

MITERD consultation on Spanish capacity market



EFET response – 12 May 2021

The European Federation of Energy Traders (EFET)¹ welcomes the opportunity to provide comments to MITERD consultation document on the establishment of a capacity market in Spain.

We recall our core belief: capacity remuneration mechanisms (CRMs), where implemented, should be designed so as to limit their impact on the energy-only market as much as possible, have a sunset clause, take account of all capacities, be market based, respect the principles of technological neutrality and keep the long-term objective of European harmonization.

As a general remark, we welcome the transition from the current model based on capacity payments to the model outlined in the “*Proyecto de Orden*”. The proposed CRM aligns with most of our above-mentioned core principles, as expressed in our previous response to MITERD consultation on capacity mechanisms².

However, we urge MITERD to **explicitly allow cross-border participation** and we insist on two fundamental principles, namely:

- Effective direct participation of foreign asset owners/operators – generation, demand response, storage – in CRMs, with appropriate incentives and/or obligations on transmission system operators (TSOs), where this effective participation depends on them;
- Equal treatment of foreign and domestic capacities contributing to a CRM, with attention to the specific rights and obligations of capacity providers in the CRM and, where relevant, related to energy market functioning.

Participation of foreign market participants must be guaranteed in order to comply with Article 26.1 of Regulation (EU) 2019/943:

“Capacity mechanisms other than strategic reserves and where technically feasible, strategic reserves shall be open to direct cross-border participation of capacity providers located in another Member State, subject to the conditions laid down in this Article.”

CRMs must not create unnecessary distortions in the market and capacity providers should be selected through transparent, non-discriminatory and competitive processes, regardless of their location.

² See [EFET response to MITERD consultation on implementation of capacity mechanisms in the Spanish electricity system](#)

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org

Therefore, we invite MITERD to ensure simplicity in the future system(s) to ensure effective, not just theoretical, cross-border participation of foreign capacities in CRMs. Excessive administrative and financial burden for TSOs and/or market participants alike should be avoided in order to achieve security of supply in the most cost-efficient way.

Finally, we understand that further specifications are left to be developed under TSO's "Procedimientos de operación" ('POs') and NRA resolutions, however we would appreciate more clarity in the Order on the aspects highlighted below.

Publication of the national resource adequacy assessment before the implementation of any CRM

Any decision to implement or maintain any form of remuneration scheme to reward the availability of generation capacity should be taken only after a thorough capacity adequacy assessment performed at both regional and EU level, in compliance with Art. 21 of the Regulation (EU) 2019/943.

EFET understands from the "Proyecto de Orden" that the adequacy assessment will be carried out during the validity of the implemented model. We urge MITERD to provide a detailed timeline for the publication of the national resource adequacy assessment and to execute this analysis before the implementation of the proposed CRM.

Publication of the auction calendar

We ask MITERD to include a timetable of the auctions in the Order: this would significantly increase the transparency allowing capacity providers to make justified investment or exit decisions. Furthermore, the auction calendar should be complemented with clear information on the methodology to determine the minimum capacity to be auctioned for each session, coherently with the resource adequacy assessments. Finally, we would appreciate further thoughts from MITERD on the development of a secondary market.

Inclusion of aggregation and verification of service provided

We ask MITERD to have the possibility for demand and production aggregators as well as representatives ("*Representantes*") to participate in the proposed CRM, as foreseen by Article 22 of the Regulation (EU) 2019/943.

Although verification of the service provided will be developed in detail under TSO's POs, we believe that the Order should specify minimum guidelines on how verification will be performed by the TSO. On this respect, verification of the service provided should be done by aggregated facilities belonging to eligible technologies rather than by individual generation facility. This would give greater flexibility for market participants to provide firm capacity services.

Therefore, we encourage MITERD to include the possibility to comply with capacity commitments by means of considering the aggregated portfolio of capacity providers, divided by technology (i.e. generation, storage or demand units).

Ensure eligibility of off takers as capacity providers

Article 2 states that the “Proyecto de Orden” will be applicable only to owners of generation, storage and demand facilities. Hence, we encourage MITERD to explicitly include off takers among the possible providers of the proposed capacity service.

