

Subject: FEBEG comments on CREG's public consultation on pricing methodology for the period 2024–2027

Date: 12 May 2022

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FEBEG thanks CREG for having the opportunity to react to the draft decree fixing the tariff methodology for the electricity transmission network and for electricity networks with a transmission function for the 2024–2027 regulatory period¹. The inputs and suggestions of FEBEG are not confidential.

Introduction

Before going into detail on the tariff methodology itself, FEBEG wishes to raise some overall concerns regarding the roles and responsibilities of Elia in the Belgian (and European) electricity market. Over the last couple of years, the activities of Elia have been expanding in several domains and FEBEG asks that the authorities keep a close view on the following:

1. The risk of Elia activities moving to far away from the CORE business of safely operating and managing the High Voltage Grid. Any 'new' activity can not be to the detriment of the main responsibilities of Elia towards the Belgian market and the Belgian consumers.
2. The risk of a non-level-playing field between activities developed by Elia and those developed by non-regulated and private companies. When Elia starts to develop activities which could/should be developed by independent companies in a competitive environment there is a clear issue as Elia has a lot more means than other (smaller, startup) companies.

FEBEG wishes to underline that Elia has an important voice in the debate on the energy transition, and is thus presenting, advocating and promoting various scenarios and/or evolutions in the electricity market. This is as such not an issue, if it would be to feed the debate or to inspire market parties. Issues (can) arise when Elia (or spin-offs linked to Elia or collaboration agreements signed by Elia) would profit when the ideas pushed by Elia would become a reality, as in that case there is a risk of a clear conflict of interest.

Specifically related to the document under consultation, we refer to Art 29 and 30 which clearly outline the task of the CREG to evaluate that costs borne by Elia are indeed linked to

¹ <https://www.creg.be/fr/consultations-publiques/projet-darrete-fixant-la-methodologie-tarifaire-pour-le-reseau-de-0>
<https://www.creg.be/nl/openbare-raadplegingen/ontwerp-van-besluit-tot-vaststelling-van-de-tariefmethodologie-voor-het>

the activities necessary to duly perform the tasks of the TSO (and thus to avoid that costs for tasks which are not considered as TSO tasks are not born by the grid users). Related to this, FEBEG also asks the CREG to duly evaluate the “incentives” given to Elia, to avoid that money is spent on incentives which do not offer clear benefits to Belgian consumers and grid users.

Preliminary remark

FEBEG would like to thank the CREG for all the information and the description of the different aspects of the tariff methodology. Unfortunately, the information in the consultation document does not allow market participants to form a concrete, complete and quantified picture of the various aspects of the total income to be covered by the tariffs.

In addition, the limited period to respond to this consultation – 3 weeks – also prevents market parties to make thorough analysis on the possible impacts of this methodology. Given the importance of the topic for the sector and its complexity, FEBEG insists on the possibility to have at least one month and ideally 6 weeks to provide comments on the proposed tariff methodology in the future.

Consequently, FEBEG's response to this consultation is by definition incomplete and therefore only indicative. FEBEG wishes to reserve the right to come back to certain comments and suggestions when concrete or new information becomes available. FEBEG particularly looks forward to being able to analyze Elia's tariff proposal and hopes to be given sufficient time to respond to the consultation to be organized by Elia.

Fundamental elements of the tariff Methodology

Dynamic Tariff

One fundamental change that FEBEG has noticed is the mentioning of the following in ANNEX 2

« Ce tarif peut comporter, le cas échéant, une composante dynamique en fonction des prix de marché de l'électricité. »

First of all, it is not clear from the proposal how the dynamic tariffication would be applied in practice, how it should function and how it could impact the grid users.

FEBEG is very surprised that such a potentially fundamental change in the tariffs is mentioned in the document under consultation, without pre-notification to the market nor any opportunity to have first thoughts and debates on the feasibility of this initiative together with the market players and impacted grid users.

With regards to this proposal, FEBEG has several concerns:

- FEBEG does not see why “dynamic tariffs” would be needed/beneficial at TSO level
- Electricity prices can be very volatile and the regulatory framework can be uncertain; having transmission tariffs linked to electricity prices would add an additional layer of uncertainty. FEBEG considers that it could increase the instability and decreasing predictability of tariffs
- A high electricity price in Belgium doesn’t necessarily imply a high usage of the grid in Belgium. For loads that are flexible, they have more incentive for the energy component of their invoice to be dynamic – ie in the supply contract.
- There could be potential conflict of interest with the fundamental principles of tariff purposes.

FEBEG would like to point towards the risk (in case tariffs would be more dynamic) that Elia would see tariff revenues increase with higher prices and high volatility, while, definitely in current circumstances, more volatility is certainly not what consumers are asking for.

