CONSULTATION RESPONSE

ARERA consultation 222/2026 – Temporary reduction of electricity prices and gas cost compensation for thermal generators art. 6 DL Bollette implementation

27 July 2026

General comments

Europe's energy market design – built on marginal pricing and reinforced by the EU Emissions Trading System (EU ETS) – has been central to mobilising clean energy investments, enhancing system efficiency, and delivering decarbonisation at lowest cost.

At a time of geopolitical instability and industrial transformation, concerns about energy prices and competitiveness are legitimate and must be addressed. However, weakening or interfering with marginal pricing or introducing gas price caps (i.e. Iberian exception) would undermine investment signals, increase system costs, distort competition and cross-border flow, and delay the very transition that strengthens Europe's strategic autonomy.

Rather than altering the core market design, policymakers should deploy targeted, predictable instruments that protect vulnerable industries and consumers while preserving the integrity of the internal energy market.

In this context, the Italian Government adopted the DL Bollette on 20 February 2026. The law includes measures aimed at artificially lowering electricity prices through the reimbursement of certain gas tariff components and introduce a gas price cap for thermal power producers (Article 6).

The proposed revision of the wholesale electricity market design outlined in the Consultation Document lacks an adequate legal basis. In particular, Article 6(3) of Decree-Law No. 21/2026 grants ARERA a specific and limited power: to define the reimbursement to thermoelectric generators of a cost component related to ETS compliance obligations for an efficient CCGT plant. Neither the wording of the provision nor the relevant preparatory parliamentary documents relating to the conversion into law of the Decree-

Law allow this mandate to be extended to the introduction of substantial changes to the market design, such as a "conventional price cap" or other measures unrelated to the reimbursement of ETS costs.

The proposal submitted for consultation therefore appears not only to lack a legal basis, but also to be inconsistent with the scope of intervention expressly defined by the national legislator.

Furthermore, the proposal outlined in the Consultation Document raises significant issues of incompatibility with the European legal framework.

The introduction of a "conventional cap" on the gas price, resulting in a conventional maximum price relevant for the purpose of electricity wholesale market bids, would in fact lead to a system based on predetermined and substantially binding prices. Offers exceeding such level would be subject to verification procedures and, where the deviation was not considered merely incidental, could result in the recovery of the reimbursement and the initiation of sanctioning proceedings.

Such a model is inconsistent with the principles of freedom to conduct electricity generation and supply activities and of competitive price formation. It raises serious questions regarding their compatibility with EU State Aid rules (art. 107 TFEU) and the Internal Energy Market rules (Regulation 2019/943, Directive 2024/1788, and Directive 2003/87/EC as amended).

Moreover, the proposal set out in the Consultation Document would result in a substantial artificial manipulation of the marginal price. Indeed, the marginal price would no longer be determined through a genuine interaction between supply and demand. The marginal pricing principle, as established under European legislation, would be undermined insofar as the fundamental conditions underpinning its operation are unilaterally altered.

We caution against State interventions that may lead to unintended consequences, including market distortions – also at EU level – such as alteration of the merit order, cross-border flows, and interference with electricity, gas and carbon price signals. We also offer alternatives we think could work for the same objectives of the Italian Government and ARERA with less disruption of market functioning.

CONSULTATION RESPONSE

Key messages

1. Changes of this nature introduce substantial inefficiencies into the energy sector, and it is doubtful whether Italian consumers will benefit on balance.

2. Alternative measures capable of supporting consumers while preserving market efficiency and competitiveness are available.

3. The implementation of the proposed mechanism has implications beyond the reimbursement framework itself. Given the close interaction between the different elements of Article 6, including Article 6(1). We caution against measures that could give rise to ad hoc national criteria for assessing bidding behaviour under REMIT, thereby undermining its uniform application across the Internal Energy Market.

Questionnaire

Q1. Do you agree with framing the proposed mechanism within the scope of the EU regulatory constraints outlined above, particularly regarding its consistency with Regulation (EU) 2019/943, Directive 2003/87/EC (EU ETS), and the recent European Commission Communication C(2026) 2947? Please explain the reasons for your answer.

The consultation should also expressly consider the implications in relation to Regulation (EU) No 1227/2011 (REMIT). REMIT is directly applicable throughout the European Union and its provisions on market manipulation must be interpreted consistently across Member States. National implementation measures should not lead to new or different interpretation of the rules governing market conduct under REMIT, nor departing from the approach reflected in ACER's guidance and enforcement practice.