The limitation to facility owners does not reflect the reality of the Spanish power sector, where some facilities are managed by third parties. Off takers should also be eligible to provide firm capacity services, as long as they hold the corresponding agreements with the TSO and the market exchange to participate in the market, do nominations and pay imbalances.

Right to freely enter and exit from the market

Regulation (EU) 943/2019 on the internal market for electricity establishes the right for market participants to exit from the market based on their own prospects for the economic viability of their facilities. This is reflected in Art. 3 of the Regulation:

“(N) market rules shall allow for entry and exit of electricity generation, energy storage and electricity supply undertakings based on those undertakings’ assessment of the economic and financial viability of their operations;”

Accordingly, it is essential that there are no unnecessary, disproportionate, or unjustified obstacles to the free exit in the form the owners decide (temporal or permanent), currently and once the capacity mechanism is implemented.

We ask MITERD to guarantee the free exit condition under the proposed mechanism and to grant this right in the specific case a capacity owner is not awarded with a capacity contract.

Clarifications on the definition of “availability”

We seek further clarifications on how availability is defined and how the same treatment for all types of capacity owners is ensured (generation, storage and demand resources).

In fact, Art. 21.3 of the Order is not clear on how availability is considered to comply with the capacity service that only generators and storage operators are committed to provide. Moreover, Art. 5 seems to refer to flexibility and some kind of additional obligation where *“ofreciendo dicha potencia, y la variación de energía asociada a la misma”*.

Since it is not clear whether “availability” means to be dispatched in the market or not, we invite MITERD to provide more clarity on the definition of “availability” for all capacity owners (generation, storage and demand), seeking for a level playing field and respecting the principles of free bidding and free formation of prices.

Furthermore, we see no added value in integrating flexibility requirements into a capacity market design. The purpose of a capacity market is to ensure that sufficient firm capacity is available when it is needed. The operation of the energy and balancing market should be free from artificial regulatory interventions, intended to suppress price volatility.

Emissions limits requirements for generation facilities

The emission requirements should be aligned with the ones foreseen by Art. 22.4 of Regulation (EU) 2019/943.

The current wording of Art. 10 of the Order establishes more restrictive emissions limits to existing generation facilities than the ones considered under Art. 22 of European Regulation. For instance, the current proposal specifies that Main Auctions are limited to new generation and storage facilities with zero CO₂ emissions, which is more restrictive than Art. 22 of Regulation (EU) 2019/943.

In addition, the proposal seems to set a more ambitious emissions requirement to existing facilities by imposing the compliance of the two thresholds (both 550 kgCO₂ per kWh produced and 350 kgCO₂ on average per year per installed kW). If a generation facility commissioned before July 4th, 2019 complies with only one of the mentioned thresholds, such facility would be eligible to the capacity mechanism. We therefore ask MITERD to conduct an orthodox translation of EU emissions limits set under Regulation (EU) 2019/943 into national rules to existing generation facilities.

Elimination of fuel and primary energy accreditation for generation facilities

We encourage MITERD to eliminate the obligation to proof fuel or primary energy availability for the capacity allocated to eligible generation facilities. The accreditation of fuel or primary energy could create distortions and alter the level playing field, both at national level and across the borders. This obligation could entail unnecessary burdens to generators, given the wide gap period between the call for auction and the capacity delivery date, which would mean having to demonstrate availability of resources between 1 and 10 years in advance.

We understand that by making market participants responsible for delivering firm capacity committed (as stated under article 21.4), there is no need to impose additional obligations on fuel or primary energy availability.

Clarification of definitions

The proposal lacks definition of what can be understood by '*new facility*', '*repowering*', '*modification*' and '*capacity extension*', preventing market participants to properly evaluate the eligibility of these facilities to the proposed capacity mechanism. Therefore, we encourage MITERD to include in the Order all the relevant definitions, similar to what was defined for the renewable energy framework under Order TED/1161/2020 of December 4, 2020.