



STATUTORY INSTRUMENTS.

S.I. No. 227 of 2022



EUROPEAN UNION (INTERNAL MARKET IN ELECTRICITY) (3)
REGULATIONS 2022

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I, EAMONN RYAN, Minister for the 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 effect or further effect to Articles 2, 14(2), 18(2), 33(2), 40, 41, 42, 51 and 59(8) of Directive (EU) 2019/944 of the European Parliament and Council of 5 June 2019 on common rules for the internal market in electricity and amending Directive 2012/27/EU¹, hereby make the following regulations:

Citation and Commencement

1. (1) These Regulations may be cited as the European Union (Internal Market in Electricity) (3) Regulations 2022.

(2) These Regulations shall come into operation on 9 May 2022.

Interpretation

2. (1) In these Regulations –

“2022 Regulations” means the European Union (Internal Market in Electricity) Regulations, 2022 (S.I. No. 20 of 2022);

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

“2011 Regulations” means the European Communities (Internal Market in Electricity and Gas) (Consumer Protection) Regulations, 2011 (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;

“ancillary service” 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;

“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

¹ OJ L 158, 14.6.2019, p. 125

Article 2 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/EU;

“distribution” means the transport of electricity on high-voltage, medium-voltage and low-voltage distribution systems with a view to its delivery to customers, but does not include supply;

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

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

(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 the Act of 1999

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

(a) by the insertion of the following definition 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;”,

(b) in the definition of “Electricity Market Directive” by the replacement of “means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009” with “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/EU³”,

(c) in the definition of “Electricity Market Regulation” by the replacement of “Regulation (EC) 714/2009 of the European Parliament and of the Council of 13 July 2009” with “Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal electricity market;”,

(d) by the insertion of the following definition after the definition of “energy storage”:

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

(e) in the definition of “renewable, sustainable or alternative forms of energy”, by the insertion of the following as subparagraph (k):

“(k) ambient energy.”.

² OJ L 363, 18.12.2014, p. 121

³ OJ L 158, 14.6.2019, p. 125

Amendment of Regulation 2(1) of the 2000 Regulations

4. (1) Regulation 2(1) of the 2000 Regulations is amended -
- (a) by the insertion of the following after “system” in the definition of “ancillary service”:

“including balancing and non-frequency ancillary services, but not including congestion management;”,
 - (b) by the insertion of the following after the definition of “demand response”:

“ ‘distributed generation’ means generating installations connected to the distribution system;”,
 - (c) by the insertion of the following definitions after the definition of “EirGrid”:

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

‘energy from renewable sources’ or ‘renewable energy’ means energy from renewable non-fossil sources, namely wind, solar (solar thermal and solar photovoltaic) and geothermal energy, ambient energy, tide, wave and other ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogas;”,
 - (d) by the substitution of the following definition for the definition of “Directive”:

“ ‘Electricity Market 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/EU⁴;

‘Electricity Market Regulation’ means Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019⁵ on the internal electricity market;”,
 - (e) by the insertion of the following definition for the definition of “generation”:

“ ‘interconnected system’ means a number of transmission and distribution systems linked together by means of one or more interconnector;”,
 - (f) by the insertion of the following definition after the definition of “licence holder”:

“ ‘market participant’ , in the context of electricity, means market participant as defined in point 25 of Article 2 of Regulation 2019/943.”.

⁴ OJ L 158, 14.6.2019, p. 125

⁵ 3 OJ L 158, 14.6.2019, p. 54

Amendment of the 2000 Regulations in relation to tasks of transmission system operators

5. (1) Regulation 8 of the 2000 Regulations is amended -

(a) In paragraph 1-

(i) in subparagraph (a), by the insertion after “environment,” of “in close cooperation with neighbouring transmission system operators and distribution system operators”, and

(ii) in subparagraph (b), by the insertion after “subparagraph (a),” of “including those provided by demand response and energy storage facilities”, and

(iii) by the insertion of the following after subparagraph (m):

“(n) to collect congestion rents and payments under the inter-transmission system operator compensation mechanism, in accordance with Article 49 of the Electricity Market Regulation;

(o) to procure ancillary services to ensure operational safety;

(p) to participate in the establishment of the European and national resource adequacy assessments pursuant to Chapter IV of Regulation (EU) 2019/943;

(q) to be responsible for the digitalisation of transmission systems

(r) to be responsible for data management, including –

(i) the development of data management systems,

(ii) cybersecurity, and

(iii) data protection

subject to the applicable rules, and without prejudice to the competence of other authorities.”,

(b) by renumbering the second paragraph (1B) as (1C), and

(c) by renumbering the existing paragraph (1C) as paragraph (1D), and

(d) by the insertion of the following after paragraph (1D):

“(1E) In performing the task referred to in Regulation 8(1)(o), the transmission system operator shall procure balancing services subject to the following:

(a) transparent, non-discriminatory and market-based procedures;

