CONSULTATION REPORT

# Report on the public consultation regarding *the incentive on prequalification, control, and penalties for the aFRR and mFRR services*

December 23rd, 2023

# Contents

# 1. Introduction

Elia organized a public consultation from September 22, 2023, to October 23, 2023, regarding the incentive study on prequalification, control, and penalties for the aFRR and mFRR services.

Belgian Market Parties have been invited on multiple occasions to express their views, from bilateral exchanges taking place at the start of 2023 to the organization of 2 workshops before the summer period, with the opportunity for Market Parties to give informal feedback between each event. Elia has also considered the older feedbacks from Market Parties from the latest public consultations on T&C BSP aFRR and T&C BSP mFRR.

The purpose of this report is to consolidate the feedbacks received during the public consultation organized in the context of this study, while at the same time reflecting Elia's position on these reactions. After the public consultation, a 3rd workshop took place with Market Parties on November 24 to discuss the integration of their reactions in the final report or the motivation not to retain certain reactions. The minutes of the 3rd workshop are published on Elia's website.

# 2. Feedback received

In response to the public consultation, Elia received non-confidential replies from the following parties:

- Centrica
- FEBEG
- FEBELIEC

No responses were received that were designated as confidential.

All responses received haven been appended to this report in section 6[1]. These reactions, together with this consultation report, will be made available on Elia's website.

# 3. Instructions for reading this document

This consultation report is structured as follows:

- Section 1 contains the introductory context,
- Section 2 gives a brief overview of the responses received,
- Section 3 contains instructions for reading this document,

[1] Feedback received after the public consultation deadline is not documented in the present consultation report but has been considered by Elia as much as possible in the final study report.

- Section 4 discusses the various comments received during the public consultation and Elia's position on them,
- Section 5 describes the next steps,
- Section 6 contains the annexes of the consultation report.

This consultation report is not a 'stand-alone' document but should be read together with the proposal submitted for consultation, the reactions received from the market participants (annexed to this document) and the final study report.

Section 4 of the document is structured as follows:

| Subject/Article/Title | Stakeholder | Comment | Justification |
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| A | B | C | D |

A. Subject covered by the question(s)/feedback(s) received.
B. Stakeholder having provided the question/feedback.
C. Question/feedback received by the stakeholder:
   - In doing so, an attempt was made to list/consolidate all comments received and to argue whether or not they should be taken into account.
   - In order to maintain authenticity, the comments have been copied as much as possible in this document. However, the comments have sometimes been shortened and term have been uniformed to make them easier to read.
D. ELIA's answer to the question/feedback received, including the reasons why ELIA has or has not taken the stakeholder's feedback into account in the final proposal. This column does not contain the final proposal. For this purpose, the final report must be consulted.

# 4. Comments received during the public consultation

## 4.1 General comments received during the public consultation

This section provides an overview of the general reactions and concerns of market players that Elia received to the document submitted for consultation.

| SUBJECT | STAKEHOLDER | FEEDBACK RECEIVED | ELIA'S VIEW |
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| **General comment** | *FEBELIEC* | Febeliec understands that Elia wants to have prequalification and control elements built into the design of its services, yet Febeliec is adamant that these should not lead to undue barriers of entry (as any requirements will create, even if small, barriers), as it is very important that all flexibility that could deliver these services can find its way to offer them. | Elia agrees with the stakeholder regarding undue barriers of entry. Elia is confident that the new prequalification process proposal, with the reduction of the prequalification test time-window, the possibility to prequalify a different power in the upward and downward directions in aFRR, and the transfer of the prequalified volume from the BSP to the grid user without a new prequalification test, helps decreasing entry barriers.<br>By reopening the design of the penalty for MW Made Available, Elia also aimed at lowering the risk for penalties (which may also be seen as an entry barrier) and make the penalty scheme more effective.<br>The proposal for the activation control aFRR is also intending to remove entry barriers, in particular for free bids.<br>Elia reminds nonetheless the need to ensure that the acquired volume in the capacity auctions is available for activation, and more generally to maintain a high quality of the service. |
| | *CENTRICA* | Centrica thanks Elia for the opportunity to provide comments to the consultation on the prequalification, control, and penalties for the aFRR and mFRR services. | Elia thanks the stakeholder for its comment. |

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| **Overall process and approach of Elia** | *FEBEG* | A few months ago Elia organized bilateral meetings with various stakeholders during which several members of FEBEG have expressed their deep concerns about a critical issue stemming from the current design, i.e. the fact that the monthly remuneration, which is currently subject to penalties, encompasses both capacity remuneration and activation remuneration. As neutral market facilitator Elia should at least consider all feedbacks from market participants. FEBEG is therefore disappointed that this feedback – which is a crucial point for FEBEG members - is not taken into account in the list of with 'all market feedback'.<br>The disappointment was amplified when FEBEG members noticed that Elia also did not consider the feedback given by FEBEG in the T&C mFRR public consultation (published on Elia website on 23/10). Where it simply mentions that penalties are "the right amount" which was certainly never expressed by FEBEG members. In addition, we consider the process of linking this incentive and the consultation on T&C mFRR as not acceptable. First mFRR availability tests are not in the scope of the incentive. And second, Elia should not conclude based on discussions in workshops (on topics such as this incentive with DL on 23/10) on topics that are still being discussed and consulted with market parties and use these preliminary conclusions (not shared by all market parties) in a very important consultation such as the T&C mFRR. We ask Elia to only use feedback given officially on the consultations, and also to not mix feedback given on consultations with a different scope. | Elia would like to remind that the scope of this incentive was presented during the first WG Balancing of the year (02/02/2023) for discussion purposes, inviting Market Parties to have bilateral meetings with Elia in order to update their positions on the designs regarding prequalification, control, and penalties of the aFRR and mFRR services, and/or to come up with other concerns lying in the scope of the incentive. During the 1st workshop of this incentive (08/05/2023), the final scope was presented, which did not include the penalty for Missing MW (linked to a failed availability test) as Elia understood that there were no strong concerns from Market Parties on the penalty itself, but rather on the way Elia selects the contracted energy bids to be tested and the associated frequency of testing (on this, Elia refers to the incentive for the implementation of smart testing which Elia will conduct in 2024). Elia did not receive further reaction on this during nor after the workshop and therefore focused on the penalty for MW Made Available and the penalty of the aFRR activation control on which multiple concerns were raised. The criticality of this point may therefore have been underestimated by Elia.<br>Elia highly values Market Parties' feedback (formal or informal) and takes time addressing it. However, changing the scope of the present study based on a concern on the penalty for Missing MW mentioned during the public consultation on the T&C BSP mFRR was deemed unfeasible by Elia as the public consultation for this incentive was going to take place very soon after the end of the public consultation on the T&C BSP mFRR and time was missing to start a discussion on a completely new topic.<br>Elia notes however FEGEG's request in the public consultation on this incentive study to reconsider the penalty for Missing MW |

