

The Clean Energy package

Position of the Austrian electricity industry

The Clean Energy package

On 30 November 2016, the European Commission published a wide-ranging package of measures entitled Clean Energy for All Europeans, comprising eight legislative proposals and numerous reports. The aim is to create a European electricity market that is adapted to increasingly decentralised generating structures and integrates the various components of the electricity system more effectively across Europe.

Österreichs E-Wirtschaft supports the Commission's goal of taking important steps towards the Energy Union by means of this package, but still sees a significant need for discussion of a series of points.

Overview of Oesterreichs Energie's demands:

- Accurate choice of instruments: what is required for European regulation, and where must circumstances in member states be taken into account (subsidiarity)
- Identical competitive conditions for all market participants
- Exploit potential where this makes economic sense
- Do not penalise front runners
- Recognition of the responsibilities of distribution system operators in the overhaul of the electricity system

Increased market integration

Supporting renewable energy: Oesterreichs Energie backs the principles proposed for the design of support schemes, such as market integration, taking account of market price signals, and cost-effective design. In the opinion of Oesterreichs Energie, in order to implement these principles with an appropriate degree of security for investors, the design of such support needs to be technology-specific. For this reason, Oesterreichs Energie requests clarification that member states will be able to decide whether to adopt technology-neutral or technology-specific policy instruments within the scope of these principles.

Cross-border use of support systems: this proposal provides for the gradual opening of support systems. However, in Oesterreichs Energie's view, the extent of such opening goes too far, in light of the continuing substantial differences in regulatory frameworks and the resulting cost burdens for generators (in particular regarding the G component, taxes and levies). Opening should initially be limited to 5%. New levels could be set later following a review of the insights gained.

Compensation in the event of congestion management: In the context of the need for investment security, adjustments are required regarding compensation claims in the event of

non-market-based congestion management. Oesterreichs Energie proposes that provision be made for full financial compensation by the system operator that demanded the intervention in the event of non-market-based congestion management.

Balancing energy market: with regard to adaptation of the balancing energy market, a study should first be carried out to determine whether the intraday market could fulfil this function. The intraday market should be promoted as an instrument for self-balancing. Amendments to the regulatory requirements for the balancing energy market must not negatively affect this function.

Pricing procedure: we take a very critical view of selecting only one pricing- procedure (marginal pricing). Oesterreichs Energie is therefore in favour of permitting bidding on the basis of both marginal pricing and pay as bid. Price caps: Oesterreichs Energie welcomes the Commission's intention not to make provision for price caps within pricing mechanisms, since this is the only way to permit scarcity prices that provide effective incentives for investment. Price caps should generally be abolished or rejected.

Identical competitive conditions for all market participants

Level playing field: Oesterreichs Energie welcomes the ongoing development of frameworks in the internal electricity market. In order to create consistently fair and equal conditions for all electricity market participants and promote the continued development of the electricity market, we see an urgent need for amendments to the draft legislation submitted for the Internal Electricity Market Directive, Internal Electricity Market Regulation and Renewable Energy Directive. A level playing field for all current and new market participants is extremely important. Inappropriate preferential treatment of established participants and subjective benefits for new entrants should be abolished.

Regulations for new market participants: basically, an investigation should be carried out to determine whether new European frameworks are required for aggregators, active consumers, local energy communities and renewable energy communities, or could be covered by existing definitions. However, if specific rules for new market participants are created, steps should be taken with regard to all requirements to avoid preferential treatment and exemptions from obligations. Ultimately, unfair competitive requirements harm the intensity of competition and therefore consumers. In addition, the proposed general abolition of the need for approval from other participants for the entry of aggregators into the market should be rejected. We take a highly critical view of the proposed regulation under which aggregators would not be obliged to make equalisation payments to suppliers or generators.

Day ahead and intraday markets: regarding the topic of the day ahead and intraday markets in the Internal Electricity Market Regulation, Oesterreichs Energie welcomes the

proposals for the further development of these markets. We particularly support the harmonisation of the settlement period for imbalances within balance groups at 15 minutes, as provided for in Article 7; in any event, this should be implemented in all member states by 2025 at the latest in order to ensure a level playing field. The proposed harmonisation period should under no circumstances be extended beyond 2025.

Futures markets play a significant part in market participants' long-term hedging activities. Consequently, participants should be allowed to develop new hedging products and bring them to market. In parallel, it should also be possible in future to offer futures contracts combined with actual physical delivery (as opposed to pure hedging instruments).

Efficiency first

The EU Energy Efficiency Directive opens up a host of opportunities to make progress towards the targeted reduction of energy consumption, which is intended to support the shift to a low-carbon economy by means of electrification. The industry is playing a proactive role through the continued promotion of heat pumps and support for e-mobility. However, sufficient flexibility is required at national level to introduce the various regulations and create effective incentives for implementing measures (e.g. the measured design of criteria for the creditability of goal attainment).

Energy efficiency target: the amendment of selected articles in the Energy Efficiency Directive was prompted by the need to integrate the EU's 2030 energy efficiency target. The draft submitted by the Commission proposes a binding EU-wide energy efficiency target of 30% for 2030. The annual reduction of 1.5% in national energy sales by 2030 (and beyond) is also due to be revised. Potential energy savings and the economic viability of measures must be kept in mind when setting targets. In addition, countries that have made significant progress towards enhancing energy efficiency in recent years should not be put at a disadvantage, and their achievements should be recognised. As a result, Österreichs E-Wirtschaft strongly rejects a binding energy efficiency target. The European Council's October 2014 goal of increasing energy efficiency by 27% by 2030 should be retained. Furthermore, Oesterreichs Energie rejects the abolition of the right of member states to choose between a primary and an end-use target.