- (b) the participation of all qualified electricity undertakings and market participants, including -
 - (i) market participants offering energy from renewable sources;
 - (ii) market participants engaged in demand response;
 - (iii) operators of energy storage facilities, and
 - (iv) market participants engaged in aggregation.
 - (c) The Commission and the transmission system operator shall, in close cooperation with all market participants, establish technical requirements for participation in those markets, on the basis of the technical characteristics of those markets;
- (1F)
 - (a) Paragraph 1E shall apply to the provision of non-frequency ancillary services by the transmission system operator, unless the Commission has assessed that the market-based provision of non-frequency ancillary services is economically not efficient and has granted a derogation;
 - (b) In particular, the transmission system operator shall be able to procure such services from providers of demand response or energy storage and shall promote 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 transmission system;
 - (c) The obligation to procure non-frequency ancillary services does not apply to fully integrated network components;
- (1G)
 - (a) The transmission system operator, subject to approval by the Commission, or the Commission itself, shall, in a transparent and participatory process that includes all relevant system users and the distribution system operator, establish the specifications for the non-frequency ancillary services procured and, where appropriate, standardised market products for such services at least at national level;
 - (b) The specifications established pursuant to paragraph (a) shall ensure the effective and non-discriminatory participation of all market participants, including -
 - (i) market participants offering energy from renewable sources;
 - (ii) market participants engaged in demand response;

- (iii) operators of energy storage facilities; and
- (iv) market participants engaged in aggregation;
- (c) The transmission system operator shall exchange all necessary information and shall coordinate with the distribution system operator in order to -
 - (i) ensure the optimal utilisation of resources;
 - (ii) ensure the secure and efficient operation of the system; and
 - (iii) to facilitate market development;
- (d) The transmission system operator shall be adequately remunerated for the procurement of such services to allow them to recover at least the reasonable corresponding costs, including the necessary information and communication technology expenses and infrastructure costs;

(1H) The Transmission System Operator shall primarily facilitate market integration when -

- (a) Discharging its functions under paragraph 1(n);
- (b) granting and managing third party access to the transmission system in accordance with paragraph 1(i) and section 34 of the Act of 1999.”,
- (e) by the insertion of the following after paragraph (10):
 - “(11) (a) The Commission may allow the transmission system operator to perform activities other than those provided for in the Electricity Market Directive and in the Electricity Market Regulation where such activities are necessary for the transmission system operator to fulfil its obligations under that Directive or Regulation, provided that the Commission has assessed the necessity of such a derogation;
 - (b) Subparagraph (a) shall be without prejudice to the right of the transmission system operator to own, develop, manage or operate networks other than electricity networks where the Commission has granted such a right.”.

Amendment of the 2000 Regulations in relation to confidentiality and transparency requirements for transmission system operators and transmission system owners

6. (1) Regulation 19(1) of the 2000 Regulations is amended by the insertion after subparagraph (h) of the following –

- “(i) to provide information necessary for effective competition and the efficient functioning of the market. This

information shall be made publicly available and shall be without prejudice to preserving the confidentiality of commercially sensitive information.”.

Amendment of the Act of 1999 in relation to decision making powers regarding the connection of new generating installations and energy storage facilities to the transmission system

7. (1) Section 34 of the Act of 1999 is amended -

(a) by the insertion of the following after subsection (1C):

“(1D) In relation to an application to the transmission system operator under subsection (1), by any person, including new generation installations and energy storage facilities, the terms and conditions mentioned in that subsection shall be published by the transmission system operator, following their approval by the Commission.”,

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

“(5B)(a) The transmission system operator shall not be entitled to refuse the connection of a new generating installation or energy storage facility on the grounds of possible future limitations to available network capacities, such as congestion in distant parts of the transmission system;

(b) The transmission system operator shall supply necessary information if refusing connection to those seeking connection;

(c) Paragraphs (a) and (b) shall be without prejudice to the possibility for the transmission system operator to limit the guaranteed connection capacity or to offer connections subject to operational limitations, in order to ensure economic efficiency regarding new generating installations or energy storage facilities, provided that such limitations have been approved by the Commission;

(d) The Commission shall ensure that any limitations in guaranteed connection capacity or operational limitations are introduced on the basis of transparent and non-discriminatory procedures and do not create undue barriers to market entry;

(e) Where the generating installation or energy storage facility bears the costs related to ensuring unlimited connection, no limitation shall apply;

(f) The transmission system operator shall not be entitled to refuse a new connection point, on the ground that it would lead to additional costs resulting from the

necessary capacity increase of system elements in the close-up range to the connection point.”.