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| | | | and is open to future discussions on a potential new design. Therefore, the alternative proposed by FEBEG is developed in the final report, with its advantages and drawbacks, in order to serve as the basis for the future discussions with the market parties that shall take place before the public consultation of the corresponding amendment of the T&C BSP aFRR and T&C BSP mFRR. |
| **Implementation plan** | *CENTRICA* | **Centrica urges Elia to accelerate the implementation and present an ambitious roadmap.**<br>To unlock additional volumes in aFRR and mFRR, we emphasize the urgent need to clearly commit on the implementation of necessary adjustments to prequalification, penalty, and activation control rules prior to the end of 2024. This aligns with our earlier feedback from May and June 2023, as well as numerous instances in previous years. We anticipate that Elia's final report will contain an ambitious implementation plan, prioritizing these design changes for early 2024. | Elia duly notes Centrica's request but reminds that due to the end of the implementation of the "PIM" projects (PICASSO - iCAROS - MARI) foreseen in 2024, Elia will not have the time or resources necessary to implement the changes foreseen in the framework of this incentive by early 2024 as suggested. Furthermore, for all design changes proposed in the framework of this incentive, the T&C BSP aFRR and/or mFRR need to be amended, for which (public consultation and) regulatory approval processes are already foreseen with a different scope. It is the intention to include most changes for implementing the conclusions of the present study in the following review of the T&C BSP, according to the roadmaps discussed in the WG Balancing.<br>Besides, some design discussions, notably on the penalty for MW Made Available and that of the activation control aFRR, require additional discussions with market participants considering the most recent feedback received in the framework of this incentive, and a lack of consensus between Elia and market parties.<br>However, some design features that were clearly supported in the public consultation and do not require large implementation efforts, such as the reduction of the prequalification test time-window or the possibility to modify the baseline during an aFRR |

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| | | | availability test, may already be included in the T&C BSP aFRR that is planned for consultation next year.<br>Elia invites Centrica to refer to the implementation plan presented in the final report of this incentive. |

## 4.2 Specific comments received during the public consultation

| SUBJECT | STAKEHOLDER | FEEDBACK RECEIVED | ELIA'S VIEW |
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| **Onboarding and Prequalification** | *FEBEG* | FEBEG is supportive of streamlining the service and removing barriers, as this could encourage smaller assets and renewables to participate in the service. This, in turn, may introduce more competition into the FRR markets and enhance liquidity, potentially resulting in less extreme pricing fluctuations. | Elia thanks the stakeholder for its comment and agrees with it. |
| | *FEBELIEC* | On **prequalification**, Febeliec appreciates the proposal of Elia and the opening towards more flexible and intelligent modification of pools and switching of BSPs, changes in the prequalification windows asymmetrical test, etcetera, as this will help market functioning. Febeliec nevertheless sees these merely as first (and unsatisfactory) steps. Febeliec remains adamant that the proposal of Elia does not solve all issues and still takes ample time (up to several weeks) to be completed, while also tests can only be conducted for a delivery point and can only be part of one prequalification test (meaning that a.o. it is not possible to test for several pools, to see where the best match could be found or to prepare transition towards future different pools). Febeliec remains of the principle that prequalification should only consist of a communication/IT test, and that delivery should be tested during operations (as is the case in other countries), where delivery penalties and other arrangements should be sufficient to ensure | Elia considers it necessary from a system security perspective, without prejudice to new methods to be developed for the participation of very small and/or fully standardized assets, to test at least once the capability of the (combination of) asset(s) to deliver the service before relying on it as contracted reserves. As explained in the report for public consultation of this incentive, the prequalification test also allows Elia to assess the contribution of the DPs used during the test, which may not be possible with the activation of energy bids, due to the portfolio activation.<br><br>Based on current information on the NC DR, the ex-ante prequalification test will be the default practice for standard balancing products. Elia's proposal is therefore robust in a context of a future harmonization of the PQ process. |

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| | | correct delivery. In any case will any prequalification test only deliver some visibility on the capabilities and capacities of a given BSP, as each test will only be a picture of one specific moment in time. Febeliec also considers this in line with SOGL, which requires a “prequalification process”, and does not stipulate the necessity for a test of volumes (such process could e.g. entail testing of communication protocols). Febeliec remains in favor of an ex-post validation, as this would introduce the smallest possible entry barrier, also stating that the fact that Elia does consider it “not comfortable” to remove a full prequalification test as an insufficient justification (also taking into account that other countries currently apply this SOGL-compliant approach without major concerns). | Elia will continue to look for improvements of the prequalification process for all balancing products in line with the future NC DR and CCMD discussions. |
| **Penalties – general** | *FEBELIEC* | On **penalties**, Febeliec insists that it should not be possible for a BSP to arbitrage between controls and penalties, as this would quickly lead to potential system concerns. Moreover, Febeliec is adamant that penalties should have a clear penalizing function, which implies that these should not merely lead to losing the expected revenue for a specific moment for which a test was conducted, but also ensuring through its penalizing effect that the service is continuously delivered as contracted. Febeliec remains very strict about this as any non-delivery of services not only lead to unnecessary payments towards BSPs, but also can create additional cost increases for alternatives that were needed in case of non-delivery, impact on the competitive positions of BSPs in the merit order and even in the most extreme scenarios to system risks or even total system collapse. Febeliec of course understands that there needs to be a trade-off, as too high penalties could lead to higher overall system costs, yet it should also not lead to too low penalties. Moreover, Febeliec wants to stress that BSPs are not exposed to any penalties if the contracted services are correctly delivered according to the product requirements. Febeliec principally supports progressive penalties, insofar they strike a correct balance between the objectives of allowing broad participation of existing participants as well as new entrants and giving the correct incentives towards responsible behavior of BSPs. As such, Febeliec can | Elia agrees with the stakeholder’s comment, especially on the fact that a BSP should not be incentivized to not declare an unavailability to avoid the related penalty, while exposing itself to the penalty resulting from a failed availability test or that linked to the associated activation control. This is something Elia aimed at by changing the penalty for MW Made Available.<br>On the stakeholders’ question to which extent the proposal entails sufficient incentives towards BSPs for correct delivery of the contracted service, Elia expects that the new penalty schemes proposed provide the right incentives. Firstly, the penalty designs described in the final report for MW Made Available aim at the right balance between incentivizing BSPs to submit their unavailabilities (i.e. not reaching too high penalty levels which would lead BSPs to rather take the risk to be activated or tested via an availability test), and incentivizing BSPs to commit to their Capacity Obligations.<br>Secondly, the new penalty for activation control aFRR, as presented in the report for public consultation and adapted to consider one of the stakeholders’ feedback during the PC, addresses |

