December **2023**

UFE Response to All TSOs Proposal for Amendments on aFRR IF (Art. 21 of EB Regulation) and Pricing Methodology (Art. 30(1) of EB Regulation)

Key messages:

- UFE supports with conditions aFRR IF amendments regarding the introduction of a voluntary elastic aFRR demand for aFRR demands larger than the dimensioned aFRR in a LFC block. While recommending implementing them before more TSOs connect to the PICASSO platform, we recall that in any case these measures cannot be a precondition for TSOs to comply with the legal deadline to join the PICASSO platform.

- UFE is in favor of the amendments regarding the determination of the CBMP based on LFC activation while calling for a specific and regular reporting of the effects of this measure if it was implemented.

- Market participants within UFE question TSOs proposal on pricing methodology reviewing the level of the balancing energy price cap and is skeptical about its effectiveness. Market participants within UFE consider that the assessment and potential implementation of a new transitional price cap are premature as the market is not yet fully developed, and a limited number of TSOs have accessed the platform.

- Market participants within UFE consider that the permanent cap should be set at the level of the highest VoLL among the member states and underline that there is no reason to lower the transitory cap at 10 000 €/MWh for the remaining 2 years.

- Market participants within UFE advocate for using REMIT guidelines as the most efficient solution to address the root causes of strategic bidding, rather than placing the responsibility on TSOs to anticipate or qualify market manipulation.

Feedback on the proposed amendments to the aFRR IF (Article 21 of EB Regulation):

UFE takes note of the introduction of a voluntary elastic aFRR demand in compliance with article 29 (13) of the EB Regulation, provided it doesn't prevent TSOs to comply with the applicable frequency regulation requirements. On the TSO's proposal, UFE would appreciate having the following points taken into consideration:

- Art.3.4(c): UFE takes note and support TSO's proposal to ensure that the introduction of the elastic demand would not be used by TSOs in a way that could act de facto as a price cap. However, **UFE considers that TSOs' proposal is not prescriptive enough on the ways TSOs may or may not use the elastic demand.** Market participants would notably need a list of elastic demand use cases that would be allowed / not allowed. In addition, UFE would appreciate, in the explanatory document, a description of the way the volume and the price of the elastic demand would be determined as well as an example/use case describing a situation where the elastic aFRR could be used "in such a way that it imposes a cap on balancing energy prices for all LFC areas or bidding zones". It would help to understand this use case so that if such a situation arises it will be adequately identified and blocked.
- Art.3.5: **UFE considers that demand curves should be published in any case**, and not only if (TSOs deem that) they are not sufficiently described. TSOs must clearly describe the rules used to define both the volume and the price of the elastic demand. This is a prerequisite clearly listed (by themselves) in art.3.4(d).
- It would be **useful to include a paragraph on the timeline and roadmap for the implementation of elastic demand provision**. As it stands, it is unclear when this will be available once ACER approves this revision.
- UFE considers it necessary to amend Art. 11 (especially paragraphs 11.3 and 11.4(b)) to describe the different treatment of inelastic and elastic demands.

We thus support the implementation of the proposed amendments to the aFRR IF within the strict conditions proposed to accompany them and along with the points raised above and **recommend implementing them before more TSOs connect to the PICASSO platform**.

Nevertheless, **we consider that, in any case, these measures cannot be a precondition for TSOs to comply with the legal deadline to join the PICASSO platform**. This would set a harmful precedent, detrimental to the stability of the regulatory framework and therefore to the market participant's ability to anticipate future incomes as BSPs or costs as BRPs.

Feedback on the proposed amendments related to the Determination of the aFRR CBMP based on LFC input and LFC output signals:

Regarding the determination of the CBMP based on LFC activation, UFE is favorable to this measure, even though we regret that no quantitative assessment was provided for the effectiveness of this measure. This is why we call for a specific and regular reporting of the effects of this measure if it implemented.

Finally on this subject, we believe a definition of a LCF output is needed in the proposal.

Feedback on the proposed amendments related to Harmonized maximum and minimum standard balancing energy prices:

UFE is favorable to the free formation of price. **However, balancing markets are different from the wholesale markets where each customer could express its maximum willingness to pay by setting a cap on its bids**. It is not the case on the balancing markets because the customers are not able to react to balancing energy prices, as they are settled too close to the real time. **Hence, balancing energy prices higher than the maximum real time value of energy that the customers would be willing to pay if the market were perfect, do not make any sense.**

What should be the value of this cap? On balancing markets, TSOs buy and sell energy to balance the electricity system and therefore act on behalf of general interest. In this case, VoLL is the best estimate of maximum real time value of energy that the customers in general would be willing to pay and reducing the balancing technical price limits to the level of the VoLL would address the issue of the lack of a true market during balancing timeframe. This would lead to a more efficient functioning of the balancing market, by considering all stakeholders perspectives and indirectly putting a price cap on customers' demand. **Therefore, Market participants within UFE are favorable to maintain a permanent cap for aFRR prices at the level of the VOLL.**

However, it must be ensured that it does not affect the free formation of balancing energy prices. **This implies that the prices need the ability to theoretically reach the Value of Lost Load (VoLL) in all markets.**

Each country has an own estimation of its VoLL, therefore Market participants within UFE consider that the maximum technical price limit should be set at least at the value of the highest VoLL among member states. The permanent cap proposed by the TSOs, 15,000 €/MWh, is lower than the VoLL estimated in some country such as in France where recently RTE estimated that the VoLL at 33,000 €/MWh. **Therefore, Market participants within UFE consider that the proposed permanent cap is too low.**

Concerning the proposition of transitory cap lower than the permanent cap, Market participants within UFE disagree with the rationale proposed by the TSOs:

- TSOs justify this transitory cap to prevent potential abuse of dominant positions in balancing markets. Market participants within UFE would like to underline that such accusations are covered by competition laws and REMIT which should be enforced by relevant authorities. It is in no way the task of TSOs to evaluate nor to take measures to remedy to such situations. In any case, price limits are not the right tool for this purpose as they would induce market inefficiencies and could hinder prices signals as well as the European level playing field.
- the proposed price limits are compelling for all balancing energy standard products even though the recent price incidents were only observed for aFRR on PICASSO. Therefore, it does not seem legitimate to change the market conditions also for mFRR and RR. Moreover, in the meantime, ENTSOE proposes to introduce voluntary elastic aFRR demand in order each TSO decides up to what price it wants to satisfy (part of) its aFRR demand. It is better to wait the consequences of prices spikes on Picasso, before setting a transitory lower than the permanent one.
- The introduction of elastic demand should tackle the issue of price sensitivity well enough.

Therefore, Market participants within UFE considers that there is no reason to lower the transitory cap for the remaining 2 years.

In any case, the 10,000 €/MWh price cap is too restrictive compared to the SIDC price cap. It may not provide a sufficient incentive for market participants to minimize their imbalances. This goes against the requirements of the Electricity Balancing Guideline, which has clear provisions on the need for incentives for market participants 'in keeping and/or helping to restore the system balance' in preamble (17) and art.44.1(c). The lack of sufficient incentive for BRPs may lead to additional imbalance volumes that TSOs need to tackle, with both cost and security implications.