



ENERGY COMMUNITIES REPOSITORY

Belgium

(Flanders)



OVERVIEW OF THE POLICY FRAMEWORK

Published on 15/12/2023



TABLE OF CONTENTS

Overview.....	3
1. Definitions.....	5
1.1. Renewable Energy Community definition.....	6
1.2. Citizen Energy Community definition.....	6
2. Rights and obligations.....	7
3. Assessment of obstacles and potential and removal of unjustified barriers.....	14
4. Enabling framework.....	14
5. Access to financing and support.....	16
References.....	18

DISCLAIMER

The content of this document aims to establish an overview of the national legal developments in the context of the Clean Energy Package for the Member State mentioned above. **The document includes only final legislation which was published before the end of March 2023. It does not include provisions that are not yet applicable under law (i.e., currently drafted or discussed).**

The content of this document reflects only the author's view. The sole responsibility for the content of this report lies with the authors. It does not reflect the opinion of the European Union. The European Commission is not responsible for any use that may be made of the information contained therein.

For any comments or questions, please contact the Energy Communities Repository via email at info@ec-repository.eu.

[Copyright notice](#)

©2023



Overview

According to the Energy Communities Repository's research, the decree of the region of Flanders containing general provisions regarding energy policy (hereinafter 'the Energy Decree'), introduced provisions for Renewable Energy Communities (RECs) and Citizen Energy Communities (CECs). The Flemish Government has also set up a green energy call, which constitutes an investment support program for medium-sized PV installations and small and medium-sized wind turbines, including measures for energy communities. Moreover, it should be highlighted that in Belgium there are several energy cooperatives established following the legislation on cooperatives pre-dating the Clean Energy Package.

With regard to the allocation of responsibilities on energy matters between the Federal level and the regions, it should be clarified that the responsibility for Belgium's energy and climate policy is divided between the federal government and the regional governments of Flanders, Wallonia and the Brussels-Capital Region. The federal government is responsible for electricity transmission and large-scale generation; transport of natural gas and oil; nuclear energy; security of energy supply; price policy; consumer protection; the national rail system; transportation fuels; offshore energy; and energy research, development and demonstration (RD&D) related to its competences. Regional governments are responsible for renewable energy (except offshore energy), energy efficiency and greenhouse gas (GHG) emissions (except for federal buildings and vehicles), distribution of electricity and natural gas, regulation of retail energy markets, vehicle registration, public transportation, urban and rural planning, and energy RD&D related to their competences.¹ Therefore, there is different legislation on energy communities in the different regions, thus 3 different fiches will be created for Belgium, one for the region of Wallonia, one for Flanders and one for the Brussels-Capital Region.

At the Federal level, the law of 23 October 2022 amending the Act of 29 April 1999 on the organisation of the electricity market and transposing Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 concerning common rules for the internal market in electricity and amending Directive 2012/27/EU introduced provisions for RECs and CECs.² More specifically, the law defines a CEC as a legal entity that:

- a) is based on voluntary and open participation and is effectively controlled by members or shareholders, who are natural persons, local authorities, including municipalities, educational institutions, associations, other energy communities or small and medium-sized enterprises (SMEs),
- b) the main purpose of which is to provide environmental, economic or social community benefits to its members or shareholders or to the local areas in which it operates, rather than to make a profit, and
- c) engages in production, including from renewable sources, offer distribution, supply, consumption, aggregation, energy storage, energy efficiency services, electric vehicle charging services or other energy services to its members or shareholders.³

¹ Report for Belgium 2022, International Energy Agency (IEA), available at: <https://www.iea.org/reports/belgium-2022/executive-summary>

² Law of 23 October 2022 amending the Act of 29 April 1999 on the organisation of the electricity market and transposing Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 concerning common rules for the internal market in electricity and amending Directive 2012/27/EU, Belgian Official Gazette of 26.10.2022, available at: <https://www.ejustice.just.fgov.be/eli/wet/2022/10/23/2022033909/justel>

³ Chapter 2 of the Law of 23 October 2022 introducing an amendment to article 2(106) of the Act of 29 April 1999 on the organisation of the electricity market



The law also states that CECs shall be subject to transparent and non-discriminatory cost-reflective network tariffs, while ensuring that they contribute in a sufficient and balanced manner to the sharing of the total costs of the transmission system.⁴

In addition, the federal legislation introduces the definition of RECs, stating that the latter is a citizens' energy community:

- a) which is based on open and voluntary participation, is autonomous and carries out its activities within Belgium,
- b) whose shareholders or members are natural persons, local authorities, including municipalities, educational establishments, associations, other CECs or SMEs, provided that their participation does not constitute their main commercial or professional activity,
- c) the principal purpose of which is to provide environmental, economic or social benefits to its shareholders or members, and not to make profit,
- d) whereby the CEC holds shares in a legal entity that owns renewable energy projects developed for that legal entity,
- e) where, in terms of energy production, self-consumption, storage, sale and sharing of energy, they relate only to energy from renewable energy sources,
- f) which carries out its activities exclusively in the territorial sea and the exclusive economic zone.⁵

Moreover, the Federal legislation states that without prejudice to the technical requirements imposed by the competent authorities, and without prejudice to the competence of the Regions, a CEC that owns energy storage facilities directly connected to the transmission network shall have the right to:

- Not be charged double tariffs, including transmission network tariffs, for electricity stored on its own premises or if it provides flexibility services to the system operator, in respect to these storage facilities, and
- Not be subject to disproportionate licensing requirements, as referred to in the law, or disproportionate fees falling within the competence of the federal government.

