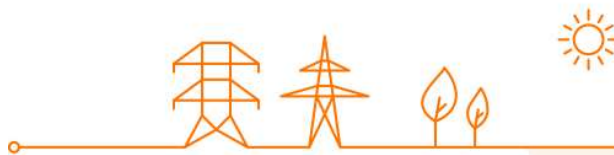


CONSULTATION REPORT

Public consultation on Terms and Conditions for balancing service providers for manual Frequency Restoration Reserve (mFRR).

3 December 2019



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1. Introduction

Between 4 October and 4 November 2019, Elia organized a public consultation on its new proposal for Terms and Conditions for balancing service providers for manual Frequency Restoration Reserve (mFRR) (hereafter referred to as “T&C BSP mFRR”)¹. The consultation aimed to receive feedback from the stakeholders on the new proposal in response to the amendments to the version submitted by Elia to the CREG in June 2018 requested by the CREG in its decision B(2000) of 3 October 2019 and in preparation of the implementation of a new design for the mFRR balancing service.

The T&C BSP mFRR are developed pursuant to article 18 of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (hereafter referred to as “EBGL”). The T&C BSP mFRR include the Balancing service provider Contract for the mFRR Service (hereafter referred to as “BSP contract mFRR”).

Elia received 6 non-confidential answers to the public consultation from the following parties:

- Actility Benelux, hereafter referred to as “Actility”
- Centrica Business Solutions, hereafter referred to as “CBS”
- FEBEG
- Febeliec
- RWE Supply & Trading, hereafter referred to as “RWEST”
- Statkraft

In addition, Elia received 2 confidential answers to the public consultation.

This consultation report contains the overview of the non-confidential feedback from the stakeholders, and the answers of Elia thereon. For the full responses of the stakeholders Elia refers to the individual feedback responses. The consultation report follows the same structure as the T&C BSP mFRR.

The response from Elia to the comments of the stakeholders clearly mentions whether or not Elia modified its proposal of the T&C BSP mFRR following the consultation feedback. In addition, Elia updated the T&C BSP mFRR throughout to clarify formulations or for reasons of coherence with other regulated documents such the LFC BOA.

¹ Consultation webpage: <https://www.elia.be/en/public-consultation/20191004-public-consultation-on-the-terms-and-conditions-for-the-mfrr>

Below, the summary of the modifications to the T&C BSP mFRR² in response to the consultation feedback.

Annex 6	Elia changes the time window for prequalification tests from 48 hours to 24 hours.
Art. II.10.8 + Annex 10.E	Elia adds that the additional outage communications by e-mail consist of a best effort of the BSP.
Annex 10B	Elia adds the reason “Flexibility for fulfilment of BRP obligations” to the list of reasons accepted by Elia for (partial) rejection of activation of non-contracted mFRR energy bids including delivery points DPsu
Annex 11D	The binary value equals to 1 if the mFRR Supplied is inferior to (instead of “not equal to”) the mFRR Requested.
Annex 14	Elia adds the specification in the definition of the CPwa that it concerns the awarded mFRR Capacity Bids “to the BSP”.
Art. II.16.5.	Elia adds clarifications concerning the suspension of Delivery points in case of failed activations.

All relevant, non-confidential information on this consultation is available on the consultation webpage¹. Elia submits the final proposal of the T&C BSP mFRR together with the confidential and non-confidential consultation feedback and the consultation report to the CREG on December 3, 2019 in line with EBGL requirements.

Related to the T&C BSP mFRR and relevant for the implementation of the new design Elia also organized three other public consultations. The non-confidential consultation feedback and reports are published on the concerned Elia website consultation pages.

- Public consultation of 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) organized from 16 September to 16 October 2019³, including “Part I

² A final version of the T&C BSP mFRR with track changes is also available on the consultation webpage.

³ Consultation webpage: https://www.elia.be/en/public-consultation/20190916_public-consultation-of-general-conditions-for-balancing-services-t-c-fcr-t-c-afrr-t-c

- General Conditions” of the T&C BSP mFRR and subject to a separate consultation as applicable to the T&C of all ancillary services.
- Public consultation on the Market functioning rules for the compensation of quarter-hour imbalances (“Balancing Rules”) organized from 11 October to 8 November 2019⁴.
- Public consultation on the LFC block operational agreement and the methodology to determine the balancing capacity in the Elia LFC block organized from 4 October to 4 November 2019⁵, including the proposal for daily dimensioning of the mFRR capacity needs and the means to be procured daily starting from the entry into force of the proposed T&C BSP mFRR..

⁴ Consultation webpage : <https://www.elia.be/en/public-consultation/20191011-consultation-publique-balancing-rules>

⁵ Consultation webpage: <https://www.elia.be/en/public-consultation/20191004-public-consultation-on-the-lfc-block-operational-agreement-and-the-lfc-means>

2. Regarding Entry into force (article 2)

FEBEG feedback

FEBEG is not in favour of going live with this project during the winter period considering the market constraints during this period.

