

To the attention of:

Mr Jean-François Carenc
President of CRE

Mr Xavier Piechaczyk
CEO of RTE

In copy:

Ms Ditte Juul-Jorgensen
Director General for Energy, European Commission

Mr Christian Zinglensen
Director of ACER

Ms Sonya Twohig
Secretary General of ENSTO-E

Object: EFET request to reinstate competitive tenders for secondary reserves (aFRR) capacity in France

25 November 2021

Dear Mr Carenc, dear Mr Piechaczyk,

With this letter, the European Federation of Energy Traders (EFET) expresses its deep concern with the suspension without time limit of competitive tenders for secondary reserve (aFRR) capacity in France, effective since Tuesday 23 November 2021.

The request from CRE to RTE to suspend the competitive aFRR tenders lacks appropriate justification and is a severe threat to the good functioning of the balancing market in France. In addition, we consider that the rushed process that led to the rollback to the historic obligation and regulated compensation scheme is a price intervention that constitutes a particularly negative precedent casting a shadow on regulatory certainty in France and endangering the attractiveness of the French electricity market in Europe.

We urge CRE and RTE to reinstate the competitive aFRR tenders as soon as possible and, where need be, further analyse how to improve the functioning of the aFRR market.

The suspension of competitive aFRR tenders lacks legal ground

In the letter from CRE dated 10th of November 2021, a reference is made to article 6.4.6.3. of the “Services Système Fréquence” rules. This article mentions the following:

In the event of an IT problem or a lack of liquidity making it temporarily impossible to contract the Secondary Reserve by daily call for tenders, RTE can revert to contracting the Secondary Reserve by obligation. This rollback procedure is available for one year from date H.¹

However, neither the letter from CRE nor follow-up communications from RTE give any tangible element to ascertain that either of the two conditions for a rollback are met:

- No IT issue has been reported on the competitive aFRR tendering process;
- Liquidity concerns have been reported by CRE, mentioning that balancing service providers (BSPs) are only few (5 in total) and that the numbers of offers are “insufficient to allow an appropriate price formation” of the aFRR capacity price. However, there was no indication, either in the letter from CRE or in later communication by RTE, that the observed market liquidity made the contracting of aFRR “impossible”, as article 6.4.6.3. requires. In fact, market participants’ bids totalled a capacity that was significantly higher than RTE’s need for aFRR over the whole three weeks of operation of the competitive aFRR tenders.

The regulator failed to justify why it considers that the three weeks of operation of competitive aFRR tenders evidenced “inappropriate price formation”, or how the competitive tenders made it actually impossible for RTE to contract aFRR. As it stands, we therefore see no legal ground in the “Services Système Fréquence” rules or in French and European regulation to suspend the competitive tenders.

Price levels are not an appropriate justification for interventions in the market

In its letter to RTE, CRE goes at length to describe “very high prices” for aFRR capacity, which appear as the fundamental reason to request the suspension of the competitive tenders.

Prices in market-based mechanisms such as competitive tenders are driven by market fundamentals. The current condition of energy markets, signalling tight conditions on all commodities and emission allowances, have resulted in higher prices than previous years in electricity markets throughout Europe. France, where the short-run marginal cost of peaking plants is usually already high, is not immune to this trend. This is a market fundamental that is naturally reflected in the competitive aFRR tenders, where the regulated compensation of the historic obligation scheme could not.

Other market fundamentals are linked to the design of the aFRR market in general, more specifically the characteristics of the aFRR product: non-harmonised qualification criteria, such as the full activation time of aFRR, or the regulated activation price still pegged to the day-ahead price in France, are elements that likely have an upward impact on the price of aFRR capacity offers. Ignoring such fundamentals makes comparisons with prices for aFRR capacity in neighbouring countries of little relevance.

