



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 27 February 2013**

**6212/13**

**ENER 38**

**NOTE**

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from:	General Secretariat of the Council
to:	Delegations
No. Cion prop.:	16202/12 ENER 467
Subject:	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Making the internal energy market work = <i>Draft Council conclusions</i>

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Delegations will find in Annex the above.

*draft*

**Council conclusions on "Making the internal energy market work" <sup>1</sup>**

THE COUNCIL OF THE EUROPEAN UNION

RECALLS that completion of the Internal Energy Market is a priority action under the Single Market Act II;

RECALLS the conclusions of the European Council of 4 February 2011 which stated that the internal market should be completed by 2014 and that no Member State should remain isolated from the European gas and electricity networks after 2015;

EMPHASISES the significant contribution that the completed Internal Energy Market will make to all three pillars of the Union's energy policy: sustainability, competitiveness and security of supply - including the reduction of the Union's external dependency, but also to the Union's jobs and growth agenda and to the Union's energy and climate targets;

STRESSES the need to ensure a fully consistent and synergistic approach between different energy policies strands such as renewable energy, energy efficiency, the internal energy market and future energy policy goals, and also with closely linked policies such as transport policy, climate policy and economic policy and their respective goals.

IN ORDER TO COMPLETE THE INTERNAL ENERGY MARKET AND ACHIEVE THE 2014 AND 2015 DEADLINES, THE COUNCIL:

1. CONFIRMS its full commitment to the correct and urgent implementation of the third energy package, which includes acting in line with the spirit of that legislation and ensuring proper application and enforcement;

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<sup>1</sup> Note: the numbering contained in these conclusions was added to facilitate discussions and will disappear in the final version.

2. INVITES therefore all Member States to phase out gradually - whilst taking into account universal service obligations - all existing indiscriminate price regulations unless they are focused on well-defined groups of vulnerable consumers, are of an emergency or temporary nature, or are justified by wholesale markets that are uncompetitive due to their geographical isolation;
3. CALLS on Member States to accelerate the phasing out of all direct and indirect subsidies for fossil fuels, whilst recalling the TTE Council conclusions of 3 December 2012 on the phasing out of support for certain types of maturing renewable energies, depending on certain factors.
4. UNDERLINES the importance of finalising and implementing the Target models for electricity and for gas, from balancing to long-term markets, and for the continued rapid development, through the Comitology process, of technical standards, network codes and framework guidelines, as set out *inter alia* in the Action Plan for Europe annexed to the Communication "Making the Internal Energy Market work" (16202/12), that will ensure the optimal functioning of the internal gas and electricity markets. In particular, Council underlines the need to improve capacity utilisation in gas and electricity networks and improve consistency in cross-border transportation tariff calculation;
5. STRESSES the responsibility of Member States, cooperating at Union and regional level, to ensure generation adequacy. However, the primary role of the market is also crucial, as its proper functioning should provide clear investment incentives for new generation capacity, new interconnections, network optimisation, *et cetera*. Therefore Council calls for the further enhancement of cooperation and coordination at policy as well as operational level, and welcomes the role of the Electricity Coordination Group.

6. SUPPORTS the further strengthening of regional initiatives, regional cooperation and planning to improve the overall functioning of the internal energy market, in particular in order to assist in the creation of further energy interconnections and energy market coupling. In cases where these are lacking, the creation of further interconnections and better market coupling should receive the highest priority;
7. HIGHLIGHTS the role that energy infrastructure plays in the completion of the internal energy market and the achievement of energy and climate objectives . Adequate infrastructure comprises in particular sufficient interconnections to improve security of supply, to end energy isolation, to enable the uptake of increasing amounts of variable renewable energy and to foster significant volumes of crossborder trading in gas and electricity. Council therefore urges Member States to devote all necessary efforts to the swift implementation of the Regulation on guidelines for trans-European energy infrastructure;
8. HIGHLIGHTS the positive effects that the unbundling provisions of the third energy package have on the development of energy infrastructure, and looks forward to the Commission's analysis and guidance on large institutional investors that wish to invest in both energy generation capacity and energy infrastructure;
9. RECOGNISES the problem posed by unplanned power flows occurring frequently and on a large scale and the potential dangers that this poses to the proper functioning of transmission systems. Council underlines the need to address this problem, that may result from the mismatch between renewable electricity inflow and grid development and/or grid management. This could be done *inter alia* by reinforcing the grids, by addressing proper market bidding zones, by close coordination among TSOs in congestion management, and, as a last resort, by appropriate temporary measures such as the installation of control equipment on crossborder lines;

