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*Committee on the Environment, Public Health and Food Safety*

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**2016/0380(COD)**

1.6.2017

## **DRAFT OPINION**

of the Committee on the Environment, Public Health and Food Safety

for the Committee on Industry, Research and Energy

on a proposal for a directive of the European Parliament and of the Council on  
common rules for the internal market in electricity (recast)  
(COM(2016)0864 – C8-0496/2016 – 2016/0380(COD))

Rapporteur: Pavel Poc

## SHORT JUSTIFICATION

Overall, the Rapporteur welcomes the proposal for the Directive put forward by the Commission.

Legislative proposal correctly:

1. puts consumers in the center of energy transition
2. strives to create level-playing field allowing for participation of renewables in the market
3. enhances regional cooperation

However, to ensure that the goals of the European energy policy and of the energy union are fully achieved the proposal for the Directive needs to be amended in certain areas.

- Transition to a clean economy must be done in a way, which poses a bearable burden to energy consumers.
- More impact shall be given to market integration and related market functioning, for which equal level-playing field for all participants is a condition sine qua non.
- New legal framework on both European and national levels shall create fair conditions for participation of new entities such as aggregators or local energy communities on the market and at the same time shall not be discriminatory to other market participants.

Closer integration of balancing market, with the aim of allowing renewables and demand side's efficient participation across borders, is crucial. However, there is also a need to ensure security of supply at all times. To this aim, rights in this area must strictly correspond to responsibilities, in order to avoid any impact on consumers. Member States and in most cases their national TSOs are responsible and accountable for the security of electricity supplies.

Clear rules for new players on the market, such as aggregators or local energy communities, are needed. Rapporteur welcomes that Commission addressed this issue in the legislation, however, the Rapporteur does not believe that the rules for aggregators were set correctly. Accompanying Impact assessment states that if there are no compensation mechanisms between aggregators and balancing responsible parties foreseen, there is a risk of aggregators being free riders not participating at system costs and activating demand response in an inefficient way.

The Rapporteur would like to underline the need to duly ensure protection of vulnerable and energy poor consumers. Commission correctly puts emphasis on social policy and on phase-out of price regulation, which eventually proved to be discriminatory also towards vulnerable and energy poor consumers. Certain details, such as the clear definition of situation of extreme urgency, in which the price regulation may be exceptionally applied, needs to be specified, to avoid any doubts in implementation of these provisions.

The Rules on local energy communities shall also be designed in a way which ensures that

consumers, which opt not to take part in the local energy community, are not disadvantaged, and that local energy communities will not increase the costs of the electricity system as such, which could have a detrimental effect on energy poor and vulnerable consumers.

Better linking wholesale and retail market is crucial for increasing system flexibility and integration of renewables. Provisions bringing the possibility for each customer to ask for a dynamic pricing contract from his electricity service provider are welcomed.

In order to facilitate demand response, it is crucial to provide customers with all information necessary for their participation in the market and for a wise and informed choice on their electricity service provider. There is a need for plain and simple electricity bills, as well as to search for other innovative ways of providing additional information related to billing.

Cost-efficient deployment of smart elements can simplify the integration of renewables and participation of consumers in the energy market. In this connection it is important to highlight that the most cost-efficient way when deploying smart-meters, is the one which correlates with the exchange of existing meters at the end of their life cycle. The Rapporteur therefore stresses the need to clarify the treatment and compliance of those smart meters having been rolled-out before the Directive comes into force in a way which does not negatively impact end prices for consumers.

The Rapporteur welcomes the emphasis the Commission puts on the distribution system operators which are crucial for enhancing the system flexibility and readiness to deploy renewable energy sources at local level.

Any use of flexibility in distribution networks, including energy storage, must be done in the most cost-efficient manner, in order to allow for most benefits for end consumers. The Rapporteur therefore suggests considering amendments of rules on ownership of storage facilities by distribution system operators.

Integration of electro-mobility into the electricity network will also allow for active participation of end consumers and thus increase the overall flexibility of the electricity system. Nevertheless, there is a need to distinguish between public operation and private use when considering ownership of electro-mobility infrastructure by DSOs.

Cooperation of DSOs across Europe is also crucial. In this connection, the conditions for participation of distribution system operators in the EU DSO entity shall be further specified, ensuring their proportional representation, and entity's funding.

