

16. November 2023

**BDEW Bundesverband  
der Energie- und  
Wasserwirtschaft e.V.**

Reinhardtstraße 32  
10117 Berlin

[www.bdeu.de](http://www.bdeu.de)

# EU Market Design: BDEW priorities for tri- logues

The German Association of Energy and Water Industries (BDEW) in Berlin, and its regional organisations represent more than 2,000 companies. The spectrum of members ranges from local and municipal to regional and supra-regional companies. They represent around 90 percent of electricity sales and 60 percent of local and district heating sales, over 90 percent of natural gas sales, over 95 percent of energy networks as well as 80 percent of drinking water production and around a third of waste-water disposal in Germany.

BDEW is registered in the lobby register for the representation of interests vis-à-vis the German Bundestag and the Federal Government as well as in the European transparency register for the representation of interests vis-à-vis the EU institutions. In addition to the Code of Conduct pursuant to Section 5 (3) sentence 1 LobbyRG, the Code of Conduct pursuant to the Register of Interest Representatives (europa.eu) and the BDEW internal Compliance Guideline, it also bases its lobbying on professional and transparent activities. National register entry: R000888. European register entry: 20457441380-38.

The BDEW trilogue priorities for the EU market design at a glance:

1. **Price crisis mechanism** – Art. 66a Regulation
2. **Virtual Hubs** – Art. 9 Regulation
3. **Contracts for Difference** – Art. 19(b) Regulation
4. **Unit-Based Bidding** – Art. 7.2(f) Regulation
5. **Capacity Mechanisms** – Art. 21 / 22 Regulation

More information: [BDEW position paper on the EU Market Design](#) (in German, May 2023).

## 1. **Price Crisis Mechanism** (criteria and measures) – Art. 66a Regulation

*BDEW recommendation: Commission proposal, then Council position*

- › The price crisis mechanism must be formulated sufficiently narrow both in its trigger criteria and in the measures to be taken in a way that it can be applied in the event of a crisis - and only then. Therefore, the narrower **Commission position** with three cumulative criteria (1. very high wholesale prices; 2. sharp rise in retail prices of 70% for 6 months; 3. negative development of the whole economy) and the sole decision on the declaration of a price crisis by the Commission should be preferred.
- › On the criteria: On the one hand, the obligation proposed by Parliament for the Commission to declare a price crisis if only the first two criteria are met must be firmly rejected. On the other hand, the Council proposal on the possibility for the Council to declare a price crisis by means of an implementing act after proposal by the Commission, is to be welcomed.
- › On the measures: Any market intervention, be it in price formation on the wholesale market (see Parliament proposal for a price cap of EUR 180 / MWh and a so-called "relief valve mechanism" to temporarily limit prices) or an inframarginal revenue cap (see Council proposal for its temporary introduction until June 30, 2024) is extremely harmful for long-term investment decisions. Price caps also remove important incentives for energy efficiency and energy saving in times of crisis by eliminating price signals. The [Commission report](#) on emergency measures to address high energy prices from June 5, 2023 therefore does not recommend extending such a revenue cap.

## 2. **Virtual Hubs** – Art. 9 Regulation

*BDEW recommendation: Parliament position*

- › BDEW continues to oppose a system of virtual hubs. It would impair liquidity, particularly on the German wholesale market, and lead to more administrative burden and increase in prices for trading partners and end consumers. In addition, it aggravates the discussion about the geographical

delimitation of bidding zones, which is to be rejected from a German perspective. New market instruments should only be introduced if such a demand is stemming from the market itself. The success of these instruments can only be guaranteed through interaction between market participants and regulation.

- › Since all trilogue parties demand or do not generally rule out an introduction of Virtual Hubs, a prior impact assessment (see Parliament and Council position) is absolutely necessary due to the aforementioned market-damaging effect. The **Parliament's position** sets the right focus with an open-ended impact assessment, i.e. also the possibility of not introducing a virtual hub in the end, and proposals to eliminate illiquidity. In addition, the Parliament's proposal alone ensures the very important involvement of interest groups.

### 3. **Contracts for Difference (CfDs)** – Art. 19(b) Regulation

*BDEW recommendation: Parliament position*

- › BDEW welcomes that CfDs remain voluntary: Companies are still free to conclude long-term contracts as market-based PPAs or as bilateral state-backed CfDs.
- › **Parliament's position** should be supported during trilogues: For new installations, CfDs as well as "equivalent direct support mechanisms" should be allowed support instruments for member states. In addition, an extension of CfDs to existing installations is only possible for the additional energy capacity built in the event of a significant expansion.
- › Furthermore, the redistribution of CfD revenues for industry, investments in the energy transition or for end consumers must comply with general guidelines. Compliance with EU state aid law must be guaranteed by the European Commission to ensure a level playing field). Distortions of competition due to industrial advantages for EU member states in the internal market must be prevented - this causes serious damage to investment competition.

### 4. **Unit-Based Bidding** (only Parliament) – Art. 7.2(f) Regulation

*BDEW recommendation: rejection of Parliament position*

- › According to **Parliament's position** which is to be rejected, information on individual generation units (i.e. unit-based) should be provided on the day-ahead and intraday markets. This would mean a considerable additional administrative burden for the majority of EU member states with a portfolio-based bidding process.
- › Unit-based bids are the opposite of liquid trading on the increasingly important intraday market. It is precisely there that the volatile electricity generation from renewable energy sources is made

available in aggregated form via a portfolio network. The introduction of unit-based bidding is therefore a major obstacle to further integrate renewables into the market.

- › Unit-based bidding generates unnecessary additional costs, particularly for large and complex marketing portfolios. Detailed exemption rules are also required as to whether and how aggregated e.g. wind farms or virtual power plants can bid.
- › Portfolio-based bidding strategies enable significantly more flexibility for traders and therefore reactive energy trading, and promote market liquidity.

## 5. Capacity Mechanisms – Art. 21 / 22 Regulation

*BDEW recommendation: Council position*

- › Incentives for flexibility and security of supply should be considered together within the framework of a capacity market. BDEW therefore welcomes that the approval of capacity mechanisms shall be accelerated thanks to specific Commission guidelines.
- › For a the long-term EU market design, capacity markets need to be harmoniously integrated into the European framework. To this end, the temporary nature of capacity mechanisms should be removed, as proposed in the **Council position**. The removal of capacity mechanisms as a an "element of last resort" (Parliament and Council position) is to be welcomed as well. However, in the interest of an ambitious implementation of the energy transition, the temporary suspension of emission standards and thus environmental compatibility standards (Council position) should not be permitted.

## Contact

### Dr. Marco Nicolosi

Coordinator Market Design and  
Economics of the Energy Transition  
+49 30 300199-1060  
[marco.nicolosi@bdew.de](mailto:marco.nicolosi@bdew.de)

### Dr. Maximilian Rinck

Head of Energy Trading  
+49 30 300199-1550  
[maximilian.rinck@bdew.de](mailto:maximilian.rinck@bdew.de)

### Carmen Descamps

Manager EU Energy and Digital  
+32 2 774-5114  
[carmen.descamps@bdew.de](mailto:carmen.descamps@bdew.de)

### Krassimir Stantchev

Manager Electricity Trading  
+49 30 300199-1561  
[krassimir.stantchev@bdew.de](mailto:krassimir.stantchev@bdew.de)