Article 6.1 entrust ARERA with the power to adopt measures in the application of obligations laid down under REMIT should be more thoroughly assessed. In particular, considering the high degree of integration of energy markets at European level, it is

important to ensure that the implementation of REMIT at Member State level does not become more rigid than the harmonised approach set by ACER at Union level.

Introducing additional national assessment criteria in an area governed by a directly applicable EU Regulation risks increasing regulatory complexity and compliance costs for cross-border market participants, creating legal uncertainty and ultimately undermining the competitiveness and integration of the Internal Energy Market.

While ARERA is implementing Article 6 of DL Bollette, the consultation appears to suggest that bids should reflect an administratively determined conventional gas price and that offers departing from the published benchmark may be subject to additional regulatory scrutiny.

ARERA should clarify that these benchmarks are intended solely for the purposes of the reimbursement mechanism and do not constitute a benchmark for assessing compliance with REMIT. Participation in the reimbursement mechanism should therefore neither alter market participants' obligations under REMIT nor create an expectation that bids should reflect an administratively determined "conventional" gas price rather than each participant's own commercial assessment.

Such clarification would reduce legal uncertainty and help preserve consistent REMIT enforcement across the Internal Energy Market. The introduction of national benchmark-based criteria for assessing bidding behaviour in areas closely linked to economic withholding may give rise to ad hoc national standards in a field that EU law is intended to be assessed on the basis of common principles centred on market fundamentals and plant-specific circumstances. Such an outcome would create legal uncertainty for market participants operating across multiple jurisdictions and risk inconsistent treatment of economically equivalent conduct across the European market.

The same considerations also apply to the interpretation of the reference to estimable opportunity costs under Article 6.1. While Article 6.1 refers to estimable opportunity

costs, and is aligned in principle with recent ACER guidance, also the assessment of bidding conformity should consider the commercial circumstances of each case.

A rigid application of the provision risks transforming a supervisory assessment into a de facto ex ante pricing rule, with consequences for legal certainty and the efficient functioning of wholesale electricity markets. Moreover, such a principle would also create uncertainty and unintended constraints especially for renewable operators, whose bidding strategies mainly reflect portfolio optimisation, imbalance risks and market opportunity costs rather than a simple marginal cost logic.

Q2. Do you agree with the overall architecture of the proposed mechanism, with particular regard to the introduction of a conventional cap on the gas price? Please explain the reasons for your answer.

The proposed mechanism pursues a legitimate public policy objective—temporary affordability—but, under EU law, any intervention affecting wholesale market price formation should satisfy the principles of necessity, proportionality and minimisation of distortions [1]. ARERA and the Italian Government have other options that we detail in Q16

[1] **Article 3(a)–(b) of Regulation (EU) 2019/943** (Principles regarding the operation of electricity markets):
"(a) prices shall be formed on the basis of demand and supply; (b) market rules shall encourage free price formation and shall ***avoid actions which prevent price formation*** *on the basis of demand and supply …*
Article 10 of Regulation (EU) 2019/943 (Technical bidding limits) is the provision that speaks *expressly* to wholesale price formation. It prohibits wholesale price caps/floors (Art. 10(1)), states that "*Transmission system operators shall not take any measures for the purpose of changing wholesale prices*" (Art. 10(3)), and requires regulators to "*identify policies and measures … that could contribute to indirectly restricting wholesale price formation*" and then "*take all appropriate actions to eliminate or, if not possible, to mitigate the impact of that policy or measure*" (Art. 10(4)–(5)). This is the clearest statutory embodiment of the *minimisation-of-distortions* limb as applied specifically to price formation.
Where the intervention takes the form of regulated supply prices, **Article 5 of Directive (EU) 2019/944** supplies the necessity and proportionality limbs explicitly:
Art. 5(4): "*(a) pursue a general economic interest and* ***not go beyond what is necessary*** *to achieve that general economic interest … (d) be limited in time and* ***proportionate*** *as regards their beneficiaries …*"
and the minimisation-of-distortions limb (as regards wholesale) in Art. 5(7)(d): interventions must "***be designed to minimise any negative impact on the wholesale electricity market***"

to reach the goal of affordability and competitiveness without undermining market functioning and sustainability.

