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CONTRIBUTION

From:	General Secretariat of the Council
To:	Delegations
Subject:	ES comments on the Electricity Market Design

Delegations will find in the annex the ES comments on the Electricity Market Design.

MINISTERIO
DE ENERGÍA, TURISMO Y
AGENDA DIGITAL

SECRETARÍA DE ESTADO DE ENERGÍA

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SPANISH COMMENTS ON MARKET DESIGN

I. DEMAND RESPONSE AND DSO FLEXIBILITY

1. Voluntary Price for the Small Consumers (PVPC as Spanish acronym) and dynamic prices.

The Internal Market Directive (art. 5) does not seem to include a phasing out, but a **ban on any regulated price that does not apply to vulnerable consumers** or those who are in a situation of energy poverty. It grants, nonetheless, a period of 5 years during which regulated prices may be maintained for vulnerable consumers.

Comment:

In Spain there is a supply option in the free market and the supply option to households that pay the "Voluntary Price for household Consumers" or PVPC, indexed to the pool, with limitations on the commercial margins of the companies. It should be clarified by the Commission whether the PVPC would be considered incompatible with the provisions of the proposal. If that were the case

- *MS should have the possibility of maintaining the option for consumers to use a price such as the Spanish PVPC,(which is fully aligned with the Directive's objective of providing the consumer with an economic signal that encourages efficient behaviour) for reasons of insufficient competition in the market.*

- *Moving to an "energy only" market and disappearance of cap prices should be accompanied by mechanisms to protect the consumer in extreme cases for countries that are scarcely interconnected such as Spain. There should be the possibility of implementing measures to protect the consumer in case of excessively high prices, excessive volatility and in the transitional period until the consumer is able to actively participate in demand management and is willing to do so. Those do not necessarily have to be measures for vulnerable consumers.*

- *The right to dynamic prices should not eliminate the possibility of subscribing a fixed price.*

2. Network charges.

The proposal establishes that the NRAs will define the methodology and fix the network "tariffs". In addition, ACER is given the competence to make recommendations to the MS to harmonize remuneration for the network and charges: it includes the objective of a progressive harmonization of transmission and distribution access charges by means of an ACER recommendation, addressed to regulators. The recommendation should cover the ratio of applicable charges to generators and consumers, the costs to be recovered by the charges, tariffs according to the time period, groups of network users bound by charges (including possible exceptions), etc. The recommendation should be taken into account by the regulator.

Comment:

- *As regards the convergence between network access tariffs, Spain requests an exception to this measure, as it has not reached a sufficient level of interconnection. In any case, the scope and implications of such convergence, as well as its limits, are not clear in the proposal and should therefore be clarified by the EC:*

  - ✓ *It would be necessary to have an in-depth explanation on the intended purpose, how these tariffs would be defined, the costs they would cover, etc. in order to analyze the implications in our charges system.*
    - ✓ *It would be necessary to clarify what is meant by access tariffs for "**groups of network users**" or "**locational signals**" or " time differentiated **network tariffs modulated that reflect the use of the network**", as well as the targets to be achieved with these tariffs, since, for example, they could lead to a discriminatory treatment of some network users over others (for example, to the extent that they were in an area with fewer restrictions) or the rupture of the "single tariff" principle.*
  - ✓ *According to the Directive, access and distribution charges **must take into account the long term and the avoided marginal costs of the network in the long term through distributed generation and demand-side management measures.** In this sense, the IA ensures that network costs can be reduced as distributed generation and storage assets allow network operators to more efficiently manage the network and connect to remote clients. In this matter, a clarification is requested to the Commission on the **methodologies** used **to assess whether or not cost savings actually occur** and how they have been quantified. It is considered that there are cases in which savings may not occur, for example, if the generation contributions come from unmanageable renewable sources, the investment in networks does not decrease (since these must be designed to supply the demanded power with and without generation), but the expenses in protections and operation of such networks increase. Similarly, although in the case of demand management savings on new investments (but not on those already incurred) appear more evident, information is also requested on the methodology used to assess whether or not cost savings actually occur and how they have been quantified.*

