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The 7th Vienna Forum on European Energy Law: One Step Beyond

Legal aspects of aggregation and citizen energy communities

Anne Lapierre - Norton Rose Fulbright LLP
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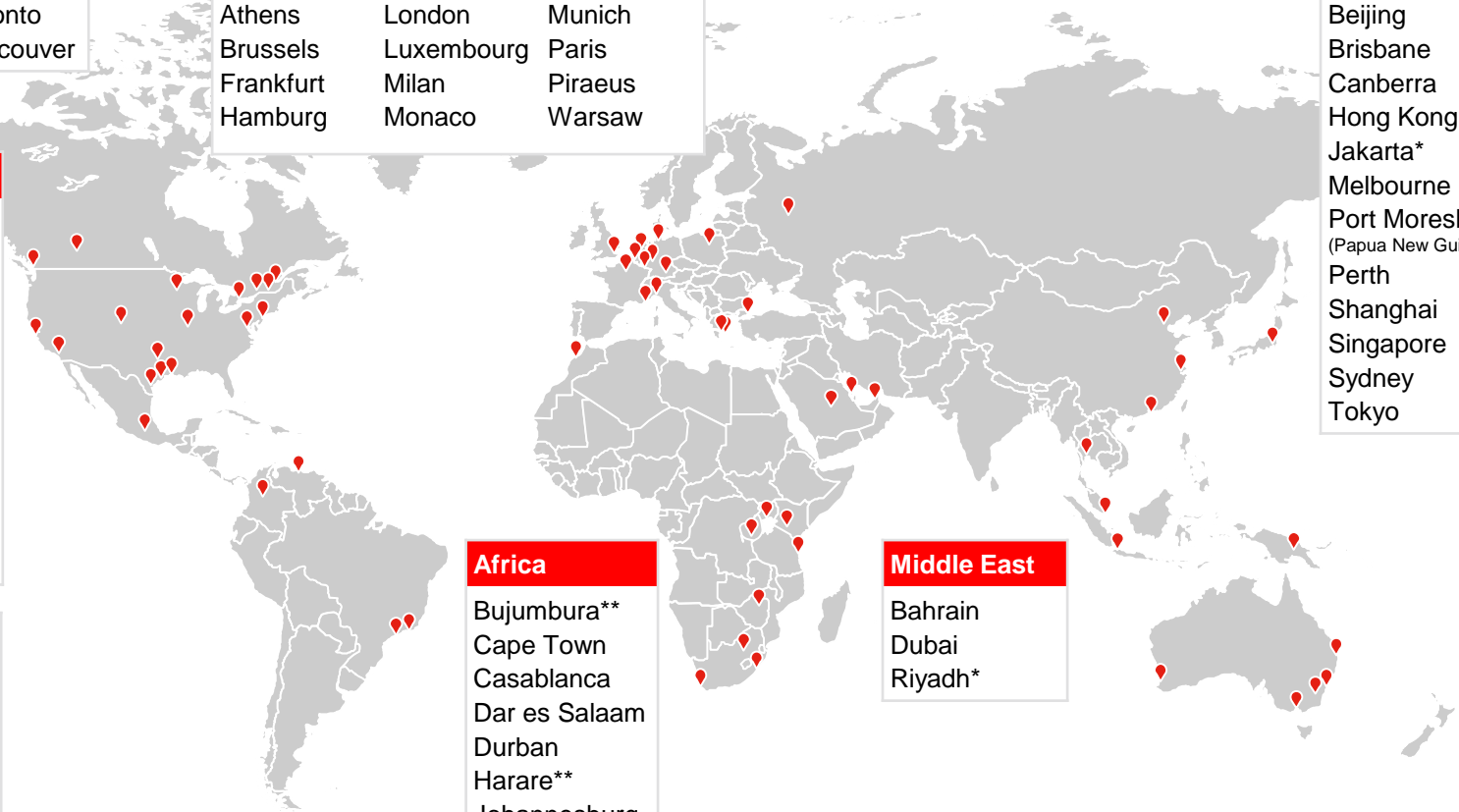
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The speaker



Anne Lapierre

Partner, Norton Rose Fulbright LLP

Anne Lapierre is a project banking lawyer based in Paris. She heads Norton Rose Fulbright's global energy practice and is the co-manager of our Casablanca office. Anne Lapierre sits on the Global Executive Committee of Norton Rose Fulbright.

