



STATUTORY INSTRUMENTS.

S.I. No. 20 of 2022



EUROPEAN UNION (INTERNAL MARKET IN ELECTRICITY)
REGULATIONS 2022

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S.I. No. 20 of 2022

EUROPEAN UNION (INTERNAL MARKET IN ELECTRICITY)
REGULATIONS 2022

I, EAMON RYAN, Minister for Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU¹ hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the European Union (Internal Market in Electricity) Regulations 2022.

(2) These Regulations shall come into operation on 17th January 2022.

Interpretation

2. (1) In these Regulations –

“2000 Regulations” means the European Communities (Internal Market in Electricity) Regulations 2000 (S.I. No. 445 of 2000);

“2008 Regulations” means the European Communities (Internal Market in Electricity) (Electricity Supply Board) Regulations 2008 (S.I. No. 280 of 2008);

“2011 Regulations” means the European Communities (Internal Market in Electricity and Gas) (Consumer Protection) Regulations 2001 (S.I. No. 463 of 2011);

“Act of 1999” means the Electricity Regulation Act 1999 (No. 23 of 1999);

“aggregation” means a function performed by a natural or legal person who combines multiple customer loads or generated electricity for sale, purchase or auction in any electricity market;

“billing information” means the information provided on a final customer’s bill, apart from a request for payment;

“Commission” means the Commission for Regulation of Utilities;

“contract termination fee” means a charge or penalty imposed on customers by suppliers or market participants engaged in aggregation, for terminating an electricity supply or service contract;

¹ OJ L 158, 14.6.2019, p 125

“conventional meter” means an analogue or electronic meter with no capability to both transmit and receive data;

“customer” means a wholesale or final customer of electricity;

“demand response” means the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or in response to the acceptance of the final customer’s bid to sell demand reduction or increase at a price in an organised market as defined in Article 2(4) of Commission Implementing Regulation (EU) No 1348/2014², whether alone or through aggregation;

“Directive” means Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU¹;

“distribution system operator” means the holder of a licence under section 14(1)(g) of the Act of 1999;

“dynamic electricity price contract” means an electricity supply contract between a supplier and a final customer that reflects the price variation in the spot markets, including in the day-ahead and intraday markets, at intervals at least equal to the market settlement frequency;

“electricity markets” means markets for electricity, including over-the-counter markets and electricity exchanges, markets for the trading of energy, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intraday markets;

“electricity supply contract” means a contract for the supply of electricity, but does not include electricity derivatives;

“electricity undertaking” means a natural or legal person who carries out at least one of the following functions: generation, transmission, distribution, aggregation, demand response, energy storage, supply or purchase of electricity, and who is responsible for the commercial, technical or maintenance tasks related to those functions, but does not include final customers;

“energy efficiency” means the ratio of output of performance, service, goods or energy, to input of energy;

“final customer” means a customer who purchases electricity for own use;

“household customer” means a customer who purchases electricity for the customer’s own household consumption, excluding commercial or professional activities;

“market participant” means a market participant as defined in Regulation 2(25) of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity³;

² OJ L 363, 18.12.2014, p. 121

³ OJ L 158, 14.6.2019, p. 54

“microenterprise” means an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed €2 million;

“Minister” means Minister for Environment, Climate and Communications;

“supplier” means the holder of a licence under section 14(1)(b) or 14(1)(h) of the Act of 1999;

“supply” means the sale, including the resale, of electricity to customers;

“transmission system operator” means the holder of a licence granted under section 14(1)(e) of the Act of 1999 and includes an interconnector; and

“wholesale customer” means a natural or legal person who purchases electricity for the purpose of resale inside or outside the system where that person is established.

(2) A word or expression that is used in these Regulations and is also used in the Directive shall have in these Regulations the same meaning as it has in the Directive unless the contrary intention appears.

Amendment of section 2 of Act of 1999

3. (1) Section 2(1) of the Act of 1999 is amended –

(a) by the insertion of the following definitions after the definition of “Agency”:

“ ‘aggregation’ means a function performed by a natural or legal person who combines multiple customer loads or generated electricity for sale, purchase or auction in any electricity market;

‘ancillary service’, in relation to electricity, means a service necessary for the operation of a transmission or distribution system, including balancing and non-frequency ancillary services, but not including congestion management;”,

(b) by the insertion of the following definitions after the definition of “authority”:

“ ‘balancing’ means balancing as defined in point (10) of Article 2 of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity³;

‘balancing energy’ means balancing energy as defined in Article 2(11) of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity³;”,

(c) by the insertion of the following definition after the definition of “Board”:

“ ‘citizen energy community’ means a legal entity that –

- (a) is based on voluntary and open participation and is effectively controlled by members or shareholders that are natural persons, local authorities, including municipalities, or small enterprises,
 - (b) has for its primary purpose to provide environmental, economic or social community benefits to its members or shareholders or to the local areas where it operates rather than to generate financial profits, and
 - (c) may engage in generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders;”
- (d) by the insertion of the following definitions after the definition of “Commission”:
 - “ ‘congestion’, in relation to electricity, means congestion as defined in Article 2(10) of Regulation (EU) 2019/943³ of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity;
 - ‘demand response’ means the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or in response to the acceptance of the final customer’s bid to sell demand reduction or increase at a price in an organised market as defined in Article 2(4) of Commission Implementing Regulation (EU) No 1348/2014², whether alone or through aggregation;”
- (e) by the substitution of the following definition for the definition of “electricity derivative”:
 - “ ‘electricity derivative’ means a financial instrument specified in point 5, 6 or 7 of Section C of Annex I to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending

Directive 2002/92/EC and Directive 2011/61/EU⁴, where that instrument relates to electricity;”,

- (f) by the substitution of the following definition for the definition of “electricity undertaking”:

“ ‘electricity undertaking’ means any person engaged in generation, transmission, distribution, aggregation, demand response, energy storage, supply or purchase of electricity, and who is responsible for the commercial, technical or maintenance tasks related to those functions, including a holder of a licence or authorisation under this Act or a person who has been granted a permit under section 37 of the Principal Act, but does not include final customers;”,

- (g) by the insertion of the following definition after the definition of “electric plant”:

“ ‘energy storage’ means, in the electricity system, deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy or use as another energy carrier;”,

- (h) by the substitution of the following definition for the definition of “final customer”:

“ ‘final customer’ means a customer who purchases electricity for own use;”,

- (i) by the insertion of the following definition after the definition of “high efficiency combined heat and power”:

“ ‘interconnector’ means equipment used to link electricity systems;”,

- (j) by the insertion of the following definition after the definition of “high efficiency combined heat and power”:

“ ‘household customer’ means a customer who purchases electricity for the customer’s own household consumption, excluding commercial or professional activities;”,

- (k) by the insertion of the following definition after the definition of “LPG undertaking”:

“ ‘market participant’, in the context of electricity, means a market participant as defined in point 25 of Article 2 of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity³;”, and

- (l) by the insertion of the following definition after the definition of “public electricity supplier”:
 - “ ‘recharging point’ means an interface that is capable of charging one electric vehicle at a time or exchanging the battery of one electric vehicle at a time;”.

Amendment of Regulation 2 of 2000 Regulations

4. (1) Regulation 2(1) of the 2000 Regulations is amended –

- (a) by the insertion of the following definition after the definition of “Act of 1999”:
 - “ ‘aggregation’ means a function performed by a natural or legal person who combines multiple customer loads or generated electricity for sale, purchase or auction in any electricity market;”.
- (b) by the insertion of the following definition after the definition of “associated or affiliated undertaking”:
 - “ ‘balancing’ means balancing as defined in point (10) of Article 2 of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 July³;”.
- (c) by the insertion of the following definitions after the definition of “commercially sensitive information”:
 - “ ‘congestion’ means congestion as defined in point (4) of Article 2 of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity³;
 - ‘demand response’ means the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or in response to the acceptance of the final customer’s bid to sell demand reduction or increase at a price in an organised market as defined in point (4) of Article 2 of Commission Implementing Regulation (EU) No 1348/2014², whether alone or through aggregation;”.
- (d) by the substitution of the following definition for the definition of “Electricity Market Directive”:
 - “ ‘Electricity Market Directive’ means Directive (EU) 2019/944¹ of the European Parliament and of the Council of 5 June 2019;”.
- (e) by the insertion of the following definition after the definition of “effective date”:

“ ‘electricity undertaking’ means any person engaged in generation, transmission, distribution, aggregation, demand response, energy storage, supply or purchase of electricity and who is responsible for the commercial, technical or maintenance tasks related to those functions, including any holder of a licence or authorisation under the Act of 1999 or any person who has been granted a permit under section 37 of the Electricity (Supply) Act 1927;”,

- (f) by the insertion of the following definitions after the definition of “Eirgrid”:

“ ‘energy storage’ means, in the electricity system, deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy or use as another energy carrier;

‘energy storage facility’ means, in the electricity system, a facility where energy storage occurs;

‘fully integrated network components’ means network components that are integrated in the transmission or distribution system, including storage facilities and that are used for the sole purpose of ensuring a secure and reliable operation of the transmission or distribution system and not for balancing or congestion management;”,

- (g) by the insertion of the following definition after the definition of “function”:

“ ‘generation’ means the production of electricity;”, and

- (h) by the insertion of the following definitions after the definition of “Minister”:

“ ‘network development plan’, in relation to the distribution system, means the plan referenced in Article 32(3) of the Electricity Market Directive;

‘non-frequency ancillary service’ means a service used by a transmission system operator or distribution system operator for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability and island operation capability;

‘recharging point’ means an interface that is capable of charging one electric vehicle at a time or exchanging the battery of one electric vehicle at a time;”.

