

European Commission consultation on the French electricity market reform plan (in the context of article 20 of EU Regulation 2019/943)



EFET response – 25 May 2021

EFET welcomes the opportunity to answer the European Commission consultation on the electricity market reform plan issued by the French government.

As a preliminary statement, we would like to recall our fundamental position that establishing or maintaining a capacity remuneration mechanism (CRM) should not come at the detriment of the design and efficiency of energy markets. Energy markets can respond to the adequacy needs of the system if they are well designed, free of regulatory distortions and well integrated with other European electricity markets. However, we also acknowledge they may not always be sufficient to provide long-term investment signals for capacity adequacy and that, if proven so by regional or European capacity adequacy assessments, CRMs may be a response to this problem.

The principle of primacy of energy markets over CRMs, now enshrined in Article 20(3) of Regulation 2019/943, aims to ensure that energy markets allow for optimal dispatch but are also in a position to contribute to security of supply, while CRMs are designed only to complement energy markets. Both the dimensioning of CRMs, their design and the cross-border contributions to these CRMs should take account of the design of energy markets in the relevant bidding zones. Where CRMs are established or maintained, the implementation of Regulation 2019/943 and related methodologies – on the European resource adequacy assessment, on cross-border participation to CRMs, and for the calculation of the value of lost load, the cost of new entry, and the reliability standard – should ensure compatibility of the different schemes and, where relevant and feasible, harmonisation.

With regard to the French market reform plan, we broadly agree with the main lines of the assessment and the plan. We believe that the electricity market in France is generally compliant with the requirements of Regulation 2019/943. However, we make a number of recommendations below as to how the functioning of the market could be improved.

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

Measure 1: update before the end of Q1 2022 reliability standard

We welcome an update of the French reliability standard by the end of Q1 2022. We insist that the new reliability standard be based on the provisions of article 25 of Regulation 2019/943 and the methodologies approved by ACER in its Decision 03/2020.

In particular, the new reliability standard should be expressed in terms of expected energy not served (EENS) and loss of load expectation (LOLE) – both calculated based on the value of lost load (VoLL) and cost of new entry (CONE). While the French government mentions later in the report that the VoLL, amongst other, is particularly difficult to determine, we believe that the ACER approved methodology gives precise guidelines in that regard. Hence, we insist that the responsible French authorities assess whether the existing pre-determined 3-hour lost load criteria is consistent with the harmonized approach to calculating the reliability standard agreed at EU level².

Measure 2 : publish and communicate to the European Commission services, in the course of 2021, a report by RTE outlining the lessons that can be drawn from the first years of operation of the French CRM and presenting, if necessary, proposals for changes that could be considered on the basis of this analysis.

The two administrative orders (*arrêtés*) of December 2019 on the French CRM foresee that the impact assessment on the CRM should have been published by September 2020. While we regret this delay, we recognise that RTE is progressing on their report and regularly consulting market participants on expected reform plans³.

Two waves of reform, one to be implemented for the delivery years 2023 and 2024 and one for delivery years after 2025 are currently under consideration.

However, we strongly regret that these plans do not tackle the question of cross-border participation to the CRM. Despite lengthy discussions since 2014 and a convoluted cross-border participation scheme, the reality is that no generation, demand response or storage asset owner located outside of mainland France has had access to the French CRM since its inception. This is a major flaw in the design of the French CRM that needs to be addressed urgently in order to ensure compliance with article 26 of Regulation 2019/943 (see also our reaction to measure 6).

² See the EFET response to the ACER consultation on methodologies for assessing electricity resource adequacy, dated 27 May 2020 and available at: https://efet.org/Files/Documents/Electricity%20Market/Capacity%20remuneration%20mechanism/EFET_ACER_PC_2020_E_10_27052020.pdf.

³ See the EFET response to the RTE consultation on an impact assessment of the French capacity remuneration mechanism, dated 13 March 2020 and available at: https://efet.org/Files/Documents/Downloads/EFET_RTE%20consult%20CRM%20REX_13032020.pdf.

