

Position Paper 2023/145

Electricity regulation: for a Just Energy Transition and the right to energy

Industrial workers call for a deep structural reform of the electricity regulatory framework in support of a Just Energy Transition and the right to energy at regulated, stable and affordable prices.

On 14 March 2023, the European Commission presented its long-awaited proposal on reforming the electricity market design. Contrary to the announcement of Ursula von der Leyen, in her State of the Union speech, the proposal does not introduce a deep structural reform of the electricity market (neither does it put into question certain dogmas), but rather cosmetic adjustments to the existing EU electricity market design. These cosmetic adjustments could be followed by a more profound structural reform of the electricity market after the EU elections in 2024.

IndustriAll Europe regrets that this delay in proposing a deeper structural reform of the EU electricity regulatory framework fails to shield workers, citizens and industries from the consequences of the current energy crisis.

The debate about the reform of the EU electricity market design is complex and it takes place in a volatile geopolitical and economic situation. Against this backdrop, the industrial trade unions and the 7 million workers that industriAll Europe represents demand a prudent, but comprehensive response with measures that will have an immediate and global effect to the multiple crises that Europe is facing today (the climate crisis, industrial and energy crisis, as well as the cost-of-living crisis, driven by persistently high levels of energy prices for households and small- and medium-sized enterprises as well as high levels of critical raw material prices and lack/interruption of their supply) through a comprehensive policy framework that supports the implementation of the European Green Deal through a Just Transition with and for workers.

To this aim, the Commission's proposal to reform the electricity market design must be part of a comprehensive Green Deal Industrial Plan and coherence must be assured with all other relevant proposals (such as the Net-Zero Industry Act and the Critical Raw Materials Act). It must be our ultimate objective to reach climate neutrality by 2050 through decarbonising energy and industry, to promote strong European energy, digital and industrial value chains in Europe, to protect and create high-quality jobs in Europe, as well as to address the disruptive and distributional impacts of the transforming energy system.

Furthermore, the future of the EU electricity regulatory framework must aim at achieving the following objectives:

- ensure the competitiveness of industry and companies with predictable, stable and affordable energy costs that ensure a level playing field within the EU and globally;
- Security of supply and continuity of service at all points in the territories;
- Controlled tariffs;
- Safety of installations and infrastructures;
- Progressively, a low carbon footprint;
- Management by public services or by companies of general economic interest subject to public service obligations;
- The creation of a strictly independent European Energy Agency to coordinate national planning to ensure continuity of services on a European scale and coordinated development of all existing forms of energy.

IndustriAll Europe believes that these objectives can only be met through a deep structural reform of the EU Electricity Market Design that makes the electricity market fit to support the low-carbon energy, digital and industrial transition in Europe, reinforces solidarity between Member States, ensures the secure and affordable supply of electricity to industry and households, and supports the retention and creation of high-quality industrial jobs in Europe.

The electricity price crisis is also a crisis of electricity scarcity. Electricity represents 32.9% of the EU's industries' final energy consumption (Eurostat, 2020 data) - although differences exist between the Member States - and is set to increase in line with the EU's ambition to achieve net-zero emissions by 2050. For more than one year (beginning months before the Russian invasion of Ukraine), sky-rocketing energy prices have been leading to material inflation, putting pressure on industry's profit margins, resulting in production halts, curtailments, pressure on wages and working conditions, relocation and closures of plants, often resulting in short-time unemployment or even redundancies and job losses. As an example, at the peak of the energy price crisis, 50% of the EU's zinc and aluminium production capacity was forced offline. Beyond the basic metals example, high electricity prices will undermine the decarbonisation of the entire industry given the central role electricity plays in the Energy-Intensive Industry ecosystem's transition pathway¹ or in the decarbonisation of transport.

Moreover, soaring energy prices have been exacerbating energy poverty, undermining workers' purchasing power, as well as driving up inflation rates across Europe.

These developments are happening at a time when, in parallel with the socio-economic crisis, large energy companies are seeing significant increases in their margins and profits.

The Commission's recent proposal to reform the Electricity Market Design does not deliver the profound structural reform industriAll Europe has been asking for. While it offers several elements to support industry and households in a context of a highly volatile electricity market in the medium-term, it does not represent a sustainable solution to address the multiple challenges the EU economy and its workers are facing today. Despite a slight recovery of electricity prices towards pre-spring 2022 levels, future price shocks are bound to happen (e.g. through increased demand during extreme temperatures or future shortages of electricity supply) and a more structural reform is badly needed. Even with the expected increase in the injection of electricity from renewable sources (PV and wind), the problem of price

¹ See among other sources ['Masterplan for a competitive transformation of EU energy-intensive industries enabling a climate-neutral, circular economy by 2050'](#)

increases will not be solved due to the intermittency/volatility of these sources, the considerable investments needed in grids and energy storage systems, and the marginal price setting on wholesale markets.