Elia response

Elia aims as quickly as possible for an entry into force of an mFRR design including daily procurement, improvements for the mFRR Standard and Flex Products, and remuneration of mFRR energy based on a paid-as-cleared mechanism. As presented and discussed previously in the Working Group Balancing (AS roadmap 2.0 since 2016) and in the mFRR implementation plan consulted in 2018, Elia considers these to be important design changes that will lead to a more efficient mFRR market. Elia therefore maintains its proposal to implement these changes as soon as possible, concretely in February 2020.

Actility feedback

Actility would like to highlight the operational and organizational impact and the required investments which are linked to these changes. Actility would therefore emphasise that, in order to be ready before February 2020, it is crucial that ELIA provides as much support as possible.

Elia response

Elia confirms that as usual support will be provided to all BSPs in order to facilitate a timely implementation by the BSPs.

3. Regarding Part I – General Conditions

Febeliec feedback

Febeliec wants to refer to its comments on the general conditions, which were the subject of a different public consultation yet are also relevant related to this consultation.

Elia response

Elia confirms that these comments were duly taken into account and would like to refer to her answer provided in the public consultation on the General Conditions: *"Elia understands the concerns of Febeliec with respect to the separate consultation of different parts of a same contract. However, Elia underlines that:*

- *The process has been discussed with the CREG, as it was agreed that this would guarantee consistency of the general conditions among all the cited T&Cs. The general conditions are de facto general and can be analysed on their own.*
 - *A differentiation of the general conditions per T&C is not excluded if the need should be identified. All amendments to the general conditions will be consulted with the stakeholders and follow an approval procedure by the regulator. "*
-

4. Regarding Part II - Specific Conditions

4.1. General remarks

<p>Febeliec feedback</p> <p>Febeliec appreciates the hard work done by Elia in the elaboration of these terms and conditions and appreciates the open discussions during the workshops and the improvements brought to certain points (e.g. penalty scheme).</p>	<p>Elia response</p> <p>Elia acknowledges the positive feedback.</p>
<p>Statkraft feedback</p> <p>Our remarks focus on non-contracted reserves DPsu. As these units constitute only a subset of the mFRR and the T&C BSP mFRR it needs to be clearly specified which terms and conditions are applicable to this subset and which are not.</p>	<p>Elia response</p> <p>Elia confirms that the T&C BSP mFRR are also applicable to non-contracted energy bids supplied by DPsu. The T&C BSP mFRR make a clear distinction when applicability of dispositions is only related to contracted energy bids.</p> <p>To facilitate the comprehension of Statkraft of the BSP Contract mFRR, here is a list of sections that are only applicable to contracted reserves and therefore not applicable to the non-contracted reserves DPsu of interest to Statkraft :</p> <ul style="list-style-type: none"> - Art. II.8 Procurement of mFRR Capacity and Annex 7 Capacity Auctions - Art. II.9 and Annex 8 on Transfer of Obligation - Art. II.13. Availability control and Annex 11. Availability test - Art. II.15.2-3 on remuneration for mFRR Awarded - Art. II.16.1-4 on Penalties related on availability control <p>Other sections in the BSP Contract mFRR contain requirements for both contracted and non-contracted reserves. In case of specific application, the contract clearly indicates the relevance for each case.</p>

FEBEG feedback

FEBEG would like to get more insight on which basis/contract, the non-contracted reserved mFRR bids will be settled if a market participant does not wish to participate to reserved contracted mFRR tenders, but still needs to allow implicitly to put flexibility to the disposal to Elia.

Elia response

Elia confirms that the BSP contract mFRR applies to both contracted and non-contracted mFRR energy bids and therefore applies for the settlement of both. A BSP that only wants to participate to non-contracted energy bid delivery, in order to put flexibility at the disposal of Elia in accordance with article 226 of the Federal Grid Code, has to sign the BSP Contract mFRR.

4.2. Definition of Forced Outage

CBS feedback

Clarify that forced outage situations can be applied to any situation and technology as long as it is “unforeseen”, “not under the operational control of the BSP” and remains exceptional.

Elia response

The definition of forced outage in art. II.1 of the BSP contract mFRR is already technologically neutral (Technical Unit) and refers to conditions of 'unplanned' removal from the service that is 'not under the operational control of the BSP'.

4.3. Conditions for BSP

Statkraft feedback

Statkraft's remarks focus on non-contracted reserves DPsu. As with OPA and SA, a procedure needs to be put in place with respect to the appointment (and termination thereof) of the BSP.

