



9 November 2023

CEOs of European NEMOs call for deletion of the Single Legal Entity in the current review of the European Electricity Market Design (EMD)

We, the CEOs of the power exchanges representing all Nominated Electricity Market Operators (NEMOs) from the 27 EU Member States, wish to voice our very grave concerns about a specific aspect of the proposed Electricity Market Design reform – namely the EMD paving the way to take the organisation of the **Market Coupling Operation (MCO) function away from the TSOs and NEMOs, transferring it instead to a Single Legal Entity (SLE)**. The establishment of such an entity is foreseen in the Council general approach, in Article 7, paragraph (1), and Article 59 of the amended Regulation (EU) 2019/943.

The power exchanges we represent cover the whole EU geographical scope, plus Norway. Together with the electricity transmission system operators (TSOs), we develop, implement, and operate the European Market Coupling, a highly efficient and exceptionally reliable solution for integrating the European day-ahead and intraday markets. This has proved itself to be the cornerstone of the EU Internal Market for electricity, as also stated in ACER's report of April 2022 'Final Assessment of the EU Wholesale Electricity Market Design'.

Our efforts for over 20 years have maximised social welfare and brought billions of Euros of efficiency gains each year for European citizens and industries. With transparent price formation mechanisms and reliable short-term markets, we provide crucial tools for investment decisions and the decarbonisation of the electricity sector. Our short-term electricity markets have proven to be a pillar of stability in the face of the recent energy crisis.

Given our extensive experience, we would like to express our extremely strong concerns over any plans of the European Commission and co-legislators to implement an SLE for the Market Coupling Operator function, of which the first steps are the Council general approach, Articles 7, paragraph (1), and Article 59. Allow us to explain the reasons for our concerns:

- First, the implementation of an SLE for the Market Coupling Operator function would deprive NEMOs of their role in the MCO function, which, over the past 20 years, they have **performed in an efficient and reliable way even in the context of the recent energy crisis** in Europe and world-wide.
- Second, the implementation of an SLE would mean a **centralisation of the MCO function**. Such centralisation would deprive the individual Member States of their powers to regulate and monitor their own markets. At the same time this would lead to new legal and regulatory conflicts between European and national regulation, oversight, and jurisdiction.
- Third, such centralisation in an SLE **contradicts the EU principles of proportionality and subsidiarity**. NEMOs have provided many arguments why the current distributed operation of Market Coupling in a rotational system with back-up operators is more reliable, secure and cost-efficient than a newly set-up central SLE. The latter would cause massive and incalculable disruptions upon implementation, while there is no evidence that it would bring any improvements, i.e. lack of any cost-benefit analysis.
- Fourth, such centralisation against the explicit recommendation of TSOs and NEMOs to continue with the current distributed operation of Market Coupling represents a **disproportionate restriction of the principal freedom of TSOs and NEMOs to exercise their economic activity and determine their organisation**.
- Fifth, the implementation of an SLE would deprive NEMOs of their important role in integrating local and regional market design requirements of the Member States in which they operate into the common coupling algorithms and procedures. A market centrally designed and operated would **disrupt the efficiency of the EU market** – a market which so far has been **able to support and reflect local requirements** due to all NEMOs operating the MCO function.
- Sixth, the SLE would also **increase operational risks**, since all MCO operations will be performed by a single entity, which will be a potential single “point of failure”. The current operational arrangement relies on several NEMOs performing in parallel the MCO function (as main coordinators and back-up coordinators). This maximises the operational security via a back-up redundancy of NEMO’s decentralised design. With the SLE, this important benefit would be lost.
- Finally, implementation of an SLE would certainly mean **delays to the go-lives or extensions of current SDAC-SIDC projects** since the transfer of activities from the decentralised to the centralised model would be prioritised. Implementation of an SLE would require a lot of time and resources, with a great deal of testing and trial runs in order to ensure, to the greatest extent possible, that operational risk and the legal/regulatory complexities deriving from the disruption of the current model are minimised.

Overall, the SLE is not aligned with the actual goal of the EMD – which is making the energy market more resilient in the face of the energy crisis!

Sadly, the European Commission has disregarded the outcomes of the consultation conducted in January and February 2023, in which all stakeholders, i.e. NEMOs, TSOs and relevant market participants' organisations such as EFET and Eurelectric, rejected the idea of disrupting the current operation and centralising the market coupling function in an SLE.

Furthermore, the European Commission has not provided a sound, evidence-based justification nor any impact assessment of the SLE proposal, which would clearly show the benefits of the current decentralised operation of market coupling over an SLE.

As an alternative proposal to this unnecessary disruption of the Market Coupling Operation function, we suggest sticking to the current design while optimising governance through:

- **improved resource adequacy** – to deliver implementation projects on time and
- **contractual simplification** – to reduce complexity.

In the end, we, together with all relevant stakeholders, work towards a common overarching goal: to enable faster implementation of pan-European projects for the sake of final consumers.

We encourage you to carefully consider these points during the trilogue negotiations, to create the future-proof European electricity market that we all need for achieving the energy transition in as fast and cost-efficient a manner as possible.

We remain at your disposal to discuss our position further and are happy to support you with our expertise as NEMOs.

Yours sincerely,

The CEOs of the EU NEMOs

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