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| | | support the proposals of Elia, although it still questions to which extent the proposal entails sufficient incentives towards BSPs for correct delivery of the contracted service. | the issues linked to today's design, such as that linked to the monthly granularity, which may lead to arbitrage when a large price spread occurs in a given month (as a discrepancy at the end of the month may impact the remuneration of the start of the month), or the fact that a discrepancy linked to a non-contracted bid impacts the capacity remuneration.<br>After the go-live of those new penalty schemes, following an in-depth analysis of the monitored data, Elia will come back to the Market Parties via the WG Balancing and, if the conclusions of the analysis recommend it, propose an adaptation of the penalty factors. |
| **Penalty for MW Made Available** | *CENTRICA* | **Centrica supports the calculation of the average compliance and welcomes the clarifications on the factor and compliance threshold values.**<br>We endorse Elia's latest suggestion regarding the calculation of average compliance, as detailed in chapter 3.2.3 of the report:<br>$\boxed{average\ compliance_{up}(D) = \frac{\sum_{Qhs\ in\ last\ 15D}^{Qhs\ in\ future\ 15D} min\left(Nominated\ volume_{Qh_{up}}, Obligation_{Qh_{up}}\right)}{\sum_{Qhs\ in\ last\ 15D}^{Qhs\ in\ future\ 15D} Obligation_{Qh_{up}}}}$<br>We agree that assigning greater weight to larger obligations and making sure that smaller unavailabilities don't bear equal weight will improve the precision and effectiveness of MW Made Available penalty. This will promote fair competition between intermittent and non-intermittent technologies. Moreover, summing data over quarter hours clarifies the calculation within a CCTU. | Elia thanks the stakeholder for its comment. |
| | *FEBEG* | FEBEG is not overly concerned about this issue. The awarded capacity will continue to be made available in auctions to Elia. An issue could arise due to an operators' oversight or an IT problem, but such occurrences are very rare and unlikely. FEBEG regrets that there is no contractual process that provides an exemption from penalties in such cases. At the same time, no form of compensation is stipulated if the issue originates from Elia's systems. | As Elia needs reliable energy bids for balancing the grid, Elia expects BSPs to have reliable IT system and operators and as such, Elia does not foresee a penalty exemption for such cases. The same rationale holds for Elia's IT system and operators: since it is a legal requirement for Elia to maintain the balance of the grid, Elia is sufficiently incentivized to have reliable IT systems and operations. |

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| | | Furthermore, these penalties invite BSPs to make use of the transfer of obligation which contributes to the grid security. FEBEG can only notice that transfer of obligations are used in a more limited way than the usual forced outage rate any technology is facing. | |
| **Penalty for aFRR activation control** | *FEBEG* | FEBEG would like to remind that the CCGT pricing is based on either a must-run cost or an opportunity cost, depending on whether the CSS (clean spark spread) is positive or negative. This pricing is significantly influenced by the Belpex price in comparison to the operational costs: the price is at its lowest when the CSS is close to 0 and becomes progressively more expensive as the absolute value of the CSS increases. The margin is relatively small compared to the must-run/opportunity cost.<br>Therefore, being penalized for discrepancies in the total remuneration amount for activation is a rather severe measure. It also leads to an increase in penalties when, for example, gas prices rise, as in the case of a positive CSS. This results in a significant increase of our opportunity costs, as was the situation in 2022 during the energy crisis. For this reason, the maximum amount considered in the total capacity monthly remuneration for which a penalty applies should be restricted. This is a crucial point as the penalty does not accurately represent the actual margins on the product, especially for gas-based assets when gas prices are high, resulting in increased must-run/opportunity costs.<br>On top of that, penalizing the total remuneration amount for activation discrepancies is discriminatory and lacks technology neutrality, given the fact that the total capacity remuneration is often much closer to the margin for technologies other than gas turbines. FEBEG therefore asks for the implementation of a penalty solely on activation, while leaving capacity penalty-free. The rationale for this proposal is the following:<br>• Market players would still have a strong incentive to follow the aFRR signal to the best of their abilities in order to avoid penalties | Elia takes note of FEBEG's concerns but reminds that Elia should not pay for a service that is not delivered, regardless of the cost of the supplier to deliver the service. The new design proposal for the activation control aFRR *is* technology neutral insofar Elia applies the same penalty scheme to all technologies, regardless of the margin/capacity remuneration of the BSP.<br>Although further discussions are probably necessary with FEBEG to fully understand their concerns and, possibly, adapt design proposals, Elia wants to provide preliminary thoughts on the several arguments that FEBEG presented to remove the capacity remuneration from the penalty formula:<br>• <u>On the incentive to follow the aFRR signal</u>: this incentive may not be sufficient in absence of component related to capacity remuneration to avoid "overselling" balancing capacity.<br>• <u>On the penalty for MW Made Available</u>: Elia reminds that it is up to the BSP to submit its unavailable capacity. Actual availability should in theory be controlled by availability tests. To limit the use of such tests and related costs for the BSPs and the system, Elia proposed to use the outcome of the activation control aFRR to assess the availability of the capacity.<br>• <u>On the high activation prices submission to avoid being fully or partially activated</u>: should this be the case and result in rare activations indeed, Elia may still trigger |

