

ENERGIE
NEDERLAND



NEDERLANDSE VERENIGING DUURZAME ENERGIE



Public consultation Electricity Market Design

Highlights of the joint response by Energie-Nederland, NVDE, NWEA and Holland Solar

We appreciate the opportunity to share our views on the electricity market reform process in this public consultation. Now that the fiercest impacts of the 2022 energy crisis are waning away, it is a good moment to reflect how markets and policy makers have responded to it and learn our lessons for the future. But more importantly, there are two fundamental solutions to the crisis.

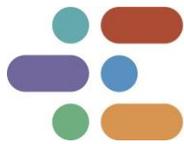
1. **The further development of renewable energy and grid infrastructure, and of an electricity market that is strongly dominated by wind and solar, with sufficient flexibility options to keep the system in balance.**
2. For the short term, the implementation of an EU energy strategy to secure sufficient volumes of gas/LNG that can be imported by the EU in order to reduce market prices for gas/LNG.

Given the first solution, we consider it essential to use this market reform to prepare the electricity market for this future. **Providing sufficient investment opportunities for renewable energy and for flexibility options is pivotal at this stage of the energy transition.** Any reform proposal should be evaluated on its impact on the development towards a fully decarbonized electricity system, and it should also be checked whether the total set of foreseen measures sufficiently prepares the electricity market for such a future. In this context, Member States should also have sufficient freedom to follow the path that suits their situation and apply policy instruments accordingly. Unfortunately, it is not yet the time for one-size-fits-all solutions from the EU.

In the past year, it has often been stated that ‘marginal pricing’ is an elemental flaw in the EU electricity market design. We believe this is a misconception because of the following three reasons:

1. **the root cause of last year’s energy crisis lay in the market for natural gas**, which was hit by a severe supply disruption, not in the electricity market.
2. **the current market design is not based on marginal pricing.** The market design is based on open access, free formation of prices and contractual freedom. Marginal pricing is a market outcome.
3. **marginal pricing is not the root cause for a possible lack of investment.** Marginal pricing allows for scarcity pricing and coverage of fixed costs. Marginal pricing does not result in unreasonably high prices for consumers, a lack of supply does. Poignantly, marginal pricing provides the required investment signals to structurally bend down market prices.

The prime concern of the Commission should be to make the electricity market function as well as possible, meaning that **all parties, including consumers, have the freedom to make transactions they consider best-fitting for their situation.** The key cause of last year’s crisis was that there appeared to be an unforeseen risk, in this case on a Russian gas supply default. But the European electricity market **already offers various options to deal with such risks**, in the form of PPAs, forward markets, and long-term contracts between energy



ENERGIE
NEDERLAND

Nvde
NEDERLANDSE VERENIGING DUURZAME ENERGIE



suppliers and their customers. **The liquidity of these products is still rather low and thus it is important to remove possible barriers and offer governmental credit risk guarantees.**

At the same time, **interventions should be avoided that distort market functioning**, e.g. obligations to market parties to use certain contract forms. This particularly holds for interventions that turn *ad hoc* crisis measures into permanent policy measures, as well as plans that retroactively impact existing investments. They introduce inefficiencies, ultimately resulting in higher costs for consumers.

One of these crisis measures is the **current tax on inframarginal rents; this should be abolished**. The tax was an emergency measure in an emergency situation but given its many imperfections it does not deserve a more permanent status. **Support to vulnerable consumers and industries should be financed through regular tax instruments** that are less distortive and better tailored to meeting the objective of a 'just transition'.

To us, it seems an important task for the Commission to facilitate that **all market parties are well-informed about possible future risks they run and how these risks can be mitigated** by using a wide array of hedging options. This should be the key focus, while leaving market parties the freedom to choose the type of transactions they prefer. Comparably, the Commission has a role to play in **offering 'best practice' examples to national policy makers** who need to set up solutions for supervision of retail suppliers and consumers' protection as well as support schemes for the transition towards a fully decarbonized electricity system.

As we have mentioned already, **it is elemental to provide sufficient security for the investments needed to decarbonise our electricity system**: a massive development of renewables and ditto growth of flexibility options, including zero-emission flexible generation capacity. **The business case for merchant investments is too heavily impacted by risks that cannot be managed in the market**, policy risks in particular. A further development of PPA's, CfD's and forwards markets will be beneficial both for investors as well as for consumers to better hedge price risks. But those no-regret measures will not suffice to secure sufficient investments. Therefore, **a framework of incentives for renewable energy and flexibility options should be developed without delay**. This development should be subject to the regular scrutiny the European Commission is well-known for, so including an ex-ante impact assessment.

Finally, we believe that **consumers are best served through a competitive market** with freedom of choice for market players and consumers to choose the degree of risk they are willing to take. To that end, undistorted price formation is essential. The aforementioned framework should ensure the further growth of renewables and flexibility options throughout the transition which should prevent longer periods of scarcity prices and thus protect consumers from extreme prices in the future.