Elia response

As indicated in Art. II.3.5 of the BSP Contract mFRR, the appointment of roles is currently in a transition period during which the same party undertakes the roles of the BSP and the BRPsource for delivery points DPsu. The transition period, in accordance with article 377 of the Federal Grid Code, is due to the replacement of the CIPU Contract by a new contractual framework. Historically contractual dispositions for non-contracted mFRR (BSP), outage planning (OPA), scheduling and redispatching (SA) were treated via the CIPU Contract and linked to the BRPsource. Therefore, via the BSP Contract mFRR, also the link between the roles BSP and BRPsource for DPsu will remain during the transition period. The end of the transition period (and the specification of procedures to appoint the BSP in the new framework) will be discussed with the market parties and is subject to approval of CREG

4.4. Prequalification (article II.7 and annex 6)

Annex 6	FEBEG feedback	Elia response – Modification T&C BSP mFRR
	<p>The time window of 48 hours during which Elia can request by surprise an activation of the bid is not acceptable. As we will be not remunerated for this test, we want the time windows to be short as possible in order to limit operational costs.</p> <p>FEBEG also finds the prequalification process discriminatory against some type of assets, the rules could also depend on the type of technology (the cost and the loss of opportunity for a CCGT is more higher than an OCCGT or a battery).</p> <p>Elia should limit the duration to 24 hours (technology neutral) or allow to qualify for a particular product (for example having the option to qualify for the CCTU 00h00 – 04h00 and 04h00-08h00 by foreseeing a total of 48 hours per CCTU product in consecutive days where Elia can perform a prequalification test. This would be technology neutral.</p>	<p>Elia agrees to limit the time window for prequalification test to 24 hours, as requested by Febeg.</p> <p>Elia reminds that the consulted BSP Contract mFRR also already indicate that the time window is set in agreement between the BSP and Elia in order to find a suitable moment to perform the prequalification test to indeed limit operational costs.</p> <p>The aim of Elia is to propose a design which is “technology neutral”, therefore Elia does not agree with the proposal of specific rules related to the type of technology.</p>
Annex 6.B	FEBEG feedback	Elia response
	<p>“The mFRR_{max,std} and mFRR_{max,flex} are determined by summing the results of all prequalification tests”. Is this with or without rounding down? E.g if a 1st prequalification test delivers 2.6 MW and a 2nd test on new connections delivers 1.4 MW, will the mFRR_{max,std} be 3 MW (2.6M and 1.4M rounded down to respectively 2 and 1 MW) or 4MW?</p>	<p>Elia computes the result of a prequalification test with one decimal (in accordance with Annexes 12.B and 12.C), therefore the sum of the results of prequalification tests is defined with a “0.1 MW” precision. When setting the mFRR_{max,std} and mFRR_{max,flex}, Elia takes the entire value of the sum as mFRR capacity bids are defined with a “1 MW” granularity (in accordance with Annex 7.C). So, following the example of FEBEG, the BSP would obtain 4 MW.</p>

4.5. Transfer of Obligation (article II.9 and annex 8)

Annex 8	FEBEG feedback	Elia response
	<p>It's not clear how we should handle the nomination of the mFRR energy bids if we do a transfer of obligation to another BSP: we need a way to 'cancel' the mFRR energy bids that we have already sent to Elia for that obligation. However, it's not clear if we can send an update of a bid where the volume of all QH's is 0.</p>	<p>Elia confirms that an update of the mFRR energy bids with a "0 MW" value is possible and expected if the entire obligation of the BSP is transferred to a counterpart BSP. The detailed procedures are explained in the technical guides shared with the BSP and published on the Elia web site.</p>
	FEBEG feedback	Elia response
	<p>For FEBEG, nominating on SMART in the intra-day scope will no longer require to identify the assets in SMART and match the volumes with the concerned capacities.</p>	<p>Elia confirms that the interpretation of FEBEG is correct. Thanks to the evolution towards a single contract (technology neutral) Elia reminds that only transfers of obligation between two different BSPs have to be registered in SMART (i.e. the volume of the obligation transferred). The procedure to register a transfer of obligation is described in Annex 8.B of the BSP mFRR Contract.</p> <p>Intra-portfolio renominations to designate the DPsu or DPpg providing the mFRR energy bid(s) are only reflected by an update of the energy bids in BMAP.</p>

4.6. Submission of mFRR Energy Bids (article II.10 and annex 9)

CBS feedback	Elia response
<p>CBS renews its ask to Elia to further assess implementing in the next mFRR design update the proposal around linked bids CBS submitted in the previous consultation rounds.</p>	<p>The bidding properties for the European mFRR platform (MARI project) provide other possibilities to link bids, yet also increase complexities. Therefore at this stage Elia only introduced the concept of parent-child bids in the mFRR design to go live</p>
<ul style="list-style-type: none"> ➤ see consultation feedback for full comment 	

in 2020. The review of the other bidding options (such as the sub-bids proposed by CBS) requires to simultaneously analyse their effect on other design aspects (such as activation and availability controls) and compatibility with the future European mFRR platform. Elia will further analyse the options for different bidding methods and discuss the proposal with the stakeholders in the next review of the mFRR design in preparation of the European mFRR platform.