Without a proper study and CBA, it is very dangerous to propose such a fundamental change in the establishment of tariffs. Moreover network investments have been done without dynamic tariff. It would then have made more sense to first implement dynamic tariff and then see if network investments are necessary.

For the reasons mentioned above, FEBEG is not convinced of the added value of the dynamic tariff and draws the attention of authorities on the collateral effects. In any case, more concertation with the grid users is necessary before implementing the principle into the methodology.”. Therefore, should there be important changes in the tariff structure or if this possibility of dynamic tariff would be the subject of future discussions between Elia and the CREG, FEBEG asks that market parties are informed and consulted upon, sufficiently in advance in order to adapt the systems.

Injection tariff

As already mentioned in the consultation on the draft tariff methodology 2020–23, tariffs – both on an energy basis (MWh) and on a power basis (MW) – that create cost components, which increase the already existing cost handicap of Belgian generating facilities versus facilities in the other countries of the Central West European Electricity Market (CWE), are fundamentally unacceptable.

The consequence of cost components based on injected energy (MWh) is that production facilities with a lower efficiency outside Belgium are given priority in the dispatch (merit order) over a Belgian facility with a higher efficiency. These costs therefore lead to a serious distortion of competition, burden the environment and discourage new investments in Belgium. In addition, they have a negative impact on the economic

profitability of existing production facilities, resulting in accelerated closures. They also prevent new investments and will therefore further compromise security of supply.

The proposals for Elia's tariff structure retain the possibility of shifting the focus of the tariffs from energy (MWh) to capacity (MW) tariffs. This means that when this principle is applied to access points with injection – even if the tariff on injected energy is low or zero – more costs can still be charged at these access points, which could put generation units at a disadvantage compared to production units abroad. Such a tariff on capacity also has the effect of a fixed cost on a production unit: in other words, this tariff will weigh more heavily on plants with a low number of operating hours, as a result of which the cost per MWh produced can become high.

Carrying out benchmarking

In addition, Article 12, §5, 17° of the Electricity Law states: *“De tarieven voor het gebruik van het transmissienet of voor de netten met een transmissiefunctie, die van toepassing zijn op productie-eenheden, kunnen verschillen naar gelang van de technologie van deze eenheden en van de datum van de ingebruikname ervan. Deze tarieven worden bepaald rekening houdend met ieder criterium dat door de commissie relevant wordt geacht, zoals een benchmarking met de buurlanden, teneinde 's lands bevoorradingszekerheid door een daling van de concurrentiekracht van de betrokken productie-eenheden niet in het gedrang te brengen. (...)”*

FEBEG would appreciate it if the CREG would involve grid users in the implementation of this benchmarking: this would considerably increase the confidence of the grid users in the methodology and the definition of the benchmarking. In any event, the tariff methodology must not have the effect of making such benchmarking with neighbouring countries more difficult or give rise to problems of interpretation during the further process of elaboration and approval of the tariffs. Moreover, all tariffs on injection – both capacity and energy – must be taken into account in this exercise and, if necessary, their impact must be extensively simulated and mapped.

The following aspects deserve particular attention:

- FEBEG is therefore particularly concerned that the draft tariff methodology seems to limit this benchmarking to tariffs for "network infrastructure management tariffs" (point 2.8. of Annex 2 to draft tariff methodology). However, according to FEBEG, there is no legal basis for limiting the scope of the benchmarking to these services. On the contrary, it was the legislator's objective to apply benchmarking to all types of injection tariffs. There is no doubt that all costs charged by Elia through injection tariffs are the result of the use of the grid – as described in the Electricity Law – by the grid users who inject electricity into that grid. FEBEG believes that any other interpretation that would allow high injection tariffs to be levied on other services and thus jeopardise the competitiveness of the power stations concerned – and hence the country's security of supply – is contrary to the letter and spirit of the law.

- It also seems appropriate to FEBEG to define more precisely the notion of "neighbouring countries" that will be the subject of the benchmarking: according to FEBEG, the notion of "neighbouring countries" should be understood as those "countries with which Belgium shares an interconnection" so that it is clear that it concerns power plants in those countries with which the Belgian plants are actually in competition.

FEBEG asks the CREG to use a similar benchmarking as it was actually used to define the tariff for storage facilities (cf. CREG decision 29/03/18). Indeed, in neighbouring countries such as Germany and the Netherlands, injection tariffs are not applied to the transmission grid: it is undeniable that any form of injection tariff reduces the competitiveness of Belgian generation units compared to those in Germany and the Netherlands. By exempting all generation units from tariffs for their injection into the grid, the CREG is promoting in an analogous way the generation resources in the system that are still an indispensable complement – as flexible and back-up resources – to the intermittent renewable energy sources.

