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The Winter Package and the Agency for Cooperation of Energy Regulators

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NHH



The Winter Package in a Nutshell



The Winter Package in a Nutshell

- Challenges
 - More use of electricity in the future
 - Make it greener
 - Promote investment
 - Secure stability of the system
 - Energy efficiency
 - How to deal with more variable supply?
 - Interconnectivity
 - Market integration



The Winter Package in a Nutshell

- Ambitious legal and policy plan from November 2016 – currently **being negotiated**
- One package for **coherence**
- Gas is not touched
- Seeks to speed **clean energy transition, job creation and growth**
- 43% less carbon intensive in 2030
- **Renewable** electricity to be 50% in 2030
- Creation of the **Energy Union**
 - More secure, clean and competitive energy

Legal measures in the Winter Package

- Proposal for a revised regulation on the **internal market for electricity**
- Proposal for a directive on **common rules for the internal market in electricity**
- Proposal for a revised regulation on the European Union Agency for the Cooperation of Energy Regulators (**ACER**)
- Proposal for a new regulation on **risk preparedness** in the electricity sector
- Proposal for a revised **energy efficiency Directive**
- Proposal for a revised **energy performance of buildings Directive**
- Proposal for a revised **Renewable Energy Directive**

What is ACER?

- Current role as **coordinator, advisor and monitoring** decisions of the NRAs
- Works on electricity and natural gas
- Created through Regulation **713/2009**
 - Competences added in 2011 & 2013
 - **Wholesale energy markets and transparency**
 - **Trans-European energy infrastructure**
- “**Coordinator**” towards the completion of the EU energy market
- Created with **national regulation** as the premise in mind



Current role

- Development of **EU-wide network and market rules** with a view to **enhancing competition**
 - Codes are approved by the MS – deal with who has access and on which condition to cross-border networks
 - These codes are only binding **after** a procedure with the Commission and the MS
- Coordinate **regional and cross-regional initiatives**
 - For market integration
- Monitor the work of **European networks of transmission system operators (ENTSOs)**
 - In particular investment **development plans**

Deciding powers

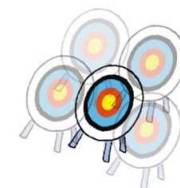
- ACER can issue **non-binding opinions and recommendations** to national energy regulators, transmission system operators, and the EU institutions.
- ACER can take **binding individual decisions** in specific cases and under certain conditions on **cross-border infrastructure issues**.
 - Connected to transmission development plans
- Monitor the **functioning of gas and electricity markets**, and of **wholesale energy** trading in particular
 - Reviews and assesses **market transactions**
 - Related to **abuse of market power** (competition issues)
 - Coordinates with national regulators the **imposition of penalties**

Looking to the Winter Package changes



What is the goal of the new proposal

- Prevent **fragmented** regulatory decisions
- Fill in the **regulatory gap** not covered by NRAs
- Avoid **uneven** playing field
- Avoid **contradictory** policies
- Eliminate **delays**
- Strengthen **ACER** powers regarding **decision making on cross-border issues**
 - For issues requiring **regional coordination**
 - **National regulators have a say** through voting in the decision making



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What's the back story?

- **Controversial!**
- **Resistance** from National Regulators and Member States
 - See the example of Norway for the pre 2016 rules!
- Also **resistance** from ENTSO-E (transmission of electricity) on new powers to acer regarding network code development
- ENTSO-E also **criticized** role of ACER as regional cooperator oversight
- But **wanted** by the Commission (and seems also by Parliament)

Future competences of ACER

- New roles on regulatory issues with **cross-border relevance**
 - That were before for the NRAs
- New rules allow ACER to deal with **issues affecting only a limited number of regulators** – no need to affect all EU/EEA
- ACER's **Director decides if an issue is regional**
 - If it is, then the task is **dealt by ACER**
- **Monitoring national markets' performance**
 - Focus on barriers to **cross border trade**
 - **MS actions**
 - Issue dealing with **pricing**
 - Security of **supply**



Future competences of ACER

- Wholesale **market supervision** and supervisor of **nominated electricity market operators**
 - The nominated electricity market operators are designated by the NRAs
 - Deal with **day-ahead or single intraday coupling** (buying/selling)
- Role in the review process for regional electricity markets
 - **Bidding zones**
- Creating **rules for cross-border wholesale** electricity markets
- Role in **assessment of generation adequacy and risk preparedness**
 - But not approving
- Cross-border **infrastructure**

Future competences of ACER

- Approving and amending **methodologies** for **generation adequacy assessment**
- Creating a **methodology** for **security of supply indicators**
- Establishing an entity for **distribution system operators (DSO)**
- Approving **methodologies** for identification of **regional electricity crisis** scenarios
- Coordination of functions of Regional Operational Centres (ROCs)
 - New entities created by the Winter Package
- Stronger **role developing network codes** (had it before, though)
 - Decision on **terms, methodologies and algorithms**
 - Final decision made by the Commission

Why so little ambition?

- Fear that **more powers** to ACER would **disturb balance**
 - National regulators to act without any direct intervention from EU or MS
- The idea of moving to a **pan-European regulator** was **discarded**
 - More budget
 - More staff
- **Not ready for a EURO-FERC?**

Some problems ahead

- Battle for competences
 - ACER vs Commission
 - On competition oversight
 - ACER vs NRAs
 - On decision making – what is regional and what is not?
 - On national/regional oversight
 - On prices
 - ACER vs ENTSO
 - On network codes
 - On regional oversight
 - ACER vs Producers/Suppliers/Distributors
- Lots of power and no teeth?