Each CEC is financially responsible for the imbalance it causes on the transmission grid. Responsibility is ensured for the balance of its activities or by delegating this responsibility to a person responsible for the balancing. The law adds that the King may lay down detailed rules with regard to the implementation of this provision.⁶ It is also mentioned that any contractual clause in a supply contract or other contract between a CEC and an electricity utility, or any unlawful payment or sanction under such a contract that affects the right of citizens to buy or sell non-supply flexibility services or electricity services and to enter into a contract with a flexibility provider, or which infringe the rights of the CEC as referred to above shall be null and void.⁷

⁴ Article 11 of the Law of 23 October 2022 introducing an amendment to article 12(5) of the Act of 29 April 1999 on the organisation of the electricity market

⁵ Chapter 2 of the Law of 23 October 2022 introducing an amendment to article 2(107) of the Act of 29 April 1999 on the organisation of the electricity market

⁶ Article 22 of the Law of 23 October 2022 introducing a new article 19d(1) in the Act of 29 April 1999 on the organisation of the electricity market

⁷ Article 22 of the Law of 23 October 2022 introducing a new article 19d(3) in the Act of 29 April 1999 on the organisation of the electricity market



Furthermore, the legislation states that without prejudice to the technical requirements imposed by the competent authorities, each REC shall be granted the right to carry out one or more of the following activities:

- (1) production of energy from an installation where the energy community is one of the owners of the production installation or has the rights of use;
- (2) self-consumption of the energy referred to in point 1;
- (3) store energy by means of a storage facility;
- (4) provide or participate in energy services;
- (5) act as a provider of flexibility or aggregation services or participant in flexibility or aggregation;
- (6) sell the energy referred to in point 1, including under a power purchase agreement, on the transmission system.

Finally, the law clarifies that the King may lay down detailed rules on the conditions for recognition and participation in RECs and that the latter shall have the right to carry out the activities referred to above without being subject to disproportionate or discriminatory technical requirements, or to administrative requirements, procedures and charges that do not reflect costs.⁸

1. Definitions

The Energy Decree of the region of Flanders introduces a definition for both RECs and CECs. It also includes RECs and CECs in the definition of a market party.⁹ The Energy Decree also mentions that the Energy Regulator's (VREG) mission is to regulate, monitor and promote the transparency of the electricity and gas market, the supply of heat and cold and the operation of heating or cooling networks in the Flemish Region.¹⁰ In order to achieve its mission, VREG fulfils specific tasks, among others, including monitoring the removal of unjustified barriers and restrictions on the distribution network or local transmission network of electricity for the consumption of self-generated electricity and for energy communities.¹¹ With regard to VREG's information tasks, it needs to report annually to what extent the decree framework on flexibility and energy communities and its further elaboration ensures more flexible use of the existing grid and an acceleration of a sustainable energy transition in which the citizen is in the centre. The aspects included herein are further determined by the Flemish Government¹²

Finally, it is also stated that each CEC and REC should inform VREG of the following elements:

1. the activities it carries out and any change in those activities;
2. the way in which it is composed and, where appropriate, the way in which it gives substance to the concept of technical or geographical proximity, referred to below.

⁸ Article 22 of the Law of 23 October 2022 introducing a new article 19d(2) in the Act of 29 April 1999 on the organisation of the electricity market

⁹ Article 1.1.3. point 81 of the Energy decree

¹⁰ Article 3.1.2. of the Energy decree

¹¹ Article 3.1.3.(1)(u) of the Energy decree

¹² Article 3.1.3.(3)(n) of the Energy decree



The Energy decree highlights that VREG should publish this information on its website, while also that the Flemish Government will determine the procedure to be followed regarding the reporting obligation.¹³

1.1. Renewable Energy Community definition

According to the Flemish Energy decree, a REC is defined as a legal entity based on the open and voluntary participation of its associates or members. The main purpose of such entity is to provide environmental, economic or social benefits to its associates, members or the area in which it operates, and which does not have a profit motive or a profit motive that is subordinate to the main purpose. The activities of the REC including energy production, self-consumption, energy sales and energy sharing only concern energy from renewable energy sources.

The associates or members of the REC are natural persons, local authorities or small and medium-sized enterprises whose participation in the energy community does not constitute their main commercial or professional activity and which are located close to the renewable energy projects of the REC. In their capacity as customers, the partners or members of the community are each connected to an electricity distribution network, the local electricity transmission network, a closed electricity distribution network or a heating or cooling network. The partners or members have control over the activities of the REC, while also the latter is autonomous from its individual members and associates or other market participants who participate through other means.

With regard to the proximity criterion, the decree highlights that a REC limits participation based on technical or geographical proximity, taking into account the function of the objectives or activities that the community aims to achieve. The Flemish Government can determine criteria to implement the concept of technical or geographical proximity. The decree also adds that a REC has ownership rights to the installations it uses to carry out its activities.¹⁴

Furthermore, the energy decree mentions that the members or associates of the same REC each enter into an agreement with the community about their rights and obligations. If energy sharing takes place within the REC, the agreement contains the rights and obligations of the members or associates for the applicable energy sharing distribution key. The Flemish Government can determine the minimum content of that agreement. Finally, the decree also clarifies that each REC determines in its articles of association the rules on the control of its members or associates and the autonomy of the REC referred to above.¹⁵

1.2. Citizen Energy Community definition

According to the Flemish Energy decree, a CEC is a legal entity based on the open and voluntary participation of its associates or members. Its primary objective is to provide environmental, economic or social benefits to its associates, members or the area in which it operates and it does not have a profit motive or a profit motive that is subordinate to the main purpose. The partners or members of a CEC maintain their capacity as customers or purchasers of thermal energy each connected to an electricity distribution network, the local electricity transmission network, a closed electricity distribution network or a heating or cooling network.