FEPEG feedback

FEPEG regrets however that Energy bids are not allowed to consist from both DPpg and DPsu which does not allow a fully integrated portfolio and its merits (ex. intra-portfolio back up).

Elia response

The rules concerning DPpg and DPsu follow from a need for data coherence across system services, in particular the need for individual monitoring of Technical Units with daily schedule obligations. Unit-based bidding of DPsu, which can have a large local impact, allows Elia to avoid that mFRR activations conflict with the management of congestion risks.

FEPEG feedback

FEPEG wishes to highlight that a pricing structure based on operating modes and a mFRR nomination procedure based on Components could lead to inconsistencies.

Therefore, FEPEG is questioning the need to apply the full liability for any inconsistencies as long as this framework (hybrid situation) has not been aligned.

Elia response

Elia acknowledges the complexities for the BSP resulting from the hybrid situation. Elia will further review the bidding options and discuss the proposal with the stakeholders in the next review of the mFRR design in preparation of the European mFRR platform.

However, for the entry into force of the consulted T&C BSP mFRR, Elia has limited the liability for the BSP when possible. Elia points out that the inconsistencies in terms of volume at disposal are accepted as reasons to reject the activation of non-contracted energy bids. Other data inconsistencies that would lead to non-compliance with the BSP contract mFRR and that are penalized as described in the contract do not result from the hybrid situation.

	<p>RWEST feedback</p> <p>We do not agree that a price cap for mFRR energy bids, currently set at 13,500 Euro/MWh, should be included in the future set-up.</p> <ul style="list-style-type: none"> ➤ The entire argumentation can be consulted in RWEST feedback. 	<p>Elia response</p> <p>Article 3 of the Electricity Regulation (to which RWEST refers to) indeed declares that prices should be formed freely on the basis of demand and supply and that the principle should be to avoid actions that prevent the free determination of a market price but such actions are not forbidden. The mFRR design as described in the T&C BSP mFRR respects the principles set out in the Electricity Regulation: BSP can freely submit energy bid prices driven by market principles and in most circumstances this will lead to reasonable prices (unaffected by the maximum price of 13 500 €/MWh). The maximum price serves to protect the customers and market parties from severe financial risks when normal market conditions do not drive the price to such value. However, if experience shows that market-based bid prices in normal conditions do increasingly reach the maximum price, then the maximum price can be reviewed in accordance with the Balancing Rules.</p>
<p>Annex 9.E</p>	<p>FEPEG feedback</p> <p>Regarding outage communication FEPEG proposes to remain as efficient and consistent as possible and not to impose additional communication channels via emails regarding the same event (FO). Removing the bids concerned from BMAP or updating them should allow for correct activations by the TSO and aligned with different communication channels regarding transparency and availabilities.</p>	<p>Elia response - Modification T&C BSP mFRR</p> <p>Elia acknowledges the disagreement. Nevertheless, Elia would like to point out that updates of mFRR energy and daily schedule are still subject to a neutralization time of 45min. In this context, Elia has adapted the BSP Contract mFRR to state that those additional communications by e-mail consist of a best effort of the BSP.</p>

4.7. Activation of mFRR energy bids (article II.11 and annex 10)

Annex 10.B	<p>FEBEG feedback</p> <p>FEBEG strongly opposes the exhaustive list of reasons provided for acceptance of (partial) rejection of non-contracted mFRR Energy Bids. The BRP may to consider flexibility to respect our BRP obligations. This reason has not been foreseen. By signing this contract, the BRP would therefore not be able to respect its BRP obligations.</p>	<p>Elia response – Modification T&C BSP mFRR</p> <p>Elia has added the reason "Flexibility for fulfilment of BRP obligations" to the list.</p> <p>Elia has consequently deleted the reason "Energy already being activated to compensate for a Forced Outage of another Technical Unit" as this is included in the reason for fulfilment of BRP obligations.</p>
Annex 10.C	<p>FEBEG feedback</p> <p>"When an electronic message sent by Elia does not receive one of the requested acknowledgement messages What does imply this sentence? Does ELIA consider there is no activation officially asked by them or that we are not respecting our obligations. In case of technical issue when communicating to BSP, its up to ELIA to check if the request has been correctly received by us, if not, Elia can switch to the backup communication solution (phone). Technical issue can also be on ELIA side."</p>	<p>Elia response</p> <p>Any request of activation electronically sent by Elia must receive the required electronic answers by the BSP. If it is not the case, the activation is registered and deemed as non-compliant, unless it is a fault in the communication channel of Elia (as stated in the BSP contract mFRR: "without fault by ELIA"). In case the backup solution for activation request (phone) has to be used, Elia does not expect the BSP to send the required electronic messages if the system cannot handle them. Nevertheless, Elia may ask the BSP to send information by e-mail if needed.</p>
	<p>FEBEG feedback</p> <p>FEBEG notes that the minimum duration of the product is not explicitly mentioned in the document. Is the product considered as activated for a duration of min 15Min with a ramp up time of 15min in all cases?</p>	<p>Elia response</p> <p>As Elia may activate energy bids directly, the duration of the activation may theoretically be less than 15 minutes. However, Elia reminds that the mFRR product is there to cover large and/or long lasting imbalances and therefore in practice the activation can be expected to be at least 15 minutes (as also indicated in the example of activation control on a direct activation in annex 12).</p>

