



ACM consultation on the TSOs proposal of implementation of a European platform for the exchange of balancing energy from mFRR



EFET response – 4 March 2019

The European Federation of Energy Traders (EFET) thanks ACM for the opportunity to comment on the TSOs' proposal on the implementation framework for the future European platform for the exchange of mFRR. The methodology document submitted by the TSOs to the regulators is broadly similar to the version that was issued in the spring of 2018 for consultation among market participants.

We are happy to see that the TSOs listened to our comments on articles 2(2)(i) and 3(3)(d), and replaced the concept of “social welfare” by that of “mFRR economic surplus”. However, all the other concerns that we raised in June 2018 in our response to the TSOs consultation remain valid. In particular, the concept of elastic demand was maintained in the final proposal of the TSOs. We believe that this possibility for TSOs to price their demand on the MARI platform leads TSOs to act beyond their role of neutral market facilitators by imposing price caps on the standard mFRR product. Letting TSOs express their demand based on prices rather than system needs would place them in a role of market participant.

You will find detailed comments on individual articles in Annex 1 below (copy of our response to the TSOs consultation).

ANNEX 1: EFET response to the TSOs consultation on the implementation of a European platform for the exchange of balancing energy from mFRR, dated 29 June 2018.

Document also available at:

https://efet.org/Files/Documents/Downloads/EFET_mFRRIF%20consultation_29062018.pdf.

Art.1: No comment

Art. 2:

- **Art. 2(2)(g): Elastic demand:** We strongly disagree with the proposal to allow TSOs to price their demands to the MARI platform. By pricing their bids and offers, and putting them on the CMOL together with bids and offers from market parties, TSOs are directly active on the market and go beyond their role of neutral market facilitator. Indeed, rather than expressing a clear and straight need for a specific volume of the standard mFRR product, they will tie this need to a price limit. Acting this way, TSOs may also set the settlement price and impose de-facto price caps on the market. TSOs should not be marketing the energy from their imbalances, but simply procuring balancing energy to deal with their imbalances.

Market participants have in this regard never received a clear answer on the following questions, despite the fact that these questions have been explicitly raised in stakeholder forum and in consultations:

- Why TSOs cannot express the inherent uncertainty for acquiring balancing services for forecasted imbalances in volumes, while they can do so in prices?
 - How TSOs will in the future optimise their elastic balancing needs when the cost of competing balancing products – i.e. mFRR through the MARI project and aFRR through the PICASSO project – will depend both on the availability and needs in other countries that will only be clear after the TERRE platform (and MARI platform in case of optimization with aFRR) has closed?
- **[Comment not relevant anymore, issue fixed in the final TSO proposal]**
Art. 2(2)(l): Definition of social welfare: the TSOs' proposed definition of social welfare is inaccurate, in the sense that it defines social welfare taking into account exclusively the mFRR process. In no case should this definition give the impression that social welfare optimisation in the mFRR process alone would necessarily improve social welfare as a whole, taking into account other balancing processes and other market timeframes. Indeed, EFET considers the maximisation of social welfare as an objective of the mFRR AOF too broad given the limited scope of the mFRR process within the broader market. The maximisation of social welfare should be the outcome of the overall market functioning, of which the mFRR process is but a partial component. The mFRR process can contribute to the overall maximisation of social welfare by providing a clear signal to the market through cost-efficient activation of balancing energy.

Considering the mFRR process in isolation for any calculation of social welfare is therefore incomplete. The Electricity Balancing Guideline (EBGL) clearly reflects this reasoning in its objective of improved cost-efficiency and reduction in system imbalance and costs for society (EBGL Recital 11 and 14). The EBGL does not consider or mention the maximisation of social welfare as an objective for the balancing market alone, and thus even less so for an individual balancing process.

