

EXPLANATORY NOTE ON THE AMENDMENTS OF THE T&C BRP FOLLOWING THE REQUEST FOR AMENDMENT OF THE CREG OF 11 MARCH 2021

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Introduction

In October 2020, Elia organized a public consultation on the proposal for amendment of the Terms and Conditions for Balance Responsible Parties (hereafter referred to as “T&C BRP”) in the context of the implementation of Transfer of energy (ToE) for the day-ahead and intraday markets and the requests formulated by the CREG in decision (B)1913/2 of 27 May 2019 and (B)2013 of 2 December 2019, and the VREG in decision BESL-2019-23 of 27 June 2019. In December 2020, Elia submitted the proposal for amendment of the T&C BRP for approval. In March, the CREG provided a letter to Elia in which the CREG indicated to apply article 6(1) of the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, and requested Elia to amend article 9.1 of the BRP Contract in order to approve the submitted T&C BRP.

This note serves as an explanation for the amendments of the T&C BRP made by Elia in response to this request for amendment of the CREG. An overview of the proposed changes is discussed in the section below.

The updated Proposal for amendment of the T&C BRP has been submitted for approval to the CREG.

Proposed changes relative to the suspension and termination of the BRP Contract

The following principal changes have been made to Article 9.1 on request of the CREG:

- In Article 9.1.1, the possibility of Elia to launch the general suspension procedure after formal notice has been restricted to cases of a serious fault of the BRP with respect to his obligations as specified in the Federal Grid Code and the BRP Contract. Correspondingly, clarifications have been provided as to what can be considered as a serious fault with respect to the obligations for which Elia can start the general suspension procedure. In addition, a list of serious contractual breaches for which Elia will in any case launch the general suspension procedure has been added upon request of the CREG. This concerns serious shortcomings to the obligations in the articles 5.2, 8, 14, 16, 17, 18 and 24.
- In Article 9.1.1, the start of the period of minimally 10 and maximally 35 calendar days after which the suspension becomes effective has been clarified. This period starts on the date at which the registered notice confirming the suspension is sent by Elia to the BRP. This registered notice confirming the suspension can be sent by Elia to the BRP after the period during which the BRP has the possibility to justify and remedy its contractual breach has ended. The exact duration of this period during which the BRP has the possibility to remedy and/or justify its contractual breach is specified in the notice of the start of the suspension procedure.
- Article 9.1.2 has been modified to consider the request of the CREG to restrict the immediate suspension procedure exclusively to cases where the operational security of the grid is compromised as a result of a serious fault of the BRP with respect to his obligations. Two faults have been specified explicitly, namely a fault with respect to the obligations specified in Article 16 of the BRP Contract and the obligations specified in Article 24 of the BRP Contract. The latter, as any other serious fault that compromises the security of the grid, form the cases for which Elia can suspend a BRP immediately. As a result, the possibility to launch the immediate suspension procedure in case of payment default not covered by the financial guarantee has been removed.

- In Article 9.2.2, in line with the changes in Article 9.1.1, the condition a) for which Elia can terminate the BRP contract has been adapted by referring to serious faults of the BRP with respect to his obligations.
- In Article 9.2.2, in line with the changes in Article 9.1.2, the condition b) for which Elia can terminate the BRP contract has been restricted to behavior of the BRP that compromises the security of the grid.
- In Article 9.3, it has been clarified that the re-inscription of a BRP to the Register of BRPs takes place within 3 days after the end of the suspension.