

31 May 2023

## **EFET response to ERSE consultation on the review of electricity sector regulation**

EFET welcomes [ERSE public consultation n. 113](#) on the “Revisão Regulamentar do Setor Elétrico” and provides the key messages and recommendations regarding the adaptation of the rules of the Portuguese electricity system to the European regulation.

First, EFET recognises that the developments proposed under the present revision are aligned with European regulation and create the grounds for an integration of the Portuguese electricity system with European platforms, namely regarding balancing services.

However, the regulation currently under public consultation only establishes the principles that guide the operation of the system. In fact, the specificity of the rules and products that make up the balancing market is established in the “*Manual de Procedimentos da Gestão Global do Sistema*” (MPGGS), which was approved on the 13th of December 2022 and is not totally aligned with European regulation, nor with the proposals advanced in this revision.

As such, the review of the MPGGS is of paramount importance and should be undertaken as soon as possible to allow not only an efficient market participation by the Portuguese market agents, but also the integration of Portugal into European platforms.

In this regard, EFET points out that any regulatory change that is not in line with the European regulation will only impose increased costs on market participants, as any adaptation to processes and IT systems will be transitory in nature, translating into unnecessary sunk costs.

In this context, EFET appreciates the opportunity to contribute towards the formulation of regulations that facilitate the engagement of market participants in a market that is non-discriminatory, more competitive, and efficient. The subsequent remarks provide aim to achieve this objective.

Finally, we take this opportunity to raise our strong concern about the recent episodes of abrupt fall of the forecast of available NTC in the PT-ES border. The conditions that trigger these changes must be subject to a cost-benefit assessment at the time of the decision, in order to fulfil two complementary objectives: maximize the NTC available in the day-ahead timeframe and avoid strong rates of change in the intraday timeframe.

## **#1 - Implement imbalance settlement harmonisation methodology as soon as possible**

The last review of the MPGGS<sup>1</sup> took place at the end of 2022, aiming to adapt its regulations to ACER's Decision No. 18/2020 of, issued on July 15, concerning the harmonization of the imbalance settlement (ISH).

The new MPGGS already considers the imbalance settlement harmonisation methodology, in terms of imbalance price and single imbalance position. Notwithstanding, EFET urges ERSE to implement ISH methodology in the shortest time possible, since the imbalance price is the price signal on which markets will base trading decisions in all timeframes. A delay in the implementation of the ISH harmonisation would:

- Increase uncertainty and reduce market participants' ability to optimise portfolios at the lowest cost for society
- Blur the price signal which will be of utmost importance to drive investments in renewables and storage assets and let the true value of flexibility emerge in the next years
- Increase operational complexity for REN and the market participants

## **#2 - Market zones should be equal to imbalance settlement areas**

The recent revision of the MPGGS adopted the “*Área de Ofertas*”<sup>2</sup> (AO) concept, meaning that the offers to provide balancing services are made by AO, and their verification is also carried out by AO of mobilized balance energy.

The AO are defined geographically by the System Operator, considering multiple grid areas instead of considering a single AO matching the bidding zone, i.e., the national territory.

Considering the European regulatory context and the discussion already held within the scope of Public Consultation No. 105, on the amendment of the MPGGS, it is proposed to eliminate the different AO and include in the “*Regulamento de Operações das Redes*” (ROR) the principle of non-limitation of the provision of balancing services by Grid Area.

Specifically, it is proposed that the verification of compliance with the mobilization of balancing services by the market agent providing the service (BSP) should tend to be carried out by aggregating all the AO of the same market agent.

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<sup>1</sup> Directive (ERSE) No. 19/2022, December 13

<sup>2</sup> Área de Ofertas: Set of Physical Units connected in the same network area and belonging to the same Market Agent, which are aggregated, namely for participation in ancillary services markets.

Thus, the proposed measure will allow the exchange of the AO mobilized by another, by decision of the market agent, unless the TSO has issued a limitation, contrary to this alteration (e.g., to resolve a congestion situation).

EFET considers this measure very positive given that frequency services are unrelated to addressing internal congestion on the national network, for which alternative markets and instruments are already accessible to the System Operator.

The rationale behind segregating the provision of balancing services based on geographical offers remains unclear. Such segregation introduces technological discrimination and unnecessary complexity, leading to inefficiencies, counterproductive activations, and ultimately higher costs for the system.

Once again, EFET hopes that this concept will be transposed and clearly defined in the MPGGS, once the review of the ROR is completed, emphasizing that it is urgent to make this change, in order to reduce the overall costs of the system.

### **#3 - Enable portfolio bidding for all generators and all technologies across all timeframes**

We understand that under regulation in force, aggregation of “Unidades Físicas” is foreseen only for demand-side, small producers and technologies of renewable production of a BSP, which are connected to the same Grid Area, and it is restricted to the balancing market only.

As a first step, we encourage ERSE to extend portfolio aggregation to all types of generators, including thermal units, but not disregarding that later, this extension should be considered to enable portfolio aggregation on the day-ahead and intraday markets.

The opportunity to submit bids/offers on a zonal portfolio basis is a precondition for the development of efficient energy market where market participants can optimise all their resources via a more flexible bidding strategy at the lowest cost for society.

Notwithstanding, we believe that taking into account the proposal on the AO above referred, the BSP will be able to act in a single AO, where the compliance with the mobilization of balancing services will be verified. Thus, we understand that there is no reason why ERSE should not consider portfolio bidding in all circumstances, in the next review of the MPGGS.

