

The Chairman

CRE/DR/DB/566bis

COMMISSION EUROPEENNE

DG Energy - ENER.B.2
Wholesale markets: electricity & gas
Office DM 24 06/95
B-1049 Brussels, Belgium

Paris 8 October 2015

Objet: CRE answer to the European Commission public consultation on the new electricity market design.

On July 15th, 2015, the European Commission launched a public consultation on the new Electricity Market Design. All National Regulatory Authorities (NRAs), and CRE in particular, contributed to the joint ACER-CEER response to the consultation. CRE supports this joint response, and would like to further develop some topics, building on its particular experience in the implementation of the internal energy market.

1/ As underlined in ACER-CEER response, significant results were achieved since the adoption of the 3rd Energy Package to reinforce the internal energy market. Priority should now be given to the implementation of the network codes, in particular to those regarding the markets which are the closest to real time.

All NRAs played a significant role in these achievements, notably in the elaboration of network codes. CRE's implication and collaboration with the other NRAs, the French TSOs and all French stakeholders, allowed their early implementation in France or on French interconnections. The following points are part of the key achievements :

- in electricity, France was, as early as 2006, one of the first countries to implement the day-ahead market coupling which is now in operation in 19 Member States. Furthermore, since May 2015, France, within the CWE region, is one of the first countries having implemented the "flow-based" methodology for capacity calculation.

- in gas, CRE launched as early as 2011 its work towards the implementation of the Balancing network code. France thus applies this network code since October 1st, 2015, CRE having chosen not to use the delay foreseen by the network code for less mature markets.

- CRE also put in place an active wholesale market surveillance and, thanks to its experience, helped ACER to implement its new missions pursuant to the REMIT Regulation.

Building on its experience and its participation for more than 10 years to the work of CEER and ACER, CRE would like to underline the considerable contribution of NRAs to these achievements. ACER relies significantly on NRAs' skills and resources to prepare and implement network codes. The efficient cooperation between NRAs and the Agency, which exists since the creation of ACER, is essential to allow ACER to fulfil its missions. In a context where, as underlined by the joint ACER-CEER response, ACER's powers could be extended, this cooperation should be maintained, and even reinforced. CRE would like to underline that, as long as it will have the necessary means to – which can't be guaranteed in a context where CRE doesn't have any financial autonomy and depends on the general State budget –, CRE is committed to pursue its implication in ACER's work.

2/ Regarding the development of demand-side flexibility, CRE would like to recall that it has been actively promoting the development of demand-side flexibility (DSF) in France for several years, by undertaking a complete programme through dedicated decisions in order to progressively open all market segments to the participation of DSF. French market rules now allow all demand-side resources (from large industrial to residential), either on their own or through flexibility service providers, to compete with generation resources on a level playing field on the following market segments: wholesale market, capacity remuneration mechanism, balancing reserves, congestion management.

Building on its experience at national level, CRE considers that such a development at the European level should be undertaken on market-based principles. To achieve such a target, market rules will have to be adapted, and particularly take into account (see attachment):

- A complementary implicit and explicit valuation of demand-side flexibility;
- Opportunities for independent flexibility service providers to enter the market without having to get a prior agreement of the retailer of the consumers of which they want to value the flexibility;
- The need to implement specific arrangements between the flexibility service providers and the retailer/BRP of the consumers (exchange of information, energy transfers, payments).

Such elements will allow consumers to benefit from an efficient framework in order to value their flexibility. CRE therefore considers as inappropriate the development of specific products or support to kick-start the development of demand-side flexibility

3/Regarding the development of interconnections, CRE shares the analysis of the European Commission, and considers that a sufficiently interconnected European electricity network is necessary to the achievement of the internal market. In the last few years, projects aiming at significantly increasing the interconnection capacities between France and its neighbouring countries were launched, notably with Spain (Baixas-Santa-Llogaia, + 1400 MW, operational since February 2015), with Italy (Savoie-Piémont, + 1200 MW, commissioning scheduled for 2019) and the United Kingdom (Eleclink, + 1000 MW, commissioning scheduled for 2018).

In this perspective, CRE notes that a single 10% interconnection target by 2020 concretely reflects a political choice towards the development of interconnections.

However, CRE would like to draw the attention of the European Commission on the method used to calculate such ratio. Given the rapidly increasing development of variable energies (wind and PV notably), the installed generation capacity does not reflect anymore the real electricity demand, neither on average

nor on peak. It is therefore necessary to calculate the 10% interconnection target on a new basis that would more adequately reflect the needs of the internal market.

Furthermore, CRE would like to recall that the development of interconnections should be based on sound cost-benefit analyses, to ensure that they address the needs of the European consumers, who bear their costs.

4/ Regarding the alignment of fragmented balancing markets (question 3) CRE fully supports the approach set out in ACER's Qualified Recommendation for the Adoption of the Network Code on Electricity Balancing. On the one hand this Recommendation specifies the features of the market which must be harmonised in order to achieve an efficient integration of the balancing markets at regional and European level (such as : standard products, imbalance settlement period based on a Cost-Benefit Analysis, definition of Coordinated Balancing Areas).

