
Proposed amendments to the general conditions for balancing services¹ (T&C FCR, T&C aFRR, T&C mFRR), restoration services² (T&C RSP), voltage and reactive power services³ (T&C VSP), and services related to congestion management⁴ (T&C OPA, T&C SA)

12 November 2021

¹ In application of article 18 of the Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing

² In application of article 4 of the Regulation (EU) 2017/2196 establishing a network code on electricity emergency and restoration

³ In application of article 234 of the Federal Grid Code of 22 April 2019

⁴ In application of articles 46, 49 and 52 of the Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation and in application of articles 244 and 246 until 252 of the Federal Grid Code of 22 April 2019

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THE BELGIAN TRANSMISSION SYSTEM OPERATOR ELIA, TAKING INTO ACCOUNT THE FOLLOWING,

Whereas

- (1) Elia Transmission Belgium SA (hereafter referred to as "ELIA") is responsible for the operation of the Belgian transmission system, for which it holds a right of ownership or at least a right of use. ELIA has been designated as Transmission System Operator pursuant to the Act of 29 April 1999 on the organization of the electricity market, and ensures the safety, reliability and efficiency of the Belgian transmission system.
- (2) In application of article 18 of the Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, of article 4 of the Regulation (EU) 2017/2196 establishing a network code on electricity emergency and restoration, of article 234 of the Federal Grid Code of 22 April 2019 and of articles 46, 49 and 52 of the Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation and in application of articles 244 and 246 until 252 of the Federal Grid Code of 22 April 2019, ELIA has adopted the Terms & Conditions (T&C) for balancing services (Terms and conditions for manual frequency restoration service ("T&C mFRR"), automatic frequency restoration service ("T&C aFRR"), and frequency containment reserve service ("T&C FCR")), for restoration services (Terms and conditions to act as Restoration Service Provider ("T&C RSP")), for voltage and reactive power services (Terms and Conditions for voltage and reactive power services ("T&C VSP")) and for services related to congestion management (Terms and conditions for Outage Planning Agents ("T&C OPA"), and Scheduling Agents ("T&C SA")). Those Terms & Conditions have been approved by the competent regulatory authorities.
- (3) These Terms & Conditions contain an identical set of General conditions. Those General Conditions include the provisions relating to invoicing, liability, confidentiality, review and dissolution, among other things.
- (4) According to the applicable legislation and regulations, ELIA can request a modification of these Terms & Conditions. In this respect, amendments are proposed to the aforementioned General conditions. Considering the nature of these General conditions, it had already been decided to keep them the same for all the above-mentioned services. Therefore, one public consultation is organized for these amendments to the General conditions of all Terms & Conditions involved.
- (5) This proposal for amendments is submitted to consultation from 12 November 2021 until 12 December 2021 and will be submitted for approval to competent regulatory authorities.

SUBMITS THE FOLLOWING PROPOSED AMENDMENTS TO THE COMPETENT REGULATORY AUTHORITIES:

PART I: Amendments to the General Conditions for balancing services (T&C FCR, T&C aFRR, T&C mFRR), restoration services (T&C RSP), voltage and reactive power services (T&C VSP), and services related to congestion management (T&C OPA, T&C SA)

General

The amendments that are proposed to the General conditions also include the correction of typos, of inconsistencies between the different language versions and of inconsistencies between the various Terms & Conditions.

**Article I.1
Definitions**

- (1) In the first paragraph of Article I.1, the term “regulations” is inserted between the words “EU network codes” and “and guidelines”.
- (2) In Article I.1, the word “The” is deleted at the beginning of the definitions of CACM, EBGL and SOGL.

**Article I.3
Rules of interpretation**

- (3) In the title of Article I.3, the word “Additional” is deleted.

**Article I.4.1
Entry into force of this Contract**

- (4) In the second paragraph of Article I.4.1, the words “between the Parties” are deleted.
- (5) In the third paragraph of Article I.4.1, the words “between the Parties” are deleted.

