

ACER consultation on the TSOs' methodology proposal on the implementation framework for the aFRR exchange platform**EFET response – 18 November 2019**

We thank ACER for the opportunity to provide comments on the TSOs' methodology proposal on the implementation framework for the aFRR exchange platform.

Q1: *Do you agree with the Agency's approach to monitor and minimise systematic deviations between bids selected by the AOF and bids activated by the TSOs or do you consider that this approach is too strict or too loose?*

It is uneasy for us to respond directly to this question, as the Agency does not explain in the consultation its "approach to monitor and minimise systematic deviations between bids selected by the AOF and bids activated by the TSOs".

When monitoring deviations, it should be considered that most of the deviations between the (control-demand) AOF-selection and local TSO-BSP activations originate from locally applying a ramped control-request scheme. This effect should be clearly isolated or even examined separately and, if exceptional, taken as a clue for encouraging TSOs currently applying control-request locally to move to control-demand.

Q2: *What would you consider necessary to be reported on an annual basis, as indicator(s), with respect to deviations between selected and activated bids? What would you consider as acceptable level of deviations?*

EFET refrains from defining an explicit quantitative threshold. Moreover, the monitoring should focus on the origins of deviations and make sure that deviations between AOF selection and local activations are restricted to a technical minimum.

When it comes to monitoring, and besides the deviations themselves, the TSOs should report on the effect of these deviations on bids in the aFRR and FCR processes. We have noticed that only slight differences in technical and contractual differences have led to larger differences in bids in e.g. the FCR market.

Q3: *Would you support the harmonisation of FAT by 17 December 2024? What solutions would you suggest for mitigating the concerns on the level playing field until the full harmonisation?*

We note that the aFRR IF still only foresees the harmonisation of FAT for the aFRR product to 5 minutes by 18 December 2025. Until then, TSOs can specify any FAT they want for the standard product, and cross-border exchanges will be performed with a FAT of at most 7,5 minutes. We see drawbacks and advantages to this approach chosen by the TSOs to postpone the harmonisation of the FAT for the standard product:

- On the negative side, allowing a FAT of 7,5 minutes with some TSO and requesting FAT of 5 minutes with others contradicts the idea of a level playing-field. A framework with a harmonised FAT at 5 minutes from the go-live of the platform, with a possibility for time-limited and justified exemptions in case of concerns with liquidity or system preparedness in specific countries, as foreseen in the EBGL, would incentivise TSOs to harmonise the formulation of their aFRR needs more rapidly, in order to create a true level-playing field among BSPs of all LFC areas.
- On the positive side, allowing multiple FATs until TSOs are ready to switch to a 5-minute FAT would avoid that TSOs that are currently not ready to harmonise the formulation of their needs with this FAT rely on specific products for an indefinite period of time. This would also allow greater liquidity on the platform, even though competition between BSPs would be somewhat distorted.

Should the TSOs maintain their proposal of non-harmonised FAT until 2025, we have a number of questions relating this proposal, more specifically what happens until 18 December 2025 (or 2024):

- What is the path towards harmonisation at 5 minutes in 2025?
- In the aFRR explanatory document it is stated that introducing a merit-order activation while allowing 7.5 minute FAT might jeopardise system security: is this acceptable for an intermediate period of 5 or 6 years?

We have no fundamental opposition to the shortening of the harmonisation phase by one year to 18 December 2024, but we do not see this as a fundamental priority either. What is most important is that the TSOs operating at a different FAT than 5 minutes already start working on the implementation plan in order for BSPs to clearly understand the path towards 2024 or 2025.

Q4: *Do you agree with the proposed framework for changing of bids by TSOs? What additional elements would you consider necessary for enhancing the transparency?*

As a matter of principle, ACER should seek to ensure that the aFRR IF and the IFs of other balancing processes are designed to avoid the flagging of bids as unavailable – i.e. work on the root cause – rather than limit and monitor such flagging. Most notably, congestions ought to be dealt with through non-costly or costly remedial actions (including redispatch) rather than by interfering with balancing processes. Should individual bids be labelled as unavailable by the TSOs for congestion management reasons, then this action by the TSOs should not affect the balancing energy price or the imbalance price, and BSPs should be compensated in order to make them financially indifferent compared to the normal situation where their bid would have been selected. If the IF foresees the possibility for marking bids as unavailable, it should also foresee the rules applicable to the financial treatment of such situations.