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<li>There already exists a penalty for ‘MW not made available’ to control the actual availability of awarded capacity in the market</li>
<li>Some actors might submit very high activation prices to avoid being fully or partially activated, thus avoiding penalties altogether. Such a mechanism would be less discriminatory towards gas units that are in the beginning of the merit order and are therefore activated more frequently</li>
<li>Overly excessive penalties based on the capacity remuneration will likely prompt taking into account these risks in the capacity bidding and which ultimately could result in higher costs for final consumers.</li>
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In such a scenario, FEBEG would not oppose an increase in the penalty factor on the activation part to compensate for the removal of the capacity remuneration component from the penalty formula. It is believed that this adjustment would lead to a fairer design that is less dependent on market circumstances.<br>
Elia's proposal to decouple the penalties for capacity and activation is a significant change. Penalties for activation discrepancy will now be determined by QH (Quarter Hour) instead of monthly, while penalties for capacity discrepancy will be assessed on a weekly basis. This change has several consequences for us:
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<li>Previously, all calculations were done on a monthly basis, with the total revenue calculated accordingly. However, this approach meant that for down bids, it ended up in paying Elia, resulting in a decrease in our remuneration and a lower overall total. Moving to a Quarter Hour (QH) granularity eliminates this effect, and will lead to a penalization for the sum of the absolute values of the QH remuneration instead of the absolute value of the sum of the remuneration.</li>
<li>FEBEG deems that the penalty on capacity remuneration is neutral compared to the current design. Rarely capacity is lacking and only very seldomly free bids are placed on top of contracted bids, so the expectation is that the underdelivered part of the penalty is 50% of the total activation discrepancy. However this is offset by the new capacity factor which increases</li>
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availability tests. Such bidding strategy would in addition be questionable from a REMIT perspective.
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<li><u>On the increase in costs for final consumers due to the consideration of the “overly excessive” penalties in the capacity bidding</u>: Elia acknowledges that all penalties are somehow priced in the bids submitted. Penalties should therefore not be higher than what is needed to induce a proper behavior of the market party, but should on the other hand equally apply to all market parties and technologies to be technology neutral.</li>
<li>Elia is opposed to an increase of the energy penalty factor to “compensate” the removal of the component related to capacity remuneration since it would unduly increase the risk on the submission of non-contracted energy bids, which Elia wants to foster.</li>
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On the change of the penalty granularity from monthly to QH:
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<li>Elia understands FEBEG’s concern on the consequence the QH granularity has on downward bids with positive prices. Elia presented an amended energy penalty scheme in the 3rd workshop of this incentive, by decreasing the penalty factor from 1.25 to 0.25 in case the BSP pays Elia to be activated. More information may be found in the final report of this incentive.</li>
<li>Elia simulated the total amount of penalties that would have been paid by all BSPs combined based on the design proposals described in the report submitted for consultation (without change in BSP behavior) and did not observe an overall penalty increase as expected by</li>
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| | | from 1.3 to 2.5. Taking into account the increased penalty for activation in point a, an overall penalty increase is expected.<br>• If the penalty is computed based on the weekly remuneration, the logical consequence is that the total aggregated penalty may not exceed the weekly remuneration. This is a crucial provision in the T&C aFRR that should by no means be dropped. | FEBEG. After the implementation of any new penalty design, Elia will closely monitor the penalty and BSP performance levels and adapt the penalty factors if necessary.<br>• On the weekly remuneration cap, Elia disagrees with FEBEG's reasoning: the penalty granularity and the penalty settlement are two different things. For instance, the penalty for Missing MW (resulting from a failed availability test) is not capped to the CCTU remuneration when the test took place. Likewise, the energy penalty for activation control aFRR is not capped to the QH remuneration. It is to be noted that, given the good service quality experienced up to now and the resulting relatively low penalties, Elia does not expect the monthly cap to have an impact on the penalty levels. |
| | *FEBELIEC* | Febeliec specifically remains with questions regarding penalties (p29) there is e.g. an underdelivery and penalties are not applied up to the level of the obligation up, as it seems that this leads to an insufficient penalty (the BSP should be able to provide the entire contracted capacity and thus missing the requested energy should also lead to penalties regarding the capacity that was also not available). | As explained in the report for public consultation of this incentive, the aFRR Capacity Underdelivery is capped to the aFRR Capacity Requested and not up to the Capacity Obligation, because else the resulting discrepancy may be larger than 100%.<br>Elia understands Febeliec's comment as such: if the aFRR Supplied is below the aFRR Requested and the Obligation, the penalty should apply to the entire Obligation above the aFRR Supplied, and not to the difference between the aFRR Requested capped to the Obligation and the aFRR Supplied.<br>Elia considered Febeliec's proposal to compare the aFRR Supplied with the Obligation, but came to the conclusion that it was preferable to compare it with the aFRR Capacity Requested (equal to the aFRR Requested capped to the Obligation), for the reasons illustrated on the example below, with 2 situations: |

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| | | | 1. **<u>The aFRR Requested is low compared to the Obligation Up:</u>** it may be excessive to penalize up to the Obligation Up whereas BSP was only requested a small part of its Obligation. The penalization scheme could incentivize BSPs to overdeliver whereas the objective is to incentivize BSPs to follow the 4s-signal. Additionally, the underdelivery may result from a steering issue or from the failure of a small part of the BSP's portfolio (meaning that should the entire Obligation have been requested, other assets would have been activated, which may not have failed).<br>2. **<u>The aFRR Requested changes sign and the BSP has some delay:</u>** in that situation, the aFRR Capacity Underdelivery / Obligation would be larger than 100%, which means BSP would be penalized in capacity beyond its Obligation.<br>Should it be noticed that some bids are frequently activated for a part of their volume and while not being able to deliver the full bid volume when requested, availability tests may have to be triggered more frequently. |