Anne is top ranked by international legal directories such as Chambers and Legal 500 for Energy and natural resources and International projects (Africa). Since 2013, she has been recommended every year by the Expert Guides and Who's Who Legal. She has been named Lawyer of the Year 2014, 2015, 2016, 2017 and 2018 for Energy and Project Finance and Development in France and listed in "A World About Wind" by Legal Power List 2016-2017. Anne is also ranked among the 50 most influential lawyers in Africa by reference publication Jeune Afrique in 2017.

Power Market Key Change: Put the consumer at the center of the European Electricity Market

- Directive (EU) 2019/944 on common rules for the internal market for electricity (amending directive 2012/27/EU)
- Regulation (EU) 2019/943 on the internal market for electricity

Aim: support the development of citizen energy communities

➤ Directive 2019:

- Sets up general rules for the shaping of a new common electricity market within the EU
- Urges Member States to:
 - Develop cross-border trading
 - Facilitate consumer participation
 - Sustain investment in flexible energy generation (including storage & electromobility)
 - Improve interconnections

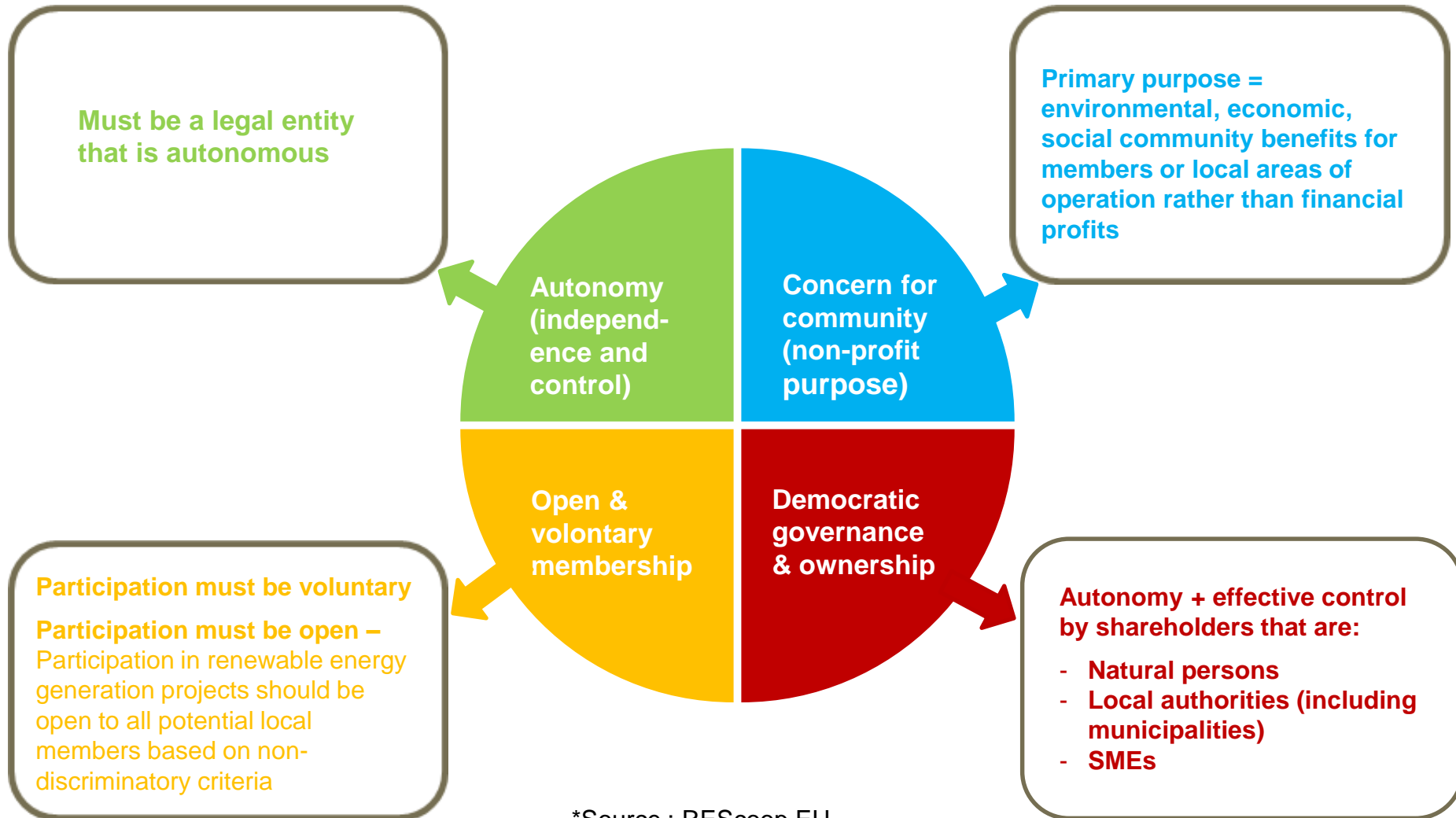
➤ Consumers should be free to buy and trade electricity services independently from their electricity supply contractors