Amendment of sections 9, 14 and 16A of Act of 1999 in relation to licence applications and in relation to competitive, consumer-centred, flexible and non-discriminatory electricity markets

5. (1) Section 9 of the Act of 1999 is amended –

(a) in subsection (1) –

- (i) in paragraph (t), by the substitution of “services,” for “services, and”,
- (ii) in paragraph (u), by the substitution of “network, and” for “network.”, and
- (iii) by the insertion of the following paragraphs after paragraph (u):

“(v) to ensure a level playing field where electricity undertakings are subject to transparent, proportionate and non-discriminatory rules, fees and treatment, in particular with respect to –

- (i) balancing responsibility,
- (ii) access to wholesale markets,
- (iii) access to data,
- (iv) switching processes and billing regimes, and
- (v) where applicable, licensing, and

(w) to ensure that market participants from third countries, when operating within the internal market for electricity, comply with applicable Union and national law, including that concerning environmental and safety policy.”,

(b) in subsection (3) –

- (i) in paragraph (b), by the substitution of “licences,” for “licences, and”,

- (ii) in paragraph (c), by the substitution of “as the case may be, and” for “as the case may be.”, and
- (iii) by the insertion of the following paragraph after paragraph (c):

“(d) in relation to electricity, ensures that no undue barriers exist for electricity as regards market entry, operation and exit, without prejudice to any competence retained in relation to third countries.”, and

(c) in subsection (4) –

(i) in paragraph (a) –

(I) in subparagraph (viii), by the substitution of “gas,” for “gas, and”

(II) in subparagraph (ix), by the substitution of “Union, and” for “Union.”, and

(III) by the insertion of the following subparagraph after subparagraph (ix):

“(x) to ensure that electricity prices reflect actual demand and supply.”, and

(ii) by the insertion of the following paragraph after paragraph (aa):

“(ab) Without prejudice to the duties of the Minister and the Commission under subsection (3) and paragraph (a), nothing in this Act or other legislation shall unduly hamper –

(i) cross-border trade in electricity,

(ii) consumer participation,

including through demand response,

- (iii) investments into, in particular, variable and flexible energy generation, energy storage and the deployment of electromobility and new interconnectors between Member States.”.

(2) Section 14(1) of the Act of 1999 is amended –

- (a) by the substitution of “any person who is an electricity undertaking or who intends to carry out a function of an electricity undertaking” for “any person”,
- (b) in paragraph (k), by the substitution of “Owner,” for “Owner.”, and
- (c) by the insertion of the following paragraphs after paragraph (k):
 - “(l) to carry out the function of aggregation,
 - (m) to carry out the function of demand response, and
 - (n) to carry out the function of energy storage,”.

(3) Section 16A of the Act of 1999 is amended by the insertion of “, who shall take into account the electricity interconnection targets set out in point (1) of Article 4(d) of Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action⁵,” after “Minister”.

Free choice of electricity supplier

6. Customers shall be free to –

- (a) purchase electricity from the supplier of their choice, and
- (b) have more than one electricity supply contract at the same time, provided that the required connection and metering points are established.

⁵ OJ L 328, 21.12.2018, p. 1.

Market-based supply prices

7. Without prejudice to the functions of the Commission to ensure effective competition in the supply of electricity, suppliers shall be free to determine the price at which they supply electricity to customers.

Amendment of section 34 of the Act of 1999 in relation to third party access

8. Section 34 of the Act of 1999 is amended –

(a) by the substitution of the following subsection for subsection (5):

“(5) (a) Where the Board refuses to offer to enter into an agreement under this section, it shall serve notice on the applicant of the reasons for such refusal, having regard to Article 9 of the 2019 Internal Electricity Market Directive.

(b) The reasons referred to in subparagraph (a) shall be based on objective and technically and economically justified criteria.

(c) The Commission shall ensure that the criteria referred to in subparagraph (b) are consistently applied.”,

(b) by the insertion of the following subsection after subsection (5):

“(5A) (a) The transmission system operator or the distribution system operator, as the case may be, shall, where refusal of access takes place, provide relevant information to the applicant on measures that would be necessary to reinforce the network.

(b) The information specified in subparagraph (a) shall be provided in all cases when access for recharging points has been denied.

(c) The party requesting such information may be charged by the transmission system operator a fee reflective of the administrative cost of providing the information referred to in paragraph (a) and any such fee shall be displayed by

the transmission system operator on its website.”, and

(c) by the insertion of the following subsection after subsection (8):

“(9) The provisions of this section shall also apply to citizen energy communities that manage distribution networks.”.

