

# Impact of regulation on energy communities : issues identified for the Flemish legislator



Presentation by mr.  
Hilde Derde

**1. Timeline**

**2. Issues identified**

**3. Proposal of the Flemish Government**

**4. Conclusions**

# 1. Timeline

- 1. European legislation (12/2018 + 06/2019)**
- 2. Start ROLECS-project (01/2019)**
- 3. Consultation VREG (12/2019)**
- 4. First regulatory sandbox in Thor Park Genk (02/2020)**
- 5. Advice VREG (03/2020)**
- 6. Proposal Flemish Government (10/2020)**

# 1. Timeline

## **1. European legislation (12/2018 + 06/2019)**

- a) Directive 2018/2001 on the promotion of the use of energy from renewable sources
- b) Directive (EU) 2019/944 on common rules for the internal market for electricity

# 1. Timeline

## **2. Start ROLECS-project (01/2019)**

- a) Flux50-project on Local Energy Communities
- b) Includes Work Package focusing on the implementation of a Flemish legal framework on energy communities

# 1. Timeline

## **3. Consultation VREG (12/2019)**

- Allowing stakeholders to comment on important issues  
-> ex. Role of the DSO / Facilitating measures for EC

## **4. First regulatory sandbox in Thor Park Genk (02/2020)**

- > Allowing exceptions to certain applicable provisions of the Flemish rules on energy supply
  - > Experiment on energy sharing through multiple buildings on the same site
  - > Regulatory sandbox necessary to allow exemption from the obligation to have a supply license
- ! Introduction of the concept of the 'energy manager'!

# 1. Timeline

## **5. Advice VREG (Flemish energy regulator) (03/2020)**

- > Making suggestions on how to implement EU-directives
- > Identifying issues policymakers have to decide on

Such as :

- try to define the participants of both EC's as broad as possible
- Consider allowing forms of EC's or 'energy sharing' broader than CEC or REC -> issue = effective control is limited to SME's, natural persons and local authorities

## 2. Issues identified

- 1. Legal Form of the EC**
- 2. Internal Rules of the EC**
- 3. How to define 'effective control'?**
- 4. How to define 'proximity'?**
- 5. Right to own distribution systems**
- 6. Who is allowed to participate in 'energysharing'?**

# 3. Proposal of the Flemish Government

## 1. Legal form

- Proposal doesn't decide in favor of a specific legal form
- Only transposes the provisions in the EU-Directives:
  - Purpose of the legal entity is to provide ecological, economic or social community benefits for its members or the local areas where it operates
  - Financial profit can only be subordinate to the main purpose of the legal entity
  - Two Belgian legal forms seem to be very suitable: VZW and CV

# 3. Proposal of the Flemish Government

## 1. Legal form

- Important!
- EC has to notify VREG concerning certain elements ->
  - Activities of the EC
  - Composition of the EC (ex. Participants and Assets)
  - In case of REC -> inform the VREG of the way proximity is applied in the specific case of the EC

# 3. Proposal of the Flemish Government

## 2. Internal Rules of the EC

- Members of the same energy community have to enter into an agreement with the EC about their rights and obligations
- In case of energy sharing, the agreement has to contain a distribution key concerning the way the shared energy is divided between participants of the EC. The Flemish Government can further decide on the details of this agreement.
- Rules concerning effective control have to be included in the statutes of the EC
- Flemish Government can further decide upon rules about the minimum content of the statutes of the EC
- Possibility to outsource the management of the EC

# 3. Proposal of the Flemish Government

## 2. Internal Rules of the EC

- Current proposal mostly implements literally from EU-Directives
- A lot remains to be decided
  - Mandate possibility?
  - Invoicing responsibilities of the EC?
  - VREG suggests that Flemish Government should provide good practices on how EC's can organize themselves

# 3. Proposal of the Flemish Government

## 3. How to define 'effective control'?

- EU-Directives provide that natural persons, local authorities and SME's should have 'effective control' on both EC's
- EU Directives do not have a strict definition for 'effective control'
- Important!

CEC: Participation = broad, but 'effective control' = limited

REC: Participation = limited to proximity

# 3. Proposal of the Flemish Government

## 3. How to define 'effective control'?

- The proposal of the Flemish Government contains the following definition:

“Rights, agreements or other means, separately or together, with regards to all factual or legal circumstances, through which they can have a decisive influence on the activities of the energy community:

- ownership rights or user rights on all activa of the energy community or parts of it
- rights or agreements that guarantee a decisive influence on the composition, voting or decisions of the bodies of the energy community”

## 3. Proposal of the Flemish Government

### 4. How to define proximity

- Flemish Government chooses to define proximity on the basis of technical and geographical criteria, which can further be detailed by the the Flemish Government
- Criteria have to be evaluated in the light of goals and activities of the Renewable Energy Community
- Example: possibly a larger scope for wind energy than for solar energy

## 3. Proposal of the Flemish Government

### 5. Right to manage distribution systems

- Current proposal doesn't allow EC's to manage distribution systems
- Facilitating role for the DSO, as EC's have to rely on the public grid
- However, the Flemish Government could allow regulatory sandboxes for projects that want to experiment with distribution system

## 3. Proposal of the Flemish Government

### 6. Who is allowed to participate in 'energysharing'?

- Proposal introduces a difference between self-consumption and energy sharing
- Difference between EU-law and Flemish law -> EU law uses the broader term 'collective self-consumption'
- Energy sharing contains electricity as well as thermal energy
- Important -> exemption from supply license for the activity 'energysharing'
- Only certain actors are allowed to engage in the activity "energysharing"
  - Participants of CEC's and REC's, Active customers in the same building

## 4. Conclusions

1. Positive element = inclusion of heating in the legal framework
2. Implementation of the definitions of new actors provide much needed legal certainty
3. Facilitating role for the DSO

### **BUT -> A lot of issues remain undecided!**

1. What will the Flemish Government do to include vulnerable customers?
2. Facilitating measures?
3. Tariffs?

## 4. Conclusions

**THANKS FOR YOUR ATTENTION!**

Hilde Derde : [hilde.derde@metha.be](mailto:hilde.derde@metha.be)

Kobe Jackers : [kobe.jackers@metha.be](mailto:kobe.jackers@metha.be)

[www.metha.be](http://www.metha.be)