Parliamentary Approval Effective

Next step: approval by the EU Council of Ministers

- Electricity regulation will enter into force on 1 January 2020
- Directive will have to be transposed into national law within 18 months as from its publication date in the Official Journal of the European Union

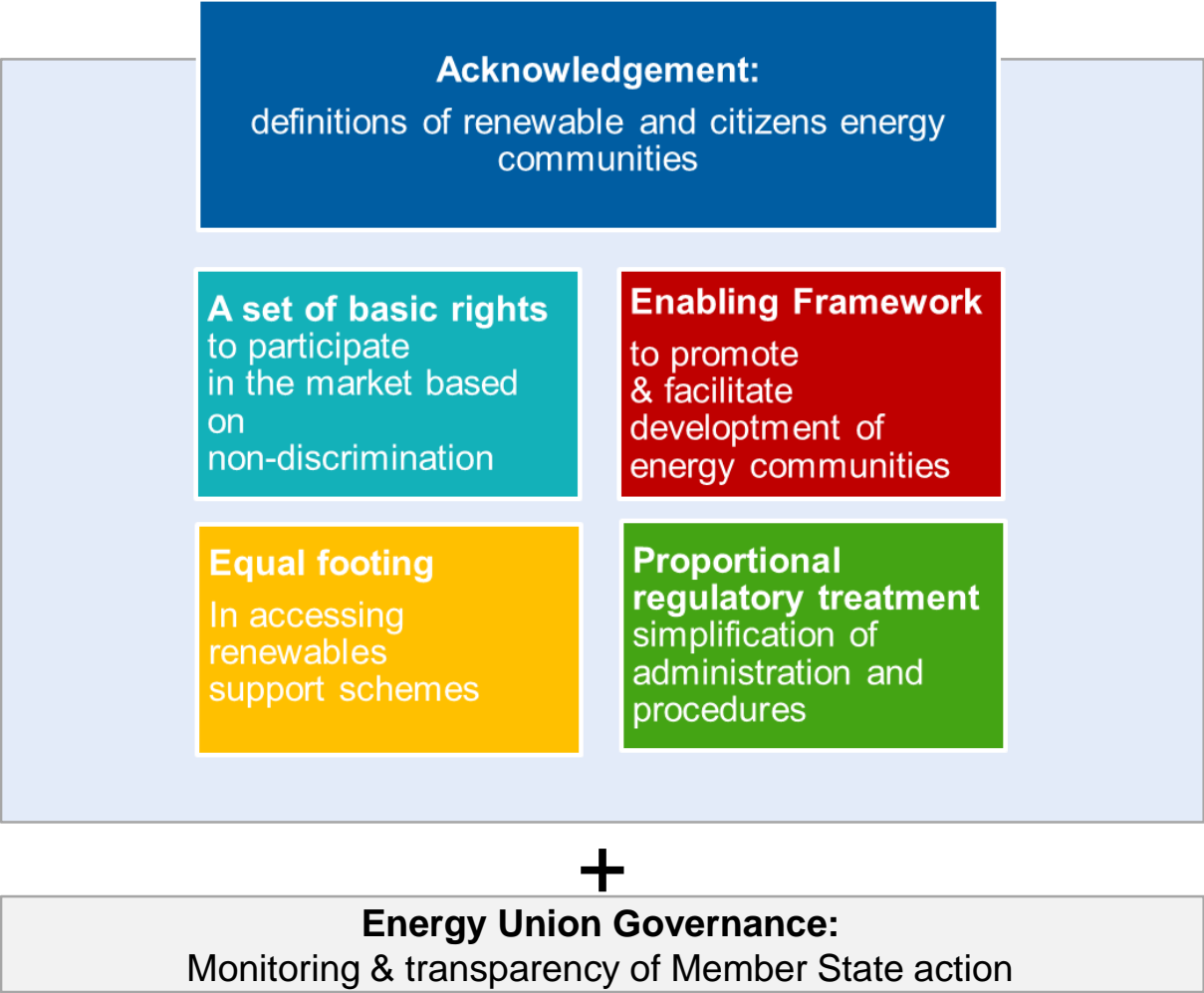
Definition of « Renewable Energy Communities » in the Renewables Directive