10. EMPHASISES once again the significant role that energy efficiency and energy saving play in helping to solve a wide range of challenges facing the internal energy market, and underlines the importance of implementing the Energy Efficiency Directive, which includes provisions on distributed generation, demand response and related price signals, which will all help the internal energy market to evolve;
11. RECALLS the need to keep the internal energy market adequately supplied, including from external suppliers, whilst bearing in mind the need to ensure a level playing field for business and industry so that they can be competitive in the global marketplace, having regard *inter alia* to the impact of climate policy and carbon leakage.

IN ORDER TO IMPROVE THE RIGHTS AND ROLES OF CONSUMERS, THE COUNCIL:

12. UNDERLINES that the consumer should be a driving force for market integration and for the creation of crossborder retail markets, by exercising their right to choose the best offer from different electricity and gas providers;
13. STRESSES the rights of consumers to transparency, equality and predictability in particular with regards to contracts, billing and flexible pricing;
14. HIGHLIGHTS the importance of affordable energy for consumers, and the value of assessing future energy policy initiatives from the perspective of the consumer, including where appropriate the implementation of specific cost-benefit analyses from the consumer perspective;
15. UNDERLINES that regulated parts of the energy prices paid by consumers, such as transmission and distribution charges, taxes and levies, should not disproportionately burden any one consumer group over another;

16. ENCOURAGES awareness-raising activities such as targeted communication and education measures aimed at the respective age groups and user categories, using consumer-friendly consumer-protection resources such as price comparison tools that enhance transparency and comparability of information, e.g. on prices and service quality, and thus facilitate the switching of suppliers;
17. UNDERLINES the importance of protecting vulnerable consumers either through energy policy or through social policy, as determined by the Member State. In this context, Council recognises the scope for the exchange of best practices among Member States as an input and stimulus for policy development, whilst underlining that protection of vulnerable consumers should not have a negative impact on energy efficiency and on the correct functioning of the market, including price signals for demand. Furthermore, Council underlines the particularly effective role that energy efficiency measures and policy can play in protecting vulnerable consumers.
18. HIGHLIGHTS the importance of smart meters, micro-generation, micro-storage, home automation and smart appliances, in empowering consumers and delivering demand response, whilst underlining the need to ensure adequate privacy and data protection and address other issues related to the consumer acceptance of such devices. Council therefore emphasises the need for Member States to consider the adoption of strategies for the roll-out of smart meters, which may be subject to the outcome of their cost-benefit analyses that demonstrate the costs and benefits for the consumers, as well as for other energy actors;
19. ENCOURAGES the roles that the consumer can play in the micro-generation of renewable energy ("prosumers"), and in micro-storage, and the multiple potential benefits that this can have on important elements of the Union's energy and climate policy, whilst also having regard to the accompanying costs;

20. WELCOMES AND SUPPORTS initiatives that encourage and enable participation of individual citizens in infrastructure projects, generation projects and storage projects, especially those in their local area. This should be done, when appropriate, in line with the measures set out in the Regulation on guidelines for trans-European energy infrastructure, and taking into account the task of public authorities to communicate the need for, and challenges associated with, the completion of essential energy infrastructure.

IN ORDER TO CONTRIBUTE TO THE TRANSITION TO THE INTERNAL ENERGY MARKET OF THE FUTURE, THE COUNCIL:

21. CALLS FOR the rapid development of standards, and where appropriate regulatory frameworks, for smart meters, smart grids and smart appliances. Council supports the development of cross-border smart grids, in particular where these contribute to generation adequacy, security of supply, the uptake of increasing amounts of variable renewable energy, and optimal network management.
22. SUPPORTS further Research, Development and Demonstration projects on smart grids, and encourages Member States to prepare national action plans for their introduction. Rules and standards for the seamless interaction of smart meters, smart grids, smart appliances, micro-generation and micro-storage technologies and home automation are essential, *inter alia* for enabling demand response and data management;
23. NOTES with interest the intention of the Commission to propose guidelines and possibly other instruments for a roll-out of smart meters, whilst underlining the need for transparency, coordination and exchange of best practice in the roll-out of smart meters. In this process, an important role can be played by national action plans;