For industriAll Europe, it is clear that the energy price crisis is of a structural nature which has been intensified by the Russian invasion of Ukraine, its consequences and the use of energy as a weapon. Today's electricity market design was developed in the past when there was an abundance of cheap fossil fuel imports. **The current crisis also demonstrates that the commodification of electricity has been failing to ensure and facilitate the Just Transition to net zero.** The liberalisation of the energy sector has exposed the reality that despite the promises made, the market model to date has not delivered lower prices for households and businesses.

Indeed, the energy price crisis and the price shocks seen in 2022 led many trade unions to raise concerns about the failures of today's market design and increased calls for an exit from the energy market. In that context, **we urgently need a thorough and transparent assessment of the functioning of the current market and the different alternatives for a deep structural reform** that does not ignore the fundamental concerns of industrial workers and citizens.

In our view, a structural reform must turn away from market pricing, and instead introduce regulated pricing (and not only price caps), including for commodities, such as oil and gas (for which storage capacities are still insufficient in Europe) and for electricity (very long investment cycles for controllable energy).

In order to prevent a further de-industrialisation of Europe and instead address the long-term challenges of decarbonising our economy, **industriAll Europe calls for a more long-term oriented comprehensive structural reform that modernises the European energy policy** and makes it fit for Europe's transition to net zero. In addition, we would like to see sharper proposals that correspond to the output needs that the electricity and energy market is facing, in terms of a lack of electricity and how to solve the climate challenges we are confronted with.

Achieving the Green Deal requires massive electrification of manufacturing processes and transport and an increase in low-carbon electricity generation. In that context, it is unsustainable to maintain a system in which fossil fuels set the electricity price. We call on the Commission and Member States to engage in a thorough and transparent assessment of what the electricity market design for a net-zero economy should look like and to propose a long-term oriented, deep structural reform.

Essentially, the reform of the electricity market design must recalibrate market powers with public steering in support of low-carbon energy and industrial investments, secure and stable quality jobs and affordable electricity prices that reflect the real production costs. While the situation is different in each Member State (in terms of electricity generation and the impact of the energy price crisis), the electricity market reform must be based on strong solidarity between EU Member States, the pursuit of a much stronger coordination of energy policy in Europe, and the principle of energy as a basic right and service for European citizens.

Basic principles to guide the future of the EU electricity market design

In close coordination and discussion with the representatives of its 200 affiliated trade unions, industriAll Europe sets out below the fundamental principles that should guide the reform of the EU electricity market design.

Fundamentally, a deep structural reform of the current electricity market design must address the following questions:

What electricity market design do we need to ensure the supply of abundant, low-carbon electricity at stable, predictable and affordable prices for industry, local communities and households in view of moving to net-zero emissions by 2050? Is the market the best means of meeting the needs and expectations of business competitiveness and individuals?

Based on these fundamental questions, industriAll Europe demands:

1. A reformed electricity regulatory framework based on the defence of energy as a right and public good to promote social and territorial cohesion as well as long-term environmental targets

Electricity must be considered and handled as an essential right, commodity and a public good (as enshrined in the European Pillar of Social Rights). Electricity must be a basic right for all citizens and access to it must be guaranteed. The reform should introduce in the Electricity Directive a concrete right for household consumers to receive a guaranteed supply offer that protects them from electricity price volatility and energy shortages, and covers basic needs.

IndustriAll Europe welcomes the new provision proposed in Article 28a of the Directive that requires Member States to ensure that vulnerable customers are protected from electricity disconnections as a positive step in that direction. Simultaneously, we believe that this should also cover gas supply.

We also welcome the new provisions in the Commission's recent proposal that allow Member States to intervene in price-setting to support households in the case of a regional or Union-wide electricity price crisis.

While we acknowledge the new provision that requires Member States to appoint a supplier of last resort, in reality the provision does not shield private customers from excessively high electricity prices on the retail market, if customers are victims of speculation and there is no maximum floor for retail prices.

Instead, in order to make progress towards social cohesion, we demand a retail price system that guarantees the basic needs of consumers and businesses (in particular SMEs) at regulated, stable and affordable prices, while it must incentivise private investments and crucial energy savings in line with our decarbonisation targets.

Moreover, we demand a strong public support for citizens in the roll-out of energy efficiency solutions in buildings and households that will both contribute to energy savings and keep energy bills to a minimum. IndustriAll Europe regrets that the Commission's proposal is a response to the vocal calls from business associations and companies while it fails to sufficiently integrate the voices of workers and citizens. Unfortunately therefore, it misses the opportunity of delivering a reform of the electricity market that makes it social and just.