- *As regards the competent authority for setting charges and methodologies, as a more far-reaching observation, but affecting in particular this area, the proposal should include the possibility that governments and parliaments, through laws, dictate the energy policy objectives and general orientations of the methodologies elaborated by the NRA. Additionally, Spain is concerned about the progressive transfer of competences to non-democratic institutions, which do not respond to citizens. In this context, a double-key system should be possible so that the Government can reject the NRA's proposal if it does not comply with these objectives and guidelines or bring the NRA's decision to Parliament.*

3. **Aggregators:** Aggregators are described as one more market participant, serving final customers and energy communities of buying and selling in regulated and demand-side management markets. The Directive establishes the obligation for the regulatory framework to promote the entity of aggregators and provides for a number of conditions: Impossibility of being subject to market access to consent of other market participants, impossibility of requiring them to pay compensation to suppliers or generators,

transparent rules and clear assignment of responsibilities, establishment of a disputes settlement procedure, etc.

Comment:

Although the role of the aggregator as a supplier that participates in the ancillary services can be considered adequate, there is a great deal of uncertainty about the purpose of this new participant (separate from the supplier) and the scope in which it will be developed, which makes it necessary, before providing our assessment, to have more details about those isues (requirements of the subject, how to settle their energy, responsibility for deviations, critical mass to participate, technical requirements of observability and controllability, management of these services). Likewise:

- *This figure should not be used to pay fewer charges. Charges must continue to be demanded from the final consumer regardless of whether or not their consumption is aggregated or not.*

- *How does this figure interact with the supplier and with energy communities? How is it possible to ensure that their access to the market is not subject to the consent of any market participant?*

- *Spain is not in favor of positive discrimination rules that favor these entities when their effects on the efficiency of the system are not positive.*

4. **DSO Flexibility.** It is established that the MS should create a framework that allows DSOs to seek services such as "local congestion management". DSOs should also define standardised market products for the services they are responsible for managing. In addition, "non-frequency services" are recognised as services that must be managed by the transmission system operator or the distribution system operator.

   Comment:

   - *These new DSO functions should be subject to a cost benefit analysis for each type of restrictions in each area. If their management by the DSOs were not beneficial, TSOs should continue to manage these services.*

   - *Market products that can be defined by DSOs to solve restrictions should be homogeneous at least at national level, to facilitate the submission of bids and to avoid discriminatory treatment of the service providers.*

   - *In any case, the implementation and management of these services by the DSO should be carried out gradually and, in any case, in collaboration with the TSO to achieve optimal management at area level.*

   - *Having said that, it is necessary to analyze more deeply possible conflicts of interest and possible problems for competition that could arise from these new powers [it would be advisable to request a non-paper from the Commission assessing these issues]:*

- *According to the electricity market directive, the DSO may not be the same entity that the distributor that owns the networks. If they were the same entity, the Impact Assessment does not assess how it will encourage the DSO to be willing to manage products that reduce the level of investment if the investments in networks are more profitable. It would be necessary to clarify what activities the DSOs will be able to develop in the new framework (it is mentioned information management, storage ownership and operation, electric vehicles recharging infrastructures).*

- *In principle, the Internal Market Directive prevents TSOs and DSOs from owning batteries and recharging points and providing certain services, unless certain conditions are met, among which it should be noted that there is no one who wishes to carry out the activity.*

- *It is considered that the suitability of accepting the exception for an activity carried out by a monopolist with regulated remuneration should be analysed. Likewise, it does not seem appropriate that the DSO can design and define products that it can offer if it has energy storage energy systems.*

- *Other alternatives should be assessed in the impact assessment to boost these activities, such as conducting auctions or competitions for storages or recharging points with an ad hoc economic regime in similar conditions of profitability to which a distributor has.*