Annex 10.D/10.E	<p>FEPEG feedback</p> <p>FEPEG strongly opposes to multiple information flows where the actors need to inform Elia of the same Event in different communication channels (forced outage for transparency, forced outage for mFRR bids, Own Use). FEPEG pleads for a transition period where an efficient and lean way for communicating on forced outages could be designed. In the meantime, we can inform Elia dispatching in the current operational ways on outages. We inform Elia through the transparency platform and communications of outages and their expected duration.</p>	<p>Elia response - Modification T&C BSP mFRR</p> <p>Elia acknowledges the disagreement. Nevertheless, Elia would like to point out that updates of mFRR energy and daily schedule are still subject to a neutralization time of 45min. In this context, Elia has adapted the BSP Contract mFRR to state that those additional communications by e-mail consist of a best effort of the BSP.</p>
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4.8. Availability control (article II.13 and annex 11)

<p>CBS feedback</p> <p>CBS welcomes Elia's new availability test proposal, and advocates to quickly move to a smart testing approach</p>	<p>Elia response</p> <p>Elia acknowledges the positive feedback.</p>
<p>FEPEG feedback</p> <p>During availability testing generation units may trip and the penalty regime should not punish diligent generators that suffer an occasional technical default in the performance of their balancing service. In this context we would like to remind Elia that any such penalty / outage risk will have to be priced in and may lead to higher prices and/or less interest for market parties to participate in the balancing markets.</p>	<p>Elia response</p> <p>Elia reminds that the contractual dispositions aim to be technology neutral. A distinction cannot be made based on diligence or the nature of the Technical Unit. In addition, a non-compliant availability test does not allow Elia to assess whether the non-compliance indicates a structural availability risk or a case of bad luck.</p>
<p>Febeliec feedback</p> <p>Febeliec also wants to stress its comments made during the discussions on testing and reiterates its request that Elia puts in place and documents a</p>	<p>Elia response</p> <p>Elia acknowledges the support for availability controls yet notes the request of a smart approach to avoid unnecessary tests and associated costs.</p>

	<p>smart testing logic, in order to avoid unnecessarily testing delivery points, as these tests are costly and not remunerated and in case of demand side response can even result in lost production that can never be recuperated, presenting a loss for society.</p>	<p>Within the contractual framework provided for the organization of the tests Elia will pay attention to adopt a smart approach. Elia will continue to work on the implementation and documentation of a smart testing logic based on the experience gained with the first steps described in the BSP Contract mFRR (rules for availability tests and limitation on their number). Elia sets the development of a smart testing logic as a priority and has therefore proposed this as an incentive for 2020. his proposition has been accepted by CREG in its Decision (B)658E/63 of 21 November 2019.</p>
	<p>FEPEG feedback</p> <p>How should operators nominate a 0 price for the availability tests as the price is not considered by the price nominated in the BMAP Bid but the regular IDPCR nomination.</p>	<p>Elia response</p> <p>No specific nomination is required for the availability test as it is triggered by surprise by Elia based on the volume in the mFRR energy bids offered by the BSP.</p>
<p>Annex 11.D</p>	<p>CBS feedback</p> <p>CBS believes the current formulation a binary value, equals to 1 if the mFRR Supplied is not equal to the mFRR Requested, pursuant to Annex 12 used to define the Beta factor should rather be formulated as a binary value, equals to 1 if the mFRR Supplied is inferior to the mFRR Requested, pursuant to Annex 12.</p>	<p>Elia response – Modification T&C BSP mFRR</p> <p>Elia adapted the BSP contract mFRR accordingly.</p>

4.9. Activation control (article II.14 and annex 12)

Annex 12	<p>Statkraft feedback</p> <p>mFRR requested (page 77): this value is presented as "given", a clear methodology is to be provided how this value will be established;</p>	<p>Elia response</p> <p>The products in the framework of this contract can be used for multiple purposes: activation for balancing of the Belgian control area, compensation of congestion bids, as a congestion bids and as balancing support for other TSOs. For the methodology we refer to the Balancing Rules and to the (proposal of the) Rules for Coordination and Congestion Management.</p>
Annex 12.B	<p>Statkraft feedback</p> <p>mFRR Supplied (DP_{su}) (page 78): these formulas seem counterintuitive (e.g. the outcome for mFRR Supplied (DP_{su}) upward result in a negative value while a positive value is expected).</p>	<p>Elia response</p> <p>This is linked to the convention defined by Elia for injection and offtake.</p> <p>The formulas for DP_{SU} result in a positive value for upward activation and a negative value for downward activation.</p> <p>For the example of upward activation:</p> <ul style="list-style-type: none"> - mFRR Requested is a positive value as indicated in the definition in Art. II.1 - DP_{mFRR,max,up} is a positive value as indicated in the definition in Art. II.1 - DS is a positive value as indicated in the legend below the formula - P_{measured} is a negative value for net injection as indicated in the definition in Art. II.1 - [- DS – P_{measured}] therefore results in a positive value in case of a correct upward activation
<p>FEPEG feedback</p>	<p>Elia response</p> <p>Applicable penalties for start-up are described in Art. II.16.6.</p>	