2. A reformed electricity regulatory framework that ensures the supply of abundant electricity at predictable, affordable and stable prices for industry, local communities and households

In our view, the Commission's recent proposals to reform the current electricity market design are falling short of addressing the long-term challenges of a just energy transition. The current moderation of

electricity prices must not be taken as a reason to abandon the announced deep reform. We have to anticipate and address future price shocks. This can be only done through a deep structural reform that is based on a constant, transparent and neutral assessment of the liberalisation of the energy markets and through a thorough impact assessment of the alternatives to the current electricity market design.

The access to an abundant, reliable, secure and stable supply of low-carbon energy is a key factor for the competitiveness of European industry. The recent energy price shocks have impacted European manufacturers. We welcome the new provisions that provide Member States with the possibility to apply targeted public interventions in price-setting for the supply of electricity to small- and medium-sized enterprises in the case of a regional or Union-wide electricity price crisis. It is a necessary step to support SMEs during price shocks.

Essentially, we must overhaul a market that was designed in an era of cheap fossil energy imports. With the integration of increasing amounts of renewable electricity in the system, the price-setting mechanism on the wholesale spot markets, based on the merit order system, is outdated, as wholesale prices do not reflect the real production costs of electricity. Therefore, industriAll Europe demands a decoupling of gas prices from setting electricity wholesale prices. Wholesale electricity prices must reflect the real production costs of electricity.

Furthermore, we must avoid that the much-needed integration of volatile and intermittent energy resources, as well as energy storage, does not translate into an upward pressure on prices. Electricity prices must be affordable for European citizens and ensure the competitiveness of European industries while preserving and creating sustainable employment.

In the current context of electricity price volatility, any closure of controllable electricity production capacity will weaken the security and stability of this supply. In the transitional period, until sufficient low-carbon, including controllable, electricity capacity and infrastructure is installed, we should refrain from closing existing controllable electricity production capacity without economic planning and alternative production projects in place, while ensuring safety of installations and avoiding locking in fossil-based energy production.

3. Long-term contracts must support much needed investments in low-carbon electricity infrastructure

IndustriAll Europe welcomes the stronger support of long-term market mechanisms in the Commission's recent proposal. Although they may not be sufficient for an in-depth reform, they will be essential tools for consumers to hedge prices and thus support predictable and stable electricity prices. Essentially, the promotion of long-term markets and the possibility to combine Contracts for Difference (CfDs) and Power Purchase Agreements (PPAs), sends a positive signal to industrial sectors in terms of investment decisions. Long-term price mechanisms will also support the much-needed investments in low-carbon electricity generation, as well as flexibility sources, i.e. in grid, interconnection and storage infrastructure.

We specifically welcome the stronger promotion of government-backed, two-way contracts for difference, as they will support investments in low-carbon energy technologies in line with a technology neutrality principle, while addressing price volatility. At the same time, the promotion of CfDs should not hamper the use of PPAs or impact existing PPAs.

CfDs will be all the more in the service of the general interest if they are managed, for those Member States that wish to do so and in compliance with subsidiarity, by a public entity that can, if necessary, carry out the tasks of a centralised buyer.

IndustriAll Europe considers that incentives and support schemes should treat all renewable technologies equally. Hence, it is important to include flexible hydropower as well as hydrogen as a source of flexibility in the electricity system in the list of technologies that may be supported by CfDs, in light of the different national circumstances to generate the necessary baseload electricity to balance out intermittent electricity generation and meet electricity demand. At the same time, CfDs should be optional for investments in inframarginal technologies to avoid hampering investments or locking in high prices.

While the provisions for national governments to shape CfDs and PPAs are necessary, they also carry risks, as – in the current context – they could lock in comparatively high prices, while also leading to a patchwork of contract-systems within the EU (essentially depending on national capacities to support companies through state aid). Nevertheless, with regard to energy prices, the common European market power should be used, and joint purchasing (especially of hydrogen and gas) should be established or expanded (beyond gas-storage).

One big step towards a Just Transition through market reform is a strong social conditioning: companies that receive public money through CfDs or other instruments must show their responsibility and government support should not be unconditional. Therefore, CfDs must come with social safeguards, in terms of company commitments to secure industrial sites and corresponding jobs, committing to effective social dialogue and collective bargaining with their workforce and trade unions, as well as investing in vocational education and training and upskilling of workers. Through these conditionalities, a reformed electricity market can also ensure the enhancing of skills, where the industrial trade unions and the 7 million workers that industriAll Europe represents get the possibility of up-skilling and re-skilling in all industry sectors.