¹ Original version of article 6.4.6.3. of the “Service Système Fréquence” rules: “Dans l’hypothèse d’un problème SI ou d’un manque de liquidité rendant temporairement impossible la contractualisation de la Réserve Secondaire par appel d’offres journalier, RTE peut revenir à une contractualisation de la Réserve Secondaire par obligations. Cette procédure de relai de fonctionnement est disponible pendant une année à compter de la date H.”

The decision to suspend the competitive aFRR tenders appears to us a direct price intervention affecting the French and European electricity markets, which goes against the principles of operation of electricity markets laid down in article 3 of EU the EU Electricity Regulation 2019/943. The recent rise in energy prices has led a number of national authorities to take targeted mitigation measures to protect vulnerable consumers, and we appreciate those already taken by the French government in that regard. However, this situation should not be an excuse to (re-)instate mechanisms that directly interfere with market dynamics, as underlined in recent recommendations of both the European Commission² and ACER³. We consider the suspension of competitive aFRR tenders in France as such an intervention in market dynamics, affecting not only balancing capacity procurement, but in the end also the French and European electricity markets.

Should CRE deem the number of market participants too low in competitive aFRR tenders and worry that this may have an impact on liquidity, we recommend that the regulator assesses whether the regulatory framework appropriately supports the provision of enough aFRR capacity and, if not, urge RTE to propose the necessary regulatory changes.

Trust in the stability of the French regulatory framework is at stake

EFET reminds CRE and RTE that the organisation of a competitive tendering process for aFRR is based on article 6.8 of the EU Electricity Regulation 2019/943, applicable as of 1 January 2020, which mandates the procurement of aFRR reserve via market-based process. The historic scheme of obligation and regulated remuneration does certainly not constitute a market-based process.

The decision to roll back to the historic scheme of procurement of aFRR capacity, taken only a week after (and effective 3 weeks after) the go-live of competitive tenders, is a very negative sign for participants and potential investors in the French electricity market. Allowing any new system to prove itself longer than such a short period of time and ensuring that the conditions for a rollback are strictly followed is paramount to ensure trust from the market in the rules established by RTE and approved by CRE.

In addition, the suspension decision has no precise termination date and does not specify the criteria according to which the competitive tendering process would be reinstated. It gives no visibility to the market as to how long this extraordinary situation will last, or when and how the regulatory framework will be put back on the expected track.

This price intervention also sends the wrong signal to all the actors of the energy transition in the country. France, like many EU Member States, radically needs investment in renewables, but also in technologies that will support the transition, e.g. peaking generation units, demand-response, electricity storage and power-to-X. The rollback to the historic aFRR procurement scheme capacity is a highly negative signal towards investors. With degraded legal certainty, investment in new capacity will at best become more expensive, and, at worst, not materialise. In the end, consumers will foot the bill of an energy system made more expensive by a measure that was supposed to protect them.

² Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A660%3AFIN&qid=1634215984101>.

³ Available at: https://documents.acer.europa.eu/en/The_agency/Organisation/Documents/Energy%20Prices_Final.pdf.

Conclusion and recommendations

EFET fully supports the wish that CRE, and more generally French authorities, may have to protect vulnerable citizens from peaks in energy prices. We firmly believe that the market is playing its part in ensuring stable and affordable energy prices for consumers. When additional support measures are necessary, European rules and recommendations provide the framework for a range of solutions that do not negatively affect the functioning of the energy and emissions markets, or the ability of the sector to pursue the energy transition.

The CRE decision to suspend the competitive aFRR tenders creates immediate and significant distortions in the French balancing capacity market, with repercussions on the French and European electricity markets. This brings significant uncertainty for long-term investments in the energy transition in France and beyond. We consider it an unjustified interference in market functioning lacking legal standing, preventing efficient market functioning and the free formation of prices.

Therefore, EFET urges CRE and RTE to reinstate competitive aFRR tenders as soon as possible. Further analysis on the state of the aFRR market, including on its level of liquidity, will certainly also be useful to analyse how possible amendments to the aFRR market design could improve its functioning.

Yours sincerely,



Mark Copley

CEO of EFET