

To the urgent attention of:

Elektromreža Srbije A.D. (EMS JSC)

Ms. Jelena Matejić, General Manager

In copy to:

The Energy Agency of the Republic of Serbia (AERS)

Mr. Dejan Popović, President of the Council

The Ministry of Mining and Energy

Mrs. Zorana Mihajlović, Minister

The Energy Community Secretariat

Mr. Janez Kopač, Director

Ms. Jasmina Trhulj, Head of Electricity Unity

Mr. Arben Kllokoqi, Electricity Expert, ECRB

8 November 2021

Subject: EFET¹ reaction on risks to market operations arising from amendments to balancing market charges in the Republic of Serbia and call to pause implementation

The European Federation of Energy Traders (EFET) would like to express our concerns about recent changes to the Electricity Market Code² adopted by transmission system and market operator Elektromreža Srbije A.D. (EMS JSC), with respect to conditions of participation in the Serbian Balancing Market.

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org

² [Rules on changes and amendments to the Electricity Market Code](#)

We have three concerns:

1. The very significant increases in the minimum and maximum collateral amounts for Balance Responsible Parties (BRPs) proposed by EMS JSC;
2. The deadline of only fifteen days, within which BRPs are expected to sign new contracts and deposit guarantees; and
3. The short lead times within which the amendments to the Market Code have been introduced.

We believe that, in aggregate, these changes could have a detrimental impact on the operation of the market, as well as on regional security of supply.

The significant increase in collateral requirements has not been justified by EMS JSC and may push firms out of the Serbian market

We believe that the increase in the minimal collateral value from EUR 50,000 to EUR 1,000,000 is disproportionate and not in line with common practice used in neighbouring countries or by most transmission system operators (TSOs) in the EU³. In addition, the maximum value of EUR 5,000,000 is also very high, considering the size of the Serbian market, and it is not clear to us that it is required to provide protection against potential BRP default. Overall, we would like to stress that any risk management methodology should be developed based on the principle of proportionality.

From a purely practical point of view, these increases could be extremely difficult for some registered traders to meet at such short notice, as additional external funding may need to be secured. Therefore, they could potentially lead to market exit if firms are unable or unwilling to secure additional capital.

The minimum period in which to pay the special purpose guarantee deposit in escrow is an obstacle for BRPs

According to the amended rules of the Market Code⁴, the BRP is expected to deposit an amount set at three times the determined risk value for each BRP, or at the level of the minimum value of the payment security instrument in case the former amount does not exceed the minimum value. The BRP must pay EMS JSC by depositing the corresponding amount to a dedicated account in a Serbian bank during a period which may not be less than three years. This minimum period of three years constitutes an obstacle for BRPs expected to deposit their funds. We thus consider that this provision leads to an overall cumbersome process for BRPs and should be removed.

³ For instance, the maximum guarantee set by the TSO in neighbouring Bosnia and Herzegovina (NOS BiH) is EUR 1,022,584 and this amount can be pushed further downwards based on the turnover of each market player. Another example is the TSO in North Macedonia (A. D. MEPSO) who has set a minimum guarantee at 1,000,000 Denara (approximately EUR 16,000 based on an exchange rate of EUR 1 equalling to 61.55 MKD), with the maximum one calculated according to a separate formula. Moreover, standard guarantees at EU TSOs start at EUR 50,000.

⁴ Section 3.8.22

The deadline of fifteen days in which to post collateral is unreasonable and inconsistent with the general framework of the BRP contract

According to the amended rules of the Market Code, BRPs are expected to sign new contracts and deposit guarantees within a deadline of only fifteen days. However, the Market Code, both in its previous version and the newly amended one⁵, grants BRPs 60 days (“two months”) to submit the appropriate payment security instrument, following conclusion of the balance responsibility agreement. We struggle to understand this difference of approach compared to the standard requirements of the Serbian BRP contract, and we believe that this deadline of fifteen days is unreasonable considering the magnitude of the increase in the guarantee levels.

Insufficiently transparent implementation decision-making and absent stakeholder engagement hinder confidence in the Serbian market

A change of this importance obviously has a big impact on individual market participants and on the market as a whole, deserving an open, transparent and thorough dialogue with market participants. The market rules were not consulted on the rules before their approval by the Serbian Energy Agency (AERS). This decision, published in the Official Gazette on 4 November came two days after EMS JSC’s email announcement that the amendments had come into force. Whether the dedicated Commission established to monitor the implementation of the Market Code was even involved in the approval of the new collateral requirements is unclear. Moreover, no impact assessment or justification document was published, either before or after the approval of the new rules.

Trust in due process, legal certainty and inclusive decision-making are key factors guiding market participants’ decisions where to do business. Processes like the one just experienced in the approval of the new collateral requirements for BRPs are a clear deterrent to Serbia’s attractiveness as a place to invest and do business in the electricity sector.

Consequences

Overall, we believe that the very significant increases in capital requirements for BRPs could lead to a consequent reduction in liquidity in both the wholesale market and balancing mechanism in Serbia. Therefore, these new requirements could contribute to both higher and more volatile prices. They could also bring about disruptions in the Serbian market with potential spill-over effects and disruptions of regional flows in an already challenging period.

Our request

We understand that credit and collateral requirements need to be scrutinised as market conditions change. The current proposal appears linked to the recent rise in energy prices and to higher volatility and associated risks, including risks of BRP default.

However, we see it vital that changes in collateral requirements do not impede the functioning and further development of the local and regional wholesale power markets. Any such changes in collateral requirements for BRPs should be proportionate to the level of risk for the system

⁵ Section 3.7.4

and enacted with appropriate lead times following due and sufficient consultation of market participants.

At this stage, we do not consider that EMS JSC has provided sufficient justification for the proposed changes, nor that the implementation of the measure is fair for market participants. We are concerned by the unintended consequences of the increase in collateral requested from BRPs.

Hence, we call for implementation of this measure to be put on hold until such conversations have taken place.

Yours sincerely,

On behalf of the European Federation of Energy Traders

Sandra Milardovic

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Manager

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