

Febeliec answer to the Elia Consultations on the CRM and LCT Capacity Contracts

Febeliec would like to thank Elia for the consultations on the CRM and LCT Capacity Contracts. Febeliec will at this point not provide comments on the specific articles of the capacity contracts, although this should not be interpreted as an agreement of Febeliec with the content of the contracts. However, Febeliec wants to raise some specific and fundamental general concerns with the LCT capacity contract and its legal and regulatory framework, which it has also already voiced during the meetings of the WG Adequacy of Elia as well as other consultations related to the LCT. Febeliec finds it impossible to provide any meaningful comments on a tender and related capacity contract where the legal and regulatory framework are still unknown. By lack of the legal framework, including at least a modification of the Electricity Law as well as potentially one or several Royal Decrees, and regulatory framework, with as of yet still no approved Functioning Rules and other related documents, it is clearly impossible to validate whether the proposed LCT Capacity Contract provides a comprehensive contractual framework for participants.

On the regulatory framework, in particular but not limited to the Functioning Rules, Febeliec still does not find a clear answer on the definitions of “new” capacity as well as “low carbon”, specific for the LCT and not the CRM framework, while also continuing to struggle to understand how capacities contracted in the CRM could be allowed to participate also to the LCT tender (while ensuring that no excessive remuneration and potential windfall profits are granted), or even less how capacities contracted in the LCT for multiple years could seamlessly be switched to the CRM Capacity Contract (Cf. art 3.6 of the LCT Capacity Contract) with quite some differences in the consulted (but not yet approved) proposed Functioning Rules of both the LCT and CRM (e.g. related to the secondary market, but also monitoring, penalties, ...).

Febeliec strongly wants to refer to its primary concern of the lack of a clear and stable legal and regulatory framework, which makes the usefulness of this consultation at the current timeframe questionable.