

## IPC Derogation : Explanatory note

The European Commission indicated in its decision of 21 September 2020 regarding State Aid case SA.54915 that an intermediate price cap (IPC) without any possible individual derogation combined with the proposed rules for obtaining a multi-year contract could prevent existing capacity(ies) from bidding their true costs. This may lead to the exclusion of these capacities from the CRM.

The Belgian State has therefore elaborated an IPC derogation process, with the objective to integrate it into the Royal Decree on Methodology regarding volume and auctions parameters<sup>1</sup>. A derogation request submitted by a CMU which is assigned a capacity category of more than one year by CREG will be declared inadmissible.

The foreseen process involves the following parties: the derogation requester, Elia and CREG, and takes place as follows:

### 1. The derogation application

A derogation requester has the possibility to submit to Elia an IPC derogation application **per CMU(s)<sup>2</sup> and per auction**. This derogation application must be submitted at the latest thirty working days before the bid submission deadline.

Minimum requirements are established for the information to be provided in the application, including:

- An identification of the CMU(s) and auction to which the derogation request applies;
- A detailed estimation of different cost elements of the CMU(s) relevant to provide the service in the delivery period to which the auction relates;
- If applicable, a detailed estimation of the revenues of the CMU(s), other than the ones earned on the energy market and/or the net revenues from the provision of balancing services;
- If applicable, a detailed estimation of the operational constraints linked to the CMU(s) to which the derogation request applies;
- A detailed estimation of the missing-money of the CMU(s) to which the derogation applies.

Elia verifies the completeness (not the actual content) of the application within twenty working days and informs the derogation requester. In case of an incomplete request, the derogation requester has the possibility to complete its request within five working days. Elia shares the admissible applications with CREG by the last day of bid submission of the auction. An admissible application gives the right to the derogation requester to submit bid(s) in the auction that are not limited to the IPC applicable for this auction.

### 2. The derogation assessment

CREG assesses each admissible derogation application related to (a) CMU(s) for which a bid has been selected in the auction based on the information received. For the elements of the application which

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<sup>1</sup> Voorontwerp van Koninklijk Besluit tot vaststelling van de berekeningsmethode van het noodzakelijke capaciteitsvolume en de parameters die nodig zijn voor de organisatie van de veilingen in het kader van het capaciteitsvergoedingsmechanisme/ Avant-projet d'Arrêté Royal fixant la méthode de calcul du volume de capacité nécessaire et des paramètres nécessaires pour l'organisation des enchères dans le cadre du mécanisme de rémunération de capacité

<sup>2</sup> This derogation may also apply simultaneously to various CMUs in case of linked capacities.

are deemed unacceptable, CREG provides an alternative estimation. CREG transfers the results of its assessment to Elia at the latest fifty working days after the publication of the auction results.

To assist CREG in its task, Elia calculates the expected missing-money of each admissible application linked to a CMU(s) for which the constituting elements were first assessed by CREG and shares the results of its calculations with CREG at the latest fifty working days after reception of CREG's assessment. This calculation is based, among others, on:

- The information mentioned above, assessed by CREG (eg. costs);
- Elia's estimation of inframarginal rents earned on the energy market, based on probabilistic simulation of the electricity market based on the reference scenario defined for the auction to which the derogation applies;
- Elia's estimation of net revenues from the provision of balancing services.

### 3. The derogation decision

CREG takes a decision by comparing the expected level of missing-money of the derogation requester calculated by Elia and the IPC applicable in the auction.

If the expected level of missing-money of the derogation request is higher than the IPC applicable in the auction, the IPC derogation request is accepted. If the expected level of missing-money is lower, CREG informs the derogation requester thereof, who will be allowed to provide its comments within fifteen working days. If CREG is of the opinion that it needs to revise its initial assessment on certain elements, it may request Elia to perform a new calculation.

Within twenty-five working days after reception of the (first, or revised) calculation of the level of missing-money by Elia, CREG shares its decision with the derogation requester and Elia. Within ten working days after reception of CREG's decision, Elia adapts unilaterally, for each rejected derogation request, the capacity remuneration linked to a CMU(s), for which a bid was retained successfully in the auction, to the level of the intermediate price cap. This decision does not allow the capacity provider to contest the results of the auction, nor to terminate his capacity contract.