In connection with Art. 3(3)(d) and Art. 10(2)(a), we see a danger in including an objective of improving so-called “social welfare” in the optimisation algorithm if the welfare analysis will only concern the mFRR process. The main objective of the mFRR process should instead be brought in line with the EBGL to have as its objective the cost-efficient activation of mFRR balancing energy. If any consideration is to be given to the maximisation of social welfare, and the contribution of the mFRR process to social welfare, this should be done in a holistic consideration including other balancing platforms and other market timeframes, in particular the intraday timeframe. **EFET would prefer a more concrete objective of fulfilling TSO imbalance need using a market-based approach to achieve an efficient price signal.** This makes it clear that the mFRR platform task is activating the cheapest bids on the CMOL. At best, this definition of art. 2(2)(l) should be re-labelled as “mFRR platform surplus”.

- **Art. 2(2)(o): Direct activatable bids:** To improve the functioning of the mFRR joint activation process and avoid costly complexity, we strongly recommend that the system be built around the Scheduled Activation (SA) product only. An accurate dimensioning of automatic and manual reserves, especially as the two processes would be running concomitantly, would in our view make Direct Activation (DA) of the mFRR product unnecessary. Restricting the standard mFRR product to SA would benefit the system by significantly reducing complexity, lowering cost, and improving transparency. We recommend deleting this definition and adapting Art. 6 accordingly.

In case both scheduled and direct activatable bids are nonetheless maintained in the IF, we are concerned about consequences for trade, especially on CMOL definition and functioning. Though presented at the ENTSO-E Balancing workshop of 20 June, these elements still need to be clarified (see comments on Art. 9).

Art. 3:

- **[Comment not relevant anymore, issue fixed in the final TSO proposal]**
Art. 3(3)(d): Impact on social welfare: As mentioned in our comment to Art. 2, we see a danger in including an objective of improving so-called “social welfare” in the optimisation algorithm if the welfare analysis will only concern the mFRR process. The TSOs’ proposed definition of social welfare in Art. 2(2)(l) is inaccurate in the sense that it defines social welfare taking into account exclusively the mFRR process. Both the definition of Art. 2(2)(l) and the provision of Art. 10(2)(a)(i) could give the impression that social welfare optimisation in the mFRR process alone would necessarily improve social welfare as a whole. This is not the case, as the definition focuses on “mFRR platform surplus” only.

Would the definition of social welfare in Art. 2(2)(l) refer to all balancing processes and all market timeframe, then we would support the inclusion of this objective of maximising social welfare in the optimisation functions of the algorithm. However, and probably because the assessment of overall social welfare (not limited to the mFRR process) would likely be too complex to include in the mFRR process, then the optimisation function of the algorithm should focus on the single criterion of minimising the amount of mFRR energy activated, as laid out in Art. 10(2)(a). This criterion is both precise and accurate (contrary to the definition of social welfare proposed by the TSOs), and simple (contrary to what the implementation of an accurate definition of social welfare would lead to).

The reference ‘if this does not impact the social welfare’ should therefore be removed from Art.3(3)(d).

- **Art. 3(5): Access of TSOs to higher amounts of mFRR than submitted to the common merit order list:** we fully support this principle. Appropriate monitoring and reconciliation procedures must be established to avoid any potential free-riding behaviour on the side of an individual TSO: indeed, repeated activations of higher volumes of mFRR than submitted could be the sign of a structural under-dimensioning by a TSO of its needs, which would foreclose opportunities for BSPs connected to it to provide balancing services.
- **Art. 3(6): mFRR activation process:** It is unclear how BSPs will be informed about the results of the optimisation algorithm for the activation process. Will all BSPs be informed at the same time, only those that participated, or only those that participated successfully? In our view, all market participants should be informed at the same time to ensure the highest level of transparency.

Art. 4:

- **Art. 4(2)(b): Efforts to harmonise terms and conditions and prevalence of EB GL over national legislation:** Art. 4(2)(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 mFRR IF-compatible terms and conditions by the national TSOs. This would be in stark contradiction with Art. 18 of the EB GL and art. 15 of the mFRR IF. To avoid any confusion and in order to fully comply with the EB GL, Art. 4(2)(b) should be amended as follows: **“The TSOs shall harmonise the terms and conditions related to balancing proposed in accordance with Article 18 of EBGL.”**

Art. 5: No comments.