**Article I.6.4
Caps**

- (6) In Article I.6.4, the last sentence is deleted.

**Article I.7.1
Emergency situation**

- (7) In Article I.7.1, the following footnote is added after “as defined in the applicable legislation and regulations”: “Including article 72 of CACM; article 16.2 of the Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 and article 16.2 of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity.”

- (8) In Article I.7.1, the following sentence is added at the end of the paragraph: “Except if Elia notifies expressly otherwise and/or except in case of a provision of the applicable legislation and regulations stating otherwise, the Service Provider will continue to fulfil its obligations as foreseen under this Contract during this situation.”

Article I.7.2 Alert, Emergency, Black-out and Restoration state

- (9) In Article I.7.2, the footnote included after “as defined in the applicable legislation and regulations” is replaced by the following footnote: “Including article 3 of SOGL.”
- (10) In Article I.7.2, the following sentence is added at the end of the paragraph: “Except if Elia notifies expressly otherwise and/or except in case of a provision of the applicable legislation and regulations stating otherwise, the Service Provider will continue to fulfil its obligations as foreseen under this Contract during this situation.”

Article I.7.3 Force Majeure

- (11) In Article I.7.3, the following amendments are made:
- In the fourth paragraph, the word “paragraph” is replaced by “section”;
 - In the third bullet of the fourth paragraph the words “(also including closed distribution grids)” are included after “elements of the grid”;
 - A fifth bullet is included in the fourth paragraph stating as follows: “the temporary or continuing technical impossibility for a closed distribution grid to exchange electricity because of disruptions within the closed distribution grid caused by events on the Elia grid not attributable to the closed distribution system operator and resulting in disruptions on the closed distribution grid which the closed distribution system operator could not reasonably be expected to prevent or to handle;”;
 - In the sixth bullet of the fourth paragraph the words “(also including closed distribution grids)” are included after “to operate the grid”;
 - In the fifth paragraph, the words “by phone and/or by mail” are replaced by “in writing (by letter or by e-mail)”;
 - In the sixth paragraph, the words “the transmission system” are deleted.

Article I.10.1 Amendments to the main body of this Contract (General and Specific Conditions) and generally applicable Annexes

- (12) In Article I.10.1, the following is added at the end of the last paragraph “, except if the Service Provider is the grid user subject to an obligation to ensure delivery of the Service according to the applicable legislation and regulations, without prejudice to the right of the grid user to designate a third party as Service Provider”.

Article I.10.2 Amendments to Party-specific annexes

- (13) In Article I.10.2, the word “party” is three times replaced by “Party”.

Article I.11 Premature dissolution in case of serious default

- (14) In Article I.11, the last sentence is replaced as follows: “The Contract will be suspended or terminated without prejudice to any legal action available to the impacted Party against the defaulting Party, including a claim for damages.”

Article I.12.4 Transfer of rights

- (15) In Article I.12.4, the first sentence is replaced as follows: “The rights and obligations specified in the Contract may under no circumstances, either wholly or in part, be transferred without the prior written permission of the other Party (except for transfers to undertakings affiliated to Elia in the sense of article 1:20 of the Belgian Code of Companies and Associations for which no such permission shall be required).”

Article I.14 Protection of personal data

- (16) A new Article I.14 is included stating as follows:
“Protection of personal data
In the context of this Contract, both Parties shall process personal data in accordance with the data protection legislation.
Elia and the Service Provider act as separate data controllers for the personal data that they process in the context of the Services, subject to cases where factual analysis would indicate a different relationship.
Before any processing of personal data between the Parties, the Parties will consult each other on the applicability, consequences and implementation of the applicable legislation and regulations, and on the processing possibilities.
The Parties guarantee that they will process all personal data in a strictly confidential fashion and that they will inform all the employees and/or named individuals taking part in the processing of said data of the confidential nature of said data and the associated security procedures. The Parties will ensure that their employees and/or designated persons only have access to personal data in so far as that is necessary for the correct performance of their respective duties.”