Amendment of section 37 of the Act of 1999 in relation to direct lines

9. Section 37 of the Act of 1999 is amended –

(a) in subsection (1), by the insertion of “, without making such permission subject to disproportionate administrative procedures or costs” after “electricity”,

(b) by the insertion of the following subsection after subsection (1A):

“(1B) (a) The Commission may refuse to grant a permission if the granting of such permission would obstruct the application of the provisions on public service obligations contained in Article 9 of the Internal Electricity Market Directive.

(b) The Commission shall give duly substantiated reasons for a refusal.”,

(c) in subsection (3), by the substitution of “customers within the State, individually or jointly” for “other eligible customers”,

(d) in subsection (5), by the substitution of “any customer” for “an eligible customer”,

(e) in subsection (6), by the substitution of the following paragraph for paragraph (c):

“(c) all customers within the State, individually or jointly.”, and

(f) by the insertion of the following subsection after subsection (6):

“(7) The possibility of supplying electricity through a direct line under this section shall not affect the possibility of contracting electricity in accordance with Article 6 of the Internal Electricity Market Directive.”.

Amendment of section 18 of the Act of 1999 in relation to new capacity

10. Section 18(2) of the Act of 1999 is amended by the substitution of the following paragraph for paragraph (j):

- “(j) the contribution of generating capacity to meeting the overall European Union target of at least a 32% share of energy from renewable sources in the Union’s gross final consumption of energy in 2030 referred to in Article 3(1) of Directive (EU) 2018/2001 of the European Parliament and of the Council⁶, and”.

Amendment of 2011 Regulations in relation to basic contractual rights

11. The 2011 Regulations are amended –

(a) in Regulation 2 –

- (i) by the insertion of the following definition before the definition “Act of 1999”:

“ ‘2019 Internal Electricity Market Directive’ means Directive (EU) 2019/944¹ of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU;”,

- (ii) by the insertion of the following definition after the definition of “distribution system operator”:

“ ‘electricity undertaking’ means a natural or legal person who carries out at least one of the following functions: generation, transmission, distribution, aggregation, demand response, energy storage, supply or purchase of electricity, and who is responsible for the commercial, technical or maintenance tasks related to those functions, but does not include final customers;”,

- (iii) by the substitution of the following paragraph for paragraph (b) of the definition of “final customer”:

“(b) in relation to electricity, a customer who purchases electricity for own use;”,

- (iv) by the insertion of the following definition after the definition of “final customer”:

“ ‘household customer’ means a customer who purchases electricity for the customer’s own household consumption, excluding commercial or professional activities;”,

⁶ OJ L 328, 21.21.2018, p.82.

- (v) in the definition of “Gas and Electricity Directives”, by the substitution of “Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019” for “Directive 2009/72/EC of the European Parliament of the Council of Europe 13 July 2009¹”, and
- (vi) by the insertion of the following definition after the definition of “Regulations of 2005”:
 - “ ‘small enterprise’ means an enterprise which employs fewer than 50 persons and whose annual turnover or balance sheet total does not exceed €10 million;”,
- (b) in Regulation 5(1) –
 - (i) in subparagraph (a), by the substitution of “a charter (“customer charter”) for, in respect of gas, household customers and in respect of electricity, final customers” for “a charter (“customer charter”) for household customers”, and
 - (ii) by the substitution of the following subparagraph for subparagraph (c):
 - “(c) provide a copy of the customer charter to, in respect of gas, household customers and, in respect of electricity, final customers.”,
- (c) in Regulation 5(3), by the insertion of “to final customers” after “electricity”,
- (d) in Regulation 5(4), by the substitution of “by, in respect of gas, a household customer and, in respect of electricity, a final customer” for “by a household customer”,
- (e) in Regulation 5(5), by the substitution of “by a final customer or household customer” for “by a final customer”,
- (f) in Regulation 5(6),
 - (i) by the substitution of “in respect of gas, household customers and in respect of electricity, final customers” for “all household customers”, and
 - (ii) in subparagraph (b) –
 - (I) by the substitution of the following clause for clause (v):
 - “(v) the means by which up-to-date information on –
 - (I) all applicable tariffs,
 - (II) in respect of electricity,

- bundled products or services, and
 - (III) if offered, maintenance charges,
 - may be obtained.”,
 - (II) by the substitution of the following clause for clause (viii):

“(viii) the conditions for renewal and termination of the contract and services including, in respect of electricity, products or services that are bundled with those services and whether, in respect to both gas and electricity, terminating a contract without a charge being applied is permitted.”,

- (III) in clause (xii), by the insertion of “and insofar as those complaints relate to electricity, shall be in accordance with Article 26 of the 2019 Internal Electricity Market Directive,” after “complaints,”,
 - (IV) in clause (xviii) –
 - (A) by the substitution of “that in respect of gas, household customers and in respect of electricity, final customers” for “that household customers”, and
 - (B) by the deletion of “and”,
 - (V) by the substitution of the following clause for clause (ixx):

