

**AEEGSI consultation n. 445/2015 on imbalance settlements for the period July
2012 – March 2015**

■
EFET response, 23 October 2015

Introduction

EFET¹ welcomes the opportunity to answer the consultation document n. 445/2015: we understand that following the Italian State Council (CdS) ruling n. 1532/2015 of March 2015, which annulled the deliberations n. 342/2012/R/eel, 239/2013/R/eel and 285/2013/R/eel Terna had to re-calculate zonal aggregated imbalance prices and aggregated signs for the period where the above rules found application. AEEGSI considered that the imbalance settlements resulting from Terna's re-calculations are inconsistent and disproportionate and decided to consult on a new discipline to be applied retroactively and limited to the period July 2012 – March 2015.

EFET believes that in the last years, the imbalance settlement framework has been subject to very frequent amendments: we understand that AEEGSI adopted such changes to avoid high dispatching costs for the system and ultimately for end users, but this situation has made the overall settlement discipline too uncertain. In fact, several partial amendments to the imbalance settlement method have in fact not been announced with reasonable notice to traders, strongly reducing stability and predictability of the regulatory framework.

The proposed new imbalance settlement discipline would be applied retroactively to contracts stipulated more than three years ago. We strongly disapprove this ex-post modification of the rules, which would bring along several negative effects:

- sudden and retroactive changes are a very bad commercial practice which exposes traders to unnecessary and unmanageable costs and risks. On more general terms, we would like to emphasize once again the importance of regulatory certainty and predictability, which will become even more important in the light of the future balancing market reform
- The calculation and publication of balance sheet, profit and loss account and the potential annual report to shareholders have considerable costs. As companies

¹ EFET, 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. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org

have obviously already closed and published their yearly financial statements for the years 2012, 2013, 2014 a retro-active amendment would cost a disproportionate amount of money and time, especially if compared with the benefits that the new framework would bring to the system

- The new discipline is likely to give rise to new complaints to the Court and trigger a new vicious circle of appeals, rulings, counter-appeals and retro-active regulatory decisions which has already produced many negative effects on market participants and on the whole power system.

EFET proposed solution for the past imbalance settlements

For the reasons expressed above, EFET in principle rejects both the options proposed in the consultation document. On the other hand we support a solution able to overcome this situation and that would allow to turn the page on the past and resolutely face the future. All stakeholders would then be able to concentrate their efforts on the design of a balancing market truly cost-reflective of the real imbalance signals and in line with the provisions of the future EU Balancing Network Code.

Therefore, we believe that the solution with the least impact on the market and on the principles of regulatory stability and predictability, would be the application of the rules in place at the moment of dispatching, limited to the "Unitá Abilitate". This solution would have the merit of safeguarding those dispatching users who acted in line with the rules in place at that time.

As for the recovery of system costs, we suggest to AEEGSI that the least-distortive option would be the introduction of a specific tariff to be applied downstream

Nevertheless, we stress that this measure must be considered as an "ad hoc" measure needed to end this specific situation once for all. For no reasons, this solution should provide justification or give room to any other future ex-post adjustments or recalculations.

Finally, we seek clarification regarding the provisions of deliberation n. 525/2014 and recalled at par. 38 of the consultation, which extended to all physical production and consumption units the obligation "*to program injection and withdrawal as diligently as possible, minimising program errors and in accordance with the principles of diligence, prudence, expertise and foresight*". Besides the fact that these are abstract principles, we stress that in the context of a market, the bid strategy followed by traders does not always minimise program errors, but it is generally aimed to minimise the risk and maximise the income.

That said, we call AEEGSI to establish specific parameters which would set the boundaries beyond which imbalances would be considered as violations of the above principles and hence subject to sanctions.

Conclusions

As already expressed in the past, we would like to suggest AEEGSI to seek a stronger cooperation with market participants by establishing a working group on balancing with all the interested operators. This is of extremely importance in the MSD reform process and would help to increase the quality of participation in the consultation process and would be instrumental in obtaining shared workable solutions. EFET offers its expertise and is available to engage in a constructive dialogue with the relevant parties in this process.