PKEE
Polski Komitet Energii Elektrycznej
Polish Electricity Association

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Comments from the Polish Electricity Association to draft report on the reform of the EU electricity market prepared by rapporteur Nicolás González Casares

On May 14, 2023, Nicolás González Casares, a Spanish MEP from the Group of the Progressive Alliance of Socialists and Democrats (S&D), published a draft report on the European Commission's proposal for reforming the electricity market (Electricity Market Design – EMD). May 23 was the deadline for submitting amendments to the Commission's draft, and a total of 1117 amendments were submitted by MEPs. Although, in principle, the EC's proposed solutions are evolutionary, some of the MEPs' amendment proposals are provisions that are unfavorable to the energy sector. This provides a basis for further discussion of the direction of the reform.

Amendments by the rapporteur

Among the provisions proposed by MEP Casares was the obligation (with a few exceptions) for member states to impose a revenue cap of €180/MWh of electricity generated for generators producing electricity from infra-marginal technologies, among others: Renewable energy sources; lignite; nuclear power; hydroelectric power plants, including pumped storage. The ceiling would be activated during a price crisis. A state of crisis, in turn, would have to be declared by the European Commission when wholesale energy prices over a three-month period double the average of the past five years.

In contrast, according to the EC's proposal – the Commission would have the right (not the obligation) to declare an energy crisis when the following conditions are simultaneously met: wholesale energy prices will rise 2.5 times the average of the last five years and will persist for at least 6 months, there will be a 70% increase in retail prices and will persist for 6 months, and in addition – both of these circumstances will have a negative impact on the economy.

According to MEP N. Casares, the promotion of Power Purchase Agreement would also be strengthened. It was proposed that a platform be created and managed by the Agency for the Cooperation of Energy Regulators (ACER) to facilitate the collection of information on PPAs concluded in the EU. It was also assumed that standardization of such contracts would be carried out. The use of standard contracts would be voluntary for the contracting parties. Moreover, the development of PPAs would be described in national energy and climate plans (NECP). In addition, a provision has been proposed whereby PPAs could only be guaranteed by the state for renewable energy sources (RES), while the EC proposed to exclude support only for PPAs for fossil fuel energy.

Another of MEP Casares' proposals is that national targets for Demand Response and energy storage should not be merely indicative. The rapporteur also proposed that the Peak Shaving product should be available not only to transmission system operators (TSOs), but also to distribution system operators (DSOs). However, a caveat was introduced that this solution should only be available during a price crisis.

In turn, in order to facilitate the development of new generation sources, it was proposed to introduce a system of monthly reporting of grid connection opportunities by both the TSO and the DSO.

MEP N. Casares' proposals include several new provisions for consumer support. Among other things, the rapporteur proposed that surplus profits earned by electricity generators from Contracts for Difference be allocated first precisely to help vulnerable consumers and those at risk of energy poverty; member states may also allocate a portion of the aforementioned revenues to investments in energy efficiency. A proposal has also been added to prohibit the modification or termination of an electricity fixed-price contract unilaterally by the supplier. The draft report also included a ban on disconnecting vulnerable and energy-poor customers from electricity supply. On the issue of the CfDs themselves – the rapporteur proposes, among other things, to require that CfD-supported investments comply with the so-called EU taxonomy.

The author of the draft report also points to the need for an in-depth analysis and evaluation of the most experimental proposals in the Commission's proposal, such as "virtual hubs." Capacity mechanisms (e.g. capacity markets), on the other hand, have been identified by Nicolás González Casares as a structural solution, rather than a temporary one, as the current legislation implies.

PKEE evaluation

According to the Polish Electricity Association (PKEE), some of the provisions proposed by the rapporteur are a step in the right direction. Particularly noteworthy here is the recognition of the need for investment in electricity grids or the possibility of using CfD revenues to improve energy efficiency (although the investment catalog should be expanded to include storage facilities or the distribution network, among others).

It is also positive to note that the amendments proposed by N. Casares presuppose a prior analysis of the effects of the possible introduction of EC ideas such as "virtual hubs" – a solution untested on such a large scale, the effects of which should be carefully analyzed. The recognition of power mechanisms as structural solutions is also a positive proposal.

PKEE, as well as other industry organizations, note the strongly unfavorable proposal by the rapporteur to establish a de facto obligation (barring exceptions) to introduce a cap on the limit for electricity prices for inframarginal sources. According to the rapporteur's proposal, this obligation would follow after automatically declaring a state of energy crisis. PKEE's position is that the temporary measures and interventions in the electricity market established to mitigate the effects of the current EU energy crisis should not be extended beyond the framework already set. To date, the capping of revenues in different countries at different levels (often several times below the maximum cap of €180/MWh) has increased investment uncertainty and negatively affected investments in the energy transition in the EU. Although the rapporteur's proposal limits the activation of this mechanism to the emergence of an electricity crisis, the automaticity of declaring a crisis and fewer conditions to declare it, make PKEE believe that it would create a significant investment risk. This is an inefficient and undesirable measure, inhibiting investment in new zero-carbon generation sources – both RES and nuclear power – in the long term. It should be emphasized that Polish power companies, by not paying dividends, allocate all of their profits to the implementation of investments, and further reduction of income of the so-called inframarginal units deprives the sector of the resources needed to decarbonize the Polish energy mix. This is diametrically opposed to Western European countries which have already largely decarbonized their energy mix and where the scale of the challenge in generation infrastructure is correspondingly smaller.

As indicated in the report titled "Poland's Energy Transformation Path" by EY experts, the comprehensive investment needs of Poland's energy sector including district heating amount to as much as €135 billion by 2030. This outlook is consistent with the timetable for implementing the EU's new "Fit for 55" regulatory package, which aims to reduce greenhouse gas emissions by 55% from 1990 levels by 2030 (earlier assumptions were for a 40% reduction). According to EY estimates, the investment potential of the four largest energy groups, namely PGE, Enea, Tauron and Energa, is nearly €29 billion in 2021-2030 – taking into account the safe but already high level of debt. This means that even after taking into account the commitment of all other market participants to modernize the sector, a significant investment gap remains to be filled. The authors of the report calculated that in no scenario will EU funds cover it 100%, and as a result the gap will be no less than €8 billion.

In PKEE's view, it will be crucial that the European Parliament, at the next stages of work on the report, make the necessary adjustments to better reflect the specifics of individual member states, including in particular the Polish production sector, which will need substantial funds for capital-intensive investments in the coming years.

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