24. UNDERLINES the potential role that can be played by the providers of innovative services and new actors such as ICT companies, for developing demand response systems in distribution networks. Council recognises the need to re-assess the role of Distribution System Operators in light of the emergence of new markets for innovative services. In general, Council emphasises the need to exploit the large synergistic potential that lies in the cooperation between energy actors: energy and telecom companies, Distribution System Operators, Transmission System Operators, National Regulatory Authorities, Member State authorities, retailers, ICT companies and system developers;
25. UNDERLINES that further efforts are needed to facilitate and enable the development of more and better energy storage solutions, in all sizes and types, and therefore supports further Research, Development and Demonstration in this area;
26. UNDERLINES the contribution that the large-scale use of both micro-generation of renewable energy and micro-storage of energy can make to generation adequacy and security of supply, and calls upon the Commission and Member States to ensure that technical and administrative barriers to the large-scale deployment of these types of generation and storage are minimised or removed. In this context and in light of the recent Commission proposal for a Directive on the deployment of alternative fuels infrastructure, Council underlines the potential for a successful integration of the micro-storage potential of electric cars batteries into smart grids, which is an aspect of particular importance to energy policy;



27. UNDERLINES that it may not be possible to accurately assess generation adequacy at national level, due to increasing crossborder energy flows: generation adequacy should therefore be measured not only at Member State level but also at the appropriate regional level. However, Council recognises that this principle is subject to relevant parameters including the degree of market interconnection, market coupling and the amount of both variable and flexible generation capacity. In order to further improve the security and reliability of energy supply and the efficient functioning of the internal energy market, Council welcomes initiatives to promote further transparency as regards the analysis, methodologies and practices used to assess generation adequacy. Such initiatives could, if appropriate in light of further analysis, lead to proposals for minimum criteria aimed at converging generation adequacy methodologies;
28. UNDERLINES that any state intervention in the energy market should be within the limits of Union law, should only take place after due consideration of the alternatives - in particular the removal of existing distortions, the promotion of demand response mechanisms and energy efficiency, as well as additional interconnection capacity - and should be the least distortive possible. Council notes that although the use of capacity mechanisms for the short or medium term is an option to consider, with the aim of guaranteeing generation adequacy and security of supply in situations where the internal market does not yet function perfectly due to a lack of interconnection, or where the inflow of large quantities of intermittent power generation causes a need for flexible generation that otherwise cannot be met, this option could have negative effects;

29. STRESSES therefore, that with a view to excluding or minimising potential negative effects of capacity mechanisms on the functioning of the internal energy market, coordination at regional and Union level is needed, and the following issues relating to capacity markets should be examined thoroughly: potential parameters, possible conditions and preconditions for their use, (which should include an assessment of the alternatives available, such as market coupling, storage, demand response mechanisms *et cetera*), their design, their potential effects - including on cross-border trade, on investment in interconnections, on other Member States and producers - and their possible later phase-out. This examination may lead to guidance at EU level on the use of capacity mechanisms, to coordination at Union and regional level, and to criteria to assess consistency of national capacity mechanisms with the internal market. Guidelines on these issues may help in minimising the possible drawbacks of these mechanisms.
30. WELCOMES the Commission's announced guidance on renewable energy support schemes reform and the revision of the guidelines on State aid for environmental protection, and underlines that in the context of Union legislation on antitrust and State aid, there is a continued need to ensure a level playing field and respect of competition rules;
31. STRESSES that when Member States make choices that result in a drastic change of their national fuel mix, they should duly consider ways to minimise negative repercussions that this choice may have on neighbouring states and their region, including coordination and dialogue with affected Member States;

IN LIGHT OF THE ABOVE, THE COUNCIL:

- SUPPORTS the Action Plan for Europe as set out in Annex 1 to the Communication and for the Commission to proceed with its implementation, taking due account of the messages contained in these Council conclusions, and with regular reporting by the Commission to the Council instances on its implementation, so that these can monitor their implementation;
- STRESSES that it intends to review the implementation of these conclusions by end 2014.