30 minutes after [close to] real-time, the information on the current system balance [balancing state] of their [control] scheduling areas and the estimated [imbalance price] , balancing energy prices.	10. Transmission system operators, <i>or third parties to whom these responsibilities have either been delegated by the relevant TSO or assigned by the relevant Member State or regulatory authority</i> , shall publish close to real-time information on the current balancing state of their control areas, the imbalance price and the balancing energy price.	The Council revisions to Article 5(10) still fail to recognise the existing arrangements that use a non-TSO for this data publication in certain Member States. The proposed wording mirrors that for assignment in the Electricity Balancing Guideline, which recognises the existence of non-TSO third parties.
Art. 6(2) Reg (Day-ahead and intraday markets)	Day-ahead and intraday markets shall (d) provide prices that reflect market fundamentals, including the real time value of energy , and that market participants can rely on when agreeing on longer-term hedging products;	Day-ahead and intraday markets shall (d) provide prices that reflect market fundamentals, including the real time value of energy , and that market participants can rely on when agreeing on longer-term hedging products;	Short-term markets are supposed to always reflect the expected real time value of electricity. It is therefore redundant to mention it here.
Art. 6(3) Reg (Day-ahead and intraday markets)	Market operators shall be free to develop products and trading opportunities that suit market participants' demand and needs and ensure that all market participants are able to access the market individually or through aggregation. They shall respect the need to	<i>Market operators shall be free to develop products and trading opportunities that suit market participants' demand and needs and ensure that all market participants are able to access the market individually or through aggregation. They shall respect the need to</i>	It is unclear why the Council suggests the deletion of Art. 6.3. that gives market operators the important freedom to develop innovative products and trading opportunities to respond to market needs.

	accommodate increasing shares of variable generation as well as increased demand responsiveness and the advent of new technologies.	<i>accommodate increasing shares of variable generation as well as increased demand responsiveness and the advent of new technologies.</i>	
Art. 7(4) Reg (Trade on day-ahead and intraday markets)	<p>1. Nominated electricity M market operators shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time determined in accordance with Article 59 of Regulation (EU) 2015/1222.</p> <p>2. Nominated electricity M market operators shall provide market participants with the opportunity to trade in energy in time intervals at least as short as the imbalance settlement period in both day-ahead and intraday markets.</p> <p>3. Nominated electricity M market operators shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 1 Megawatt [or less], to allow for the effective participation of demand-side response, energy storage and small-scale renewables.</p> <p>4. By 1 January 20251, the imbalance settlement period shall be 15 minutes in all control areas, unless a derogation has been granted by a regulatory authority in accordance with Article 62(2)(d) of Commission Regulation (EU) 2017/XXX [Balancing]. No derogation shall apply after 1</p>	<p>4. By 1 January 2021, the imbalance settlement period shall be 15 minutes in all control areas <i>unless an exemption or derogation has been granted by the relevant regulatory authorities in accordance with Article 53(3) or 62(2)(d) of Commission Regulation (EU) 2017/XXX [Balancing]. No derogation shall apply after 1 January 2025.</i></p>	<p>The requirement for all to have 15-minute imbalance settlement period (ISP) is made mandatory, but now earlier from 2021. While the Council position allows for derogations, it doesn't recognise that exemptions are also possible under Article 53 of the Balancing Guideline and that these apply indefinitely. Without this recognition, the exemptions allowed for in the Guideline become inoperable because any exemptions already legally granted suddenly have an unclear status.</p>

	January 2025.		
Art. 8 Reg (Forward markets)	<p>1. In line with Regulation (EU) 2016/1719, transmission system operators shall issue long-term transmission rights or have equivalent measures in place to allow for market participants, [in particular] including energy sources, to hedge price risks across bidding zone borders, unless an assessment of the forward market performed by the competent regulatory authorities on the bidding zone borders shows sufficient hedging opportunities in the concerned bidding zones in accordance with Article 30 of Commission Regulation (EU) 2016/1719.</p> <p>2. Long-term transmission rights shall be allocated in a transparent, market based and non-discriminatory manner through a single allocation platform according to the provisions of the Regulation (EU) 2016/1719. [Long-term transmission rights shall be firm and be transferable between market participants.]</p> <p>3. Subject to compliance with treaty rules on competition, market operators shall be free to develop forward hedging products including for the long-term to provide market participants, in particular owners of generation facilities using renewable energy sources, with appropriate possibilities to hedge financial risks from price fluctuations. Member States shall not restrict such hedging activity to trades within a Member State or</p>	<p><i>[new] 1. Long-term forward and futures markets are an essential tool to manage the energy transition and the decarbonisation of the power sector. Any change to the electricity market design should therefore take into consideration the impact this has on forward and futures markets.</i></p> <p><i>[new] 4. Forward and futures markets shall make no distinction between trades made within a bidding zone and across bidding zones.</i></p>	<p>The article should mention the crucial role of forward markets in hedging against price volatility risks, as well as the need for liquid forward markets to ensure competitiveness in the power market. These aspects are fundamental in restoring confidence in the energy only market providing meaningful price signals, as opposed to market distortions.</p> <p>Just as for short-term markets, it is important to clarify that there should be no distinction between trades across bidding zone borders, and those made within a bidding zone.</p>