## **#4 - Ancillary services should be procured through market-based mechanisms**

Market-based procurement is always preferable, where possible, as it guarantees transparency, allows fair remuneration for the service offered and expose market participants to the correct price signals.

New technologies should be considered when upgrading the existing balancing framework. Their effective integration would promote competition, bring more participants into the Portuguese energy market, foster liquidity and increase the transparency on price formation.

In this regard, it is proposed the implementation of standard balancing products in opposition to specific products. Thus, by the end of 2024, it is foreseen the implementation of standard and technologically neutral aFRR and mFRR marked-based capacity products.

In this context, it is important to emphasize that the adaptation process must be carried out as quickly as possible, supported by a roadmap with an action plan, involving all interested parties.

On the other hand, the proposal does not consider the procurement for all ancillary products through market-based mechanisms, namely:

- **Replacement Reserves (RR) capacity product** - RR implementation as a standard product is foreseen by Regulation (EU) 2017/2195 under the same terms as the aFRR and mFRR products, being mandatory for TSOs that are contracting balance capacity;
- **Frequency Containment Reserves (FCR) capacity product** - The provision of the FCR capacity service should be remunerated under article 40, no. 4 of Directive 2019/944, article 6, no. 8 of Regulation (EU) 2019/943 and the pursuant to article 167, paragraph 1, point b, of Decree-Law 15/2022, which explains the principle of contracting balance capacity on the market, without any discrimination between products;
- **Voltage control and reactive power management service** - Regarding services unrelated to frequency, EFET finds it hard to understand how the proposal in Article 49, Paragraph 8 of the ROR proposal, which suggests an obligation and non-remuneration for the provision of voltage control and reactive power management services, can coexist with the proposal in Article 55 to establish mechanisms for contracting such ancillary services.

## **#5 - Phase out the “Banda de Reserva de Regulação”**

ERSE mentions in the supporting document accompanying the ROR revision that the implementation of standard balancing products implies the approval of changes to the MPGGS, but also the implementation of new procedures in the TSO systems. Thus, the current products will remain in use, at least during the transition period necessary for this implementation (see transitional provision of the ROR). Regarding this matter, after the implementation of the standard products, the TSO must justify the reasons for the possible maintenance of any of the current specific products, which may be effective simultaneously with the standard products.

Nevertheless, in the same document, ERSE refers that it should be noted that the BRR product was approved as a specific balancing product, according to the EBGL criteria. As such, it should be reassessed by the TSO at least every two years.

On this subject, EFET reinforces its concern regarding the creation of a specific energy regulation and regulatory capacity product designed solely for specific consumers and that was supposed to be temporary.

Therefore, EFET ask ERSE to terminate such regulatory product in order to respect the principle of technological neutrality and enable the participation of all technologies, given that the market participation should be non-discriminatory and open to all that are able and capable to provide such services.

## **#6 - TSOs and DSOs shall not own, develop, manage or operate energy storage facilities**

The Decree-Law No. 15/2022, January 14<sup>th</sup>, that establishes the organization and operation of the National Electric System, transposing Directive (EU) 2019/944 and Directive (EU) 2018/2001, determines that TSOs and DSOs cannot purchase electricity for sale or own, develop, manage or operate power plants storage, except when, upon favourable opinion from ERSE, these systems constitute fully integrated network components or are intended primarily to provide system services, guarantee of the security and reliability of the networks.

The provisions of the Directive (EU) 2019/944, namely Art. 36 and Art. 54, allow a derogation of this rule where energy storage facilities are fully integrated network components and the regulatory authority has granted its approval, or where all the conditions are fulfilled. Those conditions include:

- (TSO & DSO) other parties, following an open, transparent and non-discriminatory tendering procedure that is subject to review and approval by the regulatory authority, have not been awarded a right to own, develop, manage or

operate such facilities, or could not deliver those services at a reasonable cost and in a timely manner;

- (DSO) such facilities are necessary for the distribution system operators to fulfil their obligations under this Directive for the efficient, reliable and secure operation of the distribution system and the facilities are not used to buy or sell electricity in the electricity markets
- (TSO) such facilities or non-frequency ancillary services are necessary for the transmission system operators to fulfil their obligations under this Directive for the efficient, reliable and secure operation of the transmission system and they are not used to buy or sell electricity in the electricity markets.

The Directive clearly states that the SOs won't be able to buy or sell electricity in the electricity markets nor participate in balancing services. Although ERSE's proposal on this matter is based in the provisions of the Directive, it is not clear as to the impossibility of SOs participating in the electricity market, including the provision of balancing services.

Therefore, EFET suggests that ERSE clarify not only how this use of storage by SOs will be controlled, but also assess the distortion that may occur if the SOs hold storage assets (for ancillary services or as supply security mechanisms) for commercial purposes, since the mechanism for loading/unloading these assets will necessarily have to use the grid and energy sourced at the market. TSOs and DSOs should not carry out market activities that are not compatible with their own.

## **#7 - Provide a clear roadmap for the development and implementation of the rules**

As mentioned before, the regulation currently under public consultation only establishes the principles that guide the operation of the system, in fact, the specificity of the rules necessary for implementation of the changes proposed will have to be established in the MPGGS.

Moreover, the developments to be carried out for the implementation of the MARI and PICASSO projects (until the 24<sup>th</sup> of July 2024), imply the involvement of all market agents so that timely action can be taken in planning for a more effective implementation of the regulatory measures adopted and necessary to be carried out.

In this context, both ERSE and the System Operator should promote the relevant discussions to then move on to a detailed plan of activities, given that all the entities involved will require a period for the adaptation of their IT systems and procedures.