Measure 3: complete the construction of the interconnections whose completion is in the final phase. IFA2 will enter service at the start of 2021, Savoie-Piemont at the end of 2021, Eleclink and Avelin-Avelgem in 2022.

Measure 4: complete the Bay of Biscay project, whose route and schedule are currently the subject of a new study, and the Celtic project before 2026.

Measure 5: continue studying projects to strengthen interconnections with Germany

EFET supports well-integrated markets and systems to ensure reliability and affordability of electricity supply in Europe, while it also contributes to achieving the Union's decarbonisation targets. However, such integration is primarily underpinned by effective and efficient use of interconnection (existing or new), rather than a race towards putting more copper in the ground or in the air at any cost. As a consequence, we insist that:

- the approval of any new interconnection project should be based on a positive cost-benefit analysis
- once approved and commissioned, the TSOs (or independent interconnector operator) should strictly follow the European rules on minimum capacity made available to the market (application of regional capacity calculation methodologies *in all timeframes*, and 70% rule)
- where necessary, a bonus-malus scheme should be put in place to incentivise the TSOs to make this capacity available to the market⁴

While we recognise the efforts made by the European TSOs to make more capacity available to the market in day-ahead, we believe this effort should intensify and apply to all timeframes (i.e. also in forward and intraday). The application of capacity calculation methodologies – whose objective remains to maximise capacity allocation in all timeframes within the constraints of security of supply, according to article 16.4 of Regulation 2019/943 – together with regional/European optimisation of remedial action and proper justifications for limitations applied to capacity allocation are paramount to ensuring an optimal use of interconnections.

Measure 6: implement by the end of 2022 an explicit procedure for the participation of cross-border capacities in the French capacity mechanism.

As mentioned earlier, we've been very disappointed with the process to allow foreign asset owners to participate in the French CRM. At this point, the discussion has lasted too long and the process setup by the French authorities, though sensible in theory, has not yielded any results in practice.

We insist on two fundamental principles for cross-border participation in CRMs, namely:

- Effective direct participation of foreign asset owners/operators – generation, demand response, storage – in CRMs
- 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

⁴ See the EFET response to the CRE consultation on the incentive framework for infrastructure investment projects at the French-Belgian and French-Spanish borders, dated 23 February 2018 and available at: https://efet.org/Files/Documents/Downloads/EFET_CRE%20consultation%20infra%20incentives_23022018.pdf.

The regulatory framework for cross-border participation to the French CRM meets these two conditions on paper. However, for this to translate into results in practice, two conditions should be met:

- There should be no reciprocity clause for cross-border participation, either *de jure* or *de facto* via impractical revenue-sharing arrangements between the TSOs
- Where effective cross-border participation hangs on TSOs concluding agreements to allow it, appropriate incentives and/or obligations on TSOs should be put in place

That is where the French regulatory framework has failed to allow the effective participation of foreign asset owners into its CRM. The French model applies an inter-TSO revenue sharing clause on rents from entry capacity allocation for the CRM. This revenue sharing is based on the existence and design of CRMs in neighbouring EU Member States (need to be similar to the French model) and on the conclusion by RTE of bilateral agreements with neighbouring TSOs. With limited perspective to benefit from revenues of the sale of entry capacity, and heavy processes and potential costs to allow the direct participation of assets in the French CRM, foreign TSOs have had no incentive to enter into negotiations with RTE. This has led to the *de facto* exclusion of foreign capacities from appropriate remuneration for the added security of supply they bring to the French system. We believe this is in contradiction with the principle of Article 26(1) of Regulation 2019/943.

For detailed explanations, we recommend reading our series of contributions to consultations on cross-border participation to the French CRM⁵ – as well as on the related ENTSO-E methodology⁶ that was largely inspired by the French model.

Measure 7: reinforce support measures for demand response

The goal of ensuring that those consumers who wish to participate directly in the market can do so is one we support. Clearly an active demand side would be hugely beneficial to bringing down the costs of energy for all consumers. Where regulatory or legislative barriers to the participation of consumers – directly or through intermediation – to electricity markets or balancing mechanisms exist, they should be removed in accordance with Directive 2019/944.

