Proposal for the exemption from the obligation to procure upward and downward balancing capacity for aFRR separately in accordance with Article 32 (3) of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing

[16/11/2018]

Elia, taking into account the following,

Whereas

1) This document is the proposal for the exemption of Elia System Operator (hereinafter referred to as "Elia") from the obligation to procure upward and downward balancing capacity for frequency restoration reserves with automatic activation (hereafter "aFRR") separately. This Proposal is hereinafter referred to as the "Proposal".

2) Article 32(3) of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing (hereafter "EBGL") stipulates, "*The procurement of upward and downward balancing capacity for at least the frequency restoration reserves and the replacement reserves shall be carried out separately. Each TSO may submit a proposal to the relevant regulatory authority in accordance with Article 37 of Directive 2009/72/EC requesting the exemption to this requirement […]*"

3) Article 1 of EBGL states, among others, that procurement rules for balancing capacity for frequency restauration reserves are laid down in the EBGL.

4) Elia currently does not procure jointly upward and downward balancing capacity for mFRR and as a result, this Proposal concerns only aFRR.

5) Pursuant to Article 5(4) of EBGL, the exemption included in this Proposal requires approval by each regulatory authority of each concerned Member State on a case-by-case basis.

6) Article 10(1) of EBGL stipulates, *"TSOs responsible for submitting proposals for terms and conditions or methodologies or their amendments in accordance with this Regulation shall consult stakeholders, including the relevant authorities of each Member State, on the draft proposals for terms and conditions or methodologies and other implementing measures for a period of not less than one month".*

7) Article 10(5) of EBGL stipulates that "A*t least the proposals pursuant to points (a), (b), (c), (d), (e), (f), (g) and (i) of Article 5(4) shall be subject to public consultation in each concerned Member State."*

8) In article 10(6) of EBGL, it is provided that *"TSOs responsible for the proposal for terms and conditions or methodologies shall duly consider the views of stakeholders resulting from the consultations undertaken in accordance with paragraphs 2 to 5, prior to its submission for regulatory approval. In all cases, a sound justification for including or not including the views resulting from the consultation shall be provided together with the submission and published in a timely manner before or simultaneously with the publication of the proposal for terms and conditions or methodologies".*

9) Article 65(2) of EBGL stipulates that *"For Articles […] 32 […], this Regulation shall apply from one year after entry into force of this Regulation.*

10) This Proposal has been developed in the general framework of continuous improvement of aFRR market. This Proposal is consistent with the conclusions of two studies performed by Elia in 2018 "Separate procurement of FCR and aFRR products" and "New aFRR design". These studies were consulted and the views of the stakeholders were considered in the final versions. The learnings of a previous pilot project "R2 non-CIPU" were also considered in the Article 3 of this Proposal for the justification of this exemption.

11) This Proposal contributes to the objectives of EBGL as stated in Article 3(1)(b), Article 3(1)(e) and Article 3(1)(f) of EBGL. The impact on these objectives is explained in Article 3(2) and Article 3(3) of this Proposal as they are directly related to the explicit requirements of the Article 32(3) of EBGL.

SUBMITS THE FOLLOWING PROPOSAL FOR THE EXEMPTION FROM THE OBLIGATION TO PROCURE UPWARD AND DOWRWARD BALANCING CAPACITY FOR AFRR SEPARATELY IN ACCORDANCE WITH Art. 32(3) of EBGL TO CREG.

Article 1 - Subject matter and scope

1. Elia currently procures balancing capacity for Frequency Containment Reserves and Frequency Restoration Reserves with automatic activation in a common auction. In this auction, both symmetric aFRR bids (upward and downward balancing capacity offered in the same bid) and asymmetric aFRR bids are allowed.

2. Article 32(3) of EBGL provides that the procurement of upward and downward balancing capacity for at least the frequency restoration reserves and the replacement reserves shall be carried out separately. Each TSO may submit a proposal to the relevant regulatory authority in accordance with Article 37 of Directive 2009/72/EC requesting the exemption to this requirement. The proposal for exemption shall include:

    a) specification of the time period during which the exemption would apply;
    b) specification of the volume of balancing capacity for which the exemption would apply;
    c) analysis of the impact of such an exemption on the participation of balancing resources pursuant to Article 25(6)(b) ;
    d) justification for the exemption demonstrating that such an exemption would lead to higher economic efficiency.