What happens if we don't respect the 15 min rule or if we trip? One failure is acceptable, two consecutive failures and we are out? New pre-qualification test imposed?

4.10. Remuneration (article II.15 and annex 13)

FEPEG feedback	Elia response
FEPEG welcomes the introduction of pay-as-cleared remuneration for selected energy bids.	Elia acknowledges the positive feedback.

RWEST feedback	Elia response
RWEST supports most of the procedural changes announced by Elia and we welcome the introduction of pay-as-cleared remuneration for selected energy bids.	Elia acknowledges the positive feedback.

4.11. Penalties for non-performance (article II.16 and annex 14)

4.11.1. General feedback on penalties

<p>FEPEG feedback</p> <p>FEPEG suggests to allow Elia the right to penalize to allow for a qualitative assessment of the reason to penalize and its desired effect. This should only cover exceptional circumstances and not in any case be detrimental to the applicable rules.</p>	<p>Elia response</p> <p>The following circumstances are already covered in the T&C BSP mFRR:</p> <ul style="list-style-type: none"> - Exceptional circumstances like “force majeure” are covered by the dispositions for “force majeure” in the General Conditions consulted by Elia between 16 September 2019 and 16 October 2019. - Elia will not penalize the BSP if the fault is on her part, as stated where relevant in the BSP Contract mFRR. <p>Elia cannot add any other subjectivity in the evaluation of the controls & penalties in the BSP Contract mFRR.</p>
<p>FEPEG feedback</p> <p>Similar to our proposal on prequalification for a specific product (ex mFRR only for CCTU 00h00-04h00 and 04h00-08h00) FEPEG proposes to consider the fact that penalties are applicable to a specific product for which you are prequalified. Penalties – Cap per product (4hour block).</p>	<p>Elia response</p> <p>As described in the consulted BSP mFRR Contract (annex 14.A) the penalties are indeed defined per Capacity Product (mFRR Standard/mFRR Flex) and per CCTU.</p>
<p>CBS suggestion</p> <p>Merging the administrative sanctions foreseen in case of several missed actions or availability tests, applying (i) a reduction of the prequalified power from the 1st MW not delivered during 3 consecutive activations or tests, and (ii) suspending all the DPs of a bid only if a certain threshold of missing</p>	<p>Elia response</p> <p>Within the contractual framework provided for the organization of the tests Elia will pay attention to adopt a smart approach in which, amongst others, the activation controls will be used to determine the need for availability controls. However, Elia does not yet propose to link the penalties of both controls as Elia will first continue to work on the development of a smart testing logic.</p>

MW is reached (e.g. 50%), demonstrating the inability of a BSP to correctly control its bid and the amount of MW provided vs. the one requested.

4.11.2. Penalty “mFRR Missing MW”

Art.II.	FEPEG feedback	Elia response
16.5	Is a failed availability test considered as non-compliant mFRR Energy Bid Activation?	Art. II.13.7 described conditions to label an availability test as “failed” while Art. II.14.1 defines conditions to label an activation as “non-compliant”. Activation and availability test are to be considered separately, in accordance with related contractual dispositions for penalties: Art. II.16.5 is referring to non-compliant mFRR Energy Bid activations, while failed availability tests are penalized based on Art. II.16.2 to II.16.4.

4.11.3. Penalty “mFRR Made Available”

CBS feedback	Elia response
CBS welcomes the change in the penalty formula proposed by Elia following the discussions in the working group and the informal consultation on the first draft T&Cs. The new formula does answer to the main concern raised by CBS and other market parties regarding the need to implement a penalty proportionate to the number of declared unavailability.	Elia acknowledges the positive feedback.
Febeliec feedback	Elia response
With respect to the proposed penalty scheme, Febeliec understands that there is a trade-off to be made between guaranteeing the availability and delivery of the reserved capacity on the one hand	Elia acknowledges the positive feedback.

and the impact of the penalties on the other hand. Febeliec appreciates that the penalty scheme has been revised in order to be less punitive for a first or small hiccup, while becoming much more severe for repetitive issues, thus guaranteeing the availability of the service that has been paid for by the grid users while also encouraging new entrants to participate and increase the liquidity of the product.