¹³ Article 4.8.3. of the Energy decree

¹⁴ Article 4.8.2.(1) of the Energy decree

¹⁵ Article 4.8.2.(2) of the Energy decree



With regard to who can effectively control a CEC, this includes natural persons, local authorities or small enterprises not involved in large-scale commercial activities and for whom the energy sector is not the main economic activity, who have control over the activities of the community of which they are associates or members. On this regard, the decree clarifies that control means rights, agreements or other means which, individually or jointly, taking into account all factual or legal circumstances, make it possible to exercise a decisive influence over the activities of an undertaking, namely:

1. ownership or use rights to all assets of a company or parts thereof;
2. rights or agreements that provide a decisive influence on the composition, voting behaviour or decisions of the bodies of a company.¹⁶

The decree further adds that members or associates of the same CEC each enter into an agreement with the community about their rights and obligations. If energy sharing takes place within the CEC, the agreement contains the rights and obligations of the members or associates for the applicable distribution key in the context of energy sharing. The Flemish Government can determine the minimum content of that agreement. Finally, the decree also clarifies that each CEC determines in its articles of association the rules regarding the control of its members or associates referred to above.¹⁷

2. Rights and obligations

With regard to the activities that CECs and RECs can undertake, the decree states that every CEC can undertake one or more of the following activities:

1. Production of energy from an installation, directly connected or indirectly connected through the connection of associates or members of the CEC to an electricity distribution network, the local transport network of electricity, a closed electricity distribution network or a heating or cooling network, where the CEC is the owner or has the user rights of the production installation;
2. Self-consumption of the energy, mentioned in point 1;
3. Storage of energy;
4. Offer or participation in energy services;
5. Acting as a flexibility service provider or participant in flexibility or aggregation;
6. Selling the energy mentioned in point 1, also with a power purchase agreement;
7. Offer charging services for electric vehicles;
8. Energy sharing, between the partners or members, of the energy referred to in point 1, in accordance with the relevant articles of the decree.

Each REC may carry out the activities referred to above if the energy referred to in point 1 relates to green energy¹⁸ from an installation connected directly or indirectly through the connection of associates or members of the REC on an electricity distribution network, the local electricity transport network, a closed distribution

¹⁶ Article 4.8.1.(1) of the Energy decree

¹⁷ Article 4.8.1.(2) of the Energy decree

¹⁸ Article 1.1.3.(58) of the Energy decree defines green energy as the electricity produced from renewable energy sources. Article 1.1.3.(65) defines renewable energy sources as renewable non-fossil energy sources, namely wind, sun, including solar thermal energy and photovoltaic energy, geothermal energy, the environment, tides, waves and other energy from the oceans, hydropower, biomass, landfill gas, gas from sewage treatment plants and biogas.



network, or relates to renewable thermal energy from an installation connected via a heating or cooling network. The REC should always own the production facilities.¹⁹

The decree adds that the management of the installations that are connected to the electricity distribution network, local electricity transmission network, closed electricity distribution network, heating or cooling network, and that are necessary to carry out the activities referred to above can be done by a CEC or REC or may be delegated to a third party, including with regard to installation, operation, data processing and maintenance, where the third party is not considered a CEC or REC.

Moreover, it is mentioned that each CEC and REC are financially responsible for the imbalances they cause in the electricity grid insofar as they have been designated as access holder at the access points of their associates or members. They carry the balance responsibility for their activities or entrust a balance manager with that responsibility.²⁰

The decree further states that if this is necessary to carry out the activities referred to above and, specifically, points 1 to 3 and 5 to 8, the partner or member of the CEC and REC get a meter that separately measures the energy taken off and the energy injected into the distribution network, and whose readings are recorded at least every imbalance settlement period and processed during the allocation in accordance with the technical regulations.²¹

Specifically on consumer rights, the decree clarifies that each associate or member of a CEC and REC retains their rights as a customer, household customer or active customer and can leave the community.²² The conditions stated in the decree regulating the right to change supplier, aggregator or flexibility service provider apply in that case with the necessary changes having been made. In more detail, according to the decree, if a customer wishes to change supplier, aggregator or flexibility service provider, this will be arranged within a maximum of three weeks from the date of the customer's request to the supplier by the relevant network operator, provided it adheres to the contractual conditions. From 1 January 2026, the technical process of changing suppliers will not take longer than 24 hours and this change is possible on any working day. A working day means every day of the week, except Saturday, Sunday and statutory and decree holidays.²³

As far as the data management is concerned, the Energy decree states that the data management activities of the distribution network include among others the task of reading the digital, electronic and analogue meters and counters at the access points of the distribution network for settlements involving peer-to-peer trading of the quantities of green energy from one active customer to another active customer and with energy sharing by active customers, CECs or RECs.²⁴

With regards to energy sharing, the Energy decree defines who can engage in such an activity:

- 1) The active customer in an apartment building or multifunctional building, with regard to the jointly produced energy from renewable energy sources in the apartment building or multifunctional building or its appurtenances, up to a maximum of the consumption at their access point in the apartment building or multifunctional building in which it is located, where the electricity production installations are connected

¹⁹ Article 4.8.4.(1) of the Energy decree

²⁰ Ibid

²¹ Article 4.8.4.(2) of the Energy decree

²² Article 4.8.4.(3) of the Energy decree

²³ Article 4.4.1(2) of the Energy decree

²⁴ Article 4.1.8/2 of the Energy decree



- to an electricity distribution network, the local electricity transmission network or a closed electricity distribution network;
- 2) An associate or member of a CEC, with regard to the energy produced within the community, up to a maximum of the offtake at its access point;
 - 3) A partner or member of a REC, with regard to the energy from renewable energy sources that the community has produced, up to a maximum of the offtake at its access point;
 - 4) The active customer between different access points on the electricity distribution network, the local electricity transmission network or a closed electricity distribution network of which they are the holder, with regard to the energy from renewable energy sources produced at one of those access points, and up to a maximum of the consumption at those access points.