## **AMENDMENTS**

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

### **Amendment 1**

#### **Proposal for a directive**

#### **Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**(6a) With a view to completing the internal market in electricity, Member States should foster the integration of their national markets and the cooperation of system operators at Union and regional level, also incorporating isolated systems forming electricity islands that persist in the Union.**

Or. en

*Justification*

*This recital shall be preserved in the Directive to highlight that Member States shall cooperate to achieve one of the main goals of the EU energy policy, which is the internal market creation.*

## **Amendment 2**

### **Proposal for a directive Article 3 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that their national legislation does not unduly hamper cross-border **flows of** electricity, consumer participation including through demand-side response, investments into flexible energy generation, energy storage, the deployment of electro-mobility or new interconnectors, and that electricity prices reflect actual demand and supply.

1. Member States shall ensure that their national legislation does not unduly hamper cross-border **transactions relating to** electricity, consumer participation including through demand-side response, investments into flexible energy generation, energy storage, the deployment of electro-mobility or new interconnectors, and that electricity prices reflect actual demand and supply.

Or. en

*Justification*

*There is a need to distinguish between cross-border flows and transactions of electricity, cross-border flows encounter unscheduled loop-flows as well. Those may negatively impact cross-border trade as well as security of electricity supply.*

## Amendment 3

### Proposal for a directive

#### Article 3 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. Member States shall strive to create a level playing field for all market participants and prevent discrimination.**

Or. en

*Justification*

*Principle of non-discrimination amongst market players shall be duly acknowledged in the Directive.*

## Amendment 4

### Proposal for a directive

#### Article 5 – paragraph 4 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

After[OP – insert the date – five years from the entry into force of this Directive], Member States may *still* apply public interventions in the price-setting for the supply of electricity for vulnerable household customers in so far as it is strictly necessary for reasons of extreme urgency. Such interventions shall comply with the conditions set out in paragraph 3.

After[OP – insert the date – five years from the entry into force of this Directive], Member States may ***continue to*** apply public interventions in the price-setting for the supply of electricity for vulnerable household customers in so far as it is strictly necessary for reasons of extreme urgency, ***namely in cases of force majeure, for which there is no solution other than temporary price regulation.*** Such interventions shall comply with the conditions set out in paragraph 3.

Or. en

*Justification*

*Situations/reasons of “extreme urgency” are not defined in the Directive. Clear definition is needed for sake of legislative clarity.*

## Amendment 5

### Proposal for a directive

#### Article 10 – paragraph 2 – point b

##### *Text proposed by the Commission*

(b) are given adequate notice of any intention to modify contractual conditions and are informed about their right to dissolve the contract when the notice is given. **Suppliers** shall notify their customers directly of any adjustment in the supply price as well as of the reasons and preconditions for the adjustment and its scope, **at an appropriate time** no later than **one normal billing period** before the adjustment comes into effect in a transparent and comprehensible manner. Member States shall ensure that customers are free to withdraw from contracts if they do not accept the new contractual conditions or adjustments in the supply price notified to them by their electricity **supplier** ;

##### *Amendment*

(b) are given adequate notice of any intention to modify contractual conditions and are informed about their right to dissolve the contract when the notice is given. **Suppliers or aggregators** shall notify their customers directly of any adjustment in the supply **or service** price as well as of the reasons and preconditions for the adjustment and its scope, **as soon as they are aware of such an adjustment, and** no later than **six weeks** before the adjustment comes into effect in a transparent and comprehensible manner. Member States shall ensure that customers are free to withdraw from contracts if they do not accept the new contractual conditions or adjustments in the supply price notified to them by their electricity **supplier or aggregator**;

Or. en

##### *Justification*

*Directive aims to help facilitate the development of new product and service providers – such as aggregators. To this aim, Article 10 **dealing with contractual rights** shall mention **not only traditional suppliers but also new providers - aggregators** . This will ensure for coherency in the whole directive, as on other places, “electricity service provider” is used as a synonym for “supplier”. Concerning the information on the change in electricity price, the customer needs to be informed well in advance of any price change. However, it is problematic to link the change in price with the billing frequency – in some cases (e.g. yearly or half-yearly billing period), it may be impossible to inform the customer so early, and in some cases it even may be late (e.g. monthly billing period). Thereby amending the article in a way which corresponds with the right of customer to change service provider within 3 weeks is suggested, giving customers sufficient time to decide. This amendment is necessary for the internal coherence of the text.*

## Amendment 6

### Proposal for a directive

#### Article 10 – paragraph 2 – point d

*Text proposed by the Commission*

(d) are offered a wide choice of payment methods, which do not unduly discriminate between customers. Any difference in charges related to payment methods shall reflect the relevant costs incurred by the **supplier**.

