CONSULTATION RESPONSE

EFET
European Federation of Energy Traders

EFET response to the DGEC consultation on the new mechanism to regulate consumer access to electricity produced from nuclear energy in France

Brussels, 20 December 2023 - The European Federation of Energy Traders (EFET) welcomes the opportunity to provide input to the DGEC consultation. This response focuses primarily on the importance of preserving and improving liquidity on the French and European wholesale electricity markets. As details on the post-ARENH arrangements unfold in the months to come, it will be important to monitor how the market is evolving and whether the new arrangements support or not a positive evolution of wholesale electricity market efficiency.

Detailed comments

> ***Question I.*** *What impact do you anticipate of this mechanism on the functioning of the French wholesale and retail electricity markets? Do you consider that this system would improve liquidity on the forward markets over a five-year horizon?*

The proposed mechanism represents a significant change in the arrangements relating to the functioning of the French wholesale and retail markets. Although the functioning of retail markets is a contributing factor to the evolution of wholesale markets, our comments focus primarily on the latter. However, it is noted that the focus of this proposal, within the wider context of the wholesale price increases over the past two years, is on ensuring affordability of prices to users, which deviates from some of the objectives of the existing ARENH mechanism.

In terms of evolution of the wholesale electricity markets then, the existing regulated auction of 100 TWh at fixed price organised under ARENH is expected to be phased out in 2025. As a consequence, there is a potential for increased volumes to be offered on the wholesale market. Whether these volumes will effectively be made available to the market and support the liquidity of the French and European electricity markets - also on longer maturity products- will depend on how the proposed arrangements will materialise and be implemented. This remains to be clarified including up to June 2024. Hence, we reserve our opinion on the matter until then.

Over time it will be important to review how liquidity is evolving, including whether market participants have the ability to hedge their exposures (if they chose to do so) without undue restrictions. This review should include how the proposed framework impacts current and future arrangements, including power purchase agreements (PPAs), that support the deployment of renewables and other technologies needed for the energy transition in France. Attention should therefore be paid to the evolution of price signals and the investment climate. The French authorities should be transparent in future stages of consultation about how the performance of the proposed mechanism will be assessed, including any success criteria that will be used.

The DEGC proposal builds in milestones for formal assessment (on 1 January 2025 and every 3 years after that) of how the proposed mechanism is functioning. Such reviews should be a transparent process, allowing all market participants to provide views on the success or otherwise of the arrangements. Outside of the formal reviews, it will be important to monitor how the market is evolving and whether the new arrangements support or not a positive evolution of wholesale electricity market liquidity in France and in the EU.

> ***Question II.*** *Do these principles for determining the parameters of regulation and their methods of revision seem appropriate to meet the objective of maintaining incentives for efficiency for the producer, consumer protection, sobriety and investment in the nuclear production park?*

EFET takes note that the new mechanism is a revenue clawback for a specific purpose related to the French market, with an associated redistribution mechanism.

At this point there is little clarity on how any redistribution will operate. In the event there is an application of the revenue clawback – which will depend on the evolution of wholesale market prices – it will be important to define in advance how the redistribution to consumers will be taken care of and by whom. Therefore, a clear framework will need to be established to ensure that the costs incurred by retail suppliers in facilitating any potential redistribution be recovered.

As mentioned in our answer to Question I, we expect a review of the evolution of market efficiency (liquidity as well as price and investment signals) to ensure that the proposed arrangements meet the market's hedging needs.

Measures that impact electricity prices have the potential for a negative effect on demand reduction, and also demand response. As such, in the event there are significant redistribution revenues from the proposed mechanism, the impact of the mechanism on demand efficiency and demand response will need to be studied and measures may be needed to mitigate any negative effects.

It is not possible to comment on the impact on efficiency for the producer and investment in new nuclear, as the basis on which the proposed mechanism has been developed are not clear.

Question III. *What methods would seem relevant to you to ensure the transparency of the system and maximize the ability of market players to anticipate the amounts collected and to have visibility on the price returned to the electricity customer?*

More clarity is needed in the description of the mechanism, as to which prices will be taken into account to consider that a threshold has been breached – including the consideration or not of forward contracts and PPAs. The need for transparency when a threshold is breached will be relevant if other market participants – retail suppliers we expect – need to take action towards their clients (e.g. a redistribution) on that basis.

How will the proceeds from the clawback – if any – be redistributed? Will that depend on the actual contracts concluded on the market by the retail suppliers (or directly by consumers)? Will there be a redistribution key?

Question IV. *What mechanism would you consider could limit ex-post adjustments at the end of the delivery year?*

Regular assessments at the end of each quarter to reassess how the projections fit and possibly readjust them.