“(ixx) that –

- (I) in respect of electricity, final customers are notified directly in a transparent and comprehensible manner, of any adjustment in the

supply price and
of the reasons
and
preconditions for
the adjustment
and its scope, at
an appropriate
time no later than
two weeks, or no
later than one
month in the case
of household
customers,
before the
adjustment
comes into
effect, and

(II) in respect of gas,
household
customers are
notified directly
in a transparent
and
comprehensible
manner of any
increase in
charges at an
appropriate time
not later than one
normal billing
period after the
increase comes
into effect,” and

(VI) by the insertion of the following clauses after clause
(ixx):

“(xx) a summary of the key
contractual conditions
in a prominent manner
and in concise and
simple language, and

(xxi) the right of final
customers who have a
smart meter installed to
conclude a dynamic
electricity price
contract with at least
one supplier and with

every supplier that has more than 2000,000 final customers.”,

(iii) in subparagraph (d) –

(I) by the substitution of the following clause for clause (ii):

“(ii) prepayment systems shall be fair and adequately reflect likely consumption and, in respect of electricity, shall not place household customers who have access to such systems at a disadvantage,”,
and

(II) by the substitution of the following clauses for clause (iii):

“(iii) in respect of gas, any difference in cost arising from the choice of method of payment, including prepayment systems, reflects the cost to the supplier of the different payment methods, and

(iv) in respect of electricity, any difference in charges arising from the choice of method of payment, including prepayment systems, shall be objective, non-discriminatory and proportionate and shall not exceed the direct costs borne by the payee for the use of a specific payment method or a prepayment system, in line with Article 62 of Directive (EU) 2015/2366 of the

European Parliament
and of the Council,⁷,

- (iv) in subparagraph (e), by the deletion of “and”,
- (v) in subparagraph (f), by the substitution of “Recommendation, and” for “Recommendation.”, and
- (vi) by the insertion of the following subparagraph after subparagraph (f):
 - “(g) are entitled to have their electricity provided by a supplier, subject to the suppliers’ agreement, regardless of the Member State in which the supplier is registered, provided that the supplier follows the trading and balancing rules.”,
- (g) in Regulation 5(7), by the substitution of “where, in respect of gas, a household customer and in relation to electricity, a final customer,” for “where a household customer”,
- (h) by the insertion of the following Regulation after Regulation 5:

“5A The Commission shall ensure that administrative procedures do not discriminate against suppliers already registered in another Member State.”, and

 - (i) in Regulation 6, by the insertion of the following paragraph after paragraph (5):
 - “(5A) (a) In relation to disconnection, a code of practice shall provide that suppliers give household customers adequate information on alternative measures to disconnection sufficiently in advance of any planned disconnection.
 - (b) The alternative measures to disconnection shall not constitute an extra cost to customers facing disconnection and may refer to –
 - (i) sources of support to avoid disconnection,
 - (ii) prepayment systems,

- (iii) energy audits,
- (iv) energy consultancy services,
- (v) alternative payment plans,
- (vi) debt management advice, and
- (vii) disconnection moratoria.”.

Entitlement to a dynamic electricity price contract

12. (1) The Commission shall ensure that its guidelines for the codes of practice referred to in Regulation 6 of the 2011 Regulations include that final customers are fully informed by suppliers of the opportunities, costs and risks of dynamic electricity price contracts, including the requirement to have an adequate electricity meter installed.

(2) The Commission shall monitor market developments and assess the risks that new products and services may entail and deal with abusive practices.

(3) Suppliers shall obtain a final customer’s consent before the customer is switched to a dynamic electricity price contract.

(4) Section 9 of the Act of 1999 is amended by the insertion of the following subsection after subsection (1CA):

“(1CB) The Commission shall report annually until at least 2032 on the developments in dynamic electricity price contracts, including market offers and the impact on consumers’ bills and specifically the level of price volatility.”.

Right to switch and rules on switching-related fees

13. (1) Suppliers shall ensure that customers can switch to another supplier within the shortest possible time.

(2) Customers shall, with due regard to contractual conditions, be entitled to switch suppliers within a maximum of three weeks from the date of the request to switch and by 2026 suppliers shall be entitled to switch within 24 hours and on any working day.

(3) The 2011 Regulations are amended in Regulation 5(8)(c) by the insertion of “and small enterprises” after “household customers”.

(4) Notwithstanding Regulation 5(8) of the 2011 Regulations, a supplier may charge customers contract termination fees where those customers voluntarily terminate fixed-term, fixed-price electricity supply contracts before their maturity, provided that such fees are part of a contract that the customer has voluntarily entered into and that such fees are clearly communicated to the customer before the contract is entered into.

