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Energy Traders Europe's response to the Polish draft Regulation on the Detailed Conditions for the Operation of the Power System

Brussels, June 2026

Energy Traders Europe appreciates the opportunity to comment on the draft Regulation of the Polish Energy Ministry on the Detailed Conditions for the Operation of the Power System (draft of 22 May 2026), issued pursuant to Article 9(3) and (4) of the Act of 10 April 1997, the Energy Law.

Energy Traders Europe represents more than 180 companies trading electricity, gas, carbon and energy attribute certificates across Europe and advocates for open, liberalised and transparent energy markets across Europe.

General comments

Energy Traders Europe welcomes the government's efforts to align the Polish electricity market framework with the EU market design, including the introduction of portfolio-based balancing participation, competitive procurement of balancing and ancillary services, integration within European balancing platforms, and enhanced opportunities for storage, demand response and aggregators.

The success of the reform will depend on the detailed balancing and operational rules, regarding imbalance pricing, TSO-DSO coordination, congestion management mechanisms, and long-term cross-border capacity allocation. The detailed rules should ensure the system's transparent operation and consistency with the EU target model for electricity markets, thereby promoting competition, liquidity, and efficient price formation. These rules directly shape the ability of market participants to optimise their portfolios, trade across borders, and manage risk, and they should be designed with these commercial functions in mind.

Across the proposed reforms, we observe an increased role for TSOs and DSOs in dispatch, balancing and congestion management. While this may support system operation, market-based outcomes, self-dispatch and portfolio optimisation must be the guiding principles of the framework. Increased operator intervention risks distorting market-based outcomes and reducing tradable liquidity, and it should remain the exception rather than the norm.

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We note that the current curtailment processes lack transparency. There is no advance warning, no clearly defined compensation framework for BRPs or asset owners, and no reliable automated data flow to ensure timely notification. The detailed rules should address these gaps so that participants affected by curtailment receive adequate notice, defined compensation, and reliable data.

We also note phased entry into force of the Regulation under §78. Most provisions apply from 7 September 2026, while certain provisions relating to congestion management and TSO-DSO coordination apply from 1 January 2027, and the more detailed provisions on congestion management, flexibility service coordination and non-market redispatch are deferred until 1 June 2028. We welcome the deferral of these more complex operational provisions, which gives market participants adequate lead time to adapt systems and processes. For the provisions taking effect on 7 September 2026, however, the window between the end of the consultation period and the entry into force is short, and we recommend that sufficient time be allowed to incorporate stakeholder feedback before they become binding.

We also encourage longer consultation periods for future reforms to support meaningful stakeholder engagement and regulatory certainty.

Specific comments on the provisions

Transparency and reporting

§11; Chapter 3

REMIT already provides a comprehensive EU-wide framework for monitoring wholesale energy markets. National information and reporting requirements should build on existing EU obligations and avoid duplicative reporting wherever possible, thereby reducing administrative burdens and transaction costs for market participants.

Cross-zonal capacity

§19; Chapter 4

We welcome the explicit confirmation that access to interconnections shall be provided through non-discriminatory and transparent capacity allocation mechanisms, and that the relevant EU legislative framework will govern interconnections between Poland and other EU Member States. Effective implementation of these provisions is essential to support efficient cross-border trade and market integration. This includes compliance with the minimum cross-zonal capacity requirements established under Regulation (EU) 2019/943.

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We note that, in practice, long-term transmission rights (LTTRs) have not been made available regularly at the relevant Polish borders with Germany, Czechia, and Slovakia, as we set out in our letter to PSE (see annex). Yearly products have been largely absent since 2017, and monthly products have been allocated only rarely since 2021. Between 2017 and 2024, monthly LTTRs for imports into Poland were available on only 71 days, significantly below the practice observed in other Member States.

We therefore encourage the TSO to ensure that the requirements of the EU framework to maximise transmission capacity for cross-border trade are fully implemented, including the timely and predictable provision of LTTRs, as required under EU law. Market participants would benefit from improved regulatory certainty and consistent access to cross-border risk-management instruments.

Portfolio participation in the balancing capacity §§20-23; Chapter 5

We welcome the introduction of the portfolio balancing capacity offer in §2(27) and the recognition that the balance responsible party and balancing service provider roles may be performed by different entities. Portfolio-based participation reduces costs by allowing service providers to pool resources. It also enables greater participation by storage, demand response, and other flexible resource providers.

We therefore recommend expanding portfolio-based participation in balancing capacity. While system operators play a key role in maintaining system security, the procurement and scheduling of balancing capacity should remain portfolio-based, preserving market participants' ability to optimise across their portfolios. The integrated scheduling process of PSE should not disadvantage such participants or substitute administrative decisions for market-based outcomes.

Schedule updates after day-ahead gate closure §22; Chapter 5

We welcome the flexibility provided under §22, including the possibility to update schedules until at least the intraday market gate closure. This supports efficient position adjustment until market closure and enables market participants to incorporate the latest market and system information. Any restrictions on updates pursuant to Article 24(6) and (7) of Regulation (EU) 2017/2195 should be applied only where strictly necessary for operational security, and in a transparent and non-discriminatory manner.