	bidding zone.		
Art. 9(1) and 9(2) (Technical bidding limits)	<p>1. Balancing energy prices, including bidding and clearing prices, shall not be subject to a minimum limit. They re- shall also be not subject to a maximum limit [of the wholesale electricity price] unless it is set at the value of lost load as determined in accordance with Article 10. [There shall be no minimum limit of the wholesale electricity price unless it is set at a value of minus 2000 € or less and, in the event that it is or anticipated to be reached, set at a lower value for the following day. This provision shall apply, inter alia, to bidding and clearing in all timeframes and include balancing energy and imbalance prices.]</p> <p>2. [By way of derogation from paragraph 1, until [OP: two years after entry into]] Nominated electricity market operators may apply limits on maximum and minimum clearing prices for day-ahead and intraday timeframes in accordance with Articles 41 and 54 of Regulation (EU) 2015/1222. These limits shall take into account the value of lost load. In the event that the set limits are, or are anticipated to be, reached, they shall be raised for the following day.</p>	<p>[Europex supports Rapporteur Kariņš' amendments 31-33, with some additions, marked in blue].</p> <p><i>1. There shall be no maximum and no minimum limit of the wholesale electricity price. This provision shall apply, inter alia, to bidding and clearing in all timeframes and include balancing energy and imbalance prices.</i></p> <p><i>2. By the way of derogation from paragraph 1, nominated electricity market operators may apply technical limits on maximum and minimum clearing prices for day-ahead and intraday timeframes in accordance with Articles 41 and 54 of Regulation (EU) 2015/1222. In the event that those technical limits are, or are anticipated to be, reached, they shall be adjusted in accordance with Articles 41 and 54 of Regulation (EU) 2015/1222.</i></p>	<p>Europex maintains its original position on this Article, supporting a text with reference to CACM process, no reference to VOLL and no implementation timeline of one day.</p> <p>Furthermore, this Council text suggests that that there are no limits, not even technical ones, for balancing prices. This is not realistic as there will always be technical limits with IT systems.</p> <p>This also needs to be linked to day ahead (DA) and intraday (ID) limits referred to in Recital 10 and in Article 9 & 10 of this Regulation, for which Europex has stated support of Rapporteur Kariņš' amendments 31-33, with some additions (see Europex position paper of 9 Aug 2017⁵). That formulation clarified the existence of the derogation that gives all NEMOs the right to set (technical) clearing price limits for Single DA and ID Coupling. For example, no obligation should be placed on NEMOs to change maximum limits from one day to next, but rather it shall be defined in CACM HMMP Method, where the amendment</p>

⁵ <http://www.europex.org/position-papers/the-recasts-of-the-electricity-regulation-and-the-electricity-directive-our-six-key-messages/>

			period is set to 5 weeks.
Art. 13(1) (Definition of bidding zones)	1. Bidding zone borders shall be based on [long-term], structural congestions in the transmission network and bidding zones shall not contain such congestions. The configuration of bidding zones in the Union shall be designed in such a way as to maximise economic efficiency and cross-border trading opportunities while maintaining security of supply.	<i>The configuration of bidding zones in the Union shall be designed in such a way as to maximise economic efficiency and cross-border trading opportunities while contributing to security of supply. Bidding zone configuration shall also consider long-term, structural congestions. If such congestions exist, however, then transmission assets upgrade and extension shall be pursued to maximise economic efficiency.</i>	<p>Europex maintains its original position on this Article: For this article to be clear, it has to define what a structural congestion is. Namely, network congestion qualifies as structural if it cannot be solved in the medium-term by grid investment.</p> <p>Additionally, markets can contribute to security of supply but it is TSOs which have the obligation to guarantee it.</p> <p>Investment in the grid is the structural solution to bottlenecks in the medium and long-term.</p> <p>Moreover, reference to “long term” is important to be kept. Otherwise potentially any congestion could be qualified as structural.</p>
Art. 13(4) (Definition of bidding zones)	4. The transmission system operators participating in the bidding zone review shall submit a proposal to the Commission regarding whether to amend or maintain the bidding zone configuration. Based on that proposal, the Commission shall for a maximum of three months consult with all affected Member States. Following the consultation, the Commission shall adopt a decision whether to amend or maintain the bidding zone configuration, <i>[no later than 6 months after entry into force of this</i>	<p>[Europex maintains support for Rapporteur Kariš’s amendments 43 and 44, as below]</p> <p>The transmission system operators participating in the bidding zone review shall submit a proposal to the <i>relevant Member States</i> whether to amend or maintain the bidding zone configuration. <i>The relevant Member States are those participating in the review pursuant to Article 32(2) of Regulation (EU) 2015/1222 and those in the same Capacity Calculation Region(s) pursuant to</i></p>	<p>Europex maintains its original position on bidding zones, supporting Rapporteur Kariš’s amendments to Article 13(4). According to the subsidiarity principle, Member States are best placed to define bidding zone configurations (Art. 13.4) at national or regional level with the technical assistance of TSOs. If, for example, National Regulatory Authorities and the concerned TSO(s) cannot agree on a configuration, only then should the Commission take a final decision.</p>