Art. 6:

- **Art. 6(3): Direct activatable bids:** To improve the functioning of the mFRR joint activation process and avoid costly complexity, we strongly recommend that the system be built around the Scheduled Activation (SA) product only. An accurate dimensioning of automatic and manual reserves, especially as the two process would be running concomitantly, would in our view make Direct Activation (DA) of the mFRR product unnecessary. Restricting the standard

mFRR product to SA would benefit the system by significantly reducing complexity, lowering cost, and improving transparency. **We recommend amending Art. 6 accordingly and deleting the definition of direct activatable bids in Art. 2(2)(o).**

In case both scheduled and direct activatable bids are nonetheless maintained in the IF, we are concerned about consequences for trade, especially on CMOL definition and functioning. Though presented at the ENTSO-E Balancing workshop of 20 June, these elements still need to be clarified (see comments in Art. 9).

- **Art. 6(3): Divisible bids:** We appreciate that the implementation framework foresees the possibility for both indivisible and divisible bids. However, part 2.6.4 of the explanatory document, while acknowledging the possibility for indivisible bids, suggests that “At the same time the TSOs foresee not allowing unforeseeably rejected divisible bids, which incentivises BSPs to bid indivisible in small amount in order to decrease the chance to be rejected.” We request explanation of this and a clear statement that indivisible bids with are allowed, without limitation.
- **Art. 6(3): Missing product characteristics:** we disagree with the TSOs’ argumentation that the harmonisation of standard product characteristics as per Article 25(4) EBGL is optional. To ensure a level-playing field in all the LFC areas in Europe, market participants should face the same risks and opportunities. While we understand that some elements will be left for national terms and conditions to be decided, nothing prevents TSOs to harmonise crucial points such as general rules, penalties and pre-qualification requirements to ensure a true level-playing field between market participants in different jurisdictions.

Art. 7:

- **Art. 7(1): 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 EBGL 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’ (art.24.2(a)) While the mFRR IF is clearly aware of this requirement, EFET questions whether the proposed BE GCT time of 25 minutes is indeed as close as possible to real-time. Specifically, the TSO GCT will retain 10 to 25 minutes before real-time. EFET requests that at least the ambition of TSOs be to have a

TSO GCT of 10 minutes, and bring the BE GCT in line with this value, i.e. 15 minutes before real time.

Beside the BE GCT, it is necessary to also include the BE GOT into the mFRR IF, or at least some common requirements for the BE GOT. From an operational point of view, it can be more efficient to submit balancing energy bids to the mFRR platform in bulk after e.g. the day-ahead market. Thereafter, BSPs can make further adjustments based on the outcome of intraday and other balancing markets. For this to work, a sufficiently early BE GOT is necessary. Therefore, the mFRR IF should require at least a minimum time for the BE GOT (e.g. after the day-ahead market is closed), if not a full harmonisation.

Art. 8:

- **Art. 8(1): TSO GCT:** the mFRR IF should include a clear timing for the TSO GCT and should be set as close to BEGCT as possible, rather than the range of 25 to 10 minutes proposed by the TSOs. The range is imprecise and has no place in the IF: would it mean that each TSO can submit their bids whenever they want within this range? Or will a precise TSO GCT be decided at a later stage within this range, to be applied by all TSO? What is the effect of setting the TSO GCT at 20 or 10 minutes before the validity period (or any value within that range) on the performance of the platform, including the optimisation function?

Also, from a practical point of you, how would a TSO GCT at 25 minutes before the validity period work if the BE GCT is at 25 minutes itself?

Art. 9:

- **Art. 9(5) to Art. 9(9): common merit order lists:** The wording of the TSOs proposal is quite imprecise, and it is unclear how many CMOLs there will actually be in the end. Our understanding from discussions so far was that there should only be two merit order lists, which differentiate upward and downward bids and offers, and which will continue to run with DA bids once SA bids have cleared. We would welcome a confirmation by the TSOs of our understanding. If the TSOs of the MARI project still consider keeping both DA and SA for the standard mFRR product, they should make clear that the DA and SA versions of the mFRR product cannot be considered different products, and should be part of the same CMOL. Treating them as separate products would have significant implications on the activation and settlement price.