(5) The fees referred to in paragraph (4) shall be proportionate and shall not exceed the direct economic loss to the supplier resulting from the customer's termination of the contract, including the costs of any bundled investments or services that have been provided to the customer as part of the contract.

(6) The burden of proving the direct economic loss referred to in paragraph (5) shall be on the supplier.

(7) The Commission shall monitor the appropriateness of contract termination fees referred to in this Regulation.

Comparison tools

14. (1) The Commission shall ensure that household customers and microenterprises with an expected yearly consumption of below 100 000 kWh shall have access, free of charge, to at least one tool comparing the offers of suppliers, including offers for dynamic electricity price contracts.

(2) Suppliers shall ensure that customers shall be informed in their bills of price comparison tools.

(3) Providers of price comparison tools shall ensure those tools meet the requirements in Article 14(1).

(4) The competent authority for the issuing of trust marks to providers of comparison tools is the Commission.

(5) In the event that the Commission is of the view that providers of price comparison tools do not meet the requirements under Article 14 for a trust mark, the Commission may decide to provide a comparison tool itself in accordance with that Article.

Bills and billing information

15. (1) Without prejudice to section 9M of the Act of 1999, the Commission shall, through licence conditions, place obligations on electricity suppliers to ensure that –

- (a) bills and billing information are accurate, easy to understand, clear, concise, user-friendly and presented in a manner that facilitates comparison by final customers,
- (b) final customers, on request, shall receive a clear and understandable explanation of how their bill was derived, especially where bills are not based on actual consumption,
- (c) final customers are offered the option of electronic bills and billing information and are offered flexible arrangements for the payment of bills,

- (d) where a contract provides for a future change of a product or price, or a discount, that this shall be indicated on the bill together with the date on which the change is to take place,
- (e) consumer organisations are engaged as part of the consideration of changes to the requirements for the content of bills, and
- (f) that bills and billing information fulfil the minimum requirements set out in Annex I to the Directive.

Single points of contact and out-of-court dispute settlement

16. (1) The 2011 Regulations are amended –

- (a) in Regulation 2 –
 - (i) by the insertion of the following definition:

“ ‘alternative dispute resolution entity’ has the same meaning as it has in the European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015 (S.I. No. 343 of 2015);”, and
 - (ii) by the substitution in the definition of “Gas and Electricity Directives” of “Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019¹” for “Directive 2009/72/EC of the European Parliament of the Council of Europe 13 July 2009”,
- (b) in Regulation 7 –
 - (i) in paragraph (1), by the insertion of “independent, effective, efficient,” after “transparent,”,
 - (ii) by the insertion of the following paragraphs after paragraph (1):

“(1A) Where a complainant is a consumer within the meaning of the European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015 (S.I. No. 343 of 2015)), the Commission shall ensure that the obligations on alternative dispute resolution entities that are provided for in those regulations shall apply.

(1B) The dispute resolution service provided for in paragraph (1) shall apply in the case of a dispute that arises from products or services that are tied to, or bundled with, any product or service falling under the scope of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019¹.”, and
 - (iii) by the insertion of the following paragraph after paragraph (8):

“(8A) The participation of electricity undertakings in out-of-court dispute settlement mechanisms for household customers shall be mandatory.”, and

- (c) in Regulation 11(1), by the substitution of “Regulation 4, 5, 6, 7(8A) or (12)” for “Regulation 4, 5 or 6”.

Universal service

17. (1) Section 9 of the Act of 1999 is amended in subsection (5), by the insertion of “competitive,” after “reasonable,”.

(2) The 2000 Regulations are amended in Regulation 22 by the insertion of the following paragraph after paragraph (2B):

“(2C) The distribution system operator shall connect customers to its network under terms, conditions and tariffs set in accordance with the procedure laid down in Article 59(7) of the Electricity Market Directive.”.

Tasks of distribution system operators

18. (1) The 2000 Regulations are amended –

(a) in Regulation 22 –

- (i) in subparagraph (2)(a), by the insertion of “and energy efficiency” after “the environment”,
- (ii) by the insertion of the following paragraphs after paragraph (8):

“(9) Where the Commission, by way of licence condition, requires the distribution system operator to procure energy to cover energy losses in its system, the distribution system operator shall act as a neutral market facilitator in the procurement of same.

(10) Where the Commission, by way of licence condition, requires the distribution system operator to procure products and services necessary for the efficient, reliable and secure operation of the distribution system, rules adopted by the distribution system operator for that purpose shall be objective, transparent and non-discriminatory and shall be developed in coordination with transmission system operators and other relevant market participants.

(11) The Commission shall, in accordance with Article 59(7) and in a non-discriminatory and cost-reflective way, establish the terms and conditions, including the rules and tariffs, where applicable, for the

provision of the services referred to in paragraph (10) to the distribution system operator.