The owner of the access point always designates an access holder at the access point for energy sharing. Under no circumstances can the access holder be the network operator. The Flemish Government may, after advice from VREG, impose obligations on any person referred to above in the context of energy sharing regarding the following aspects:

- 1) provision of information;
- 2) handling of complaints;
- 3) measures of a social nature;
- 4) measures to promote rational energy use and renewable energy sources.

Moreover, the decree mentions that energy sharing does not affect the status of a customer, household customer, protected customer or active customer and the associated rights, levies, taxes, surcharges and contributions, including contributions for public service obligations and contributions in the context of the certificate obligations as stated in the relevant provisions of the decree, as well as the achievement and calculation of the amount of the certificate obligations stated in the decree.²⁵ The measured energy at the access point is not changed by the energy allocated or exchanged in the context of the exercise of energy sharing when calculating levies, taxes, surcharges and contributions, including contributions for public service obligations and certificate obligations.²⁶

The decree clarifies that the Flemish Government can determine further rules for energy sharing. The rules concern the minimum provisions of the agreements concluded between the parties involved, including provisions regarding the exit from energy sharing, the recording of the necessary data, including the measurement and measurement data, and the conditions under which the methodologies for the calculation of energy quantities for allocation, reconciliation, invoicing and adjustments that those calculations must comply. The Flemish Government also determines the phasing and timing for operationalizing energy components.²⁷ In addition, the decree regulates the activity of peer to peer trading of renewable energy. More specifically, it is stated that the active customer can sell, if this does not constitute their main commercial or professional activity, individually or through aggregation, the renewable energy that they have produced being

²⁵ The decree states that energy sharing is not subject to what is determined by or pursuant to Article 15.3.5/13. This article mentions that for decentralized production installations with a maximum AC power of 10 kVA that are installed from 1 January 2021, the electrical production that is injected into the distribution network must be purchased. For decentralized production installations with a maximum AC power of 10 kVA that were installed before 1 January 2021 and for which a digital meter has been installed, the electrical production that is injected into the distribution network must be purchased. The Flemish Government determines the further modalities and who must purchase at what minimum price.

²⁶ Article 7.2.1.(1) of the Energy decree

²⁷ Article 7.2.1.(2) of the Energy decree



connected to the electricity distribution network, local electricity transmission network, closed electricity or heat distribution network through peer-to-peer trading schemes. The right to engage in peer-to-peer trading does not affect the rights and obligations of the parties involved as final customers, producers, suppliers or aggregators.²⁸

The decree also regulates the activity of peer to peer trading of green energy by one active customer to another active customer. More specifically, it is stated that the active customer may sell, if this does not constitute their main commercial or professional activity, the green energy that they have produced, and, where appropriate, stored and injected into the distribution network at their place of residence or business unit, per imbalance settlement period, to another active customer up to a maximum of the purchase of that other active customer at their access point. In that case, in the context of the supply of that green energy, they are not subject to the obligations imposed by the relevant provisions of the decree regulating the supply permits,²⁹ public service obligations imposed on suppliers,³⁰ and public service obligations imposed on suppliers, the transmission system operator, the transport network operator and network operators regarding programs to promote the rational use of energy and renewable energy sources, minimum standards for rational energy use by their customers and investments in high-quality cogeneration installations, installations for the production of green electricity, green energy certificates or cogeneration certificates.³¹

The holder of the access point always appoints an access holder at the access point when carrying out peer to peer trading of renewable energy. Under no circumstances can the access holder be the network operator. The exercise of such activity does not affect the status of a customer, household customer, protected customer or active customer and the associated rights, levies, taxes, surcharges and contributions, including contributions for public service obligations and contributions in within the framework of the certificate obligation as stated in the relevant provisions of the decree,³² as well as the achievement and calculation of the amount of the certificate obligations.³³ The measured energy at the access point is not changed by the energy supplied in the context of the exercise of that activity when calculating levies, taxes, surcharges and contributions, including contributions for public service obligations and certificate obligations.³⁴

The Flemish Government may determine further rules for the activity of peer to peer trading of green energy by one active customer to another active customer. The rules relate to the minimum provisions of the agreements concluded between the parties involved, including the recording of the necessary data, including the measurement and measurement data, and the conditions that the methods for calculating energy quantities for allocation, reconciliation, invoicing and adjustments to those calculations must meet. The Flemish Government determines the phasing and timing to operationalize the activity of peer to peer trading of green energy by one active customer to another active customer.³⁵

Upon the proposal of the system operator, and within the framework of the Energy Decree, VREG has included provisions on energy sharing in the "Technical Regulations for the Distribution of Electricity in the Flemish Region of 25 June 2021" and issued a protocol for energy sharing and peer to peer trading further outlining the role of system operators and the process of registration and processing of energy sharing and peer-to-peer trading

²⁸ Article 7.2.2.(1) of the Energy decree

²⁹ Article 4.3.1(1) of the Energy decree

³⁰ Article 4.3.2 of the Energy decree

³¹ Article 7.5.1(1) of the Energy decree

³² Specifically articles 7.1.10 and 7.1.11 of the Energy decree.