The proposed measure with the introduction of a conventional cap on the gas price can:

- **Alter electricity and gas trade.** The reimbursement mechanism has its flaws. Market participants would bid based on market fundamentals, while the reimbursement mechanism would operate afterwards by comparing market outcomes with a predetermined reference price. However, the reimbursement formula relies on historical prices, making it not suited to a market where prices and flows change continuously. This risk affecting cross-border electricity flows, gas import incentives and price formation in neighbouring markets. Current market spreads differ significantly from historical averages. Neighbouring countries are not implementing comparable mechanisms and therefore, historical assumptions may no longer reflect actual market conditions. These risks producing reimbursement levels that are disconnected from market realities. It can also depress the forward electricity market liquidity. Evidence from the Iberian mechanism introduced in 2022 [2] that interventions modifying the marginal cost of gas-fired generation can materially affect cross-border electricity trade and market outcomes. Academic analysis by the University of Cambridge [2] concludes that the "Iberian exception" substantially increased electricity exports from Spain to France because the subsidised gas-fired generation lowered Spanish wholesale power prices relative to neighbouring markets. As a result, part of the economic benefit of the measure accrued to consumers outside the jurisdiction financing it, while domestic consumers bore the full cost of compensating thermal generators. The study further concludes that the overall fiscal cost of the mechanism exceeded the welfare gains generated through lower wholesale prices during significant periods of its application. These findings illustrate that mechanisms of this nature may alter dispatch patterns, fuel use and cross-border electricity flows in ways that are difficult to predict ex ante and may reduce the effectiveness of purely national

[2] https://www.energy.cam.ac.uk/research-highlight-iberian-exception-what-was-cost-distorting-electricity-markets-during-2021-23

interventions in an interconnected European market. In case of application of such a measure to the Italian electricity market, there is substantial risk of higher level of distortions compared to the Iberian case, considered that Italy is much more interconnected to the other European countries.

- **Alter the internal electricity market.** The consultation assesses the impact on Italian prices but devotes comparatively little attention to effects on the Internal Electricity Market. The electricity market is not national. Dispatch, congestion management and price formation are increasingly European. Consequently, measures that alter the marginal cost of one generation technology in one Member State inevitably influence:
    - cross-border commercial flows;
    - congestion rents;
    - neighbouring bidding zones;
    - forward market liquidity;
    - balancing costs;
    - investment decisions.
- **Alter proper market monitoring.** The REMIT-related aspects of the proposed mechanism are concerning. The mechanism could create an expectation that market participants should submit bids reflecting the price determined by the authority rather than their genuine commercial assessment. This risks effectively introduce an ad hoc national interpretation of REMIT, departing from the harmonised approach applied across the EU.
- **Impact merchant investment**. By lowering the effective marginal cost of gas-fired generation through an administratively determined reimbursement, the mechanism may reduce wholesale electricity prices independently of underlying market fundamentals. This would lower captured prices for inframarginal renewable generation, compress merchant revenues and reduce the value of long-term Power Purchase Agreements (PPAs). Over time, weaker price signals may increase reliance on regulated support schemes and reduce incentives for merchant investment, thereby increasing rather than reducing the overall cost of the energy transition. Moreover, the uncertainty about the possible introduction of the measure will

discourage the signing of new PPA and the taking of new merchant investment decisions.

- **Impact final consumers**. The consultation proposes that the reimbursements paid to gas-fired generators are financed through a dedicated electricity component ultimately charged to electricity consumers. ARERA's argument is that consumers should, in principle, benefit from lower wholesale prices that outweigh the additional charge. However, this pass-through is uncertain. If the reduction in wholesale prices is smaller than the amount recovered through retail tariffs, or if only some consumers are effectively exposed to wholesale market prices (e.g., because of fixed-price retail contracts), part of the customer base could finance the mechanism without receiving commensurate benefits. Furthermore, clarification would be welcome on how the proposed financing model aligns with the principles underpinning the EU Temporary Crisis and Transition Framework (and the subsequent METSAF framework), particularly with regard to avoiding situations in which consumers who derive limited or no direct benefit from the measure are nonetheless required to finance it. ARERA should provide and publish further analysis on this and issue a dedicated consultation process to manage these aspects.

Q3. Do you agree with the proposed formula for calculating the unit reimbursement, particularly the use of the System Average Price (SAP) as the reference gas price? Are there any alternative price indices that should be considered? Please explain the reasons for your answer.

No comments.

Q4. Do you agree that the reimbursable gas volumes should be determined using the same rules already applied under ARERA Decisions 96/2020/R/eel and 364/2024/R/com? Please explain the reasons for your answer.

