

19 July 2022

## **Draft framework guidelines on demand response**

The European Federation of Energy Traders (EFET<sup>1</sup>) welcomes the opportunity to provide comments on the EU Agency for the Cooperation of Energy Regulators (ACER) consultation on the draft framework guidelines (FG) on demand response. The guiding principle should be a clear and robust regulatory framework that integrates demand response in the current framework of the internal energy market.

Demand response is already a reality today. Large consumers directly participate in the wholesale market while independent aggregators link smaller consumers to the market, including via several pilot projects in several Member States.

We fully support the involvement of new market participants such as active consumers and independent aggregators in the wholesale electricity market. In our view, the EU internal energy market legislation, particularly with the completion of the Clean Energy Package, provides a comprehensive framework, laying down the key principles for their successful development and effective market engagement.

The framework requires non-discriminatory access, level playing field and transparency for all market participants in all market segments, and the development of effective price signals via well-designed markets without distortions, which is essential for building a robust business case and developing new business models and services.

### **The draft framework guidelines text contains several positive elements:**

- We welcome that the framework is built on the principles of technological neutrality and non-discrimination.
- We applaud the overall emphasis of the draft on the use of market-based mechanisms.

### **However, we see also some worrying aspects in the proposed guidelines:**

- We question the scope of the draft Framework Guideline and future new network code, and the breadth of new rules being proposed. Guaranteeing non-discrimination will require many of the new market rules suggested in the draft FG

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<sup>1</sup> 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](http://www.efet.org)

to be implemented as amendments in the existing guidelines (GLs) and network codes (NCs), so as to apply to all market participants.

- We question the proposed approach to storage ownership by System Operators (SOs) – and the relevance of including provisions on this topic in a draft FG on demand response.
- We challenge the lack of precision in the approach to congestion management and the role of SOs in it.

**You will find below our proposed amendments to specific paragraphs of the draft framework guideline:**

## 1. General provisions

We welcome the principles of technology neutrality, non-discrimination and that the rules should not jeopardise the functioning and integration of electricity markets in paragraph 1-5.

Paragraph 6-10, the European Commission asked to tackle regulatory barriers to demand response in its request to ACER. While such barriers are mentioned, an actual analysis of what they are in practice, and how to tackle them is hardly present in the ACER draft FG. We suggest ACER and ENTSO-E, EU DSO develop this further.

In paragraph 12, “service providing unit” and “service providing group” definitions should include energy storage. “Local market” should be better explained (in opposition to “zonal market”, not “wholesale market” – see our comments in section 4 on Data exchange, SOs coordination and market interaction).

At the end of paragraph 14, we propose to add “If any of the existing market rules included in the existing network codes and guidelines impede, directly or indirectly, operators engaging in demand response from accessing the market, these existing network codes and guidelines should be amended directly”.

In paragraph 17, additional rules for congestion management should be primarily tackled in CACM to maintain technology neutrality.

## 2. General requirement for market access

As general comments to this section:

- we insist that any new market rule suggested in the draft FG be implemented as an amendment to the existing market NCs and GLs, so as to apply to all market participants. Guaranteeing non-discrimination in the market will require that any new market rule applies to all, and hence should not be confined in a NC applying solely to demand response;

- targeted rules designed for aggregators should be developed based on the experience gathered in pilot projects in various Member States but apply general features and principles already required in current markets, to the maximum extent possible;
- we question the relevance of the inclusion of provisions on the operation by SOs of storage assets in a draft FG on demand response.

In paragraph 20, the minimum bid granularity could be reduced to 0.1 kW/kWh according to art. 8 of Regulation (EU) 2019/943. However, this would need to apply to all market participants, and hence be tackled in the existing market guidelines (and its accompanying methodologies). Regulating this in a specific NC dealing with demand response would lead to different market participants using different product granularity. To ensure non-discrimination, article 18 of the Electricity Balancing Guideline (EB GL) and articles 40 and 53 of the Capacity Allocation and Congestion Management Guideline (CACM GL) – or the methodologies approved according to these articles – would need to be amended. This will guarantee harmonised minimum day ahead, intraday, balancing energy and balancing capacity bid size for all market participants, not just demand-response operators. Along the lines of our reflections on the review of the CACM GL, such amendments should, at the very least, include the possibility to offer those bids as blocks<sup>2</sup>.