Question V. *Does the general principle of the proposed system seem capable of achieving the desired objective, namely ensuring a link between prices paid by the consumer and the complete cost structure of the existing fleet?*

The concept of long-term industrial partnership contracts briefly presented in the consultation is unclear, including the possible positive or negative effects it may have on long-term price signals.

From the little detail at hand, we cannot really discern whether these would be regulated contracts (for specific volumes, prices, time horizons), some form of voluntary market-making activity by producers, or simply the incentivisation of PPAs. Given the absence of details, it is unfeasible to either support or oppose the DGEC proposal at the moment. These elements remain to be clarified including up to June 2024. Hence, we reserve our opinion on the matter until then.

For additional recommendations on how to support long-term hedging in the market, see our response to Question X.

> ***Question VI.*** *Do these principles seem relevant to you in order to enable all end consumers to benefit from the competitiveness and cost stability of the existing nuclear fleet while allowing investment in new nuclear production capacities and minimizing the impact of regulation on the functioning of the retail market?*

See our answer to Question V.

> ***Question VII.*** *What impacts of this redistribution mechanism do you anticipate on the supply strategy of suppliers and end consumers? On the competitive functioning of the retail market?*

See our answer to Question V.

> ***Question VIII.*** *What advantages and disadvantages do you see in including the volumes of electricity supplied under Long-Term Contracts backed by nuclear power plants or renewable assets in the redistribution base? and the volumes for network losses?*

See our answer to Question V.

> ***Question IX.*** *Do these principles seem useful to you in limiting the risks of supplier failure? What practical arrangements do you believe should be defined at the legislative and regulatory level? Do you believe that more extensive prudential obligations, imposing a share of long-term supply in a more general manner, should be sought?*

First, we support prudent portfolio management and we note that throughout the crisis, pre-existing hedging from electricity market participants have contributed to smoothing out for end-consumers the effects sudden price increases on spot markets.

We welcome the intention of DGEC not to prescribe specific obligations as to how retail suppliers conduct their hedging strategies – especially when it comes to which contracts the suppliers would conclude for which time horizons. Retail suppliers should be left fully in charge of their hedging strategies, including the choice of contracts and instrument. Mandating a specific type of instrument may make hedging more complex and costly, at the ultimate expense of the end-consumer. At the same time, we look forward to more clarity on the post-ARENH arrangements in the months to come in order to provide better visibility to all market participants when devising their hedging strategies after 2025.

If any prudential obligation were to be placed on retail suppliers, these obligations would need to be tailored to the actual contractual commitments they have with consumers. We highlight the difficulty of this exercise, considering the right of individual consumers to switch suppliers at a day’s notice.

> **Question X.** Do you consider it necessary to put in place additional regulatory measures in order to facilitate the emergence of a medium-term (3-5 years) or long-term market? What impacts do you estimate that the development of medium or long-term contracts will have on the functioning of the market?

We appreciate the attention of the DGEC to commercial PPAs and forward contracts: they can underpin new investments and provide a hedge against price volatility for market participants and consumers.

We of course support the development of liquidity in time horizons further away from delivery. Some easy and light steps – to avoid over-regulating the sector – include:

- better incentives for voluntary market-making
- full use of the provisions of the EU's Renewable Energy Directive (RED III) and Electricity Market Design (EMD) reform to facilitate the conclusion of commercial PPAs by:
    - setting up instruments to reduce financial risks in the PPA fields, such as a State guarantee scheme
    - ensuring that all renewable electricity producers can secure and claim Guarantees of Origin, in order to value them through renewable PPAs even if the production is otherwise financially supported
- a review of the impact of the proposed arrangements, with special attention to forward and PPAs markets

> ***Question XI.*** *Do these changes to the TRVE seem to you to meet its objective which is to ensure price stability for consumers while respecting the principle of contestability by suppliers?*

A clawback and redistribution mechanism as the one proposed could have negative effects on demand efficiency as well as effective demand response measures.

We question the interaction of the TRVe and the proposed mechanism, which could have a double dampening effect on demand efficiency and demand response.

> ***Question XII.*** *Are you in favor of extending the market reference period used in the construction of TRVEs, which is currently 2 years? Should it be necessary to integrate "3-5 year ribbon" type products? Would special measures be necessary to support such an extension of the market reference period?*

We reserve our opinion on this matter.

> ***Question XIII.*** *Does this calendar seem likely to provide the visibility desired by the stakeholders?*

Regarding the last point: it would be useful to set a clear date (e.g. 1 February in AL+1) to allow the readjustments to be performed before the end of Q1. If redistribution amounts – if any – need to be readjusted for the delivery year, ensuring the final amount is calculated before the end of Q1 will allow most companies (the incumbent and any other market actor concerned) to finalise their accounts for the preceding financial year.

Contact

Jérôme Le Page
Chair of the Electricity Committee
j.lepage@efet.org