3. The proposal is compliant with the requirement of the Article 32(3) of EBGL. The period during which the exemption applies pursuant to Article 32(3)(a) of EBGL is mentioned in Article 3(4) of this Proposal. The volume of balancing capacity for which the exemption applies pursuant to Article 32(3)(b) of EBGL is mentioned in Article 3(1) of this Proposal. The analysis of the impact of the exemption pursuant to Article 32(3)(c) of EBGL is developed in Article 3(2) of this Proposal. The justification demonstrating that the exemption leads to higher economic efficiency pursuant to Article 32(3)(d) of EBGL is given in Article 3(3) of this Proposal.

Article 2 - Definitions and interpretations

1. For the purposes of this Proposal, the terms used in this document shall have the meaning of the definitions included in EBGL and COMMISSION REGULATION (EU) 2017/1485 establishing a guideline on electricity transmission system operation.

2. In addition, in this Proposal, the following definition shall apply:
    "Must run costs" are the additional short-term costs incurred and calculated on the contractual period, to bring assets not planned to be dispatched for day-ahead or intraday markets for economic reasons to the generation level required for providing aFRR.

3. In this document:
    (a) headings are inserted for convenience only and do not affect the interpretation of this Proposal; and

(b) any reference to legislation, regulation, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force.

Article 3 – Exemption from the obligation to procure upward and downward balancing capacity for aFRR separately

1. Elia proposes an exemption from a separate procurement of upward and downward balancing capacity for the entire volume of balancing capacity for aFRR procured.

2. The impact of this Proposal on the participation to the aFRR procurement of demand facility owners, third parties, owners of power generating facilities from renewable energy sources or owners of storage will be limited for the following reasons:
    (a) The balancing service providers that are not able to provide symmetric bids for upward and downward balancing capacity have the option to provide separate bids for upward and downward balancing capacity.
    (b) These providers are currently contractually not allowed to participate in the aFRR market. Even if they would contractually have the possibility to participate, the following reasons make the aFRR provision less attractive for them:
        i. Current pro-rata activation leads to continuous activation which makes the requirements hard to achieve.
        ii. Weekly procurement requires a certainty of availability for the offered volume over the whole period and an ability to forecast for a relatively long period.
        iii. These providers can face a non-selection due to:
            1. Lack of bidding obligations that request all balancing service providers offering symmetric aFRR bids to also offer the volume in an asymmetric way, thereby leading to sufficient volumes of asymmetric products in either direction to cover the needs of the system.
            2. In the bid selection process, an asymmetric bid of one BSP has to be matched with another asymmetric bid in the opposite direction in order for Elia to ensure the required total service. As a result, BSPs offering asymmetric bids may not be selected due to the absence of competitive bids in the opposite direction.
3. This Proposal for exemption will lead to higher economic efficiency in aFRR procurement. The reason is that a separate procurement of upward and downward aFRR may prevent the assets with must run costs to distribute efficiently their must run costs in their upward and downward bid. This may result in inefficient selection of the bids that may result in higher procurement costs. As long as assets with must run costs are unavoidably selected in the aFRR market, a symmetric procurement will lead to a higher economic efficiency, at least for the short term until the market evolves.

4. Elia proposes that the exemption from a separate procurement of upward and downward balancing capacity for aFRR applies until 15 December 2021.
    (a) This duration will allow adapting the necessary technical and market requirements listed in Article 3(2)(b) which will make effective and efficient the participation of new providers, and to have a sufficient period to observe the evolution of the aFRR market and the avoidability of assets that may face must run costs.
    (b) Elia shall re-evaluate the need for the exemption at the latest 6 months before the end of the exemption, possibly leading to a new proposal for exemption. The re-evaluation shall be based on the volumes of exclusively asymmetric bids offered until this time in the aFRR market.