

The Public Utilities Regulatory Commission of Latvia

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Consultation on the rules for the use of electricity storage facilities owned by the electricity transmission system operator

Dear Ladies/Sirs,

With reference to the public consultation on the rules for the use of electricity storage facilities owned by the electricity transmission system operator, we are extending to you the following.

The Public Utilities Regulatory Commission (PUC) has put on public consultation the document, which contains two parts. The first part provides legal explanation on what basis Latvian TSO should enter with its electricity storage facility to the Baltic balancing market. The second part contains the PUC's draft decision.

1. PUC's legal explanation regarding Latvian TSO's entrance to the Baltic balancing market

PUC has acknowledged in its explanation that although Directive 2019/944 (Article 54(1) of it) does not allow TSOs to own, develop, manage and operate storage facilities, then Article 54(2) of the same directive enables Member States to allow TSOs to own, develop, manage and operate storage facilities, provided that all the conditions set out in this article are met. PUC did not elaborate whether given conditions are met in case the Latvian TSO would own, develop, manage and operate storage facilities. Therefore, we assume that according to PUC's opinion all conditions, which are set out in Article 54(2) are met in case of storage facilities owned and operated by Latvian TSO would enter the Baltic balancing market because otherwise there would be no basis to conduct this public consultation.

Eesti Energia disagrees with this opinion. Eesti Energia is of the opinion that based on the content of consultation document, storage facilities owned by Latvian TSO do not meet any of given conditions and on the basis of Article 54(2) of Directive 2019/944 Latvian TSO can not be allowed to own, develop, manage and operate storage facilities. Eesti Energia came to such conclusion on the basis of the following reasoning.

Article 54(2) stipulates the following:

2. By way of derogation from paragraph 1, Member States may allow transmission system operators to own, develop, manage or operate energy storage facilities, where they are fully integrated network components and the regulatory authority has granted its approval, or where all of the following conditions are fulfilled:

(a) other parties, following an open, transparent and non-discriminatory tendering procedure that is subject to review and approval by the regulatory authority, have not been awarded a right to own, develop, manage or operate such facilities, or could not deliver those services at a reasonable cost and in a timely manner;

(b) such facilities or non-frequency ancillary services are necessary for the transmission system operators to fulfil their obligations under this Directive for the efficient, reliable and secure operation of the transmission system and they are not used to buy or sell electricity in the electricity markets; and

(c) the regulatory authority has assessed the necessity of such a derogation, has carried out an ex ante review of the applicability of a tendering procedure, including the conditions of the tendering procedure, and has granted its approval.

The regulatory authority may draw up guidelines or procurement clauses to help transmission system operators ensure a fair tendering procedure.

Based on the wording of Article 54(2) of Directive 2019/944 and the consultation document, storage facility owned by Latvian TSO does not qualify as fully integrated network component. According to Article 2(51) of Directive 2019/944 fully integrated network component is defined as follows:

*(51) 'fully integrated network components' means network components that are integrated in the transmission or distribution system, including storage facilities, and **that are used for the sole purpose of ensuring a secure and reliable operation of the transmission or distribution system, and not for balancing** or congestion management;*

As storage facility owned by Latvian TSO is clearly intended to participate in the Baltic balancing market, it cannot be considered to qualify as fully integrated network component. Moreover, storage facility owned by Latvian TSO is not only meant to be used for ensuring a secure and reliable operation of the transmission system but also reducing the total balancing capacity costs by intervening to functioning of the market.

Latvian TSO has also not organised any open, transparent and non-discriminatory tendering procedure that is subject to review and approval by the regulatory authority, for awarding a right to own, develop, manage or operate such facilities. Based on Estonian experience, we are convinced that if Latvian TSO would have organised such an open tendering procedure they would have found interested market participants who would have been interested to invest into storage facilities. For your information, Eesti Energia already commissioned this year storage facility with 25 MW capacity and within the next couple of months 200 MW of additional storage capacity will be commissioned in Estonia by market participants without any public tendering.

In conclusion, based on provided consultation document and Article 54(2) of Directive 2019/944, Latvian TSO can not be allowed to own, develop, manage and operate storage facilities in Latvia.