On the other hand, this Recommendation also distinguishes some features which currently do not need to be fully harmonised (such as cross-border intraday gate closure times, duration period of balancing standard products). Those features shall be subject to a deeper assessment based on the return of experience once the regional integration model is implemented before taking any further measures. Such an approach aims at avoiding a systematic harmonisation which may be highly costly without any equivalent benefit for consumers, and thus detrimental to them. However, the CEER-ACER common response to the consultation goes far beyond the approach set out in the Qualified Recommendation for the Adoption of the Network Code on Electricity Balancing by prescribing a harmonisation of all features. CRE considers that such a generalized harmonisation should be avoided.

Your sincerely.

Philippe de LADOUCKETTE

Annex – Elements regarding the question 10 on the kick-start of demand-side flexibility

First of all, CRE would like to recall that she has been actively promoting the development of demand-side flexibility in France for several years, by undertaking a complete program through dedicated decisions in order to progressively open all market segments to the participation of DSF. Market rules now allow all demand-side resources (from large industrial to residential), either on their own or through flexibility service providers, to compete with generation resources on a level playing field on the following market segments: wholesale market, capacity remuneration mechanism, balancing reserves, congestion management.

Strong from this feedback, CRE considers that the main barrier to an active participation of demand-side flexibility to the market lies in the absence of demand-side fitted national market rules. Those rules, if not simply forbidding demand-side resources to participate, have been historically designed for generation resources. It is therefore essential as a first step to make sure that those rules are changed to accommodate the participation of demand-side resources, in respect of the technical constraints needed to maintain the electric system's safety.

Also, in order to fully tap the potential of demand-side flexibility, CRE considers of most importance that the two main categories of demand-side flexibility remain possible:

- the implicit valuation within the retailers and balancing responsible parties (BRPs) portfolios, which has been the main historic driver for demand-side flexibility, in particular through dynamic retail offers (Peak/off peak, critical peak pricing,...)

- the explicit valuation, which is used when the demand-side flexibility product is sold directly on the market, or to a network operator, for example in order to participate to the procurement of balancing reserves.

Those two categories of demand-side flexibility are complementary and should be considered as such: one cannot represent, alone, a sufficient solution to allow the full participation of demand-side flexibility. However, the intrinsic characteristics of electricity markets in each Member State will lead to develop those two categories of demand-side flexibility on different levels.

Beyond the issue of how demand-side flexibility is triggered and valued, CRE underlines the importance to clearly define the role and responsibilities of the different actors that can be involved in the value chain of demand-side flexibility. In particular, CRE raises that the major part of demand-side flexibility capacities that have emerged in France during the past years (around 2 GW as of September 2015) have been developed by aggregators that have no activity in the retail market (those aggregators are demand-side flexibility pure players, and are also called “independent flexibility service providers). While the business of those new actors (and their even existence) entirely relies on the valuation they are able to get from their flexibility offers, demand-side flexibility only represents part of the retailers activity.

Regarding the participation of those new actors to the market, CRE considers as necessary the implementation of terms and conditions that ensure those new actors do not have to gain the prior agreement of the consumer's retailer in order to value the flexibility of a consumer. Law n° 2013-312 from 15 april 2013 *visant à préparer la transition vers un système énergétique sobre et portant diverses dispositions sur la tarification de l'eau et sur les éoliennes* introduces new elements in the french law, that implements this principle. In particular new article L. 271-which states that « (...) ces règles [les règles

permettant la valorisation des effacements de consommation d'électricité sur les marchés de l'énergie et sur le mécanisme d'ajustement] prévoient la possibilité, pour un opérateur d'effacement, de procéder à des effacements de consommation, indépendamment de l'accord du fournisseur d'électricité des sites concernés, et de les valoriser sur les marchés de l'énergie ou sur le mécanisme d'ajustement mentionné au même article L. 321-10, ainsi qu'un régime de versement de l'opérateur d'effacement vers les fournisseurs d'électricité des sites effacés. (...) ». It is now of the transmission network operator's responsibility to put in place the requirements for the participation of demand-response to the energy markets in France.

Yet, the valuation of a consumer's flexibility by an independent flexibility provider can have an impact on his retailer or BRP. Considering those impacts, CRE considers that the removal of the prior agreement of the retailer cannot be done without taking care of those impacts by implementing specific rules. Those rules shall organize:

- A transfer of energy between the flexibility service provider and the BRP of the consumer. The retailer shall receive a payment for this transfer, which allows the flexibility service provider to get the ownership of the energy that was initially sourced for the consumer that is curtailed;

- An exchange of information at the required aggregated level in order to inform the retailer and/or the BRP of demand-side flexibility events that could occur in its portfolio. This information is needed to make sure that the retailer or the BRP do not adapt their sourcing following a DSF event;

- The protection of all sensitive commercial information of the actors involved.

Implementation of those rules shall allow all consumers and flexibility service providers to receive the economic signal and, if those signals are positive, develop all the necessary demand-side flexibility capacities that the system needs.

As a conclusion, CRE considers as inappropriate the development of specific products or support to kick-start the development of demand-side flexibility.