*Amendment*

(d) are offered a wide choice of payment methods, which do not unduly discriminate between customers. Any difference in charges related to payment methods shall reflect the relevant costs incurred by the **supplier or aggregator**.

Or. en

**Amendment 7**

**Proposal for a directive**

**Article 10 – paragraph 2 – point i**

*Text proposed by the Commission*

(i) **are given** adequate information on alternatives to disconnection sufficiently in advance before the planned disconnection. These alternatives may refer to sources of support to avoid disconnection, alternative payment plans, debt management advice or disconnection moratorium **and should not constitute an** extra cost **to customers**;

*Amendment*

(i) **have access to** adequate information on alternatives to disconnection sufficiently in advance before the planned disconnection. These alternatives may refer to sources of support to avoid disconnection, alternative payment plans, debt management advice or disconnection moratorium, **such access being provided at no** extra cost;

Or. en

*Justification*

*If the alternatives to disconnection would present no cost for customers not able to pay their bills, they would need to be socialized amongst all system users. This would lead to increase in prices of electricity to all customers, including the vulnerable ones and the ones who requested an alternative in the first place.*

**Amendment 8**

**Proposal for a directive**

**Article 11 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that final customers are fully informed by the

*Amendment*

2. Member States shall ensure that final customers are fully informed by the

suppliers of the opportunities and risks of such dynamic electricity price contract.

suppliers of the opportunities and risks of such dynamic electricity price contract, ***including, where appropriate, the installation of a smart meter at a reasonable cost.***

Or. en

#### *Justification*

*For the sake of legislative certainty, there is a need to clarify that dynamic pricing contract is possible only for customers who have a smart meter installed.*

### **Amendment 9**

#### **Proposal for a directive Article 12 – paragraph 3**

##### *Text proposed by the Commission*

3. ***By way of derogation from paragraph 2, Member States may choose to permit suppliers to*** charge contract termination fees to customers willingly terminating fixed term supply contracts before their maturity. Such fees may only be charged if customers receive a demonstrable advantage ***from these contracts***. In addition, such fees shall not exceed the direct economic loss to the supplier of the customer terminating the contract, including the cost of any bundled investments or services already provided to the customer as part of the contract.

##### *Amendment*

3. ***Member States shall permit suppliers*** charge contract termination fees to customers willingly terminating fixed term supply contracts before their maturity. Such fees may be charged only if customers receive a demonstrable advantage ***at the time of signature of the contract***. In addition, such fees shall not exceed the direct economic loss to the supplier of the customer terminating the contract, including the cost of any bundled investments or services already provided to the customer as part of the contract.

Or. en

#### *Justification*

*Suggested wording (may choose to permit) would not ensure equal conditions for switching and thus the same level of protection of customers in all Member States. In accordance with Article 10, termination fees for fixed term contracts shall be communicated well in advance, customers shall be duly informed on possible fees they may face. This is also in line with conditions on switching valid for aggregators under Article 13. Concerning the advantages stemming from fixed-term contracts, they shall be clearly communicated well in advance together with possible termination fees. It may be problematic to prove an advantage if it is evaluated ex-post, due to possible changes in supply price of other suppliers. It is also not clear towards what such an advantage would be assessed – towards average price on the*



*market, or towards indefinite contracts of the same supplier. Therefore, for the sake of clarity for customers, advantage shall be clearly communicated in the moment of signing the contract, together with any termination fees.*

## **Amendment 10**

### **Proposal for a directive Article 13 – paragraph 2**

#### *Text proposed by the Commission*

2. Member States shall ensure that a final customer wishing to terminate the contract with an aggregator, **while respecting contractual conditions**, is entitled to such termination within three weeks.

#### *Amendment*

2. Member States shall ensure that a final customer wishing to terminate the contract with an aggregator is entitled to such termination within three weeks.