(12) In procuring the products and services referred to in paragraph (10), the distribution system operator shall procure the non-frequency ancillary services needed for its system in accordance with transparent, non-discriminatory and market-based procedures unless the Commission assesses that the market-based provision of non-frequency ancillary services is economically not efficient and has granted a derogation.

(13) The obligation to procure non-frequency ancillary services does not apply to fully integrated network components.

(14) The procurement of the products and services referred to in paragraph (10) shall ensure the effective participation of all qualified market participants, including –

- (a) market participants offering energy from renewable sources,
- (b) market participants engaged in demand response,
- (c) operators of energy storage facilities, and
- (d) market participants engaged in aggregation.

(15) The Commission shall work with the distribution system operator, market participants and the transmission system operator to establish the technical requirements for participation in the markets referred to in paragraph (13) on the basis of the technical characteristics of those markets and the capabilities of all market participants.

(16) The distribution system operator shall cooperate with the transmission system operator for the effective participation of market participants connected to their grid in retail, wholesale and balancing markets.

(17) Delivery of balancing services stemming from resources located in the distribution system shall be agreed with the transmission system operator in accordance with Article 57 of the Electricity Market Directive and Article 182 of Commission Regulation (EU) 2017/14858.

(18) The Commission may allow the distribution system operator to perform activities other than those provided for in the Electricity Market Directive and in

Regulation (EU) 2019/943² of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity, where such activities are necessary for the distribution system operators to fulfil their obligations under that Directive or Regulation, provided that the Commission has assessed the necessity of such a derogation.

(19) Paragraph (17) is without prejudice to the right of the distribution system operator to own, develop, manage or operate networks other than electricity networks in accordance with section 2 of the ESB (Electronic Communications Networks) Act 2014 (No. 5 of 2014).”.

Incentives for the use of flexibility in distribution networks

19. The 2000 Regulations are amended by the insertion of the following Regulations after Regulation 22:

“22A (1) The Commission, in giving a direction pursuant to section 35(2) of the Act of 1999 shall have due regard to –

- (a) incentivising the distribution system operator to procure flexibility services, including congestion management, in order to improve efficiencies in the operation and development of the distribution system, and
- (b) ensuring that the distribution system operator is able to procure flexibility services from providers of –
 - (i) distributed generation,
 - (ii) demand response, or
 - (iii) energy storage,

and shall ensure the promotion of the uptake of energy efficiency measures, where such services cost-effectively alleviate the need to upgrade or replace electricity capacity and support the efficient and secure operation of the distribution system.

(2) The distribution system operator shall procure flexibility services in accordance with transparent, non-discriminatory and market-based procedures.

(3) Subject to approval by the Commission, the distribution system operator shall, in a transparent and participatory process that includes all relevant system users and the transmission system operator, establish the specifications for the flexibility services procured and, where appropriate, standardised market products for such services at least at national level.

(4) The specifications referred to in paragraph (3) shall ensure the effective and non-discriminatory participation of all market participants, including –

- (a) market participants offering energy from renewable sources,
- (b) market participants engaged in demand response,
- (c) operators of energy storage facilities, and
- (d) market participants engaged in aggregation.

(5) The distribution system operator shall exchange all necessary information and shall coordinate with the transmission system operator in order to ensure the optimal utilisation of resources, to ensure the secure and efficient operation of the system and to facilitate market development.

(6) The distribution system operator shall be remunerated in accordance with the specifications included a direction under section 35(2) of the Act of 1999.

22B. (1) The distribution system operator shall, within two years after the coming into operation of these Regulations and thereafter at least every two years, publish and submit to the Commission, a transparent network development plan.

(2) The network development plan shall provide transparency on the medium and long-term flexibility services needed, and shall set out the planned investments for the next five-to-ten years, with particular emphasis on the main distribution infrastructure which is required in order to connect new generation capacity and new loads, including recharging points for electric vehicles.

(3) The network development plan shall also include the use of –

- (a) demand response,
- (b) energy efficiency, and
- (c) energy storage facilities or other resources that the distribution system operator is to use as an alternative to system expansion.

(4) The distribution system operator shall –

- (a) consult all relevant system users and the transmission system operator on the network development plan,
- (b) publish the results of the consultation process referred to in paragraph (a), along with the network development plan referred to in that paragraph, and

- (c) submit the results of the consultation and the network development plan to the Commission.

(5) The Commission may request amendments to the network development plan and the distribution system operator shall comply.”.

Integration of electromobility into the electricity network

20. (1) The Commission shall ensure the facilitation by the distribution system operator of publicly accessible and private recharging points to the distribution networks.

(2) The distribution system operator shall cooperate on a non-discriminatory basis with any undertaking that owns, develops, operates or manages recharging points for electric vehicles, including with regard to connection to the grid.