- *In the case where a DSO is the owner of the distribution facilities, it is considered that a more detailed assessment should be made of whether a DSO should be able to submit offers to the products detailed in article 31 (energy losses and non-frequency ancillary services in its network) and in article 32 (local congestion, RRTT) both for the area in which it distributes and for the annexed zones. It is considered that it should be analysed if it could have a dominant position, since in turn it participates in the design and management of these products. Thus, for example, it might not be appropriate for a battery owner to offer non-frequency services in its own area.*

- *In certain cases there are distribution networks "daisy-chained" connected with other distribution networks. It is necessary to analyse the implementation of this new model of non-frequency ancillary service management and solving technical restrictions (RRTT) in these cases.*

- *In what cases will DSOs be given the function of obtaining the energy they use to cover energy losses and non-frequency ancillary services in their network under market procedures (art. 32)? What entity will perform such designation?*

- *There is a set of losses that are not manageable by the distributor and that, if you choose a model in which the distributor buys them, it may not be adequately paid. As an example, for a distributor with a lot of hydraulic or wind generation in its area, its losses in MWh will depend on the wind and hydraulic power without being able to influence in a decisive way in their management.*

5. **Self-consumption:** Consumers are allowed to self-consume, store, generate and sell renewable electricity without disproportionate restrictions and ensure remuneration for the electricity they feed into the grid.

   Comment:

   - *As for the payment of charges, it is indicated that they must properly reflect the costs. The question arises as to how this principle should be specified, and the content of the analysis in the impact assessments is very scarce.*

     - *The development of self-consumption must be supported only to the extent that it is efficient for the whole system, without taking into account the individual benefits of consumers. In certain situations it may involve a cross-subsidization between stakeholders, and be uneconomic for the whole system, therefore these situations must be avoided.*
     - *The development of self-consumption is onerous for the network because of the need to reinforce the back-ups, especially in countries with advantageous conditions for non-manageable generation (high irradiation levels in southern Europe) and with a low level of interconnection.*

   - *There should be no positive discrimination in favor of self-consumption: regulation should be based in terms of capacity (in opposition to energy), and not making distinctions by legal form. The same technical requirements must apply to self-consumption as to generation facilities, and it is necessary to have the information on energy deliveries and purchases in a differentiated manner.*

   - *It must be compulsory to have a register of facilities and to control the maximum power of each installation to ensure that a significant development of self-consumption does not affect the security of supply.*

6. **Local energy communities:** They are recognized the right to self-consume, store, generate and sell renewable electricity and facilitate their participation in the market. The IA recognizes that there are more than 2,500 initiatives in the EU, 75% in Austria, Germany and Denmark which have contributed to increase the share of renewables and to reduce the costs of developing renewable energy by providing the most appropriate sites and access to inexpensive capital. As an example in Germany, where 50% of the renewable electricity capacity is privately owned, the standard costs of the energy capacity of energy communities and farmers are competitive with renewable "utility owned".

   Comment:

   - *These entities should not be used to pay fewer charges. Charges must continue to be applied to the end consumer regardless of whether or not they are integrated into an energy community.*

   - *The comments about self-consumption are reiterated here, concerning that no differentiated treatment or positive discrimination should be established in favor of this entity, when it is not established that it is more efficient for the whole system. In*

particular, the RES Directive should not establish particularities for these bodies in support schemes (auctions…), which could lead to a less optimal result.

- *The creation of this entity, in the case of having own networks and given that its size or extension is not limited, could be a step backwards in one of the pillars of the liberalization of the power sector, such as Third Party Access to Networks.*

- *The consequences of having the Local Energy Community owning networks without the third party access obligations of the distributors should be assessed in the situation where a new consumer or generator is located within it. To be supplied (if you do not become a member) you should develop new infrastructures to the nearest distributor. This would mean the commissioning of new infrastructures that would imply a higher cost for the new consumer, for the system and a greater environmental impact.*

- *Likewise, the implications for the system of the bankruptcy or disappearance of one of these Local Energy Communities, concerning the supply of the customers fed by them and, with regard to whether the system should take over the necessary infrastructures and the costs that these would generate to the system (and with that the other consumers that do not belong to these Local Energy Communities)*

- *How does this entity interact with a supplier and with the aggregators?*

7. **Energy poverty.** According to art. 29, MS should define consumers that fit in this category, monitor the number of households affected and report on the measures taken to prevent energy poverty within the framework of national energy and climate plans.