Or. en

#### *Justification*

*To align with article 10 on basic contractual rights.*

## **Amendment 11**

### **Proposal for a directive Article 15 – paragraph 1 – point b**

#### *Text proposed by the Commission*

(b) are subject to cost reflective, transparent and non-discriminatory network charges, **accounting separately for the electricity fed into the grid and the electricity consumed from the grid, in line with Article 59(8).**

#### *Amendment*

(b) are subject to cost reflective, transparent and non-discriminatory network charges **and that** electricity fed into the grid **is not offset against electricity withdrawn** from the grid.

Or. en

#### *Justification*

*There is a need to clearly abolish net metering schemes, which do not ensure for fair allocation of costs among market participants. Original wording would suggest that such scheme would apply to network charges only.*

## Amendment 12

### Proposal for a directive

#### Article 17 – paragraph 3 – point b

*Text proposed by the Commission*

(b) transparent rules clearly assigning roles and responsibilities to all market participants;

*Amendment*

(b) transparent rules clearly assigning roles and responsibilities to all market participants, ***including the need to respect operational security of distribution and transmission grid by all market participants***;

Or. en

#### *Justification*

*Electricity regulation stipulates general balancing responsibility and equal treatment for all market participants. On the contrary to this, Article 17 of Electricity directive suggests a special treatment for aggregators, which are not supposed to be responsible for imbalance and other costs they cause to other market parties. This is related to the imbalance itself as well as to sourcing cost of electricity. Electricity would in case of independent aggregators be bought by the supplier and redirected by aggregator, who however based on suggested rules would not pay suppliers compensation for sourcing costs of such electricity. Aggregator would thus directly cause financial cost to the supplier other than balancing cost, and based on the directive, would not be obliged to cover such cost. Supplier would be forced to socialize such costs to all his customers, which would lead to increase in price of electricity for all consumers, including the ones that do not participate in the demand response scheme under aggregator. Customers which do not opt to actively participate in the market shall not be punished, and therefore the rules on compensation of costs incurred by aggregator's activity need to be clearly anchored in the directive.*

## Amendment 13

### Proposal for a directive

#### Article 17 – paragraph 3 – point d

*Text proposed by the Commission*

(d) ***aggregators shall not be required to pay compensation to suppliers or generators***;

*Amendment*

***deleted***

Or. en

## Justification

*Electricity regulation stipulates general balancing responsibility and equal treatment for all market participants. On the contrary to this, Article 17 of Electricity directive suggests a special treatment for aggregators, which are not supposed to be responsible for imbalance and other costs they cause to other market parties. This is related to the imbalance itself as well as to sourcing cost of electricity. Electricity would in case of independent aggregators be bought by the supplier and redirected by aggregator, who however based on suggested rules would not pay suppliers compensation for sourcing costs of such electricity. Aggregator would thus directly cause financial cost to the supplier other than balancing cost, and based on the directive, would not be obliged to cover such cost. Supplier would be forced to socialize such costs to all his customers, which would lead to increase in price of electricity for all consumers, including the ones that do not participate in the demand response scheme under aggregator. Customers which do not opt to actively participate in the market shall not be punished, and therefore the rules on compensation of costs incurred by aggregator's activity need to be clearly anchored in the directive.*

## Amendment 14

### Proposal for a directive

#### Article 17 – paragraph 4 – subparagraph 1

##### *Text proposed by the Commission*

4. In order to ensure that balancing costs and benefits induced by aggregators are fairly assigned to market participants, Member States ***may exceptionally*** allow compensation payments between aggregators and ***balance*** responsible parties. Such compensation payments ***must be limited to situations where one market participant induces imbalances to another market participant resulting in a*** financial cost.