Assessment and verification: Oesterreichs Energie is also highly sceptical of the proposed changes regarding assessment and verification of measures implemented, as these will significantly tighten the directive, and in turn the targets.

Energy-saving obligation: we welcome the fact that member states will retain the option of achieving the energy savings required under Article 7 by means of energy-saving obligations or alternative measures. However, modifications are needed to safeguard the possibility of

transferring energy efficiency measures from one commitment period to another. Otherwise, the energy efficiency and services markets would immediately come to a standstill and only begin to pick up again after 2021.

Subsidiarity, proportionality and freedom to conduct a business

In the opinion of Oesterreichs Energie, some of the proposed regulations in the package run contrary to the principles of subsidiarity and proportionality.

Transfer of competences: Oesterreichs Energie takes a critical view of the extension of the responsibilities and strengthening of the decision-making powers of the Commission (delegated acts) and ACER at the expense of national competences, because this trend towards centralisation will weaken the position of national regulators, as well as creating additional bureaucratic structures. The transfer of competences is already taking place as a result of the fact that numerous regulations are due to be implemented in the form of a directly binding EU regulation (the Internal Electricity Market Regulation) as opposed to a directive. Consequently, member states will no longer have options regarding the design of structures at national level. Extending the competences of European institutions should only be taken into consideration if insufficient use is made of current responsibilities or there are significant changes in the regulatory framework.

Regional operational centres (ROCs): Oesterreichs Energie sees the need for intensive regional cooperation between national system operators, which also requires corresponding structures. In our view, the establishment of ROCs goes too far.

Network codes as delegated acts of the Commission: regarding the proposed new network codes, we have serious doubts as far as harmonised distribution system charges, cybersecurity rules, data exchange and settlement are concerned.

EU data formats: the previous data formats developed at great expense for the exchange of data at national level are due to be replaced by a new, standardised European data format; a cost-benefit analysis has not been proposed. The administrative burden alone associated with coordinating 27 member states would be enormous. There is no evidence that a standardised data format covering all member states from Finland to Greece is plausible.

Tariff structures: the power of the Commission to implement delegated acts regarding rules for harmonised tariff structures, including detailed provisions on the design of system access charges in connection with an ACER recommendation on the gradual harmonisation of tariff determination methods (including for distribution system operators), is totally excessive and strongly rejected.

Dynamic tariffs: new products and innovative price setting are core functions of competition. Therefore, all suppliers must have the option of offering dynamic prices. However, a general obligation for energy providers to offer dynamic pricing should be rejected, in view of the resulting complexity of products, as well as in terms of economic viability and expense.

Governance: the regulation includes numerous delegated acts that significantly curtail the member states' consultation rights.

Security of supply in dynamic markets

Role of distribution system operators: Oesterreichs Energie welcomes the Commission's acknowledgement of the major role to be played by distribution system operators in the European internal electricity market. The Commission acknowledges that challenges, such as the effects of fluctuating generation, can be addressed by distribution system operators in a way that makes economic sense.

Adapting current regulations: the Commission's fears that only ownership unbundled system operators will possess the requisite neutrality are unjustified. Consequently, there is no need to amend the unbundling regulations.

Construction and operation of storage facilities: in principle, the construction and operation of storage facilities – as proposed by the Commission – is a market-based activity. However, at the same time, guarantees should be provided that DSOs are permitted to operate, own and build storage facilities in order to perform clearly defined distribution system-related functions (e.g. congestion management, voltage stability maintenance, reactive power regulations, etc.). Specifying such functions should be the responsibility of member states. As a result, DSO participation in the regular energy market is not foreseen, especially not in balancing energy markets. In general, storage facilities linked to the grid have capacities of a few hundred kilowatts, and are intended solely for resolving local technical problems in the distribution system, meaning they do not compete with the market.

Local storage technologies can serve as a more economically viable alternative to conventional network development; construction times are also significantly shorter.

Capacity mechanisms: a growing number of member states have introduced capacity mechanisms, which will have an impact on the internal electricity market, depending on their form. It is therefore justified to regulate the design of such mechanisms. However, any regulations must not place new restrictions on the internal market or cross-border application, or reduce security of supply. This is particularly important regarding the definition of strategic reserves, the related activation mechanisms and their scope of application. The Commission's proposed definition would place restrictions on the activation of strategic

reserves in Austria. In contrast to the Commission's proposal, cross-border participation should also be permitted in relation to strategic reserves.

Mechanism for achieving energy and climate targets

The European Commission has put forward a new governance process to monitor the achievement of climate and energy policy targets. In this context, implementing an effective monitoring and steering mechanism in order to achieve the EU's energy and climate targets, while simultaneously safeguarding flexibility for member states and taking cost effectiveness into account, will be a major consideration. The proposed regulation includes the possibility of the Commission implementing additional measures. Oesterreichs Energie is in favour of requiring all measures to be enacted by means of formal legislative processes.

Negotiations on the Clean Energy package

Oesterreichs Energie is willing to share its expertise in the legislative process. For details, reference is made to our positions on the European Commission's proposals in relation to the following:

- Internal Electricity Market Directive
- Internal Electricity Market Regulation
- Energy Efficiency Directive
- Regulation on the Governance of the Energy Union

Contact

Susanne Püls-Schlesinger
European Affairs

Österreichs E-Wirtschaft
Brahmsplatz 3, A-1040 Vienna
Tel: +43 (0)1 50198 ext. 222
E-mail: s.puels@oesterreichsenergie.at
www.oesterreichsenergie.at