   Comment:

   There is not an European sector policy of energy poverty and there is freedom for the Member States to define energy poverty. Spain considers that energy poverty is a problem of general poverty, which must be tackled from a global perspective, and not just sectoral. While this issue is not minimally harmonized at European Union level, to establish obligations beyond statistical issues and recommendations in the framework of the European semester when the Commission detects a problem in a particular State might not be proportionate.

8. **Meters.** New functionalities and technical specifications of meters (remote reading, interoperability, connectivity with consumer management platforms, etc.) are planned and the facility should be subject to a cost benefit analysis according to the principles of Annex III of the Directive.

   Commen t:

   - *The roll-out of smart meters with the functionalities proposed in the standard should be subject to a national decision based on a cost benefit analysis (as set out in the explanatory memorandum to the Directive in its current wording).*

9. **Possible "last resort" ownership of recharging points and storage facilities by DSO and TSO**

It should be analyzed in detail how this possibility can affect competition and if it could cause potential conflicts of interest.

II. WHOLESALE ISSUES, ROCs AND CAPACITY MECHANISMS

General comment: there are some measures that do not fulfill the subsidiarity principle, especially if applied in Spain or countries that have not reached their electricity interconnection objective. Spain will request an exception so that these measures are not applied to countries with a poor level of interconnection:

- 15 minutes as the new period for settlement of imbalances
- ROCs
- Delegated acts
- Capacity Mechanisms
- Definition of bidding zones without the intervention of MS
- Convergence of network tariffs (as already explained)

10. **15 minutes as a new period for settlement of imbalances and negotiation of energy in organized markets.** It is established that by 2025 the current settlement of imbalances period shall be reduced from one hour to 15 minutes. On this same date, the trading period of energy in organized markets must be at least equal to the period of settlement of imbalances.

Comment:

Spain will request an exception to this measure due to the poor interconnection with France. Spain does not see in this measure substantial benefits, but great burdens.

- *It would require, in case you choose not to apply profiles, the need to replace meters which are now being installed and planned meters in the meter replacement plan. Spain is advanced in this matter, and the costs for the consumer to carry out this substitution would be very significant.*

- *It would mean that the price signal that is transferred to the retail market would be changed to the final consumer 96 times a day, which can be counterproductive in order to achieve a more active demand-side management.*

- *Spain has managed to integrate an important share of renewables in its market with an hourly settlement period. There was no cost-benefit analysis of changing the period from 1 hour to 15 minutes.*

- *The settlement of imbalances period of 15 minutes may be contrary to the objective pursued since it can increase the imbalances of the agents if their predictions are not adjusted quarterly.*

1. **ROCs.** The greater penetration of RES and the highest level of interconnections and markets integration require coordination of the operations of the TSOs at regional level, in this way will be created the "regional operational centres" (ROC). With this entity the TSOs still retain their capacity for decision at the national level, but must be part of the ROC at the regional level. This new ROC has to develop several features and starts from the current entity of Regional Security Coordinator (RSC) of the network codes, and it is an intermediate step towards an integrated European operation. Its implementation will be occurred within the time period of 5-7 years.

Comment:

- *Spain will ask for that these new structures not apply due to poor interconnection.*

- *Under the subsidiarity principle, the creation of this new structure should be subject of further justification by the Commission. Spain believes that there are some functions that should remain at national level anyway: the sizing of power reserves and volume of balancing capacity to contract have to be determined at national level, except in cases of very interconnected regions and when affected Governments decide so.*

- *The proposal for a definition of the system operation regions covered by ROCs will be presented by ENTSO-E to ACER, for approval. Taking into account the importance of the definition of the operation regions covered by each ROC it should be set a procedure in which geographical areas will defined by MS, by mutual agreement.*

  On the other hand, it needs to be clarified whether these regions will also be which are considered for making decisions regionally in various aspects (and not only the system operation). Also the interaction with bidding zones has to be defined. Likewise, if its geographical scope would be integrated into the TSOs scope.