Amendment of the 2000 Regulations in relation to network development and powers to make investment decisions

8. (1) Regulation 8 of the 2000 Regulations is amended -

- (a) by substituting in paragraph 8(6)(a) “5 calendar years” with “ten calendar years”,
- (b) by substituting in paragraph 8(6)(b) “5 calendar years” with “ten calendar years”,
- (c) by substituting in paragraph 8(6)(b) “at least once a year” with “at least every two years”,
- (d) by substituting Regulation 8(6)(d) with the following:

“(d) The development plan shall in particular:

- (i) indicate the manner in which the transmission system operator shall discharge its functions under paragraph 1;
 - (ii) indicate to market participants the main transmission infrastructure that needs to be built or upgraded over the next ten years.”
 - (iii) Contain all the investments already decided and identify new investments which have to be executed in the next three years; and
 - (iv) Provide for a time frame for all investment projects.”,
- (e) by the insertion after paragraph (d) of the following as paragraph (dd):

“The transmission system operator shall, when elaborating the ten-year network development plan, fully take into account the potential for the use of demand response, energy storage facilities or other resources as alternatives to system expansion, as well as expected consumption, trade with other countries and investment plans for Union-wide and regional networks.”,

- (f) by the insertion after paragraph (f) of the following as paragraph (ff):

“The Commission –

- (i) Shall consult all actual or potential system users on the ten-year network development plan in an open and transparent manner;
- (ii) May require persons or undertakings claiming to be potential system users to substantiate such claims;

(iii) Shall publish the results of the consultation process, in particular possible needs for investments.”,

(g) by the insertion in 8(6) of the following after subparagraph (g):

“(h) the transmission system operator shall publish the development plan on its website;

(i) The Commission shall examine whether the ten-year network development plan covers all investment needs identified during the consultation process, and whether it is consistent with the non-binding Union-wide ten-year network development plan (“Union-wide network development plan”) referred to in point (b) of Article 30(1) of Regulation (EU) 2019/943. If any doubt arises as to the consistency with the Union-wide network development plan, the Commission shall consult the Agency. The Commission may require the transmission system operator to amend its ten-year network development plan;

(j) The Commission shall examine the consistency of the ten-year network development plan with the national energy and climate plan submitted in accordance with Regulation (EU) 2018/1999;

(k) The Commission shall monitor and evaluate the implementation of the ten-year network development plan;

(l) In circumstances where the transmission system operator, other than for overriding reasons beyond its control, does not execute an investment, which, under the ten-year network development plan, was to be executed in the following three years, the Commission shall, if such investment is still relevant on the basis of the most recent ten-year network development plan, ensure that the investment is made, by taking at least one of the following measures:

(i) requiring the transmission system operator to execute the investments in question;

(ii) organising a tender procedure open to any investors for the investment in question; or

(iii) obliging the transmission system operator to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital;

(m) Where the Commission has made use of its powers under clause (ii) of subparagraph (l), it may oblige the transmission system operator to agree to one or more of the following:

- (i) Financing by any third party;
- (ii) Construction by any third party;
- (iii) Building the new assets concerned;
- (iv) Operating the new asset concerned itself;
- (n) The transmission system operator shall -
 - (i) provide the investors with all information needed to realise the investment in the development plan;
 - (ii) connect new assets to the transmission network;
 - (iii) generally make its best efforts to facilitate the implementation of the investment project.
- (o) The relevant financial arrangements shall be subject to approval by the Commission;
- (p) Where the Commission has made use of its powers under subparagraph (l), the relevant tariff regulations shall cover the costs of the investments in question.”.

Amendment of the Act of 1999 in relation to duties of the regulatory authority

9. (1) The Act of 1999 is amended in section 9(1) by the insertion after subparagraph (fb) of the following as subparagraph 9(fb)(a)–

“ to publish the rules referred to in section 9(1)(fb)(iv)”

Amendment of the Act of 1999 to create new licence categories for undertakings engaged in the purchase of electricity

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

- (a) in subsection (1) by the insertion of the following after subparagraph (n):

“(o) to discharge the functions of an electricity undertaking engaged in purchasing electricity, not for own use”,

- (b) by the insertion after subsection (15) of the following as subsection (16):

“(16) For the purposes of this section, ‘any person’ means an electricity undertaking.”.

Amendment of the 2022 Regulations in relation to comparison tools

11. (1) Regulation 14 of the 2022 Regulations is amended by the insertion of the following after paragraph (5):

“(6) The tools referred to in paragraph (1) may be operated by any entity, including private companies and public authorities or bodies.”.

Amendment of the 2022 Regulations in relation to bills and billing information

12. (1) Regulation 15 of the 2022 Regulations is amended by the insertion of the following after paragraph (1)(f):

“(g) that final customers receive all their bills and billing information free of charge.”.

Amendment of the 2022 Regulations in relation to integration of electro-mobility into the electricity network

13. (1) Regulation 20 of the 2022 Regulations is amended by the insertion of the following after paragraph (2):

“(3) The Distribution System Operator shall not own, develop, manage or operate recharging points for electric vehicles, except where distribution system operators own private recharging points solely for their own use.”.

Amendment of Regulation 5(6)(b)(xxi) of the 2011 Regulations

14. (1) Regulation 5(6)(b)(xxi) of the 2011 Regulations is amended by the substitution of “2000,000” with “200,000”.



GIVEN under my Official Seal,
9 May 2022.

EAMON RYAN
Minister for the Environment, Climate and
Communications.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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