In paragraph 21-22, we suggest greater harmonisation of the terms and conditions for balancing service providers ('BSPs') and for balance responsible parties ('BRPs') rather than leaving it on a Member State level only. This will require amendments to the EB GL to ensure that this approach applies to all market participants.

In paragraph 23, when an aggregator sells energy on the market, this energy has been sourced by the supplier of the involved consumers. This energy is not consumed by the activated customer; this then results in freeing up energy that is implicitly diverted by the demand response aggregator and potentially consumed elsewhere in the system. A fair market-based remuneration of this sourced energy – by which the demand response aggregator compensates the supplier for its sourcing costs – should be required instead of being optional. Omitting this adds distortions to free price formation and risks undermining the overall efficiency of the market. As stated in the European Commission's impact assessment "the exclusion of any compensation mechanism introduces a possibility of demand aggregators being free riders in the markets and therefore creating inefficiencies and hindering a sustainable development of demand response solutions. This is not in line with the EU target model and generally not in line with creating a level playing field for competition". If this issue is not tackled, other participants in the market will bear the costs of demand response activation, with a risk of seeing end-consumer bills increase. So-

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<sup>2</sup> See our [EFET response to the European Commission consultation on the CACM review](#)

called “corrected models” have been tested in some Member States, which could serve as an example to follow in the final network code (i.e. in France).

In paragraph 25, the new rules specifically tailored for aggregators could draw from the experience of the several pilot projects conducted in Member States so far but apply general features and principles already required in current markets, to the maximum extent possible. For example, consideration should be given to more transparency on the process whereby bids are accepted, and the full list of both accepted and non-accepted bids in every area should be published at least on an ex-post basis. Moreover, while considering the possible types of aggregation models, it should be taken into account that aggregators could also mix consumption, generation and/or storage. It should be up to the aggregator to decide how to deal with the risk of not being able to actually provide the negotiated resources in the ancillary service market.

In paragraph 27, baseline and measurement rules applying to demand response to check the delivery of the service and assess imbalance settlement for energy should apply in the same manner to imbalance settlement in other types of services, such as capacity remuneration mechanisms.

In paragraph 29, we agree that if the control of the provision of an SO service is based on measurement, the granularity of the meter needs to be at least equal to 15 min, which is the harmonised imbalance settlement period.

Paragraphs 33-34: the procurement of FCR capacity should be tackled in the EB GL rather than in a NC dedicated to demand response. The prerequisite should be that market-based procurement of FCR from all capacity resources by the TSO must be implemented at national level. Then, procurement at least at regional level and FCR cooperation should be the goal. Consequently, regarding the asymmetric procurement of FCR, option B should be excluded as it leaves too high a potential of diversion from harmonised rules to individual TSOs.

In paragraph 35, we welcomed the principle enshrined in articles 36 and 54 of the Electricity Directive (Clean Energy Package) that TSOs and DSOs shall not be allowed to own, manage and operate electricity storage facilities. We suggest rephrasing “other relevant resources” because of its unclear wording.

Storage assets – in the same manner as generation assets or demand-response capacities – should never be considered as part of a network unless they can only be used for purposes other than system operation (such as, e.g., transmission lines, phase-shifters or transformers). All flexible capacities (batteries, other forms of storage, generation of all types and demand response) should compete on a level-playing field in the market and for ancillary services – same rights, same opportunities. We consider that electricity storage has the potential to respond to the flexibility needs of the market and the system, alongside electricity generation and demand response. Each of the different

technologies and assets have different characteristics and complement each other. Battery storage is an efficient tool to respond to very short-term, fast ramping needs of the market or the system. However, it is not the best tool to respond to long periods of activation. Hence battery storage should only be considered as one of the answers to the flexibility needs of the market and the system and be treated on an equal footing to electricity generation and demand response.