Unbundling of distribution system operators

21. The 2008 Regulations are amended –

- (a) in Regulation 2, by the insertion of the following definition:
 - “ ‘2019 Internal Electricity Market Directive’ means Directive (EU) 2019/944¹ of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU;”,
- (b) in Regulation 6(1)(b) by the substitution of “the necessary resources, including human, technical, physical and financial” for “resources (including financial resources)”,
- (c) in Regulation 10(6)(a), by the insertion of “regulated indirectly in accordance with Article 59(7) of the 2019 Internal Electricity Market Directive” after “return on assets,”,
- (d) in Regulation 10(6)(a), by the insertion of “regulated indirectly in accordance with Article 59(7) of the 2019 Internal Electricity Market Directive” after “return on assets,”,
- (e) in Regulation 12, by the insertion of the following paragraph after paragraph (1):
 - “(1A) The compliance report referred to in paragraph (1) and any revised report pursuant to paragraph (2) shall be submitted by the compliance officer of the subsidiary company, who shall be fully independent and shall have access to all the necessary information of the subsidiary company and any affiliated undertaking that is necessary in order to fulfil his or her task.”,
 - and
- (f) in Regulation 17(4) –
 - (i) in paragraph (b), by the deletion of “and”, and

- (ii) by the insertion of the following subparagraph after subparagraph (b):

“(bb) whether or not the subsidiary company takes advantage of its position to distort competition, and”.

Amendment of 2000 Regulations in relation to ownership of energy storage facilities by distribution system operators

22. The 2000 Regulations are amended by the insertion of the following Regulation after Regulation 22B (inserted by Regulation 19 of these Regulations):

“22C The distribution system operator shall not own, develop, manage or operate energy storage facilities.”.

Amendment of 2000 Regulations in relation to ownership of energy storage facilities by transmission system operators

23. The 2000 Regulations are amended by the insertion of the following Regulation after Regulation 8:

“8A (1) Subject to paragraph (2), the transmission system operator shall not own, develop, manage or operate energy storage facilities.”.

Amendment of 2000 Regulations - creation of new offences

24. The 2000 Regulations are amended in Regulation 4(1) –

(a) in paragraph (d), by the deletion of “or”, and

(b) by the insertion of the following paragraphs after paragraph (e):

“(f) carries out the function of aggregation,

(g) carries out the function of demand response, or

(h) carries out the function of energy storage,”.

Directions

25. (1) If, in the opinion of the Commission, a supplier is not satisfactorily complying with the requirements of Regulation 6, 7, 12(3), 13(1), (2), (4) or (5), or 14(2) or a distribution system operator is failing to comply with Regulation 20(2), the Commission may issue a direction to the supplier or distribution system operator, as the case may be, specifying the remedial

actions the supplier or distribution system operator shall take and the period of time for compliance with the direction.

(2) A supplier or distribution system operator may make representations to the Commission, within a period of 21 days beginning on the day on which the direction is served on it.

(3) On receiving representations (if any) under paragraph (2), the Commission shall consider them and reply within a reasonable period.

(4) A supplier or distribution system operator that is aggrieved by a direction under paragraph (1) may –

- (a) if no representations are made under paragraph (2), within the period of 30 days beginning on the day on which the direction is issued to it, or
- (b) if representations are made under paragraph (2), within the period of 30 days beginning on the day on which notification of the reply is served on it,

appeal to the High Court against the direction and, in determining the appeal, the judge may make any order he or she considers appropriate, including confirming the direction, with or without modification, or cancelling the direction.

(5) Where a supplier or distribution system operator fails to comply in full with a direction under paragraph (1) within the period specified or fails to cooperate with the Commission with regard to the direction, the Commission may apply to the High Court for an order directing the supplier or distribution system operator, as the case may be, to comply with the direction or to cooperate.

Service of directions

26. (1) Where the Commission issues a direction under Regulation 25, it shall be in writing, state the reasons on which it is based and be addressed to the supplier concerned or the distribution system operator, as the case may be, and as soon as practicable, be sent or given in any of the following ways –

- (a) by delivering it to the supplier or distribution system operator,
- (b) by leaving it at the address at which the supplier or distribution system operator carries on business,
- (c) by sending it by post in a pre-paid registered letter to the address at which the supplier or distribution system operator carries on business, or, in a case in which an address for service has been given, to that address, or
- (d) by electronic means, in a case in which the supplier or distribution system operator has given notice in writing to the person serving or giving the direction of his or her consent to the direction being served on, or given to, him or her in that manner.

(2) In this Regulation “direction” includes a notification of a reply in respect of a direction under Regulation 25.



GIVEN under my Official Seal,
17 January 2022.

EAMON RYAN
Minister for the Environment, Climate and
Communications.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
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