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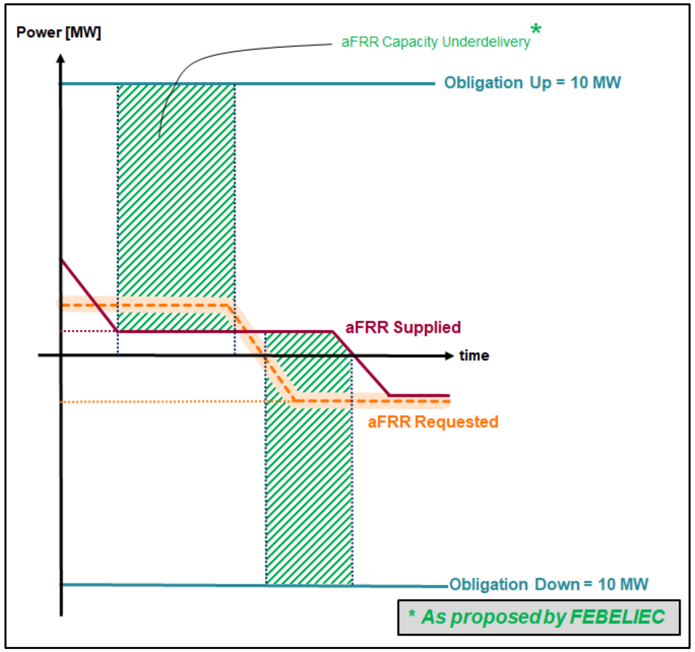
| | | |  |
| **Penalties calibration** | *FEBEG* | FEBEG believes that making 2 clusters i.e. factor 1 and factor 2 does not address correctly the issue to penalize faulty responses. Factor 1 suggests that a BSP is reliable while factor 2 would conclude the opposite. This raises the issue that a BSP could fall in factor2 while he made an overall good job and had only limited failures. Obviously, the reality is much more nuanced than these binary categories. FEBEG recommends to have a more linear (instead of clustered) approach because it will depict a fairer image of the reality. A progressive penalty factor which represents the percentage of successes/ failures seems much more desirable and will be less likely to invite BSPs to include unnecessary risks in the bidding strategy. | Elia thanks FEBEG for its feedback. As a reminder, the calibration of the penalty for MW Made Available aims at incentivizing the BSP to fulfill its obligations towards Elia whilst not discouraging it to declare an unavailability.<br>Elia wants to be clear that BSPs should aim at a 100% compliance, as Elia expects 100% availability of its contracted reserves (the reserves dimensioning is calculated with the assumption that they are 100% available). Elia certainly does not want to give the message to the market that an average compliance between 100 and 95% is considered “good” while a lower average compliance is considered “bad”. |

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| | | | Elia has analyzed FEBEG's proposition to have a linear progression in the penalty scheme. Elia concluded that it induces a more complex design, and the BSP might be tempted to arbitrage the submission of unavailable contracted bids based on the evolution of its average compliance.<br>Besides, one of the feedbacks Elia received relates to design complexity, which should be limited. Elia proposes therefore another design for the penalty for MW Made Available, which may be found in the final report of this incentive. |
| | *FEBELIEC* | On the penalties calibration, Febeliec wants to refer to its above comments and insists that penalties should be incentivizing enough to ensure a correct behavior from BSPs (and to avoid any gaming), in a trade-off with overall system impact. Febeliec is in favor of removing as much as possible barriers for participation, but this should not jeopardize, whenever a BSP is selected and participates, delivery of the contracted services for which grid users pay. | Elia agrees with the stakeholder's comment. |
| **Forced Outages** | *CENTRICA* | **Centrica maintains the stance that addressing Forced Outages must be an integral part of the penalty rules, and requests more transparency from Elia.**<br>As previously emphasized in our feedback during the workshops on 8 May and 22 June 2023, we firmly assert that the treatment of Forced Outages holds significant importance in the discussion on penalties. We have put forward a method to incorporate these aspects transparently, aiming to create a level playing field for all BSPs:<br>"*One possible approach to address Forced Outages is the introduction of an additional compliance threshold, with an associated penalty factor (factor0). This factor0 could be set at 0.0, and the compliance threshold could be defined at 99.5%. This level approximately represents a full renomination during one CCTU block per month. By setting this threshold, Elia can openly communicate* | The penalty waiver exclusively applies in case of a Forced Outage (FO), to give the possibility for a BSP to find an alternative way (in its own portfolio or on the secondary market) to fulfill its obligation, mitigating the need to price such unavoidable risk in the bid price. The goal of a penalty waiver is not to introduce a free tolerance for unavailabilities that could be avoided by the BSP. Note that the reserve dimensioning rules do not consider un unavailability of the contracted volume. The introduction of a *factor0*, as described in the stakeholder's comment, seems therefore inappropriate, as it could incentivize a BSP to submit a higher volume than the volume actually available, or to take avoidable operational risks, without facing a penalty.<br>On the definition of FO, Elia refers to SOGL Art. 3 (77). In any case, Elia invites CBS to discuss concrete cases to clarify with Elia |

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| | | *the acceptable level of Forced Outages to BSPs, ensuring transparency and fostering clear expectations*."<br>It is disappointing to note that Elia's report entirely overlooks addressing this topic. While we acknowledge Elia's potential concern regarding the impact on penalties, we would have appreciated a thorough explanation as to why this proposal was not explored further. Alternative solutions, such as setting factor0 to 1.0, could also be considered, ensuring that no penalty or remuneration is applicable for unavailability levels deemed acceptable by Elia.<br>In the absence of the suggested approach for handling Forced Outage, we strongly recommend that penalties not be waived for Forced Outage cases, except in situations where Elia bears the responsibility.<br>To promote transparency and establish clear expectations from BSPs, we urge Elia to clarify the definition of Forced Outage, openly communicate the acceptable level of Forced Outages, and establish a well-defined connection with the penalty rules. | whether or not they would qualify as FO. For instance, an outage resulting from the negligence of the market party would not qualify as FO as it has to be out of market party's control. |

# 5. Next steps

As explained in the final report of the incentive, additional discussions with Market Parties will take place before kicking-off the discussions related to a proposal for amendment of the T&C BSP aFRR and T&C BSP mFRR to include the new penalty design proposals.