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Imbalance settlement and the incentive element

§24; Chapter 5

We welcome the proposed imbalance settlement framework, which is based on actual system conditions and balancing actions. Cost-reflective imbalance prices, reflecting the cost of activated balancing energy as set out in §24(2), are essential to encourage efficient position adjustment by market participants and support effective price signals in short-term markets.

We oppose the introduction of a dedicated scarcity pricing element. The rationale for the proposed incentive element is not clear from the draft Regulation. Imbalance prices should provide appropriate incentives for market participants to balance their positions. If the incentive element is intended to address specific features of the Polish market or system operation, the need for such a mechanism and its expected benefits should be explained, and careful thought should be given as to whether this should be handled through the imbalance price.

Should an additional incentive element be retained, it should be transparent, proportionate, and applied in a non-discriminatory manner. It should reinforce rather than distort market-based signals or create undue barriers to participation. The methodology for calculating the incentive element should be subject to public consultation and clearly set out in the balancing market terms and conditions.

The value of the additional components should be published by the TSO for those ISPs in which the additional components were applied no later than publication of the final imbalance settlement price according to the ACER methodology.

We also recommend that the Regulation, or the balancing market terms and conditions adopted under it, provide for the timely publication of key system information, including the system imbalance, imbalance prices, and activated balancing energy and reserve volumes and prices. Such transparency enables market participants to manage their positions efficiently and reinforces the effectiveness of both imbalance pricing and any incentive element. Transparency requirements should be consistent with the obligations set out in art. 17 of Regulation (EU) 543/2013 and in art. 12.3 of Regulation (EU) 2017/2195 (EBGL).

Complexity and administrative pricing layers

§24-29; Chapter 5

The draft introduces several additional pricing and settlement elements, including the operational reserve price under §26, the supplementary corrections and forced delivery and

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offtake prices under §§27–29, and the incentive element under §24(3). Layering administrative pricing on top of marginal pricing risks diluting scarcity signals, reducing transparency, and increasing complexity for market participants. We recommend that each such element be justified against the marginal-pricing baseline, limited to what is strictly necessary, and designed to reinforce rather than distort the price signals produced by the balancing energy and imbalance prices.

Scarcity pricing and the operational reserve

§26; Chapter 5

We support imbalance prices that are transparent, market-based, and that reflect the value of lost load. Well-designed imbalance prices provide scarcity signals of their own without needing arbitrary add-ons, and we oppose the introduction of dedicated scarcity pricing elements.

Another concern is the allocation of the resulting costs. The methodology for the operational reserve price, the value of lost load and the maximum price should be published and consulted. Where these costs are recovered through the transmission tariff, they fall on consumers without a market test, and the interaction with the capacity mechanism should be clarified to avoid double payment.

Market-based redispatch as the default

§55(7); Chapter 6

Article 13 of Regulation (EU) 2019/943 establishes market-based redispatch as the default approach for congestion management. Reserve and ancillary services are competitive activities and should, wherever possible, be procured through competitive and transparent market-based mechanisms. This is essential to ensure efficient price formation, facilitate participation by a broad range of service providers, and maintain consistency with the principles underpinning the EU internal electricity market.

While the draft Regulation provides for non-market redispatch with compensation, we recommend that it clearly specifies that such a measure may only be used where the conditions set out in Article 13(3) are fulfilled and that its use is appropriately justified, documented, and reported, as non-market redispatch increases uncertainty around asset availability. Outside of these strict conditions, PSE should perform market-based redispatch.

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To ensure transparency and enable effective market oversight, compensation for non-market-based redispatch should be transparent, based on objective criteria, and reflect at least the cost incurred by service providers. We also recommend publishing redispatch prices and volumes, enabling the regulator and market participants to assess the costs of congestion management and the efficiency of network operations.

DSO flexibility services and the priority right

§55(3) to 5; Chapter 7

We support the competitive and transparent procurement of flexibility services by DSOs and agree that system operators should not own or operate flexible assets, such as storage, except where permitted under EU legislation.

The DSO priority right over distribution-connected resources under §55(3), which extends to both flexibility services and congestion management, should be carefully assessed to ensure it does not reduce the availability of those resources to the TSO for congestion management, balancing, and ancillary services, or lead to inefficient use of flexible resources.

Strong TSO-DSO coordination is essential to ensure efficient system-wide use of flexible resources, while maintaining market access wherever possible and applying any restrictions only under clear rules and appropriate compensation.

Reference baseline methodologies should be transparent, robust, and consistently applied across all service providers.

Proportionate obligations for smaller resources and storage

§68; Annex 1, Chapter 14

The mandatory designation of a balancing service provider for regulatory resources, including storage and smaller supported units, should be proportionate, and the exemption process under §15 should be simple and predictable. The 24-month transition period in §68 is welcome. The real-time data requirements for storage, such as the five-second update in Annex 1, should match actual system needs so that they do not deter storage investment.

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