

Febeliec answer to the CREG consultation on amendment of its proposal on the investment thresholds and the investment cost eligibility criteria in the framework of the CRM

Febeliec would like to thank the CREG for this consultation on the amendment of its proposal on the investment thresholds and the investment cost eligibility criteria in the framework of the CRM.

Febeliec greatly appreciates that CREG proposes a concrete text of Royal Decree, which allows to get a clear view on CREG's point of view with regard to the implications, as no Royal Decree on this topic has until now been adopted. In light of the often cited urgency with regard to the introduction of a Belgian CRM and the corresponding very tight deadlines, Febeliec is negatively surprised by this lack of action from the government and hence appreciates even more this CREG proposal that allows to shed some light on the topic, even though it has not been formally accepted at this point. Febeliec also appreciates that CREG provides a explanatory note, detailing the reasoning behind its updated proposal.

Febeliec has some general comments on the consultation at hand:

- As in the first consultation on this proposal of Royal Decree, Febeliec understands that the purpose of the proposed methodology is not to evaluate to what extent the total investment costs are reasonable nor to limit the investment included by a potential investor in its offer. Nevertheless, Febeliec still remains very strongly convinced that in order for the CRM to lead to a robust outcome (e.g. avoid issues related to lack of competition and ensure the legal criterion with respect to the lowest cost), it is necessary that CREG conducts such analysis, even if at some other stage in the process, as CREG is already conducting in the framework of for example certain ancillary services or the strategic reserve. Such approach would introduce a clear limit on the risk of market power abuse or collusion in the bidding process. Febeliec understands that this is currently still not foreseen in the CRM process, but urges CREG as well as all other parties working on the design to incorporate this.
- On definition 6 in article 1 on the same geographical location, Febeliec is worried that this could lead to a range of issues for Closed Distribution Systems (CDSs) as well as larger industrial sites (non-CDS) as Art. 7 §2 limits the number of separate investment files that can be introduced for the same geographical location to only 4. Especially for larger consumption sites (CDS or not), this could lead to issues as many investment projects could exist on such sites, linked to generation, demand side response, storage and combinations hereof. The specification that this limits holds per capacity holder could presumably solve this issue in most instances, but this is not guaranteed and would in any case severely limit the possibility for such actor to introduce different constellations of assets for evaluation if multiple projects are considered. Febeliec thus strongly asks that this issue is tackled by the CREG, in order to avoid that this would lead to a lesser participation of such actors to the CRM and thus less competition and in the end presumably a higher cost of the CRM, which would not be in line with the legal criterion. On this topics, Febeliec would also like to indicate that in the Dutch version, the definition mentions "geografische locatie" whereas Art. 7 §2 mentions "geografische site" (as opposed to the French version), while presumably the same concept is intended.
- On Art.2, Febeliec strongly disagrees with the stipulation that unproven capacity should be limited to a contract duration of one year. While Febeliec understands that this is taken from a not yet approved proposal of modification of the law, it remains surprised to see that this category of unproven reserve, which is already arbitrarily limited to only 400MW over all capacity holders as opposed to all other categories, in particular generation, is arbitrarily limited to a one year capacity contract, independently of the required investments. Such investments could be high, yet by this additional arbitrary limitation such capacity would be unduly pushed out of the merit order as such high cost would need to be covered in only one year as compared to other categories which could smear the investment cost over longer contract durations, which would negatively impact competition and thus according to Febeliec is clearly in beach with the legal least cost criterion. Febeliec insists that this presumed discrimination is addressed in the not yet approved proposal of modification of the law.
- On Art. 7, Febeliec understands that CREG requires more time to develop the model form for the introduction of an investment file for approval, also in light of the development of an IT platform, yet hopes that this will leave candidates with sufficient time to prepare this file. Febeliec urges that CREG keeps all parties informed

also on draft versions, to ensure that this element should not lead to less participation in the auctions. Febeliec regrets in general that work on the introduction of a Belgian CRM has started too late, resulting in this false sense of urgency for an issue that is known since 2003. Febeliec hopes that this will not lead to serious mistakes, perverse effects and/or insufficient interest in participation, as this could be detrimental to the overall cost for consumers.

- Concerning the ex post control, Febeliec reiterates its concerns already voiced during the first consultation. Febeliec supports an ex post control, yet it is very unclear what the precise impact of such ex post control will be. In case of an ex post control that leads to a requalification of the contract duration, does this mean that the contract duration will be revised (e.g. from 15 to 8 years), meaning that the asset will get only part (e.g. 8/15th) of its remuneration or will there be a recalculation of the annual revenue (which implies that the algorithm might not have selected the most optimal outcome) or some other impact. It would be very advisable to include a clear description of the impact of an ex post requalification. Moreover, it is important to build in some margin, in order to avoid that an asset succeeding in reducing its investment cost would be recategorized and thus potentially price itself out of the merit order, or alternatively, to ensure that a clear mechanism stays in place that guarantees that candidates do not artificially inflate their investment cost expectations in order to be allowed in undue longer duration periods.