# 6. Attachments

The reactions Elia received to the document submitted for consultation:

- Centrica
- FEBEG
- FEBELIEC

**Contact**

**Elia Consultations**
Consultations@elia.be

**Elia System Operator SA/NV**
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**centrica**

# Public consultation on the prequalification, control, and penalties for aFRR & mFRR

23 October 2023


**Executive summary**

Centrica thanks Elia for the opportunity to provide comments to the consultation on the prequalification, control, and penalties for the aFRR and mFRR services.

The proposed changes aim to revise the control and penalty system, as well as the prequalification conditions and processes. Centrica would like to offer the following comments to support Elia in achieving those objectives:

- We support the calculation of the average compliance and welcome the clarifications on the factor and compliance threshold values.
- We maintain the stance that addressing Forced Outages must be an integral part of the penalty rules and request more transparency from Elia.
- We urge Elia to accelerate the implementation and present an ambitious roadmap.


## Centrica supports the calculation of the average compliance and welcomes the clarifications on the factor and compliance threshold values

We endorse Elia's latest suggestion regarding the calculation of average compliance, as detailed in chapter 3.2.3 of the report:

$$average\ compliance_{up}(D) = \frac{\sum_{Qhs\ in\ last\ 15D}^{Qhs\ in\ future\ 15D} min\left(Nominated\ volume_{Qh_{up}}, Obligation_{Qh_{up}}\right)}{\sum_{Qhs\ in\ last\ 15D}^{Qhs\ in\ future\ 15D} Obligation_{Qh_{up}}}$$

We agree that assigning greater weight to larger obligations and making sure that smaller unavailabilities don't bear equal weight will improve the precision and effectiveness of MW Made Available penalty. This will promote fair competition between intermittent and non-intermittent technologies. Moreover, summing data over quarter hours clarifies the calculation within a CCTU.

## Centrica maintains the stance that addressing Forced Outages must be an integral part of the penalty rules, and requests more transparency from Elia

As previously emphasized in our feedback during the workshops on 8 May and 22 June 2023, we firmly assert that the treatment of Forced Outages holds significant importance in the discussion on penalties. We have put forward a method to incorporate these aspects transparently, aiming to create a level playing field for all BSPs[1]:

[1] Centrica feedback to Elia workshop on 22 June 2023

> "*One possible approach to address Forced Outages is the introduction of an additional compliance threshold, with an associated penalty factor (factor0). This factor0 could be set at 0.0, and the compliance threshold could be defined at 99.5%. This level approximately represents a full renomination during one CCTU block per month. By setting this threshold, Elia can openly communicate the acceptable level of Forced Outages to BSPs, ensuring transparency and fostering clear expectations*."

It is disappointing to note that Elia's report entirely overlooks addressing this topic. While we acknowledge Elia's potential concern regarding the impact on penalties, we would have appreciated a thorough explanation as to why this proposal was not explored further. Alternative solutions, such as setting factor0 to 1.0, could also be considered, ensuring that no penalty or remuneration is applicable for unavailability levels deemed acceptable by Elia.

In the absence of the suggested approach for handling Forced Outage, we strongly recommend that penalties not be waived for Forced Outage cases, except in situations where Elia bears the responsibility.

To promote transparency and establish clear expectations from BSPs, we urge Elia to clarify the definition of Forced Outage, openly communicate the acceptable level of Forced Outages, and establish a well-defined connection with the penalty rules.

**Centrica urges Elia to accelerate the implementation and present an ambitious roadmap**

To unlock additional volumes in aFRR and mFRR, we emphasize the urgent need to clearly commit on the implementation of necessary adjustments to prequalification, penalty and activation control rules prior to the end of 2024. This aligns with our earlier feedback from May and June 2023, as well as numerous instances in previous years[2]. We anticipate that Elia's final report will contain an ambitious implementation plan, prioritizing these design changes for early 2024.

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2 E.g. Working Group Balancing in September 2022, Workshop on mFRR design review 2022 in March 2021, consultation on mFRR design note in February 2021, consultation on T&C BSP aFRR in April 2020, Working Group Balancing in November 2019, consultation on T&C mFRR in November 2019, workshop on T&C mFRR 2020 in September 2019, etc.

POSITION

Subject: FEBEG comments on ELIA's public consultation on the prequalification, control, and penalties for the aFRR and mFRR services

Date: 23 October 2023

Contact: Jean-François Waignier
Telephone: +32 485 77 92 02
Mail: jean-francois.waignier@febeg.be

FEBEG thanks ELIA for having the opportunity to react to ELIA's Public consultation on the prequalification, control, and penalties for the aFRR and mFRR services in the framework of a CREG incentive[1].

The inputs and suggestions of FEBEG are not confidential.

# FEBEG comments and suggestions

## Overall process and approach of Elia

A few months ago Elia organized bilateral meetings with various stakeholders during which several members of FEBEG have expressed their deep concerns about a critical issue stemming from the current design, i.e. the fact that the monthly remuneration, which is currently subject to penalties, encompasses both capacity remuneration and activation remuneration. As neutral market facilitator Elia should at least consider all feedbacks from market participants. FEBEG is therefore disappointed that this feedback – which is a crucial point for FEBEG members - is not taken into account in the list of with 'all market feedback'.

The disappointment was amplified when FEBEG members noticed that Elia also did not consider the feedback given by FEBEG in the T&C mFRR public consultation (published on Elia website on 23/10). Where it simply mentions that penalties are "the right amount" which was certainly never expressed by FEBEG members. In addition, we consider the process of linking this incentive and the consultation on T&C mFRR as not acceptable. First mFRR availability tests are not in the scope of the incentive (see print-screens in annex). And second, Elia should not conclude based on discussions in workshops (on topics such as this incentive with DL on 23/10) on topics that are still being discussed and consulted with market parties and use these preliminary conclusions (not shared by all market parties) in a very important consultation such as the T&C mFRR. We ask Elia to only use feedback given officially on the consultations, and also to not mix feedback given on consultations with a different scope.