Grid losses:

The electric system management tariff also provides for the cost of covering grid losses. At present, grid losses on the transmission system are compensated in kind by the BRPs: they increase the injected volume by a percentage – differentiated over peak, off-peak and weekend hours – that Elia sets annually.

The increase in the percentage of grid losses implies a cost increase for BRPs as they will have to produce or buy the required volumes on the market. They have no choice but to pass it on to their customers. However, an automatic passing on is not self-evident and even impossible in the short term as BRPs and suppliers have to comply with all legal and contractual provisions in this respect. Compensation of network losses by BRPs in kind therefore entails both an economic and a regulatory risk for BRPs.

In addition, there are other disadvantages to the mechanism of compensating network losses in kind:

- the cost of grid losses is only transparent to a limited extent for end customers;
- the Belgian supplier market becomes less attractive for new suppliers (entry barrier);
- there is an asymmetric treatment of centralized and decentralized generation;
- it is not possible to "net" network losses when two BRPs are active on one access point or when there are several access points on one site.

The current tariff methodology proposal again raises the question of evaluating and adjusting the current methodology – namely the in-kind compensation of grid losses by the BRPs – in the short term, also in the interest of transparency towards the customers. FEBEG sees also an opportunity with the Federal Grid Code being split into Federal Grid Code and Code of Conduct to actually impose this obligation on Elia into the Code of Conduct.

FEBEG therefore reiterates its plea for a mechanism in which Elia buys the grid losses under the supervision of the CREG and then passes them on via the transmission tariffs. FEBEG believes that the new European Directive (2009/72/EC) on common rules for the internal electricity market supports this view:

- **Article 15 lid 6**
Transmission system operators shall procure the energy they use to cover energy losses and reserve capacity in their system according to transparent, non-discriminatory and market-based procedures, whenever they have such a function.
- **Article 17 lid 2 sub d**
The activity of electricity transmission shall include at least the following tasks in addition to those listed in Article 12:
(...)
(d) the collection of all the transmission system related charges including access charges, balancing charges for ancillary services such as purchasing of services (balancing costs, energy for losses);

In other member states, such as the Netherlands and Germany, for example, but also on the distribution grid, grid losses are currently already purchased by grid operators on the market.

Risk sharing – costs relating the non-payment of the passed through transmission costs

Introduction

In Belgium, customers receive only one bill from their supplier, covering the cost of the electricity they consume but also the costs of transmission and distribution as well as a number of government taxes, levies and policy support costs (such as VAT). This single bill system has a downside for suppliers as they have to pay network operators, national authorities etc. irrespective of whether customers pay their bills or not.

FEBEG takes the view that the risk of unpaid bills should be fairly borne by the various players of the electricity market: ie the suppliers bear the risk relating to the non-payment of the “energy component” of the bill, the grid operators the risk relating to the “transmission and distribution component” of the bill and the government the risk relating to the “taxes and levies component” of the bill.

Currently, this risk relating to unpaid customer bills is borne entirely and solely by the suppliers, which is unbalanced to the disadvantage of the suppliers.

FEBEG is of the opinion that suppliers should be compensated for the full risk related to their obligation to pass through several costs, taxes and levies on behalf of other players of the electricity market. The suppliers should be able to pass through their actual losses relating to unpaid bills to the relevant market player.

New cost item to be introduced

Under the current system, Belgian suppliers pass the transmission costs through to the customers and need to pay 100% of the transmission costs to Elia, no matter whether customers pay their invoices or not.

It would also be fair that suppliers would also be compensated for administrative costs related to the collection of transmission costs on behalf of Elia (which could be seen as a service and should thus be remunerated).

FEBEG proposes to introduce an additional cost item in this article 10 relating to the actual losses suffered by the suppliers due to the non-payment of the transmission costs by the customers. Such cost item qualifies an exogenous, non-controllable cost for Elia. Furthermore an endogenous, controllable cost, relating to the remuneration of the suppliers' administrative work should also be included in this article 10.

Incentives

The tariff methodology contains an incentive mechanism to monitor and improve the quality of the system operator's services. FEBEG would in theory support such mechanism but the experience of the recent years show that this mechanism is rather aiming at providing an additional revenue stream for the system operator and that the incentives are being determined by the CREG without that the positive impact of those incentives is really proven for the concerned market parties.

For this reason, FEBEG is of the opinion that:

- no incentives should be imposed for activities that are part of the core task of the system operator and that the system operator has to perform anyway;
- not only a bonus, but also a malus should be provided: FEBEG notes that the proposed incentives only provide for a bonus;
- the incentives should also be measurable and verifiable: for example, it should be clear that the system operator will not receive a bonus if it does not improve its service, but only maintains it at its current level.
- market parties should be more involved in the establishment of the incentives (no "pro-forma" consultation) so that the proposed measures actually benefit for the whole society.