Annex	FEPEG feedback	Elia response
14	<p>The severability of a non-compliant activation is not taken into account in the "#CCTU non-compliant" => 1 MW not made available during 15 minutes will have the same weight as 10 MW during 4 hours. In our view the severability should be taken into account otherwise it will give an incentive not to report minor unplanned incident (if one knows that reporting the 1MW unavailability for 15 minutes will penalize you for 30 days, one may decide not to report it and hope for no activation at that moment). Ideally, availability can be checked with submetering and frequent activation tests. This would allow a gradation in penalties: availability and activation penalties. We understand that a large-scale installation of submeters is not possible, but a connection of the BSP metering with Elia could enable this.</p>	<p>Elia adapted the design for the penalty following the feedback received from the stakeholders during the workshop organized in September. The new proposal included in the consulted BSP Contract mFRR served to make the distinction between one-time non-compliances and structural problems. Hence Elia introduced the aggravating factor (creating the non-linearity in the penalty) allowing to penalize BSP's with frequent problems to make the energy available in line with their mFRR obligations more heavily than BSP's dealing with a sudden non-occurring issue. The number of CCTU with non-compliance of mFRR Made Available must be rather high to achieve a penalty of the same order of magnitude as the penalty for a failed availability test, meaning that the BSP must frequently violate its contractual obligations when making the trade-off between both penalties.</p>
	<p>Activity feedback (see consultation feedback for full comment)</p> <p>Penalty for "mFRR not made available" is unfair and does not give the right incentive to the BSP.</p> <ul style="list-style-type: none"> ➤ see consultation feedback for full comment. Here is a summary of the comments: - Activity does not agree with the non-linearity of the penalty (as the penalty for non-compliance during qh(t) is different depending on whether 	

or not there were previous occurrences of non-compliance).

- Actility finds that market parties do not have the correct incentive to report unavailabilities of mFRR Capacity: small and temporary unavailabilities may not be reported in order to not increase the penalty for further larges/longer unavailabilities in the next 30 days. Tradeoff between disproportionate cost of reporting unavailabilities versus probability of an activation or availability test.

Actility feedback

Actility suggests Elia to return to a penalty for “mFRR Made Available” that is again more closely linked to the penalty for “Missing mFRR” as was the case in earlier proposals.

- see consultation feedback for full comment

Elia response

The link between both penalties “mFRR Made Available” and “Missing mFRR” for Elia is especially in terms of order of magnitude of the result and not so much in the equations to calculate the penalties: the penalty for “Missing mFRR” must be higher than the penalty for “mFRR Made Available” to give incentives to the BSP to honestly report unavailability of mFRR Capacity in line with the contract. The new proposal for the penalty “mFRR Made Available” still achieves this goal while also responding to the comments made by the stakeholders during the workshop in September.

CBS feedback

Replace the “CPwa” value in the formula with the contract value of the CCTU where MWs are missing. CBS points out that the current proposal exposes both the BSP and Elia to situations where, for a given CCTU with MW not made available, the penalty applied would be based on an mFRR value price that is totally decorrelated from the market fundamentals of the CCTU involved, leading to risks of arbitrage.

Elia response

Linking the penalty “mFRR Made Available” to the market situation during the concerned CCTU would increase the risk that the BSP does not correctly report unavailability of mFRR Capacity during those CCTU that the incentive to not keep the mFRR Capacity available is the highest.

Annex 14	<p>FEPEG feedback</p> <p>Regarding the definition of CPwa, we propose to add “to the BSP” to make it clearer: "to all awarded mFRR Capacity Bids to the BSP of the concerned mFRR Capacity Product for the period comprised between Day D-29 until Day D"</p>	<p>Elia response – Modification T&C BSP mFRR</p> <p>Elia adapted the BSP contract mFRR accordingly.</p>
Annex 14	<p>FEPEG feedback</p> <p>Regarding the definition of CPWA, if Elia means “the price auctioned by the BSP”: We would propose to make the following paragraph clearer: In case no mFRR Capacity Bid has been awarded to the BSP for the period comprised between Day D-29 until Day D (i.e. 30 Days), where Day D is the date of the concerned non-compliance with mFRR Made Available, CPWA is equal to the average price of the capacity auction corresponding to the Capacity Contracting Time Unit obtained by the BSP for which the non-compliance is observed;</p>	<p>Elia response</p> <p>Elia points out that the paragraph concerns the case in which no mFRR capacity has been awarded to the concerned BSP for the concerned period. Hence Elia maintains the proposal in the BSP contract mFRR to use the average price of the capacity auction (of all awarded capacity regardless of BSP) and not adapt the text as proposed by Febeg.</p>
Annex 14	<p>FEPEG feedback</p> <p>Regarding the terminology, the annex 14 refers to MW not made available. It should in fact refer to MWh not made available.</p>	<p>Elia response</p> <p>The penalty related to mFRR made available verifies whether the volume offered in energy bids (expressed in MW as described in annex 9) is coherent with the mFRR Made Available (expressed in MW as described in the definition list).</p>