## aFRR activation control

FEBEG would like to remind that the CCGT pricing is based on either a must-run cost or an opportunity cost, depending on whether the CSS (clean spark spread) is positive or negative. This pricing is significantly influenced by the Belpex price in comparison to the operational costs: the price is at its lowest when the CSS is close to 0 and becomes progressively more expensive as the absolute value of the CSS increases. The margin is relatively small compared to the must-run/opportunity cost.

[1] https://www.elia.be/en/public-consultation/20230922_public-consultation-on-the-prequalification-control-and-penalties-for-the-afrr-and-mfrr

Therefore, being penalized for discrepancies in the total remuneration amount for activation is a rather severe measure. It also leads to an increase in penalties when, for example, gas prices rise, as in the case of a positive CSS. This results in a significant increase of our opportunity costs, as was the situation in 2022 during the energy crisis. For this reason, the maximum amount considered in the total capacity monthly remuneration for which a penalty applies should be restricted. This is a crucial point as the penalty does not accurately represent the actual margins on the product, especially for gas-based assets when gas prices are high, resulting in increased must-run/opportunity costs.

On top of that, penalizing the total remuneration amount for activation discrepancies is discriminatory and lacks technology neutrality, given the fact that the total capacity remuneration is often much closer to the margin for technologies other than gas turbines. FEBEG therefore asks for the implementation of a penalty solely on activation, while leaving capacity penalty-free. The rationale for this proposal is the following:

- Market players would still have a strong incentive to follow the aFRR signal to the best of their abilities in order to avoid penalties
- There already exists a penalty for ‘MW not made available’ to control the actual availability of awarded capacity in the market
- Some actors might submit very high activation prices to avoid being fully or partially activated, thus avoiding penalties altogether. Such a mechanism would be less discriminatory towards gas units that are in the beginning of the merit order and are therefore activated more frequently
- Overly excessive penalties based on the capacity remuneration will likely prompt taking into account these risks in the capacity bidding and which ultimately could result in higher costs for final consumers.

In such a scenario, FEBEG would not oppose an increase in the penalty factor on the activation part to compensate for the removal of the capacity remuneration component from the penalty formula. It is believed that this adjustment would lead to a fairer design that is less dependent on market circumstances.

Elia's proposal to decouple the penalties for capacity and activation is a significant change. Penalties for activation discrepancy will now be determined by QH (Quarter Hour) instead of monthly, while penalties for capacity discrepancy will be assessed on a weekly basis. This change has several consequences for us:

- Previously, all calculations were done on a monthly basis, with the total revenue calculated accordingly. However, this approach meant that for down bids, it ended up in paying Elia, resulting in a decrease in our remuneration and a lower overall total. Moving to a Quarter Hour (QH) granularity eliminates this effect, and will lead to a penalization for the sum of the absolute values of the QH remuneration instead of the absolute value of the sum of the remuneration.

- FEBEG deems that the penalty on capacity remuneration is neutral compared to the current design. Rarely capacity is lacking and only very seldomly free bids are placed on top of contracted bids, so the expectation is that the underdelivered part of the penalty is 50% of the total activation discrepancy. However this is offset by the new capacity factor which increases from 1.3 to 2.5. Taking into account the increased penalty for activation in point a, an overall penalty increase is expected.

- If the penalty is computed based on the weekly remuneration, the logical consequence is that the total aggregated penalty may not exceed the weekly remuneration. This is a crucial provision in the T&C aFRR that should by no means be dropped.

### Penalty factors

FEBEG believes that making 2 clusters i.e. factor 1 and factor 2 does not address correctly the issue to penalize faulty responses. Factor 1 suggests that a BSP is reliable while factor 2 would conclude the opposite. This raises the issue that a BSP could fall in factor2 while he made an overall good job and had only limited failures. Obviously, the reality is much more nuanced than this binary categories. FEBEG recommends to have a more linear (instead of clustered) approach because it will depict a fairer image of the reality. A progressive penalty factor which represents the percentage of successes/ failures seems much more desirable and will be less likely to invite BSPs to include unnecessary risks in the bidding strategy.

### Onboarding and prequalification

FEBEG is supportive of streamlining the service and removing barriers, as this could encourage smaller assets and renewables to participate in the service. This, in turn, may introduce more competition into the FRR markets and enhance liquidity, potentially resulting in less extreme pricing fluctuations.

### Penalty for MW not available

FEBEG is not overly concerned about this issue. The awarded capacity will continue to be made available in auctions to Elia. An issue could arise due to an operators' oversight or an IT problem, but such occurrences are very rare and unlikely. FEBEG regrets that there is no contractual process that provides an exemption from penalties in such cases. At the same time, no form of compensation is stipulated if the issue originates from Elia's systems.
Furthermore, these penalties invites BSPs to make use of the transfer of obligation which contributes to the grid security. FEBEG can only notice that transfer of obligations are used in a more limited way than the usual forced outage rate any technology is facing.

## Conclusion

FEBEG deeply regrets that its main point, i.e. the fact that the penalty for capacity discrepancy encompasses both the capacity remuneration and the activation remuneration, is not even considered by Elia. Elia should strive for a technology-neutral market design putting all market actors on a level playing field while ensuring that the service is actually delivered. At this stage, FEBEG considers the proposal as unfair and unbalanced. In order to rebalance the proposals while facilitating the access of aggregators in the market, at least the capacity remuneration should be removed from the activation control penalty.