- *The responsibilities of the ROCs must be clarified in the event of conflict with generators or TSOs, cuts or supply failures. In this sense, the regulation states that TSOs will explain when to reject the implementation of a ROC recommendation. Decisions can be entrusted to the ROCs directly by regulation or by mutual agreement among NRAs or MS. It is requested a further clarification in the texts and a more detailed analysis of civil liabilities to a deviation in the recommendations that can cause: loss of profit in power suppliers, or black out or failures in the supply.*

- *It generates legal and regulatory uncertainty what is set in article 34.2, stating that the COM may add more functions to the ROCs according to Chapter VII (Network Codes and Guidelines). The ROCs functions should be fully defined in the provisions of the Package.*

- *In addition, the Commission is empowered to adopt delegated acts with regard to the geographical area covered by each regional cooperation structure. Additionally, the Commission is empowered to adopt delegated acts (art. 55) regarding the establishment of network codes relating to standards for ROCs. Also, in these codes, referred to in article 34.2, the Commission could add new functions to the ROCs. Spain does not agree with defining all of these essential aspects via delegated act. Taking into account the importance for the security of supply of the ROCs provisions relating to these centres, they should be conducted through a legal instrument of*

higher rank than an delegated act which should be restricted to non-essential matters (article 290 TFEU).

- *Article 62 of the Directive provides that regional regulatory authorities in the geographical area in which a ROC is established must approve, inter alia, the statutes and internal regulations, the annual budget, the cooperative decision-making process of the ROC. As it is written, it seems that the regulatory body of the MS where the ROC is physically located will be responsible for approving these issues. Taking into account the functions assumed by the ROCs and their impact on security of supply, this type of authorizations should be carried out in a collegial manner among all the regulators of the affected MS and not only in "close collaboration" as the Directive says. We request the Commission whether it has analysed the extent to which ROCs are created in the territory of one of the Member States of the region in which they operate.*

- *While in recital 27 it is indicated that the functions carried out by the ROCs should exclude real time operation of the power grid, it is not specified what is meant by "real time operation". It is necessary to consider that to "operate in an interval of minutes" balancing energies it is necessary to have a capacity to provide this energy. If power reserves cannot be programmed by each TSO sufficiently in advance, it is "de facto" not allowed the real time operation because there are not sufficient resources to operate. Besides, according to Article 5 of the Regulation, balancing capacity reserves will be determined by the ROC.*

- *When speaking of "common system models" do you refer to the power system as a whole or only to networks? The translated texts speak of "common models of network" but the concept of power system is broader than only networks. It is important to know the scope of this definition to adequately assess the proposed texts.*

- *It is requested clarification regarding the procedure to be followed to determine the sharing of the ROCs costs creation.*

2. Capacity Mechanisms

- Capacity mechanisms are allowed in different MS **as long as**:
  - State aid regulations are complied with.
  - No market distortions are created.
  - The European assessment of demand coverage (based on ENTSOe methodology and approved by ACER) identifies a security problem.
  - There must be a reliability standard indicating the desired level of security of supply approved by the regulatory authority, based on reliability and security indicators (article 20 of the Internal Market Regulation).

- For the design of the mechanisms, the MS should consult other MS interconnected with them. The design of the capacity mechanisms should not limit the exchange capacity among MS. Only certain technologies whose CO_2 emissions are set at a maximum of 550 gCO_2/kWh may participate in capacity mechanisms.

- The price of capacity mechanisms will be established in a competitive manner.