EFET is confused about the description of the CMOLs for SA and for DA (art.9 (6) and 9 (8)). While the description of the CMOL for SA does not mention the inclusion of TSO balancing needs on the CMOL, the description of the CMOLs for DA does mention such TSO balancing needs. EFET understood that elastic balancing needs – which it strongly opposes – would be included in the SA activation cycle, while not in the DA activation cycle. However, the descriptions seem to imply exactly the opposite.

Art. 10:

- **Art. 10(2)(a): objective functions of the optimisation algorithm:** As mentioned in our comment to Art. 2, we see a danger in including an objective of improving so-called “social welfare” in the optimisation algorithm if the

welfare analysis will only concern the mFRR process. The TSOs' proposed definition of social welfare in Art. 2(2)(l) is inaccurate in the sense that it defines social welfare taking into account exclusively the mFRR process. Both the definition of Art. 2(2)(l) and the provision of Art. 10(2)(a)(i) could give the impression that social welfare optimisation in the mFRR process alone would necessarily improve social welfare as a whole. This is not the case, as the definition focuses on "mFRR platform surplus" only.

Would the definition of social welfare in Art. 2(2)(l) refer to all balancing processes and all market timeframe, then we would support the inclusion of this objective of maximising social welfare in the optimisation functions of the algorithm. However, and probably because the assessment of overall social welfare (not limited to the mFRR process) is too complex to include in the mFRR process, then the optimisation function of the algorithm should focus on the single criterion of minimising the amount of mFRR energy activated, as laid out in Art. 10(2)(a). This criterion is both precise and accurate (contrary to the definition of social welfare proposed by the TSOs), and simple (contrary to what the implementation of an accurate definition of social welfare would lead to).

The objectives of the optimisation algorithm should therefore state, in descending order of importance:

- (a) Maximising satisfaction of the mFRR demand of individual LFC areas;*
- (b) Minimising the total amount of activation of standard mFRR balancing energy product bids, avoiding counteracting mFRR activation through implicit netting;*
- (c) Minimising procurement costs of the balancing energy through the selection of the lowest-price bids on the Common Merit Order List;*
- (d) Minimising the amount of manual frequency restoration power exchange on each border between LFC areas.*

Art. 11: No comment.

Art. 12:

- **Art. 12(1): unjustified economic advantages:** as mentioned in our comment to art. 3(5), we believe that appropriate monitoring and reconciliation procedures must be established to avoid any potential free-riding behaviour on the side of an individual TSO: indeed, repeated activations of higher volumes of mFRR than submitted could be the sign of a structural under-dimensioning by a TSO of its needs, which would foreclose opportunities for BSPs connected to it to provide balancing services.

However, we see a danger in the first sentence of art. 12(1), "The rules concerning the governance and operation of the mFRR-Platform shall ensure that no participating TSO benefits from unjustified economic advantage through the participation in the mFRR- Platform":

- First, art.12(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 (limited to mFRR 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 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 mFRR 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: No comment.

Art. 14: No comment.

Art. 15:

- **Art. 15 (2): stakeholder involvement:** EFET welcomes the structural involvement of stakeholders in a formalised harmonisation framework. It can support the future further convergence of the mFRR balancing energy markets across Europe.

Art. 16: No comment.

Art. 17: No comment.