FEBEG believes that a symmetrical approach – i.e., in addition to a bonus, also a malus – to the incentives could be even more effective. This is possible without touching the guaranteed income of the system operator, for example by defining a bonus and a malus for a well-defined incentive without allowing the malus to exceed the bonus for that incentive in the tariff period.

In addition, with regards to the innovation incentives, it is important to FEBEG that the budgets of the incentives are allocated in a correct, transparent and efficient way and that the money is effectively spent on innovative projects, which also bring clear benefits to society in the (longer) term. Indeed, the added value for the consumer and expected benefits should be clear and put in balance with the expected budget on the other hand. Obviously, it should be avoided that:

- A lot of budget goes to innovations that do not bring clear benefits
- Budgets are given to projects that are by definition feasible and thus do not actually require support since they pay for themselves

With regards to the new incentive on sustainability, FEBEG does not agree that an incentive is provided to Elia for the improvement of the energy efficiency of their buildings. FEBEG considers that no incentive is necessary for Elia to move towards the energy transition.

Specific comments on the articles

Article 4

The current exemption mechanism of grid tariffs for new storage and partial exemption for increase of power/energy of existing asset helps to incentivize the development of storage (capacity/assets) and is an acknowledgement of the positive impact of storage on the network and development and usage of renewable energy.

However, as (i) the exemption is limited in time and (ii) the double cost of grid tariff (off-take and injection) without exemption is an important operational cost of those assets, it can introduce an important market distortion between existing and new storage assets, possibly leading to an early dismantling, which will inevitably lead to higher societal costs.

In this context, FEBEG recommends the CREG to review in the framework of the tariff methodology the grid tariffication of those existing storage facilities and extend the full exemption mechanism in place. This means that electricity storage facilities connected to the transmission system or to systems with a transmission function – whose initial commissioning takes place before or after 01 July 2018 – benefit from an exemption from transmission tariffs.

Article 15.

We note that the RAB of Elia has increased from 3,9 Bio€ to 5,1 Bio€. We understand that the need for more interconnections (NEMO, Alegro) has resulted in an ever increasing RAB for the TSO. However, we also wish to stress that additional interconnections should be examined carefully and that transparent cost/benefit analyses be performed before moving forward with major investments which, in the end, are born by the Belgian grid users.

Article 17, §3

The fixed risk premium is fixed at 3,5%. We understand that this value was computed based on past studies. Why did CREG choose the highest risk premium of the three studies?

We understand from the consultation document that the regulators in the Netherlands and Germany uses a fixed risk premium of 3,05%. In this context, why has the CREG then maintained the risk premium at 3,5%?

FEBEG would propose to use the average of the three studies as reference.

Note on modalities to determine performance incentives

The proposal specifies the following :

Sont exclues du calcul du taux d'indisponibilité :

- *les interruptions causées par l'indisponibilité avérée de moyens de transport (tels que les bateaux et les hélicoptères) en raison de conditions météorologiques exceptionnelles empêchant toute intervention par Elia à condition que l'indisponibilité du moyen de transport ait été attestée par un organisme indépendant;*
- *les interruptions planifiées conformément aux procédures prévues par le gestionnaire du réseau et ce, pour les soixante premières heures cumulées à pleine charge d'indisponibilité survenant au cours d'une année calendrier.*

For planned outages, the first sixty hours will no longer count in the unavailability calculation: FEBEG can understand the interest for Elia in case of maintenance/works needed. However, FEBEG finds it strange that this would be applied as from next period while it is actually not applied in the past.

FEBEG reserves the right to further comment this note in the framework of upcoming consultations of the CREG on the topic.

Article 17, §4

What is the impact of the proposed change of Beta? The methodology previously stipulated a floor for the beta (0,53) and now the beta value is fixed at 0,69. FEBEG would like to better understand the impact of such change and get transparency on how the Beta has evolved in the past.

Article 21, §4:

FEBEG considers that an incentive of 50% between the budgeted and actual controllable costs is particularly too high. This could incentivize the TSO to increase the budgeted value.

Art. 38

Article 38 is identical to the provision in the previous tariff methodology and experience has shown that it does not provide sufficient guarantees that any surpluses in the regulatory accounts will not continue to grow if Elia's revenues exceed its expenses.

Moreover, any surpluses should be returned to the market as soon as possible in order to avoid discrimination between grid users: grid users who currently have contracts with Elia and would have paid too much should be able to benefit from the lower tariffs.

Appendix 2

"2. Les services de gestion et de développement de l'infrastructure de réseau": the methodology foresees the possibility to also define a tariff applied to the monthly and yearly peak of net power injected. FEBEG opposes this possibility as it would be a new element in the tariff structure compared to the tariffs applied today on generation assets and would negatively impact those assets in the future.