- In order to be able to implement capacity mechanisms, MS must have (by the NRA) a standard that reflects the level of security of supply they wish to have (comparable to the coverage rate). The amount of capacity acquired to have available in the mechanism must be approved by the NRA of each MS.

- Capacity mechanisms will be open to the participation of stakeholders from other MS through interconnections, except in the case of the so-called 'strategic reserve'. MS shall not restrict their available capacity to participate in the mechanisms of neighbouring MS.

- Besides, each MS will take into account the state of the interconnection and the probability of occurrence of an emergency situation in calculating the maximum available capacity for other MS to participate in its capacity mechanisms.

Comment:

- *The provisions of capacity mechanisms do not fulfill subsidiarity principle, as the Commission has not justified why provisions at national level are not valid to protect the general interest. In any case, Spain will request an exception because it is a poorly interconnected country.*

- *Only national reliability analysis of capacity mechanisms should be binding, especially in countries such as Spain, which do not have sufficient interconnection. The MS should be able to intervene in the decision on the need for capacity mechanisms.*

- *The eventual abolition of capacity mechanisms and cap prices and floor prices would represent a very significant step towards a market of only energy, with important implications for Spain. It would be necessary to have a transitional period sufficient for the adaptation of consumers and the commercialization activity to a market of "only energy" and that this scenario takes into account the situation of countries with low level of interconnection, such as Spain.*

- *Regional capacity mechanisms for proper operation should be considered only when there is sufficient exchange capacity among the corresponding electricity systems and a sufficient degree of convergence in energy prices derived from the coupling of the daily markets. This is currently not the case between the Iberian Peninsula and the rest of continental Europe.*

- *As regards the emission threshold of the technologies that can participate in the capacity mechanisms, the Commission has not justified how this threshold complies with the right of MS to determine the energy mix, and there is no proof that the Commission has carried out a study of the impact of this threshold for security of supply.*

3. Participation of renewables in the generation market.

a) **Priority dispatch:** The proposal establishes priority dispatch with possible national exemptions for small installations, innovative technologies and/or built prior to the entry into force of the Directive (grandfathering clause).

Comment: *In accordance with Royal Decree 413/2014, only the high-efficiency cogeneration facilities have priority to dispatch under equal economic conditions, and after these, the renewable facilities, without exception.*

Regarding priority dispatch:

The main problem is the Article 11.2.a) of the Internal Market Regulation, which provides for an exception to the market criteria for renewables of less than 500 kW.

During the last twenty years, different frameworks have been developed in Spain to support renewable energy sources. Frameworks that have evolved as the generation renewable energy technologies have matured and the process of liberalization of the electricity sector has been progressing. Thus, the first frameworks contemplated a compulsory purchase by the distributing companies of all the energy generated, at a legally fixed price (feed-in-tariff). Subsequently, energy began to integrate into the market, maintaining the feed-in-tariff, id est, a price set unique to all generation hours without receiving an economic signal. A further step was the appearance of feed-in-premium.

The system previous to the reform carried out in Spain in 2013-2014, based on feed-in-tariff, allowed the facilities to bid at the minimum price (€0/MWh) resulting in being always matched in the market and therefore they were guaranteed to have priority over any other technology. This was possible because their income was not dependent on the market outcome. Since 2014, the reform has eliminated the distortions caused by market behavior by the lack of an economic signal for generators with a premium regime, in line with the Community guidelines.

Given the great development and experience of the Spanish renewable (40% of the electricity comes from renewable sources), it is increasingly tending to be integrated into the market in line with the Clean Package (see section 6.1.2. of the Impact Assessment of the Internal Market Directive).

Spain is at the forefront of the integration of renewables by highlighting that real integration is possible.

With the current support scheme for electricity generation from renewable sources, the remuneration of the facilities comes from its market share plus an additional remuneration identified as Specific Remuneration Regime (as in many other countries).

Currently, all renewable facilities sell their energy in the generation market and obtain part of their income from it. If it were compulsory to buy all the energy that they offer in the market regardless of the offered sale price, they would have a great incentive to bid at maximum prices, being therefore extraordinarily over-remunerated.