*Source : REScoop.EU

The Clean Energy Package

a policy foundation for energy communities



*Source:
REScoop.EU

Challenges

Practical

- Lack of information
- Access to finance
- Public participation / engagement / understanding

Policy

- Unstable / changing national support schemes for renewables towards more market-based system
- No recognition of / plan for supporting renewable energy communities
- Overburdensome licensing requirements / barriers to competition
- Complex administrative and regulatory burdens / procedures (e.g. planning, grid connection)

*Source : REScoop.EU

The share of electricity produced by renewable is expected to grow from 25% to 55% by 2030

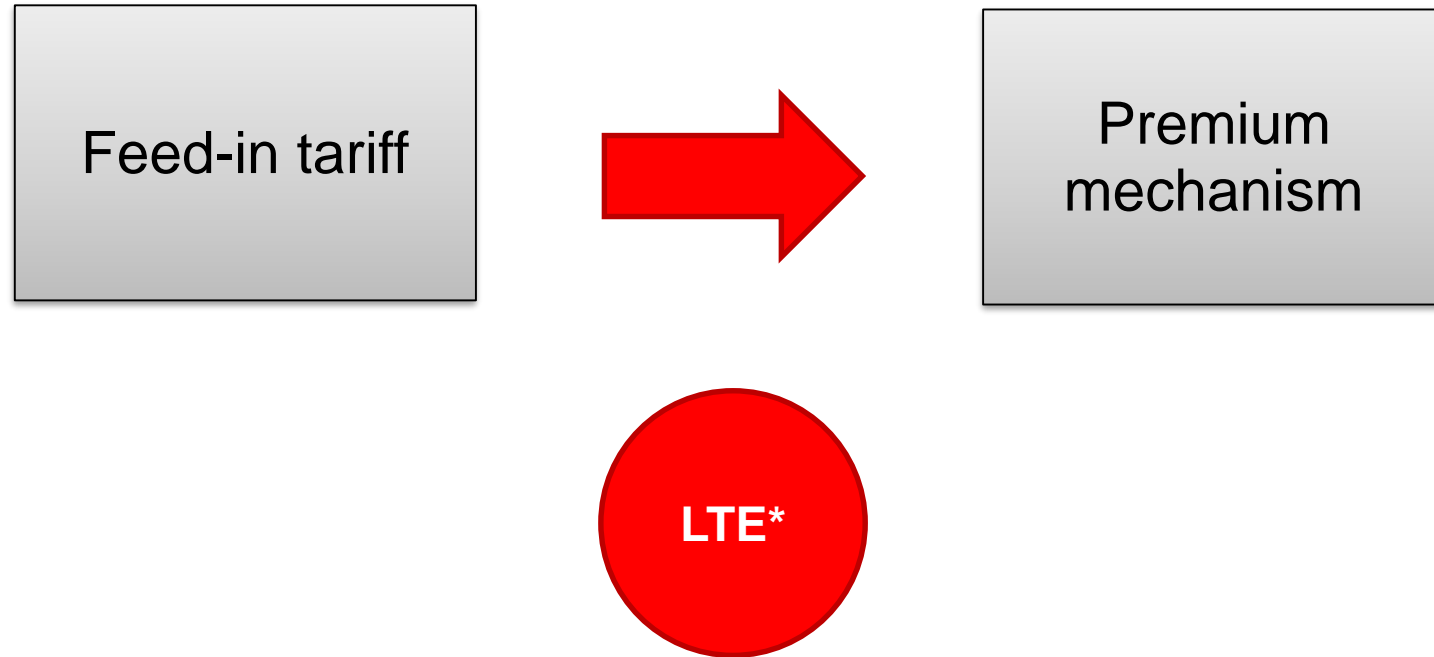
The European Commission estimates that more than 50 GW of wind and solar energy capacity could be owned by energy communities representing respectively 17% and 21% of installed capacity:

- The new rules put consumers at the heart of the transition with:
 - access to smart meters
 - price comparison tools
 - dynamic price contracts

- Active consumers shall generate, store, sell or share their own electricity, using rooftop solar panels, batteries, and charging stations for electric vehicles...

Support regime – evolution overview

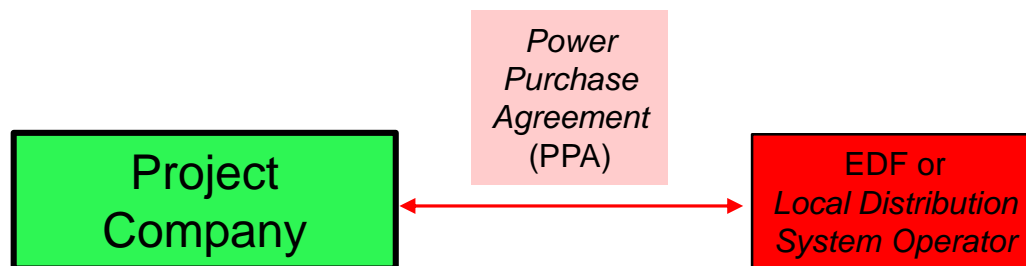
In France, the end of FITs in 2016 came with the obligation to sell renewable power on the market = development of aggregation contracts



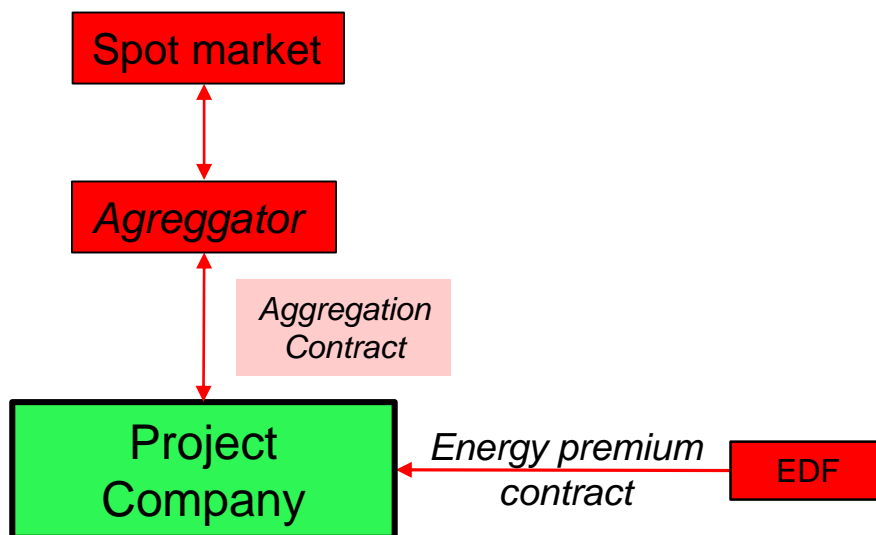
- Decrees dated 27 and 28 May 2016
- Order dated 13 December 2016 (transitory regime)
- Order dated 6 May 2017