³³ As introduced in articles 7.1.10 and 7.1.11. of the Energy decree.

³⁴ Article 7.2.2.(2) of the Energy decree

³⁵ Article 7.2.2.(3) of the Energy decree



arrangements.³⁶ To start with, the protocol clarifies that the term 'Energy Sharing' is used as a collective term for all forms of energy sharing and peer-to-peer trade of green electricity. Also in the document, the following definitions are used:

- Administrator: a natural or legal person who is authorised to represent the participants for their interaction with Fluvius.
- Participant: the grid user of the access point or allocation point with which energy sharing or peer-to-peer trading of green electricity is carried out.
- Community: the set of participants who engage in energy sharing or peer-to-peer trading of green electricity within a defined group.³⁷

Moreover, it is specified that the current version of the protocol supports energy sharing in a single building, energy sharing between access points with the same holder, and peer-to-peer trading of green electricity, where all participants have a supply contract with the same supplier,³⁸ while also examples of such activities are provided.³⁹ In addition, the protocol states that all forms of energy sharing and peer-to-peer trading must legally meet the following preconditions:

- The participants each have an individual connection to the grid, each with an individual meter.
- The participants have a contract with a commercial energy supplier.
- The participants have an Automatic Meter Reading (AMR) meter or a communicating digital meter in which metering regime 3 (quarter-hour data in the allocation) is activated at the relevant energy supplier.
- The number of participants in peer-to-peer trading is exactly two. For all forms of energy sharing, the number of Participants is at least two.⁴⁰

In this version of the protocol, there are also additional requirements for participants, administrators and access holders.

Prerequisites for participants:

- The participants have a contract with the same energy supplier.
- A customer with multiple meters can participate in energy sharing, but if one of the meters has an exclusive night meter, this meter will be excluded from the calculation.
- Each participant who chooses to share their injection in the community shall make their entire injection available. Any surplus is returned to the injecting plant.
- A network user can only participate in 1 community with each of their access points and direction (offtake or injection).
- Registration of a community can only be done for a date in the future.
- Participants can gain insight into their exchanged energy via a platform called 'My Fluvius'.

³⁶ VREG Protocol with regard to the adoption of the proposal of the electricity distribution system operators on the Protocol on energy sharing and peer-to-peer trading of green electricity (second version of the Protocol), BESL-2022-57, published on 21 June 2022, available at: <https://www.vreg.be/nl/document/besl-2022-57>

³⁷ Section 5.1. of the BESL-2022-57 Protocol

³⁸ Section 5.2. of the BESL-2022-57 Protocol

³⁹ Section 5.3. of the BESL-2022-57 Protocol

⁴⁰ Section 5.4. of the BESL-2022-57 Protocol



Prerequisites for administrators:

- The administrator is responsible for the complete and correct registration of the community via My Fluvius, as further explained in the protocol.
- The administrator must use My Fluvius where the data is made available by Fluvius.
- The energy sharing manager must notify Fluvius of any changes to the community. The administrator uses My Fluvius for this purpose. These changes must be communicated to Fluvius as soon as possible in view of the impact on the volume calculations.
- The administrator must always report the participation of each participant to the energy supplier concerned and must check whether the supplier in question applies specific conditions in the context of energy sharing.

Prerequisites for access holders:

The energy supplier must use the existing Fluvius sFTP platform to retrieve the data made available by Fluvius.⁴¹

With regard to the registration of new communities, the protocol includes specific steps that need to be followed, including the need for the administrator to register the new community on the My Fluvius platform, add the EAN codes of the points that wish to participate in the community, determine the role for each participating point ('collection', 'injection' or 'collection and injection'), while also for 'Energy sharing in a building' and 'Energy sharing between access points with the same holder', choose for each community which type of distribution key is used to distribute the injection between the different participants. Then, the administrator will receive an overview of the entered data and must agree to the following conditions:

- The most recently approved version of this protocol including the agreement regarding the quality requirements of the communication;
- The permission to make their name visible to the network user (for the consent request).

Finally, the consent of the participants is needed. Energy sharing or peer-to-peer trading will start after all participants have responded, or at the latest 30 calendar days after registration, with the participants who have given their mandate via My Fluvius at that time and provided that all legal conditions and the preconditions of the protocol have been met. After the response from the network users, Fluvius will carry out the checks indicated in the protocol.⁴²

It is also specified that the authorization provided to the administrator to officially represent the community remains valid for a maximum period of five years. Afterwards, the renewal of the authorization must be explicitly agreed again.⁴³

With regard to calculation of volumes, the protocol mentions that the settlements are made on a monthly basis, always for the past month and on a quarter-hour basis. Every month, the actual reading data is retrieved on a quarter-hour basis for the meters in question and always for the previous month. If not all measurement data are available, these values will be estimated according to the applicable estimation procedures. Subsequently, a snapshot is taken of the allocation keys to be applied for each community. Before the settlement can take place, the market scenarios that may have an impact on the community are taken into

⁴¹ Ibid

⁴² Section 6.1.1. of the BESL-2022-57 Protocol

⁴³ Section 6.1.2. of the BESL-2022-57 Protocol



account. As a final step, the settlement is carried out in the systems. In doing so, the distribution keys are always applied per injecting party and always at a maximum of the amount of the purchase of each participant.⁴⁴

Furthermore, the decree regulates the activity of sale of green energy in apartment buildings or multifunctional buildings. To start with, it is clarified that apartment building or multifunctional building is defined as a building or building complex that consists of one or more buildings on its own site with at least two residential units or other units per building, which meets the following conditions:

1. The building or building complex has one or more common connection points to an electricity distribution network, the local electricity transmission network or a closed electricity distribution network;
2. In the case of a building complex, the buildings that are part of the building complex have common appurtenances.⁴⁵

The association of co-owners, an owner of an apartment building or multifunctional building, or an owner who has been granted the right by the association of co-owners or, if no association of co-owners has been established, by the other owners to common parts or a part of the apartment building or multifunctional building for private use, can sell the green energy that they have produced in the apartment building or multifunctional building or its appurtenances, which they have stored, where applicable, and which they have injected into the electricity distribution network, per imbalance settlement period, to the resident or user of the apartment building or multifunctional building, maximum up to the amount taken by the resident or user at their access point in the apartment building or multifunctional building. In that case, that natural person or legal entity is not subject to the obligations imposed on them in the context of supply of that green energy.⁴⁶

The holder of the access point always appoints an access holder at the access point for the activity of selling of green energy in apartment buildings or multifunctional buildings. Under no circumstances can this access holder be the network operator or the association of co-owners, unless it has applied for a supply permit.

The decree further mentions that the Flemish Government may, after advice from VREG, impose obligations on the association of co-owners in the context of the activity referred to above with regard to the following aspects:

1. the provision of information
2. the handling of complaints;
3. measures of a social nature;
4. measures to promote rational energy use and renewable energy sources.

The decree clarifies that the activity of selling green energy in apartment buildings or multifunctional buildings does not affect the status of customer, household customer, protected customer or active customer and the associated rights, levies, taxes, surcharges and contributions, including contributions for public service obligations and contributions in the context of the certificate obligations as stated in the decree,⁴⁷ as well as the achievement and calculation of the amount of the certificate obligations stated in the decree.⁴⁸

The measured energy at the access point is not changed by energy sold in the context of the exercise of the activity of selling green energy in apartment buildings or multifunctional buildings when calculating levies,

⁴⁴ Section 6.2.1. of the BESL-2022-57 Protocol

⁴⁵ Article 7.2.3.(1) of the Energy decree

⁴⁶ Specifically, the obligations imposed pursuant to article 4.3.1.(1), article 4.3.2 and article 7.5.1.

⁴⁷ Articles 7.1.10 and 7.1.11.

⁴⁸ Ibid



taxes, surcharges and contributions, including contributions for public service obligations and certificate obligations. The persons involved have a meter that separately measures the energy consumed and the energy injected into the distribution network and whose readings are recorded at least every imbalance settlement period and processed during allocation in accordance with the technical regulations. The people involved are financially responsible for the imbalances they cause in the electricity grid. They bear the balance responsibility themselves or entrust a balance manager with that responsibility. The persons involved also enter into an agreement regarding their rights and obligations with regard to such activity. The Flemish Government can determine the minimum content of that agreement.⁴⁹

Finally, the decree states that the Flemish Government can also determine further rules for the activity of selling green energy in apartment buildings or multifunctional buildings. The rules concern the minimum provisions of the agreements concluded between the persons concerned, including provisions regarding the withdrawal from the activity, the recording of the necessary data, including the measurement and measurement data, the conditions that the methods for calculating energy quantities for allocation, reconciliation and invoicing, and the adjustments to those calculations, must meet.⁵⁰

3. Assessment of obstacles and potential and removal of unjustified barriers

As already mentioned above, the decree states that VREG fulfils specific tasks, among others, including monitoring the removal of unjustified barriers and restrictions on the distribution network or local transmission network of electricity for the consumption of self-generated electricity and for energy communities.⁵¹ An assessment of existing barriers for collective activities has been made by VITO on the request of the Flemish Energy and Climate Agency, however it was not published.⁵² A summary of this assessment is publicly available with an overview of five main barriers for collective activities (Finance and Organization, Market and Economy, Technology, Institution and Governance, Regulation) and some key recommendations. In 2023, the Flemish Energy and Climate Agency (VEKA) will evaluate the regulatory framework for energy communities.

4. Enabling framework

The Flemish Energy decree mentions that the Flemish Government takes measures to promote and facilitate the development of RECs and CECs. In that context, the Flemish Government asks VREG to investigate, via a

⁴⁹ Article 7.2.3.(2) of the Energy decree

⁵⁰ Article 7.2.3.(3) of the Energy decree

⁵¹ Article 3.1.3.(1)(u) of the Energy decree

⁵² The main conclusions of the study are summarized in the article and infographic available at:

<https://www.energyville.be/en/press/expert-talk-energy-communities-what-are-they-and-why-can-they-be-meaningful-you> and

https://www.energyville.be/sites/energyville/files/downloads/2020/infographic_energycommunities_engels.pdf



cost-benefit analysis, to what extent activities of energy communities and active customers in a building as mentioned in the decree and the sale of green energy in accordance with the decree, can contribute to the relief of the distribution network, including the avoided investments and costs in the network, and to investigate the relevant compensation and discounts on network rates that can be provided for this, if necessary, with regard to the RECs and CECs, with the aim of stimulating innovative projects within the framework of low-regulation zones for energy.⁵³

With regards to flexibility and aggregation, the Energy decree mentions that every customer, producer, intermediary, CEC and REC can become a participant in flexibility or aggregation.⁵⁴ The participant in flexibility or aggregation may purchase electricity services other than supply, including flexibility services and aggregation, from an electricity company of their choice, independently of their electricity supply contract. The flexibility or aggregation participant may also participate in electricity services other than supply, including participation in aggregation and flexibility services, independently of its electricity supply contract.⁵⁵