The extreme interpretation that the energy produced by renewables must always be bought regardless of its price, would lead to the conclusion that the only possible support scheme for renewable energy is the feed-in-tariff, since otherwise the producer would sell the energy at disproportionately high prices (to the maximum possible). Currently the EC guidance is to eliminate regulated tariffs.

Lastly, no criticism has been received from renewable energy sources associations or generators, so, in view of the foregoing, it is considered that Spanish legislation fully complies with the Directive.

*Regarding **access priority**, the Spanish regulations contemplate that, on an equal footing, energy spillovers will be applied first to conventional facilities, followed by high-efficiency cogeneration facilities, followed by manageable renewable facilities and finally non-manageable renewable facilities.*

The application of the dispatch priority and access in the ancillary services (SSAA) and in the real time pursues the minimization of the energy spillovers.

b) Balancing responsibility: The proposal establishes the obligation of balancing responsibility for all resources, contemplating possible national exemptions for very small installations and for innovative technologies, as well as for those facilities that receive support approved by the State Aid Guideline.

***Assessment:** Only very small and innovative technologies facilities should be exempted from liability, since to include those receiving approved State Aids would be exempting from this responsibility a very significant share of installations. With regard to its **balancing responsibility**, all renewable producers currently have a penalty/bonus for imbalances in which they incur a time period.*

4. **Decision making: delegate acts, competences of ACER, competences of ANR**

The increase in the scope of the delegated acts of the EC implies that issues previously subject to comitology, with the participation of the MS, pass into the hands of the EC. Spain considers that the scope of delegated acts goes far beyond what is acceptable, regulating essential questions for energy policy, for example regarding the establishment of network codes. Therefore the number, scope and cases of delegated acts should be fully revised to fulfill the subsidiarity principle. In any case, Spain will request an exception for low interconnections, so that all competences are kept within national authorities.

On the other hand ACER is granted multiple powers, under proposal of ENTSO. However, ACER would not replicate the weighted voting system of the EU, but each country has one vote which implies that some Member states, like Spain, will loss of power and representation.

In particular, ACER, under request of ENTSO, is empowered to develop assessments on resource adequacy (security of supply), and methodologies that MS have to comply with and that have important consequences, since it enables for the approval of capacity mechanisms, for instance.

These agencies are also empowered to define methodologies and calculations in many aspects related to market (such as the definition of "bidding zones") and the operation of the system.

For the Regional Operational Centers, ENTSO and ACER have the power to define their geographical scope. That involves loss of competences of the national TSO as regards relevant tasks related to the operation of the system.

The above mentioned issues are of great concern, insofar as they do not adequately guarantee that the specificities of different Member States, such as limited interconnections in the Spanish case, are duly taken into account.

Likewise, the proposal implies granting an extended role for the national regulators, who will have full competence regarding tariffs and set the "reliability standard" which is the indicator to determine the necessity of new capacity requirements. This provision cannot be supported as it eliminates the possibility for the Government to implement its energy policy through the setting of a minimum general framework that guides the work of the regulator to attain the desired objectives.

5. Bidding zones decision process

Article 13 of the proposal for an internal market regulation defines the areas of supply:

"Bidding zones shall be based on long-term, structural congestions in the transmission network and bidding zones shall not contain such congestions."

The way in which the Commission defines the bidding zones might condition the supply areas. In addition, the setting of the bidding zones will be decided by the Commission and ACER under a procedure that exclude the Member states ignoring the current role they play regarding the network codes (Regulation 2015/2222)

Article 14 of the proposed regulation states that:

"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.***

And Article 2 (Definitions):

´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;

Comment:

- *Spain is not in a position to support that bidding zones are determined by ACER, ENTSO and the Commission without counting on Member States. Bidding zones should be determined by means of an agreement among Member States according to subsidiarity principle.*

- *It is necessary to confirm that the geographical scope of the bidding zones (based on the current network codes) is indeed understood at TSO level at least, meaning*

national in the Spanish case. In particular, Specifically, clarification is requested as to whether the technical restrictions in specific sites within the internal network that might be considered as structural which, under the proposed Regulation on internal electricity market, could result in different bidding zones if that was decided by the Commission and ACER, in consultation with the TSOs.