##### *Amendment*

4. In order to ensure that balancing costs and benefits induced by aggregators, ***as well as electricity sourcing costs***, are fairly assigned to market participants, Member States ***shall*** allow compensation payments between aggregators and ***balancing*** responsible parties. Such compensation payments ***shall be proportionate, shall not discriminate between aggregators. Principles for compensation calculation shall be clearly indicated in the contract between an aggregator and the balancing responsible party. They shall be limited to situations in which an aggregator imposes financial costs on another market party and shall be derived from market prices at a given point of time..***

Or. en

## Justification

*Electricity regulation stipulates general balancing responsibility and equal treatment for all*

market participants. On the contrary to this, Article 17 of Electricity directive suggests a special treatment for aggregators, which are not supposed to be responsible for imbalance and other costs they cause to other market parties. This is related to the imbalance itself as well as to sourcing cost of electricity. Electricity would in case of independent aggregators be bought by the supplier and redirected by aggregator, who however based on suggested rules would not pay suppliers compensation for sourcing costs of such electricity. Aggregator would thus directly cause financial cost to the supplier other than balancing cost, and based on the directive, would not be obliged to cover such cost. Supplier would be forced to socialize such costs to all his customers, which would lead to increase in price of electricity for all consumers, including the ones that do not participate in the demand response scheme under aggregator. Customers which do not opt to actively participate in the market shall not be punished, and therefore the rules on compensation of costs incurred by aggregator's activity need to be clearly anchored in the directive.

## **Amendment 15**

### **Proposal for a directive**

#### **Article 18 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. Member States may lay down that, at the request of the final customers, the information contained in these bills shall not be considered to constitute a request for payment. In such cases, Member States shall ensure that suppliers offer flexible arrangements for payments.** **deleted**

Or. en

*Justification*

*Whichever form of billing (including electronic one) the customer chooses, the information stated on the bill shall constitute a request for payment, which is the very substance of the bill. Otherwise consumers may be confused.*

## **Amendment 16**

### **Proposal for a directive**

#### **Article 20 –paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Those functionalities shall apply to smart meters rolled-out after [2 years after entry into force of this Directive].***

*Justification*

*In line with the principle of non-retroactivity and in order to avoid any stranded investment made under existing legislation.*

**Amendment 17**

**Proposal for a directive**  
**Article 24 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. The Commission, by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 68, shall determine a common European data format and non-discriminatory and transparent procedures for accessing the data, listed under Article 23 (1), that will replace national data format and procedure adopted by Member States in accordance with paragraph 1. Member States shall ensure that market participants apply a common European data format.** *deleted*

Or. en

*Justification*

*Creating a new EU data format would disproportionately burden Member States which developed and implemented national data format, especially the ones which already have data hubs in place. Benefits resulting from introduction of common EU data format are not clear and not quantified in the accompanying Impact Assessment. There is a need for profound cost and benefits analysis prior to introducing common EU data format. Moreover the proposal of the Directive should also take into consideration other EU legislation on the data protection. General provision on the data transfers and their formats is a part of the General Data Protection Regulation (Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC; Official Journal, L 119, 4. 5. 2016). Although the General Data Protection Regulation primarily concerns with the personal data protection its provisions on data transfers should be applied in this proposal as well.*

## Amendment 18

### Proposal for a directive

#### Article 33 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. Member States may allow distribution system operators to own, develop, manage or operate recharging points for electric vehicles only if the following conditions are fulfilled:

*Amendment*

2. Member States may allow distribution system operators to own, develop, manage or operate **public** recharging points for electric vehicles only if the following conditions are fulfilled:

Or. en

*Justification*

*To align with Alternative Fuels Infrastructure Directive.*

## Amendment 19

### Proposal for a directive

#### Article 33 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. Distribution system operators may own, develop, manage and operate recharging points for electric vehicles for the purposes of their own fleet.**

Or. en

*Justification*

*To align with Alternative Fuels Infrastructure Directive.*

## Amendment 20

### Proposal for a directive

#### Article 33 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. Member States shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to

4. Member States shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to

own, develop, operate or manage recharging points for electric vehicles. In case the public consultation indicates that third parties are able to own, develop, operate or manage such points, Member States shall ensure that distribution system operators' activities in this regard are phased-out.

own, develop, operate or manage recharging points for electric vehicles. In case the public consultation indicates that third parties are able to own, develop, operate or manage such points, Member States shall ensure that distribution system operators' activities in this regard are phased-out. ***Distribution system operators shall have right to recover their investment made into recharging infrastructure on fair and reasonable terms.***

Or. en

#### *Justification*

*For the sake of stability of investment environment, DSOs shall have right to recover costs associated with the infrastructure for electro mobility.*

### **Amendment 21**

#### **Proposal for a directive Article 36 – paragraph 1**

##### *Text proposed by the Commission*

1. Distribution system operators shall ***not*** be allowed to own, develop, manage or operate energy storage facilities.