No comments.

Q5. Do you agree with the proposed ex post verification procedures, particularly regarding:

- *the level of granularity of the checks;*
- *the methodology for calculating the conventional maximum price;*
- *the specific rules applicable to Virtual Aggregated Units (UVAN and UVAZ)?*

Please explain the reasons for your answer.

As already expressed, we object the proposed ex-post verification procedures, particularly the "presumptive compliance regime" based on a "conventional maximum price". Further to the concern about the fact that establishing a single, absolute price level as a benchmark is an improper and distorting approach that overlaps with existing market regulations, we would like to also to point out that publishing a "conventional maximum price" is inconsistent with best practices for market monitoring. It can create a distorting signal for the market, especially given the material approximations used by the methodology of calculation.

Q6. Do you agree that the conventional gas price cap should be updated on a monthly basis? Please explain the reasons for your answer.

The monthly update of the conventional price cap introduces a significant element of uncertainty regarding the price levels that will emerge in the electricity spot markets. This uncertainty surrounding the actual costs of thermoelectric generation could negatively affect liquidity in the forward markets, which play a fundamental role by enabling effective hedging against volatility in the spot markets, ultimately benefiting final consumers.

Q7. Which of the two alternative options do you consider to be more effective:

- *the predefined linear trajectory, or*
- *the indexed parametric trajectory?*

Please explain the reasons for your answer.
No comments.

Q8. If you prefer the indexed parametric trajectory, do you agree with the proposed indexation formula and with the proposed values of the parameters α, the floor and the cap? Please explain the reasons for your answer.

No comments.

Q9. Do you agree with the proposed methodology for determining the minimum conventional gas price cap, with particular regard to:

1. *the scope of the set of relevant neighbouring bidding zones; and*
2. *the use of the historical average monthly price differential?*

Please explain the reasons for your answer.

The use of the average historical price spread for the 2024–2025 period, limited to the interconnections with France, Austria, and Slovenia, to determine the minimum conventional gas price cap is not sufficient to prevent the measure from affecting cross-border electricity flows, as it does not account for the price differentials that will emerge during the period in which the measure is in force.

Although Switzerland is not part of the EU internal electricity market, it is highly interconnected with Italy and neighbouring Member States (i.e. Germany). Excluding Switzerland from the calculation risks:

- underestimating actual market conditions;
- increasing the value of the reimbursement;
- creating additional distortions in cross-border trading.

The Greek border should also be included in the calculation since it is integrated into the market coupling and it is the border with the highest risk of altering the commercial flows (considered the frequent direction changes).

Accordingly, the proposed corrective measures are not considered capable of effectively preventing distortions in the cross-border electricity flows associated with the measure in question.

Q10. Do you agree that an extraordinary intra-month review clause should be introduced in the event that market conditions differ materially from those assumed? Please explain the reasons for your answer.
No comments.

Q11. Do you agree with the proposed arrangements for recovering the costs of the measure, particularly regarding the use of congestion rents as a source of funding? Please explain the reasons for your answer.

There are significant concerns regarding the use of congestion rents as a means of financing the costs of the measure. As acknowledged by ARERA itself, in the Italian context congestion rents on the northern interconnections may decline as a result of reduced import flows associated with the decrease in electricity prices stemming not only from the application of the conventional cap on the natural gas price, but also from the reimbursement of natural gas tariff charges pursuant to Article 6.2 of the DL Bollette (which is the subject of Consultation Document 221/2026/R/com). Accordingly, it appears unlikely that the measures in question will generate a positive net balance in terms of congestion rents.

In light of the above, there is therefore a concrete risk that the entire cost of the measure will ultimately have to be financed directly by final customers through a dedicated dispatching charge, set at a specific unit price for the purpose of funding the mechanism.

Q12. Do you agree with the proposed duration of the mechanism and with the proposed monitoring arrangements? Please explain the reasons for your answer.
No comments.

Q13. Do you agree that specific progressive exit provisions should be introduced? If so, please provide suggestions on how these should be designed.
No comments.

Q14. Do you agree with the proposed amendments to the Capacity Market rules, particularly those relating to the determination of the exercise (strike) price? Please explain the reasons for your answer.
No comments.

Q15. Are there any additional aspects that should be taken into account in implementing the proposed mechanism in order to improve its effectiveness or reduce potential market distortions? Please explain your proposal.
No comments.