- *Will the bidding zones coincide with the regions defined for the purpose of system operating or are they independent?*

- *This issue may affect the Peninsula-Balearic submarine cable as well as the interaction with other regions that have been defined for the purpose of the operation of the system.*

6. Definition of interconnectors: effects on Non-peninsular territories (NPT)

The proposal for a Directive on internal electricity market keeps maintains the definitions of 'small isolated system´ and 'micro isolated system'

'small isolated system' means any system with consumption of less than 3 000 GWh in the year 1996, where less than 5 % of annual consumption is obtained through interconnection with other systems;

'micro isolated system' means any system with consumption less than 500 GWh in the year 1996, where there is no connection with other systems.

Nevertheless the definition of "interconnection" *`equipment used to link electricity systems´* has been replaced by the following: *"a transmission line which crosses or spans a border between bidding zones, between Member States or, up to the border of EU jurisdiction, between Member States and third countries"*

On the other hand **the proposal for a Regulation on internal electricity market defines the bidding zones** in such a way that the limits of the mentioned bidding zones will be based on structural congestions in the transmission system in the long term while the bidding zones will not comprehend such congestions. The setting of bidding zones in the Union will be designed with the aim of maximizing economic efficiency and the opportunities for cross-border trade, while ensuring security of supply.

Each bidding zone will correspond to a settlement of imbalances' zone.

Comment:

- *Since the interconnection with third countries is included in the definition of interconnector, it is necessary to analyze how this change affects the Agreement with Morocco.*

- *If the NPT of the Balearic Islands is considered a "bidding zone" and the Spanish Peninsular electrical system is different, the Peninsula-Balearic submarine cable could be considered an "interconnector" and the Balearic Islands could not be considered a small isolated system. In this case, the derogations of Article 66 of the proposal for a Directive on isolated systems would not apply to the Balearic Islands, so that the provisions of the*

Internal Market Directive and the Internal Market Regulation should be fully applied in the Balearic Islands.

There should be a transitional period for electrical systems which, although under the Directive's provisions are no longer considered as isolated, are de facto still isolated because they do not yet meet the requirements to be able to establish a competitive production market in them (lack of sufficient interconnection or lack of competition).

7. **Non-frequency ancillary services.**

The directive defines "non-frequency" ancillary services: steady state voltage control, fast reactive current injections, inertia and black start capability (Article 2, paragraph (39)).

Comment:

In the Spanish case the voltage control service providers are both generators with more than 30 MW or connected to the transmission network and consumers with more than 15 KW of contracted power, the transmission operator and the distributors. Mandatory requirements are established and this management will be the responsibility of the suppliers themselves, who must provide the service by managing the voltage control elements they own (capacitor banks, reactances, etc.).

As noted above, the Directive prohibits transmission system operators from owning assets providing ancillary services unless there are no other stakeholders involved.

Comment: *There are currently certain elements (capacitor banks, reactances, etc.) involved in voltage control and reactive power management that are active in the Transmission Network, so it should be analyzed whether this prohibition would affect these services.*

8. Use of exchange capacity in congestion situations.

The proposal of regulation can lead us to change our internal generation profile (although at the country level it is not beneficial) to maximize exchange capacity of interconnections.

9. **Use of the congestion income.**

According to article 17 of the proposal for an internal market regulation, congestion income may only be used to ensure the actual availability of the allocated capacity; or to maintain or increase interconnection capacity through investments in networks, in particular in new interconnections.

If the income cannot be used effectively for the established purposes, it will be reserved for future use.

At the moment, revenues from congestion income in interconnections are included as revenues from the electricity system. This option shall be maintained.