##### *Amendment*

1. Distribution system operators shall be allowed to own, develop, manage or operate energy storage facilities ***only if the following conditions are fulfilled:***

Or. en

#### *Justification*

*In order to limit impact on electricity end prices, any use of flexibility in distribution networks, including electricity storage, shall be done in the most cost-efficient manner. In this connection, distribution system operators shall have right to conduct an analysis on whether it is efficient to procure such services on the market, whether there is a market available, or whether it is less costly to own and operate storage facilities by themselves. NRA supervision shall ensure that there is no clash between ownership / operation of storage by DSOs and the electricity market functioning.*

## Amendment 22

### Proposal for a directive

#### Article 36 – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

2. *By way of derogation from paragraph 1, Member States may allow distribution system operators to own, develop, manage or operate storage facilities only if the following conditions are fulfilled:* *deleted*

Or. en

#### *Justification*

*In order to limit impact on electricity end prices, any use of flexibility in distribution networks, including electricity storage, shall be done in the most cost-efficient manner. In this connection, distribution system operators shall have right to conduct an analysis on whether it is efficient to procure such services on the market, whether there is a market available, or whether it is less costly to own and operate storage facilities by themselves. NRA supervision shall ensure that there is no clash between ownership / operation of storage by DSOs and the electricity market functioning.*

## Amendment 23

### Proposal for a directive

#### Article 36 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate storage facilities;

(a) other parties, following an open and transparent tendering procedure ***under the supervision of the national regulatory authorities***, have not expressed their interest to own, develop, manage or operate ***cost-effective*** storage facilities;

Or. en

#### *Justification*

*In order to limit impact on electricity end prices, any use of flexibility in distribution networks, including electricity storage, shall be done in the most cost-efficient manner. In this connection, distribution system operators shall have right to conduct an analysis on whether it is efficient to procure such services on the market, whether there is a market available, or*



*whether it is less costly to own and operate storage facilities by themselves. NRA supervision shall ensure that there is no clash between ownership / operation of storage by DSOs and the electricity market functioning.*

## **Amendment 24**

### **Proposal for a directive**

#### **Article 36 – paragraph 2 – point c**

##### *Text proposed by the Commission*

(c) the regulatory authority has assessed ***the necessity of such derogation taking into account*** the conditions under ***points (a) and (b)*** and has granted its approval.

##### *Amendment*

(c) the ***national*** regulatory authority has assessed ***that there is no necessity to apply*** the conditions under ***point (a) of this paragraph*** and has granted its approval.

Or. en

##### *Justification*

*In order to limit impact on electricity end prices, any use of flexibility in distribution networks, including electricity storage, shall be done in the most cost-efficient manner. In this connection, distribution system operators shall have right to conduct an analysis on whether it is efficient to procure such services on the market, whether there is a market available, or whether it is less costly to own and operate storage facilities by themselves. NRA supervision shall ensure that there is no clash between ownership / operation of storage by DSOs and the electricity market functioning.*

## **Amendment 25**

### **Proposal for a directive**

#### **Article 36 – paragraph 4**

##### *Text proposed by the Commission*

4. Regulatory authorities shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to invest, develop, operate or manage energy storage facilities. In case the public consultation indicates that third parties are able to own, develop, operate or manage such facilities, Member States shall ensure that distribution system operators' activities in this regard are

##### *Amendment*

4. Regulatory authorities shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to invest, develop, operate or manage energy storage facilities. In case the public consultation indicates that third parties are able to own, develop, operate or manage such facilities, Member States shall ensure that distribution system operators' activities in this regard are phased-out. ***Distribution system operators***

phased-out.

*shall have right to recover their investment in storage facilities on fair and reasonable terms.*

Or. en

*Justification*

*In order to limit impact on electricity end prices, any use of flexibility in distribution networks, including electricity storage, shall be done in the most cost-efficient manner. In this connection, distribution system operators shall have right to conduct an analysis on whether it is efficient to procure such services on the market, whether there is a market available, or whether it is less costly to own and operate storage facilities by themselves. NRA supervision shall ensure that there is no clash between ownership / operation of storage by DSOs and the electricity market functioning.*