4.11.4. Penalty for failed activation

Art. II.16.5	<p>FEPEG feedback</p> <p>In case of suspension, why would all DP's of an activation energy bid be excluded? Would make sense to exclude DP's that failed and keep DP's that succeeded, on top of correcting R3 max.</p>	<p>Elia response – Modification T&C BSP mFRR</p> <p>Elia clarifies that Art. II.16.5 refers to “All Delivery Points included at least in 3 non-compliant mFRR Energy Bid activations” which confirms that the suspended delivery points constitute a subset of the delivery points included in the activated energy bids. More specifically the suspended delivery points are those that are:</p>
	<p>CBS feedback</p>	

	<p>"CBS points out that in the design note that was presented, a suspension only of the delivery points concerned was foreseen. In the proposed T&Cs, ALL delivery points in the non-compliant mFRR bids risk such a suspension."</p>	<ul style="list-style-type: none"> - confirmed as used for the mFRR activation (so listed in the confirmation message) - common in the three non-compliant activations. <p>Elia added these clarifications to Art. II.16.5 of the BSP contract mFRR.</p>
<p>Art. II.16.5</p>	<p>Statkraft feedback</p> <p>It is unclear whether Article II.16.5 will be applicable to contracted reserves DPsu (currently not foreseen in CIPU offshore);</p>	<p>Elia response</p> <p>Elia confirms that Art. II.16.5 applies to all delivery points.</p>

4.12. Activation of mFRR for other purposes (article II.18)

FEPEG feedback

FEPEG would like to emphasize that the activation of mFRR bids for congestion reasons will require for a full neutralisation of its direct and indirect effects on the balancing (imbalance price) and reserves market. On top of that we would like to question the activation of mFRR bids in advance for congestion purposes. For remedial actions in a short time span within the hour you could consider the proposed price. But for bids in the future, FEPEG thinks it should be feasible for the BSP to update the activation price.

Elia response

Elia points out that non-contracted energy on DPsu is also offered to Elia for the purpose of internal congestion management via the CIPU contract (or T&C for the Scheduling Agent in the future). Activations for congestion purposes in accordance with the CIPU contract do not affect the imbalance price.

Therefore, the activation of mFRR energy bids for the purpose of congestion management in accordance with article II.18 of the BSP contract mFRR concerns only the mFRR Standard and mFRR Flex energy bids. Elia confirms that in case an mFRR energy bid is activated for purpose of internal congestion management, the price of the activated bid will not set the imbalance price either (in accordance with article 30(1)(b) of the EBGL and as described in the BSP contract mFRR).

The price of the bid must be clear at the moment Elia requests the activation. When possible Elia avoids activating bids too early on (more than one hour in advance), however, the circumstances may require such early activations.

5. Other

5.1. Regarding dispositions in the current CIPU contract

Statkraft feedback	Elia response
<p>In the current CIPU contract for offshore IDPCR's can be submitted irrespective of the colour of the zone, this is to be maintained going forward;</p>	<p>Art. II.10.9 only refers to mFRR energy bids, not to the possibility to amend a daily schedule (IDPCR). This aspect is defined in the CIPU (Off-shore) Contract, which will in the future be replaced by the T&C for the Scheduling Agent.</p>

5.2. Regarding LFC BOA Needs and Means

FEBEG and RWEST feedback	Elia response
<p>FEBEG and RWEST ask Elia to publish the demand for balancing energy in a day-ahead timeframe and not up until 7am on the day of energy bid submission. Allowing only three hours for market participants to calculate and submit their respective bids is not sufficient in an ever more complex environment with various types of generation.</p>	<p>Elia clarifies that the publication of Elia demand by 7AM in order to allow the BSP to submit bids by the gate closure time three hours later (by 10AM) concerns the mFRR capacity bids and not the mFRR energy bids.</p> <p>Annex 7 of the T&C BSP mFRR refers to article 6(5) of the "LFC Elia's methodology to determine the required balancing capacity (LFC Means)" for the publication of the mFRR capacity to be procured. The publication for the capacities for day D is foreseen by 7 AM of day D-1. Elia will adapt and clarify this in article 6(5) of the LFC Means: "... the positive balancing capacity on mFRR to be procured is published each day before 7 AM for every period of 4 hours of the next day, and notified according to the CREG following Article 228 §3 2° of the FGC."</p>
Actility feedback	Elia response
<p>The dynamic dimensioning of FRR combined with the increasing minimum mFRR standard to-be contracted volumes might lead to a phasing out</p>	<p>Elia clarifies that the risk of a faster phase out due to dynamic dimensioning is very low. This question of Actility, however, is also dealt with in the</p>

of mFRR flex which is faster and more drastic than foreseen.

consultation report on the LFC BOA & LFC Means, therefore for more information Elia refers to the report of the consultation on these documents (consulted in the same period as the T&C BSP mFRR).