	<p>Regulation, specific date to be inserted by OP] or by [six] nine months after the conclusion of the bidding zone review launched in accordance with points (a), (b) or (c) Article 32(1) of Regulation (EU) 2015/1222, whichever comes later.</p>	<p>Regulation (EU) 2015/1222. Based on <i>the proposal</i>, the <i>relevant Member States</i> shall <i>come to a unanimous decision within six months on</i> whether to amend or maintain the bidding zone configuration. <i>Other Member States or third countries may submit comments. The decision shall be reasoned, in accordance with relevant Union law and shall take account of the observations of other Member States and third countries, as well as of commitments on addressing existing congestion made by the relevant Member States. The relevant Member States shall notify the Commission and the Agency of their decision and any cross-border agreements entered into by the Member States, the national regulatory authorities or the transmission system operators for the purpose of achieving consensus. Agreements entered into by the relevant Member States shall not deviate from coordinated capacity calculation processes as set out in Article 14 nor from the relevant provisions of Regulation (EU) 2015/1222.</i></p> <p><i>(4)a Where the relevant Member States fail to come to a unanimous decision within the permitted timeframe, or where the Member States become aware of the fact that commitments on which a previous unanimous decision was based were not complied with, they shall immediately notify the Commission, which shall amend or maintain the bidding</i></p>	<p>It is important that any split of bidding zones is notified well in advance to better manage the negative impact on liquidity in long-term hedging products.</p>
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		<i>zone configuration within six months of that notification.</i>	
Art. 13(6) Reg (Definition of bidding zones)	Where further bidding zone reviews are launched under Article 32(1)(a), (b) or (c) of Regulation (EU) 2015/1222 the Commission shall follow the procedure outlined in Article 34 of Regulation (EU) 2015/1222 and may adopt a decision within [six] nine months of the conclusion of that bidding zone review.	Where further bidding zone reviews are launched under Article 32(1)(a), (b) or (c) of Regulation (EU) 2015/1222, the Commission may adopt a decision within six months of the conclusion of that bidding zone review.	Europex maintains its original position on bidding zones, see above.
Art. 24 Reg (Existing mechanisms)	Member States applying capacity mechanisms on [OP: entry into force of this Regulation] shall adapt their mechanisms to comply with Articles 18, 21 and 23 of this Regulation within [7] years after entry into force of this Regulation.	Member States applying capacity mechanisms on [OP: entry into force of this Regulation] shall adapt ensure their mechanisms to comply with Articles 18, 21 and 23 of this Regulation.	In its current form, the provision would disconnect different pieces of EU legislation and harm market participants' and operators' confidence. In order to avoid regulatory uncertainty, and to ensure legal security and predictability, this provision should only apply to mechanisms which have not already been approved by the Commission under the Energy and Environment State Aid Guidelines. As a general remark, such an amendment in the proposed Regulation is aligned with the Energy and Environment State Aid Guidelines.

Article (Directive)	Council REV 1: Council changes to original EC proposal are shown ⁶	Proposed Europex amendments	Reasoning
New Recital (15)a Dir.	Public service obligations in the form of electricity supply price regulation should be used without overriding the principle of open markets and with clearly defined circumstances. [...]	Public service obligations in the form of electricity supply price regulation should be used without overriding the principles of open markets, <i>unhindered price formation, reflectiveness of regulated costs</i> and with clearly defined circumstances.	Public service obligations in the form of electricity supply price regulation should not create financial deficits for suppliers. In any case, energy wholesale price formation should be unhindered.

⁶ Council Revision of 15 Sept. 2017, Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules for the internal market in electricity (recast) <http://data.consilium.europa.eu/doc/document/ST-10691-2017-INIT/en/pdf>