# ANNEX

## T&C Consultation BSP mFRR

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| **Availability Test** | *FEBEG* | We would like to reiterate that the penalties applied on the availability tests (in Annex 11) are very punitive and somehow disproportionate compared to the income a BSP can make. Furthermore, it is lacking continuity. Failing 2 availability tests out of 100 activations per year is not the same as failing 2 tests out of 3 activations per year. FEBEG asks ELIA to recalibrate this penalty formula. In this sense we welcome the foreseen workshops, and we will actively participate in the discussions. | ELIA understands and wants to remind that this was already discussed as part of the Workshop on the "prequalification & penalties for aFRR and mFRR" incentive. During those discussions, ELIA understood that the penalties have the right amount but that the occurrence should be reviewed. The review of "test recurrence" has been specifically |
| | *FEBEG* | The availability tests (Art II.13.2) could be executed and published in a more transparent way. For instance, units often activated and performing well throughout the year should not be tested in the same manner as units being seldomly/never activated. It does not provide learning and it creates useless emissions (for thermal means). FEBEG asks ELIA that the trigger to launch an availability test should follow a transparent and published methodology. | included in the Smart Testing incentive (cf. incentive study of 2020 and related implementation plan), which will be implemented in 2024. ELIA also wants to remind that the purpose of the activation control is to check that the right volume is delivered. As the activation control is now portfolio-based, the BSP has always the choice to use other DPs than the ones included in its bid to deliver the requested volume. The purpose of an Availability test is different: it is to ensure that the volume offered in a contracted bid is available and that a lack of volume cannot be compensated through volume offered in another bid. |

## INCENTIVE on mFRR and mFRR

### 1.1 Scope of the incentive

The incentive consists of, for aFRR and mFRR balancing services:

- For prequalification
  - Description of existing prequalification requirements/criteria, prequalification processes (including timing and preparatory steps at the BSP (Balancing Service Provider);
  - Identification, in consultation with Market Parties, of potential barriers to participation and qualitative assessment of the impact of prequalification requirements on market development.
- For control and penalties
  - Identification of the parameters and criteria used in the existing checks and penalties associated with participation in the aFRR or mFRR service and relating to compliance with the obligations resulting from the offer of balancing capacity ("Missing MW" and "MW not made available") and to activation control (the aspects related to the activation control of mFRR which are introduced in the new design, and which therefore require feedback after connection to MARI are **not** part of the incentive);
  - Identification and assessment of the impact of each of the elements identified above on the participation of market players in operational and/or financial terms, in consultation with market players.
- For the 2 parts, on the basis of the list of obstacles to the participation and their impact
  - Identification, in consultation with Market Parties and with the CREG, of the priorities that will be addressed within the framework of the incentive;
  - For those topics identified as priorities, identification, and analysis of alternative approaches to facilitate market participation and proposal to modify the approach, including any preconditions to be met before implementation.

The possible adaptation of the T&C BSP aFRR or mFRR and the implementation of the resulting modifications are **not** part of the incentive.

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## Febeliec answer to the Elia consultation on prequalification, control and penalties for the aFRR and mFRR services

Febeliec would like to thank Elia for this consultation on prequalification, control and penalties for the aFRR and mFRR services. Febeliec would also like to refer to the comments it made during the previous discussions on these topics during the WG Balancing of Elia as well as dedicated workshops.

Febeliec understands that Elia wants to have prequalification and control elements built into the design of its services, yet Febeliec is adamant that these should not lead to undue barriers of entry (as any requirements will create, even if small, barriers), as it is very important that all flexibility that could deliver these services can find its way to offer them.

On **prequalification**, Febeliec appreciates the proposal of Elia and the opening towards more flexible and intelligent modification of pools and switching of BSPs, changes in the prequalification windows asymmetrical test, etcetera, as this will help market functioning. Febeliec nevertheless sees these merely as first (and unsatisfactory) steps. Febeliec remains adamant that the proposal of Elia does not solve all issues and still takes ample time (up to several weeks) to be completed, while also tests can only be conducted for a delivery point can only be part of one prequalification test (meaning that a.o. it is not possible to test for several pools, to see where the best match could be found or to prepare transition towards future different pools). Febeliec remains of the principle that prequalification should only consist of a communication/IT test, and that delivery should be tested during operations (as is the case in other countries), where delivery penalties and other arrangements should be sufficient to ensure correct delivery. In any case will any prequalification test only deliver some visibility on the capabilities and capacities of a given BSP, as each test will only be a picture of one specific moment in time. Febeliec also considers this in line with SOGL, which requires a "prequalification process", and does not stipulate the necessity for a test of volumes (such process could e.g. entail testing of communication protocols). Febeliec remains in favor of an ex-post validation, as this would introduce the smallest possible entry barrier, also stating that the fact that Elia does consider it "not comfortable" to remove a full prequalification test as an insufficient justification (also taking into account that other countries currently apply this SOGL-compliant approach without major concerns).

On **penalties**, Febeliec insist that it should not be possible for a BSP to arbitrage between controls and penalties, as this would quickly lead to potential system concerns. Moreover, Febeliec is adamant that penalties should have a clear penalizing function, which implies that these should not merely lead to losing the expected revenue for a specific moment for which a test was conducted, but also ensuring through its penalizing effect that the service is continuously delivered as contracted. Febeliec remains very strict about this as any non-delivery of services not only has lead to unnecessary payments towards BSPs, but also can create additional cost increases for alternatives that were needed in case of non-delivery, impact on the competitive positions of BSPs in the merit order and even in the most extreme scenarios to system risks or even total system collapse. Febeliec of course understands that there needs to be a trade-off, as too high penalties could lead to higher overall system costs, yet it should also not lead to too low penalties. Moreover, Febeliec wants to stress that BSPs are not exposed to any penalties if the contracted services are correctly delivered according to the product requirements. Febeliec principally supports progressive penalties, insofar they strike a correct balance between the objectives of allowing broad participation of existing participants as well as new entrants and giving the correct incentives towards responsible behavior of BSPs. As such, Febeliec can support the proposals of Elia, although it still questions to which extent the proposal entails sufficient incentives towards BSPs for correct delivery of the contracted service. Febeliec specifically remains with questions regarding penalties (p29) there is e.g. an underdelivery and penalties are not applied up to the level of the obligation up, as it seems that this leads to an insufficient penalty (the BSP should be able to provide the entire contracted capacity and thus missing the requested energy should also lead to penalties regarding the capacity that was also not available).

On the penalties calibration, Febeliec wants to refer to its above comments and insists that penalties should be incentivizing enough to ensure a correct behavior from BSPs (and to avoid any gaming), in a trade-off with overall system impact. Febeliec is in favor of removing as much as possible barriers for participation, but this should not jeopardize, whenever a BSP is selected and participates, delivery of the contracted services for which grid users pay.