- Aggregators are mandatory stakeholders in order for small and medium size renewable power producers to access the market
- The development of Citizen Energy Communities shall offer aggregators new market opportunities

Before:



After:



Aggregation contract

Main provisions:

➤ Purpose

Sets out the terms and conditions of the sale and purchase of power by the Buyer (the aggregator) to the Producer – can include the capacity guarantees and the provision of related services

➤ Supply and purchase of power

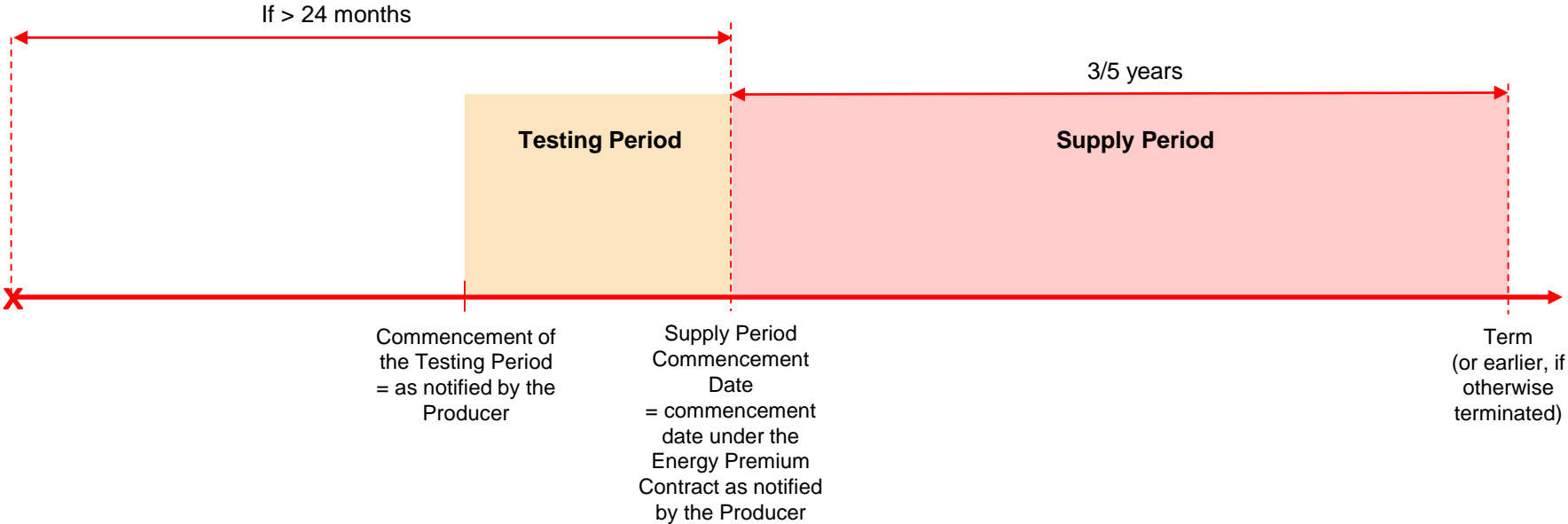
- The Buyer shall purchase all kWh produced at the Delivery Point (point of transfer of risks and ownership of the power) as measured by a power meter controlled by the distribution grid operator
- The Producer shall have no commitment towards the Buyer with respect to the availability of the plant

Aggregation contract

➤ Duration (short term or long term?)

Impact on:

- Price
- Mitigants in the financing documentation
- Exit and renegotiation clauses



The development of citizen energy communities throughout Europe will have a very material impact on the structure of the power market, the increase in number and heterogeneity of players, the grid operation, the service system and the price creation.



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