



2<sup>nd</sup> East Mediterranean  
**ENERGY LAW FORUM**

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*«The Proposal of the Commission for Capacity Mechanisms under the Clean Energy for all Europeans Package»*

**Alexia Trokoudi: Group Director of Legal  
Division on Energy Regulation «Hellenic Petroleum  
- Group of Companies»**



# The Clean Energy for all Europeans Package and new Proposal for the capacity mechanisms

- **The Definition:** *“an administrative measure to ensure the achievement of the desired level of security of supply by remunerating resources for their availability”*
- **The Rationale:** The energy market is unable to send the necessary investment signals, the gradual but decisive transition towards renewable energy sources (RES) and finally, the increasing import of foreign energy and the closing of old plants due to security of supply reasons
- **Types of Capacity Mechanisms:** strategic reserves, capacity auctions, capacity obligations, reliability options and capacity mechanisms



# Capacity Mechanisms and State Aid

- The Capacity Mechanisms remunerate the capacity providers.
- Due to that, they may constitute state aid within the meaning of Article 107 of the Treaty, in case four conditions are fulfilled:
  - a) the measure must be imputable to the Member State,
  - b) it must be financed, directly or indirectly, through State resources,
  - c) it must be selective and,
  - d) it must risk distorting trade and competition
- The measure must be notified to the Commission for its assessment on the basis of article 107 of the Treaty and the Energy and Environmental Guidelines (EEAG).

# Capacity Mechanisms the Energy and Environmental Guidelines (EEAG)

- The Criteria examined under the EEAG:
  - Objective of Common Interest
  - Necessity
  - Appropriateness
  - Incentive effect
  - Proportionality
  - Avoidance of undue negative effects on completion and trade



# The Final Report Of Sector Inquiry of the Commission on Capacity Mechanisms (30/11/2016)-The findings (1)

- In general, EU is in a situation of over capacity, scarcity is rare
- The principle: any kind of administrative pricing is in-appropriate!
- The MS often introduce CM without a prior adequate assessment for the need for the them: lack of an “adequacy assessment”
- Market reforms must have taken place before CM have been designed
- Recommendations of the Report:
  - The capacity mechanism must match the identified adequacy issue
  - Improving grid connections and adapting the geographical boundaries of the bidding zones
  - Encourage flexible demand, but should not turn into subsidies for energy-intensive consumers

# The Final Report Of Sector Inquiry of the Commission on Capacity Mechanisms (30/11/2016)- The findings (2)

- **Recommendations of the Report:**
  - A competitive process should be used to determine the price paid for capacity
  - With regards to the eligibility, the Report mandates to include a wide participation in order to ensure competition, a reasonable compensation and a minimal impact on the internal market.
  - As far as Market design is concerned, high penalties should be imposed in order to ensure reliable capacity providers.



## *The Proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity COM (2016) 861 final (the Electricity Proposal) (1)*

- The Proposal for a Regulation sets targets for 2030 and fundamental principles to ensure market access for all resource providers and electricity customers, the engagement of the demand side, the fostering of energy efficiency and the further decarbonization of the electricity market.
- Chapter IV “Resource Adequacy” establishes common rules for capacity mechanisms:
  - Article 19: A ten (10) year European “Adequacy Assessment” established by the European Transmission System Operator (ENTSO-E) with current and projected demand.
  - Article 18 : MS monitor the resource adequacy. If a MS has a concern it must identify all regulatory distortions and provide a timeline for the abolishment of the distortions. Only if these measures do not work, the MS will design an CM aligned with article 107 of the Treaty and the Guidelines for Energy and Environmental Guidelines (EEAG)

*The Proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity COM (2016) 861 final (the Electricity Proposal) (2)*

- Article 22: Approval procedure, strong cooperation between the Agency for the Cooperation of the European Regulators (ACER) and the European Transmission System Operator (ENTSO-E)
- Article 23(4): *“Generation capacity for which a final investment decision has been made after the entry into force of this Regulation shall only be eligible to participate in capacity mechanism if its emissions are below 550 gr CO<sub>2</sub>/kWh. Generation capacity emitting 550 gr Co<sub>2</sub>/kWh or more shall not be committed in capacity mechanisms 5 years after entry force of this Regulation”*
- Article 24 provides that all existing capacity mechanisms have to comply with the requirements of the Regulation



# Conclusions/Thoughts

- The proposal ensures a coordinated approach of capacity.
- The Commission will accept a capacity mechanism as being compatible with the internal market if: (a) market reforms are implemented or planned, (b) a thorough assessment of the adequacy problem has been conducted, revealing residual market failures and (c) a competitive capacity mechanism has been chosen in light of the recommendation of the Final Report.
- With the new strict rules, It seems that, under the new Regulation, it will be much more difficult to introduce a capacity mechanism.
- Still, increased production of RES, the “sunset effect”, and the missing money problem are still here.....
- The Proposal is at the stage of trilogue between Parliament, the Council and the Commission. The fifth informal trilogue is scheduled for 5 December 2018.

Thank you for your attention

The presentation expresses the personal view of the Speaker and does not constitute the opinion or position of HELLENIC PETROLEUM S.A.