In paragraph 37, aside from our general surprise to see provisions on storage included in a draft FG on demand response, we suggest deleting that SOs are allowed to own/operate *part of* a storage facility (a percentage) if no third party can do so. If a SO needs to procure services in a specific location of the grid and if there is no flexibility in that location, then this should not lead to a conclusion that the SO should then be allowed to own and operate storage. Instead the procurement should then be organised over longer periods, so that market participants have a basis to invest in such assets. In this respect, we would like to refer to the [advice](#) of the ENTSO-E advisory Committee.

### 3. Prequalification

In paragraph 39, we suggest adding that the prequalification process rules should be consulted with all market participants first, as it happened in several Member States pilot projects.

In paragraph 40, we recommend more transparency on the criteria used by the SOs to approve the prequalification of a specific service provider, as well as on the outcome of the process.

In paragraph 43, the EB GL limits the use of specific balancing energy products, and rightly so. We request clarity on the reasons why balancing energy products are mixed with congestion management and voltage control in this section. And similarly to the rules on balancing energy, we suggest limiting the use of specific products for congestion management and voltage control, with similar requirements as in article 26 EB GL.

### 4. Data exchange, SOs coordination and market interaction

In paragraph 51, it is important to avoid a fragmentation of the regulatory framework. Different regulatory models hamper the valuation of flexible capacity on the markets. It makes it difficult for market participants to expand their geographical area of activity. We agree that harmonisation should be pursued at the very least within the control area of the respective MS. However, an objective to harmonised the regulatory framework at a European/regional level should be enshrined in regulation.

In paragraph 53-54, the procurement of locationally tagged bids from the wholesale market to use for SO services needs more profound consideration. Any new proposal for

a local market should first make sure to provide a link between local products/markets and the wholesale zonal market. This would ensure that the price signal is sufficiently strong and would minimise the risk of excessive market power. The management of localised congestion should in any case not lead to the fragmentation of current balancing mechanisms and/or electricity markets at zonal level. An integrated system approach should continue to be pursued in European regulation when developing new solutions to manage local constraints.

In paragraphs 55-59, and generally in this whole section, there is a clear need to better define term “local market”. In particular, ACER seems to draw a line between “wholesale markets” and “local markets” in paragraph 58, apparently in line with the definition of “local market” in paragraph 12 but in contrast with explanations made in paragraph 4. A “wholesale market” could be both “zonal” and “local”, and a “zonal market” has “wholesale” and “retail” components. Clarity in the terminology will be key to ensure the proper development of any new rules.

We welcome paragraph 78. Interoperability of solutions is essential. It is of utmost importance that, no matter how many platforms will eventually be used, they are interoperable at least at Member State level to ensure sufficient liquidity (e.g. no lock-in) and coordination. It should be noted that coordination relies on data and information exchange, as well as ICT solutions. Coordination between different parties and interoperability between existing and emerging markets should be a primary target for improvement. This would foster the use of flexibility where it is most valued.

## **5. Congestion management**

We welcome paragraph 84-85 to define a common European list of attributes for products used for congestion management and that the new rules should be set at least at national level.

In paragraph 86, we suggest adding that any new rules should be consulted with all market participants before being submitted to the NRA.

In paragraph 92, article 13 of the Electricity Regulation should apply at local level in the same way it applies at zonal level. We support new rules that would provide that long-term contracts for congestion management only be purchased in a market-based way. The new rules should clearly define when this applies for redispatching at local level.

In paragraph 99, we propose to add that SOs should publish market data as soon as possible and no later than 30 minutes, as it is current standard practice across Europe.

## **6. Voltage control**

In paragraph 110, we welcome that the activation of procured resources for voltage control shall follow the same rule as for the activation of mandatory capabilities, i.e. rules-based activation with a common merit order together with a common compensation scheme.