The primary driver for market participation of demand response is the electricity price. Consumers who may want to engage in and value the flexibility of their demand on the market will only be incentivised to do so if they see a financial benefit to it. Therefore, we consider it vital that impediments to the free formation of prices on electricity markets should be removed immediately – before entering into discussions about support measures. In the case of France, such impediments mainly relate to the role of the TSO taking balancing actions outside of the operating window, and blurring the lines between balancing and congestion management, which both have traditionally had a dampening effect on liquidity and competition in the intraday market.

⁵ See for instance the EFET paper on reform proposals to improve the current functioning of the French CRM and ensure effective participation of foreign capacities, dated 11 January 2018 and available at: https://efet.org/Files/Documents/Downloads/EFET%20paper_French%20CRM_11012018.pdf.

⁶ See the EFET response to the ENTSO-E consultation on methodologies for cross-border participation to capacity mechanisms, dated 13 March 2020 and available at: https://efet.org/Files/Documents/Downloads/EFET_ENTSOE%20consult%20XB%20CRM_13032020.pdf.

As far as access of demand response to balancing mechanisms themselves is concerned, most large users connected to the transmission grid have access to the energy-only market. Balance responsibility gives them a right to access the market and to trade with any other market participant, with the accompanying requirement to submit schedules and settle imbalances. A specific challenge regarding balance responsibility is for demand response for retail consumers. This will be gradually covered with the roll-out of smart meters. As soon as settlement and reconciliation processes are adapted for 15-minute metering for domestic consumers, suppliers can offer dynamic price contracts where consumers can respond accordingly (implicit demand response). Note that implicit demand already exists since many years but was limited to less dynamic retail prices for household consumers (e.g. static Time of Use contracts) or for consumers above certain voltage levels (commercial and industrial) which tend to have more sophisticated meters already.

Explicit demand response should also be allowed by way of ensuring that consumers can offer the flexibility of their demand to the wholesale market, directly or through an independent aggregator. The contribution of demand response in the delivery of balancing capacity and energy (FCR, FRR and RR) must be possible, as well as in non-frequency ancillary services. This requires that TSOs and DSOs express their balancing need in a technological neutral manner and accept offers that fit these needs, including where market participants aggregate different capacities into a pool.

Ultimately, the choice to participate actively in the market should remain that of consumers themselves. Many may not wish to do so and will want to feel they're getting a fair price and that they can trust the company(ies) supplying them (and the system overall). For them, retail suppliers will continue to carry the market risk and offer fixed-price contracts, but NRAs should not relinquish efforts to phase out regulated retail tariffs – save to preserve selected consumers from energy poverty. Offering a wide range of choices to consumers was, in many ways, the rationale for introducing market competition in the first place and we think that logic holds today.

Measure 8: develop specific procedures for processing storage connection requests by network operators in 2021, with further studies on the subject

Without entering into the specifics of the storage connection request procedures, we would like to recall our opposition to the operation by the TSO or DSOs of electricity storage assets. In 2017, an RTE-run project for the operation of batteries was approved by the regulator CRE, to the disappointment of EFET⁷.

The approval of the RTE-led RINGO project by CRE happened without constructive debate on the interaction between the regulatory framework and storage, in particular the role and responsibilities of market participants vs. system operators regarding the ownership and operation of storage assets⁸.

⁷ See EFET reaction to the RTE RINGO project, dated 16 October 2017 and available at: https://efet.org/Files/Documents/Downloads/EFET%20reaction%20RTE%20RINGO%20project_16102017.pdf.

⁸ See EFET response to the CRE survey on battery storage, dated 28 February 2019 and available at: https://efet.org/Files/Documents/Downloads/EFET_CRE%20storage_28022019.pdf.