Q16. Do you have any further observations or alternative proposals regarding the implementation of the mechanism established under Article 6(3) of Decree-Law No. 21/2026?

We are available to discuss more details and alternatives in a bilateral call with the Authority to provide our support.
There are several options that Members States and NRAs can adopt instead of undermining market functioning with the implementation of article 6.

These include:

1. **Targeted funds and Contracts for Difference**
   • Scale up 2-side Contracts for Difference (CfDs) to de-risk industrial decarbonisation investments.
   • Accelerate funding through EU Innovation Fund revenues linked to the EU ETS or reinvest its revenues for industrial transformation and support for vulnerable consumers. In this regard, we welcome Italy's choice to expand indirect carbon cost

compensation for energy-intensive sectors in line with the latest CISAF framework; the scheme expansion and budget increase have recently received EU approval.

This approach maintains carbon pricing while reducing investment risk and addressing the affordability aspect.

2. Network cost reform

High retail energy prices often reflect taxes, levies, and network charges rather than wholesale prices. Member States could:

- Shift policy levies from electricity and gas to general taxation where appropriate.
- Reduce non-energy components for electro-intensive industries.
- Reform network tariffs to reward flexibility.

This approach would lower the structural cost of electricity supports industrial electrification without distorting wholesale markets. In any case, other than any kind of network cost reform, it is fundamental that TSOs investments and operations in gas and power grids are carried out efficiently.

3. Power Purchase Agreements (PPAs) and market-based hedging

Industrial consumers benefit from predictable pricing. Governments can facilitate:

- Corporate Power Purchase Agreements (PPAs) with targeted guarantees support.
- Two-sided Contracts for Difference (CfDs)

These tools provide price stability without interfering with spot market price formation.

4. Improving gas market access conditions

There are alternative measures that could facilitate access to the Italian hub, enhance its attractiveness and competitiveness, and encourage gas inflows in a cost-effective way. These include:

- Avoiding introducing subsidies interfering with the free formation of the wholesale gas price such as the liquidity service as well as any other intervention polluting the forward price curve. We note that the gas cost rebate under article 6 will increase gas demand in Italy with the likely consequence that any potential benefit attributable to the liquidity service would be cancelled.
- Strengthening LNG competitiveness: ensuring transparent and non-discriminatory terminal fees, in order to maintain Italy's attractiveness for prompt LNG cargoes.
- Improving access to storage: the efficient and timely allocation of storage capacity is paramount to ensuring affordability and price stability. Without incurring additional costs, the government could consider:
    - o anticipating the annual storage auctions to earlier in the year (possibly in Q4 of year Y-1 or in Q1);
    - o offering increased volumes on the basis of multi-year storage capacity products;
    - o avoiding reintroducing rigid storage filling targets.
- Leveraging market-based instruments, such as more competitive tariff-setting, to encourage gas inflows.

Final Remarks

Unilateral structural intervention on the wholesale energy market will be counterproductive. The experience of the Iberian mechanism illustrates that interventions seeking to suppress wholesale electricity prices may generate unintended consequences, including higher gas consumption, increased cross-border exports, reduced forward-market liquidity, weaker investment signals and a redistribution of costs that does not necessarily benefit domestic consumers.

These effects become particularly relevant in a highly interconnected electricity market such as Italy's. The preferred policy approach should therefore remain targeted support measures that address affordability without altering wholesale price formation or weakening market integration.

Europe's and Italy's competitiveness and climate leadership are not opposing objectives. They depend on each other. Maintaining marginal pricing and a robust price signal provides efficient markets, investment certainty, decarbonisation at least cost and strategic energy independence.

No single EU Member State can compete globally for energy resources. Europe's and Italy's strength lies in acting collectively and the answer to Europe's structural disadvantages lies not in national self-sufficiency, but in deeper cross-border integration. Ultimately, Europe's ability to remain competitive, meet its climate targets and protect consumers will depend on whether it succeeds in completing the Energy Union.

At the same time, targeted, temporary, and well-designed support measures can address legitimate industrial and consumer concerns.

The policy priority should therefore be clear: preserve the core market architecture and improve the support framework around it.

Therefore, we respectfully invite ARERA to:

- publish a full cost-benefit analysis;
- publish the expected impact on retail bills;
- publish the impact on cross-border flows;
- clarify the interaction with REMIT;
- clarify State aid compatibility;
- consider less distortive alternatives before introducing a mechanism affecting wholesale price formation.

CONSULTATION RESPONSE

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