Other General comments on the proposal

Even though the mFRR IF makes no explicit reference to counter-activations between BSPs, Art.3(2)d implicitly refers to it by making activation/exchange minimisation conditional on social welfare optimisation, and the explanatory document dedicates chapter 3.3.1 to its implementation in the mFRR platform. EFET considers the mFRR platform as a tool for TSOs to procure mFRR balancing energy at the lowest costs. Performing counter-activations implies clearing trades between market participants, which should not be a function performed by a balancing energy procurement platform. Considering overall social welfare maximisation as the objective of the MARI platform – as an argument in favour of performing counter-activations - would ignore the many other markets that precede MARI and depend – among others – on its price signal for correct market actions. Such welfare maximisation assessment excludes indeed both the other balancing platforms and the electricity markets where market participants (re)balance their portfolios themselves. It would be

more correct and more closely in line with the aim of the project to state that the main objective is to minimise the procurement costs of the expressed mFRR needs of the participating TSOs.

Instead, market liquidity that allows BRPs to self-balance their perimeter should concentrate in the intraday market. Capacity offered on the mFRR platform in expectation to be counter-activated (across borders) against other market participants is lost to the intraday market, irrespective of whether BSPs expect to be activated by TSOs or be cleared against other (cross-border) market participants. Market participants should face a clear choice where to offer their capacity; on the balancing market or the intraday market. If the mFRR platform would offer potentially both, it will syphon liquidity away from the (local) intraday markets towards a hybrid balancing and market-clearing platform. This will be detrimental to intraday market liquidity, and to the ability of BRPs to balance their own perimeter. Therefore, it will eventually lead to an increased need for the activation of balancing energy. TSO arguments that these volumes will in any case be very limited should be an argument against such counter-activations as the implied social welfare loss will therefore also be limited while making the market design more transparent.

The mFRR IF also explicitly considers pricing/settlement as out-of-scope. However, several design choices can have an impact on the options that remain eventually possible for the settlement of balancing energy bids. The TSOs do recognise and mention this, albeit in the Annex of the explanatory document. There, TSOs state that cross-product pricing between SA and DA bids would be impossible in case of elastic needs. This is however only a partial view on the links between settlement and the design choices. As well as elastic balancing needs, the SA/DA activation sequence determines whether there can be cross-product pricing between SA and DA. If the SA activation cycle takes place after the DA activation cycle, the clearing price will be fully clear to the platform, and elastic bids can take this final clearing price into account.

EFET recognises the need to tackle settlement across the different processes and platforms and therefore welcomes the holistic approach of the TSOs, with a methodology publication foreseen in Q3 2018. However, the Implementation Framework should provide better transparency on the links between the choices in the IF and the options for settlement. If design choices in the IF would preclude settlement options, TSOs should be fully transparent about it and consider delaying final decisions on such design choices until the cross-product settlement discussion is finalised, or at least show a willingness to revisit the choices currently being considered.

We see serious uncertainties related to the technical linking of bids, when tendered for any other period than indefinite. Risks of double activation may arise, especially with the impossibility to link hour 24 of a day and hour 1 from the next day. The IF should clearly state that the technical linking of bids is possible even on between two procurement periods, how technical linking interacts with balancing capacity procurement, and if it only concerns free bids

or not. We would also appreciate if the combination of technical and economical linking is included in the implementation framework.

We notice that the mFRR IF does not tackle the issue of unavailable/unshared bids (barely mentioned in the explanatory document §4.1). Introducing the possibility for TSOs to flag some bids as unavailable for activation by the platform could introduce a discrimination between BSPs, since the BSP whose offers have been blocked could suffer, in some cases, a loss of opportunity despite being located in the same bidding zone as similar BSPs whose bids are not filtered. Therefore, we believe that allowing TSOs to discard standard bids should be conditioned to a fair compensation for the loss of opportunity to the impacted BSPs. For example, an upward offer with a price lower than the marginal price but flagged as unavailable should receive compensation equal to the difference between the marginal price and the offered price. It is also important that full transparency is made on TSOs' criteria for bids filtering.

Finally, TSOs have failed to use the opportunity of the MARI project to create a true level-playing field for market participants. Market participants should face the same risks and opportunities in all LFC areas. While we understand that some elements will be left for national terms and conditions to be decided, nothing prevents TSOs from harmonising crucial points such as general rules, penalties and pre-qualification requirements to ensure a true level-playing field between market participants in different jurisdictions.