In our view, electricity storage facilities should never be owned, developed, managed or operated by system operators for the following reasons:

- Network operators investing in electricity storage facilities undermines the unbundling principle, blurring the separation of the regulated electricity transportation/distribution business on the one hand, and market activities on the other hand. This can lead to conflicts of interests, where network operators would also act as a market participant.
- It distorts the dynamic competition between a wide range of future technologies, particularly the kind and scale of such technologies and whether they are being developed in a centralised or decentralised manner.
- Procuring market services will be cheaper than investments by system operators, because system operator assets can only be used for a limited range of purposes and the remaining value would be lost.
- Network operators are monopoly entities and therefore not subject to competitive pressure as their investment costs are socialised across network users. Any expansion of their activities thus carries the risk of: 1) increasing network tariffs to be paid by network users, and 2) putting the threshold for any new private investment at a higher level.

Where Member States allow otherwise, we urge them to follow the recommendations laid out in our guidance for the implementation of Directive 2019/944 on the question of electricity storage⁹. We take this opportunity to highlight that any procedures linked to the use and management of flexible capacity – whether they are connection rules or possible tenders run by the system operators – should be technically neutral in order to allow the market to propose services with the most appropriate technology possible – whether it be electricity storage, hybrid RES-E and storage, power-to-X or any other.

Measure 10: improve the valuation of injections and withdrawals from storage units on the balancing mechanism as of Q4 2021

Measure 11: allow the aggregation of storage units into balancing entities to facilitate their participation in the balancing mechanism (implementation in consultation with market participants)

Measure 12: create a tender for secondary reserve capacity as of October 2021, in order to facilitate the participation of storage units

We welcome this proposal to facilitate the participation of electricity storage assets in the balancing mechanism. As mentioned earlier in the case of demand response, the contribution electricity storage in the delivery of balancing capacity and energy (FCR, FRR and RR) must be possible, as well as in non-frequency ancillary services. This requires that TSOs and DSOs express their balancing need in a technological neutral manner and accept offers that fit these needs, including where market participants aggregate different capacities into a pool.

As far as procurement of reserve capacity is concerned, we support the implementation as soon as possible of competitive processes such as tenders. We welcome the evolution of the

⁹ See the EFET position paper on the ownership and operation of storage assets, dated 13 September 2019 and available at:
https://efet.org/Files/Documents/Downloads/EFET_SO%20Ownership%20of%20Storage_13092019.pdf.

secondary balancing capacity procurement process from mandatory bidding at a regulated price to competitive tenders. Tendering of balancing capacity by the TSO should be technology neutral, in order to allow all capacities (generation, demand response and storage) to participate.

Measure 14: allow self-consumers who benefit from a support mechanism to benefit from guarantees of origin for self-consumed electricity

For any production of renewable energy, we see it vital that the French government allows all producers to value the renewable attribute of the energy produced directly with the customers, without regard as to whether the producer benefits from a public support scheme¹⁰. However, in the case of self-consumption the producer and consumer are the same entity. Hence, while they should be able to claim – cancel – the guarantees of origin (GoOs) corresponding to their own consumption for declarative purposes, only the GoOs corresponding to the production of renewable energy in excess of their consumption should be allowed to be sold on the GoOs market.

Measure 17: Connection of RTE to the European PICASSO platform in October 2021

Measure 18: Connection of RTE to the European MARI platform in 2024

Measure 19: Switch to a 15-minute imbalance settlement period in connection with a switch to 96 gates in 2025

We welcome the development of the European platforms for the exchange of balancing energy. Considering the delays incurred in their implementation, we urge RTE to connect to these platforms as soon as they go live. This should be the case for aFRR on the PICASSO platform. However, while the go-live of the MARI platform for mFRR is planned for Q1 2022, we strongly regret that RTE has applied for a derogation to connect to the MARI platform until 2024 and see no good justification for it.

As regards the ISP, EFET is convinced that harmonising ISPs across borders would facilitate the integration and efficiency of intraday market, and therefore, allow BRP to better self-balance close to real time. In our view, balancing market reform should promote efficient and liquid markets across all timeframe, including the intraday market, to enable market participants to balance their position as close to real time as possible. Harmonising ISPs closer to real time should facilitate this, by improving both intraday trading close to real time (including across borders) and facilitating the cross-border procurement of reserve capacity and the exchange of balancing energy across borders.