4. A reformed electricity regulatory framework that is based on solidarity within the EU

With the objective of solidarity between Member States and the promotion of the European Energy Union, Member States should define their energy mix in a sovereign manner, in line with decarbonisation objectives and their needs (TFEU article 194). The over-dependency on energy imports has exposed Europe to price volatility on global markets. Therefore, the reform must facilitate and promote the self-sufficiency of the energy supply of the EU.

Based on an assessment of the existing governance system of the electricity market, as well as on the principle of subsidiarity, we support the development of a strictly independent EU Energy Agency with the responsibility for the coherent management of the energy markets, long-term planning of generation and networks, and the promotion of joint, long-term energy purchasing.

IndustriAll Europe welcomes the further promotion of European cross-border cooperation and interconnections, while avoiding increasing competition between countries but supporting them to meet their respective energy needs. The proposal of regional virtual hubs is a promising approach. However, they should be subject to regular European or national governmental control in their design.

Importing electricity produced from renewable energy sources (that are intermittent by nature) through interconnections must not create difficulties for controllable decarbonised electricity installations. A European Energy Agency (as suggested above) should also be responsible for arbitrating exchanges through interconnectors. In addition, each Member State must be able to ensure a majority fraction of its consumption peaks by its own technology capacity, including decarbonised, controllable electricity production means, storage, demand-response and capacity mechanisms.

While solidarity, through much stronger cross-border cooperation and interconnections, is essential to the future electricity market design, there is also a risk of moral hazard, where Member States fail to have sufficient self-production of electricity and energy in their country and rely on other countries taking responsibility. Hence, Member States also bear the responsibility of meeting their own energy needs by supporting the expansion of low-carbon electricity production and avoiding shut-downs of essential production capacity in the current context. If this is not the case, there is a high risk of a shortage of total electricity and energy capacity within the EU.

Even though the Electricity Market Regulation adopted in 2019 reduces the possibility for Member States to dispatch in priority renewable energy from new installations to small-scale installations (with a capacity of < 400 kW) and to innovative projects², the reform should ensure that in reality all means of low-carbon electricity generation are on an equal footing when it comes to access to the network and service obligations. IndustriAll Europe stresses in particular the need to ensure that the penetration of intermittent power generation sources will not undermine the economic viability of controllable, low-carbon electricity production installations that are crucial to balance supply and demand as well as to reach the 2050 climate neutrality objective.

5. A reformed electricity regulatory framework with strong safeguards against speculators & unjust profiteering

IndustriAll Europe would welcome a permanent and progressive system of windfall taxes in support of the provision of affordable electricity for industrial and private consumers. At the the same time, a reduction of revenues in peak price hours risks affecting the ability to estimate the profitability of new investments in low-carbon investments and flexible capacity. Therefore, windfall taxes must be well-balanced and designed in such a way that they prevent consumers paying excessively high prices in times of energy price shocks, while not hampering the necessary investments in the much-needed energy infrastructure.

The reform of the electricity regulatory framework must adequately address and remove speculation in line with the principle of electricity being an essential commodity and a basic right for EU citizens. IndustriAll Europe insists on the need for an assessment of the existing governance system of the electricity market. We demand the establishment of a strictly independent EU Energy Agency to take on the responsibility to effectively monitor and investigate speculative behaviour on the markets.

To conclude, while industriAll Europe welcomes some of the provisions in the Commission's recent proposal that support industry and households in a context of a highly volatile electricity market in the medium-term, we believe that the proposal is not fit for the purpose of transforming our energy system. IndustriAll Europe calls on the EU institutions to engage in a thorough assessment of the options for a deep, structural reform of the electricity market design that supports the EU economy to achieve the net-

² See Art 12, §1 and 2 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0943&from=EN>

zero transition, provide abundant, low-carbon electricity at stable, predictable, and affordable prices, to stop and reverse the trend of deindustrialisation while maintaining high-quality industrial employment in Europe. Significant progress could be made through social conditionality in return for public money. The future of the EU electricity market must be considered in the wider EU strategy to support a Just Transition for all, support the cohesion within Europe and eradicate energy poverty.

Background documents

For further reference, please see the previous position papers adopted by the Executive Committee of industriAll Europe:

- Statement: Europe must act now – Create the framework for European Industrial Solidarity to tackle the energy crisis – adopted in December 2022 – [EN DE FR](#)
- Position Paper: The energy prices crisis and its impact on households, industries and jobs – adopted in May 2022 – [DE EN FR](#)
- IndustriAll Europe Policy Brief: The energy prices crisis and the EU's answers – [DE EN FR](#)