In addition, the decree states that each customer or producer can freely choose or change their flexibility service provider or aggregator, independently of their electricity supplier. Any customer or producer can participate in flexibility or aggregation services without the permission of another electricity company that they use.⁵⁶ Customers and intermediaries may not be subject to discriminatory technical and administrative regulations, procedures or costs by their supplier because they have a contract with a flexibility service provider or aggregator. Moreover, customers contracting with an independent flexibility service provider should not be subject to excessive payments, penalties or other excessive contractual restrictions by their supplier.⁵⁷

After prior stakeholder consultation, VREG draws up a draft technical regulation for the management of the electricity distribution network, the natural gas distribution network and the local electricity transmission network. This draft regulation is then submitted to the market parties for consultation. The regulations always contain the provisions applicable to closed distribution networks.⁵⁸

The technical regulations mentioned above for the management, access to and connection to the network, contain, among others:

1. The obligations imposed on producers, balance responsible parties, shippers, suppliers, active customers, CECs, RECs, producers of green energy, providers of energy services, including operators of emergency groups, aggregators, flexibility service providers, customers, to enable the network operator to manage its network with the highest quality possible, including the trading and balancing requirements imposed on any supplier of electricity or natural gas to customers in the Flemish Region;
2. The rules for the exchange of data between the transmission system operator, the transport company, the distribution system operators, the operator of the local electricity transmission system, the closed distribution system operator, the producers, the natural gas importers, the balance responsible parties, the shippers, the intermediaries, the suppliers, the active customers, CECs, RECs, the producers of green energy, the providers of energy services including aggregators and the customers and the flexibility service providers;

⁵³ Article 4.8.4.(4) of the Energy decree

⁵⁴ Article 4.1.17/3.(1) of the Energy decree

⁵⁵ Article 4.1.17/3.(2) of the Energy decree

⁵⁶ Article 4.1.17/3.(3) of the Energy decree

⁵⁷ Article 4.1.17/3.(4) of the Energy decree

⁵⁸ Article 4.2.1.(1) of the Energy decree



3. The rules imposed on suppliers and grid operators in the event of customer or supplier changes, contractual changes at the access point, the recording and correction of meter readings, energy sharing in accordance with the relevant provisions of the decree, the sale of green energy, the peer -to-peer trading of green energy by one active customer to another customer in accordance with the decree and the allocation and reconciliation, including the financial settlements between market parties;
4. The information obligations or prior approval or adoption by VREG of the operational rules, general terms and conditions, type agreements, forms and procedures used by the grid operator with regard to suppliers, active customers, CECs, RECs, producers of green energy, providers of energy services including aggregators, flexibility service providers and customers;
5. The priority that must be given to high-quality cogeneration installations and green energy production installations;
6. The data that is measured, calculated, delivered and managed, as well as the methodologies to calculate energy quantities for allocation, reconciliation and invoicing, and the adjustments to those calculations associated with the activities of active customers, CECs and RECs and the sale of green energy.⁵⁹

The technical regulations mentioned above are approved by the board of directors of VREG after a public consultation. The technical regulations only come into effect after publication in the Belgian Official Gazette.⁶⁰

5. Access to financing and support

With regard to measures for energy communities in the support scheme for renewables, the Flemish Government has set up a green energy call, which constitutes an investment support program for medium-sized PV installations and small and medium-sized wind turbines. The green energy call is a competition formula in which the applicant submits a bid for an installation. That offer is the ratio of the requested support and the expected energy yield. Bids are ranked based on cost-efficiency. The best ranked bids will be paid out based on the budget.

Through a green energy call an applicant can receive support for:

- Installations with an inverter capacity greater than 25 kW;
- Onshore wind turbines with a turbine power greater than 10 kW up to and including 300 kW.

The aid is only granted if it concerns new installations and if no green energy certificates have been or cannot be awarded for those installations.

A call can consist of one or two sub calls:

- Sub call 1: floating PV installations, PV installations on marginal land, PV installation of energy communities (both CECs and RECs), PV installations on residential buildings and small and medium-sized wind turbines;

⁵⁹ Article 4.2.1.(2) of the Energy decree

⁶⁰ Article 4.2.1.(3) of the Energy decree



- Sub call 2: all other PV installations.⁶¹

The subsidy scheme is regulated on the one hand by a decree of the Flemish Government,⁶² which lays down the contours and provisions of the support scheme and on the other hand by a ministerial decision that lays down the further rules for each call. Both form the subsidy regulations for each call that the applicants must comply with.

Specifically for 2023 there was a Ministerial decision issued organizing calls for the year 2023 for submitting support applications for medium-sized installations based on solar energy and small and medium-sized wind turbines.⁶³ Such decision mentions that the total maximum aid amount for the year 2023 amounts to 9.000.000 euros from the Energy Fund.⁶⁴

The support ceiling for these calls, which represents the maximum ratio of support to energy yield for which projects can be selected, is:

1. 10 euros per MWh for projects for solar energy installations on marginal land and for other installations based on solar energy;
2. 15 euros per MWh for solar energy installations on residential buildings and solar energy installations of CECs and RECs;
3. 33 euros per MWh for projects for floating installations based on solar energy;
4. 74 euros per MWh for wind energy projects.⁶⁵

The maximum eligible costs are:

1. 1030 euros per kWp for an installation based on solar energy on marginal land and for another installation based on solar energy, with a maximum AC power of the inverter (s) greater than 25 kW up to and including 250 kW;
2. 858 euros per kWp for an installation based on solar energy on marginal land and for another installation based on solar energy, with a maximum AC power of the inverter(s) greater than 250 kW up to and including 750 kW;
3. 696 euros per kWp for an installation based on solar energy on marginal land and for another installation based on solar energy, with a maximum AC power of the inverter(s) greater than 750 kW;
4. 1150 euros per kWp for a floating solar energy installation, solar energy installations on residential buildings and solar energy installations of CECs and RECs;
5. 3300 euros per kW for an onshore wind turbine with a gross nominal capacity per turbine greater than 10 kW up to and including 300 kW.⁶⁶

⁶¹ All relevant information for the green energy call are available at: <https://www.vlaanderen.be/call-groene-stroom>

⁶² Decree of the Flemish Government containing general provisions on energy policy ("the Energy Decree of 19 November 2010"), published on 19 November 2010, available at:

<https://codex.vlaanderen.be/PrintDocument.ashx?id=1019755&datum=&geannoteerd=false&print=false#H1088375>

⁶³ Available at:

<https://codex.vlaanderen.be/PrintDocument.ashx?id=1038074&datum=&geannoteerd=false&print=false>

⁶⁴ Article 2 of the Ministerial Decision of 17 February 2023

⁶⁵ Article 4 of the Ministerial Decision of 17 February 2023

⁶⁶ Article 5 of the Ministerial Decision of 17 February 2023



Solar energy installations on residential buildings and solar energy installations of CECs and RECs have a minimum of 0 kilowatt peak and a maximum of 20 kilowatt peak per building unit within the residential building or per member of the CEC or REC.⁶⁷

With regard to the results of the first call of 2023, it provided for a sub call PV on Residential Buildings and PV for Energy Communities (sub call 1) and a sub call on other PV (sub call 2). A total budget of 500.000 euros was provided for sub call 1 and a total budget of 2.500.000 euros for sub call 2. A total of 127 applications were submitted in both sub calls. Of these, 105 applications were approved for support.

In sub call 1 of the first call of 2023, a total of 31 applications were submitted, together representing a subsidy request of 643.130,26 euros or 129% of the available budget in this call. 21 applications have been selected for support, together accounting for 498.831,26 euros in subsidy and a peak capacity of 7.61 MWp.

The winning bids from sub call 1 of the first call of 2023 range from 2.19 euros/MWh lifetime (first place in the ranking) to 17.56 euros/MWh lifetime (last place in the ranking). The average bid is 8.90 euros/MWh lifetime.⁶⁸

Finally, it should be noted that there is a VAT exemption applicable for energy sharing, while for peer to peer trading the VAT scheme is not applicable only in the case the seller has no other activity for which they are liable for tax and the AC power of the green power installation is less than or equal to 10 kVA.⁶⁹

References

- Decree of the Flemish Government containing general provisions regarding energy policy ('the Energy Decree'), published on 8 May 2009, as revised, available at: <https://codex.vlaanderen.be/PrintDocument.ashx?id=1018092&datum=&geannoteerd=false&print=false>
- Decree of the Flemish Government containing general provisions on energy policy ('the Energy Decree of 19 November 2010'), published on 19 November 2010, available at: <https://codex.vlaanderen.be/PrintDocument.ashx?id=1019755&datum=&geannoteerd=false&print=false#H1088375>
- Federal Law of 23 October 2022 amending the Act of 29 April 1999 on the organisation of the electricity market and transposing Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 concerning common rules for the internal market in electricity and amending Directive 2012/27/EU, Belgian Official Gazette of 26.10.2022, available at: <https://www.ejustice.just.fgov.be/eli/wet/2022/10/23/2022033909/justel>
- Ministerial decision organizing calls for the year 2023 for submitting support applications for medium-sized installations based on solar energy and small and medium-sized wind turbines, published on 17 February 2023, available at:

⁶⁷ Article 6 of the Ministerial Decision of 17 February 2023

⁶⁸ More information on the first call of 2023 is available at: <https://www.vlaanderen.be/call-groene-stroom/resultaten-call-groene-stroom-2023-call-1>

⁶⁹ More information can be found on the official website of the Flemish Government, available at: <https://www.vlaanderen.be/bouwen-wonen-en-energie/groene-energie/energiedelen-en-persoon-aan-persoonverkoop#q-83091e4a-a3fa-4eda-a322-480acca1de5f>



- <https://codex.vlaanderen.be/PrintDocument.ashx?id=1038074&datum=&geannoteerd=false&print=false>
- Report for Belgium 2022, International Energy Agency (IEA), available at: <https://www.iea.org/reports/belgium-2022/executive-summary>
 - The main conclusions of the assessment of existing barriers for collective activities made by VITO on the request of the Flemish Energy and Climate Agency summarized in an article and infographic, available at: <https://www.energyville.be/en/press/expert-talk-energy-communities-what-are-they-and-why-can-they-be-meaningful-you> and https://www.energyville.be/sites/energyville/files/downloads/2020/infographic_energycommunities_engels.pdf
 - Green energy call, Flemish Government, available at: <https://www.vlaanderen.be/call-groene-stroom>
 - VREG Protocol with regard to the adoption of the proposal of the electricity distribution system operators on the Protocol on energy sharing and peer-to-peer trading of green electricity (second version of the Protocol), BESL-2022-57, published on 21 June 2022, available at: <https://www.vreg.be/nl/document/besl-2022-57>
 - Official website of the Flemish Government including information on energy sharing and peer to peer trading, available at: <https://www.vlaanderen.be/bouwen-wonen-en-energie/groene-energie/energiedelen-en-persoon-aan-persoonverkoop#q-83091e4a-a3fa-4eda-a322-480acca1de5f>