The timing of the move to a 15-minute ISP should be established based on the expected benefits of the reform. EFET regrets the position of the French authorities to do it as late as possible, which lacks proper justification. The correct approach is to assess what are the modifications of market design/model that are necessary in order to fully benefit from a common, 15-minute ISP. For instance, working on the development and implementation of a liquid and healthy intraday market where market participants can trade products with

¹⁰ See for instance the EFET response to the French Energy Ministry consultation on a green certificates scheme for the promotion of biomethane, dated 2 March 2021 and available at: https://efet.org/Files/Documents/Downloads/EFET_DGEC%20biomethane%20support_02032021.pdf.

granularity aligned with the ISP. Indicators on the evolution of intraday liquidity could be used as one element allowing to quantify the benefits of a shorter ISP. Attention should also be paid to the benefits of a shorter ISP on the commercialisation of RES-E output and other flexible capacities, with a potential to stick closer to balance, minimise system imbalances and reduce subsidy expenditures¹¹.

Additional elements not addressed in the market reform plan

- **Imbalance price:** one element that is not addressed in the market reform plan is the imbalance price. RTE is currently studying the subject in consultation with market participants as the current design of the imbalance price does not provide an appropriate and reliable price signal, nor one that is available immediately after real time – but actually up to two years later. For more details on this topic, we invite the European Commission to read our recent position on the subject¹².
- **Pro-active balancing model:** we invite RTE to increase transparency on its “margin model” for balancing. EFET suggested reinforcing transparency around the “calls for margins”, and in particular having transparency on the actions undertaken by RTE to build the margins, as soon as these actions are triggered (in addition to the requested publications after each ISP). Also, transparency is needed around what happens when there are not enough margins. We think that a clear scarcity signal should be sent to the market, i.e. that the imbalance price increases all the way up to the value of lost load (VoLL) when margins are exhausted. Without this, the imbalance price is meaningless and does not send an appropriate signal in the other timeframes. As a result, the electricity price in intraday, day-ahead and forward is distorted. Finally, transparency on the impact that margins activation ahead of the operational window has on the imbalance price would be needed. When a unit is activated and runs at minimum load, we understand that no action is taken to reduce energy injected elsewhere. When getting closer to real time, this probably means that less mFRR or aFRR must be activated. This hides the true value of energy in real time and has a distortive impact on the imbalance price.
- **Balancing vs. congestion management:** at the moment, and especially in the context of “calls for margins” by RTE, there is no clear distinction between the TSO’s actions for balancing (for instance, when margins are called in order to free some capacity on running units) and actions taken to manage congestions at the time when those actions are activated. As long as RTE is allowed to perform margin calls, EFET believes that they should be accompanied by full transparency. The purpose and volume of activations should be transparently disclosed as soon as the bids are selected. This should allow the signal to the market and to the TSO to be clear, as soon as actions are triggered: congestion problems should be revealed in order to trigger the right investments (in transmission but also in generation, demand response, and storage); and they should not impact the imbalance price. In addition, there should be a fair

¹¹ See the EFET response to the CRE consultation on the RTE green book for electricity balancing, dated 20 January 2017 and available at: https://efet.org/Files/Documents/Electricity%20Market/Spot%20and%20short-term%20markets/EFET_CRE-consultation_Balancing_20012017.pdf.

¹² EFET letter to CRE on the reform of the imbalance price and the k factor, dated 8 June 2020 and available at: https://efet.org/Files/Documents/Downloads/EFET%20letter%20RTE%20CRE%20k-factor_08062020.pdf.

compensation for the BSP(s) that have not been selected. Today, there is a lack of proper market-based congestion management mechanism. This lack of compensation creates discrimination between market participants: some market participants lose an opportunity with their bid not being selected (“skipped bids”) despite being cheaper than the marginal price. We fully understand that the security and management of the grid might prevent some capacities to increase or reduce production or demand at a specific moment due to congestion problems. However, when such limitation occurs, there should be no opportunity loss inflicted on market participants without appropriate compensation.