The linking of bids between different balancing platforms is essentially a duplicate marketing of the same volume. Declaring those bids unavailable after activation in a preceding platform is neither a case of internal congestion nor an operational security constraint within the connecting TSO scheduling area, which are the reasons permitted in Article 29.14 EB GL for declaring bids unavailable. Therefore, in our view this procedure is generally not compliant with the EB GL. For practical reasons, with severely restricted preconditions, this might be tolerable.

Q5: *Please comment on other topics indicating clearly the related Article, paragraph and sub-paragraph of the aFRR IF proposal.*

Art. 5.3(b): Efforts to harmonise terms and conditions and prevalence of EB GL over national legislation: Art. 5.3(b) introduces confusing language that could result in diluted efforts from the TSOs to harmonise terms and conditions related to balancing. It could also lead to national legislation prevailing over the EB GL in the implementation of harmonised and aFRR IF-compatible terms and conditions by the national TSOs. This would be in stark contradiction with Art. 18 of the EB GL and art. 16 of the aFRR IF. To avoid any confusion and in order to fully comply with the EB GL, Art. 5.3(b) should be amended as follows: **“The TSOs shall harmonise the terms and conditions related to balancing proposed in accordance with Article 18 of the EBGL.”**

Art. 8.2: BE GCT: EFET would like to remind that during the last hour, local intraday markets remain open in many countries, allowing market participants to re-adjust or rebalance their portfolios. Recital 12 of the EB GL explicitly requires the balancing energy market to facilitate self-balancing of market participants up to real-time. Consequences of the inevitable overlap between the cross-border balancing processes and local intraday and self-balancing actions should be minimised by the TSOs. Any excess procurement of balancing resources by the TSO should be avoided. Therefore only the original TSO demand should be taken into account by the TSO and in the corresponding common merit order list.

To maximise the potential alternative use of the returned bids (intraday market or self-balancing) and therefore the social welfare **the BEGCT should be set to 15 minutes before real-time**. This objective is explicitly stated in the EBGL through the requirement that the BE GCT is ‘as close as possible to real-time’ (Article 24(2)). EFET questions whether the proposed BE GCT time of 25 minutes is indeed as close as possible to real-time. EFET requests that at least the ambition of the TSOs be to move to a BE GCT of 15 minutes before real-time. This should now be technically feasible considering that the TSO GCT was shortened to 10 minutes before real time in the latest version of the methodology (article 9.1).

Art. 13.1: Unjustified economic advantages: we see a serious danger in the first sentence of art. 13.1, “The rules concerning the governance and operation of the aFRR-Platform shall ensure that no participating TSO benefits from unjustified economic advantage through the participation in the aFRR- Platform”:

- First, art. 13.1 should not lose sight of the objectives of the EB GL, and more generally of the integration of European markets. Questions of cost sharing between TSOs should not come in the way of market integration.
- Second the notion of “unjustified economic advantage” is not defined: neither in scope (assessment of the economic advantage limited to aFRR process only?), nor in magnitude (what is unjustified?), or in time (over which period would such an unjustified economic advantage be assessed?) If the objective is to avoid free-riding of TSOs on the available bids on the European platform, this should be tackled directly. The vague formulation currently included in the IF is an open door for any limitation on TSO participation to the platform.
- Third, the provision does not specify any consequences to the occurrence of such a situation.

Given the importance of changes to the aFRR IF and any impact on the European platform, stakeholders should be involved sufficiently early in any change process and be formally consulted upon. Such participation and consultation should be included in the governance and decision-making processes.

Art. 13.3: Reporting: given the sensitivity for the implementation of the PICASSO platform, we request the publication of evaluation reports every six months, rather than every year.