2. Possible alternative enabling Latvian TSO's entrance to the Baltic balancing market

On 13 June 2024 Directive 2024/1711 was adopted by the European Parliament and the Council, which amended Directive 2019/944. One of the amendments included exemption, which was provided to the Baltic states. Concerning this exemption recital (30) of Directive 2024/1711 stipulates among other things the following:

(30) ...

Estonia, Latvia and Lithuania should therefore be exempt from the requirements of certain provisions of Article 40(4) and Article 54(2) of Directive (EU) 2019/944 insofar as that is necessary to ensure system security for a transitional period. The transitional periods for Estonia, Latvia and Lithuania should be phased out as soon as possible after the synchronisation, and should be used to develop the appropriate market instruments that offer short-term balancing reserves and other indispensable ancillary services, and should be limited to the time necessary for that process.

In addition, the following paragraph was added to Article 66 of Directive 2019/944:

6. By way of derogation from Article 40(4), the transmission system operators in Estonia, Latvia and Lithuania shall be able to rely on balancing services provided by domestic electricity storage providers, transmission system operators related undertakings, and other facilities owned by transmission system operators.

By way of derogation from Article 54(2), Estonia, Latvia and Lithuania may allow their transmission system operators and transmission system operators related undertakings to own, develop, manage and operate energy storage facilities without following an open, transparent and non-discriminatory tendering procedure and may allow such energy storage facilities to buy or sell electricity in the balancing markets.

The derogations referred to in the first and second subparagraphs shall apply for up to three years after Estonia, Latvia and Lithuania have joined the Continental Europe Synchronous Area. Where necessary to preserve security of supply, the Commission may grant an extension of the initial three-year period by a maximum of five years.

In conclusion, based on the afore-mentioned provisions of Directive 2024/1711, storage facilities owned by Latvian TSO may enter the Baltic balancing market if conditions stipulated in the directive are met. Given conditions are as follows:

- market-based procurement of balancing services may be exempted only in case it is necessary to ensure system security for a transitional period;
- the transitional period shall apply for up to three years but it should be phased out as soon as possible.

3. Application of Baltic TSOs proposal for the Baltic balancing capacity market in accordance with Article 33(1) and Article 38(1) of the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing

The regulator approved the proposal on February 1, 2024. Article 2(2)(b) of the proposal defines demand reduction resources and Article 6(2) stipulates that demand reduction resources may be applied for limiting the risk of insufficient supply in the capacity market. In the optimisation function, these resources shall be used to reduce the amount of balancing capacity to be procured from primary and backup resources to cover the Baltic TSOs demand.

In principle, the provisions for application of demand reduction resources stipulated in the TSOs proposal overlap with the principles stipulated in the directive (market-based procurement of balancing services can be exempted in case there is a threat to system safety). The problem is that the consultation document does not provide any analytical data which would assure or prove that

application of demand reduction resources is required for ensuring system security during transitional period.

The Baltic TSOs have published the amounts of registered balancing reserve capacities in the Baltic states. These amounts of these capacities are presented in the following table.

Table: Balancing reserve capacities registered by the Baltic TSOs (by 03.06.2025)

Country/type of capacity	FCR	aFRR up	aFRR down	mFRR up	mFRR down
Estonia	26	128	169	552	423
Latvia	119	464	464	1728	1728
Lithuania	101	261	277	1187	1423
Total	246	853	910	3467	3574

Source: <https://elering.ee/sagedusreservide-turu-kokkuvotted>

Current actual demand for balancing reserve capacities has been in the Baltic balancing market 23 MW for FCR, in range of 40-60 MW for aFRR and in range of 400-750 MW for mFRR. Hence, the amounts of registered balancing reserves for FCR exceed market demand by more than 10 times, for aFRR by more than 14 times and for mFRR by more than 4 times. As we mentioned previously, already within the next couple of months additional 200 MW of storage capacity will be commissioned in Estonia.

Under the circumstances a question arises what is the actual risk of insufficient supply in the capacity market and is there any actual need for TSO to apply demand reduction resources? This question is of great importance because according to derogation from Article 54(2) market-based procurement of balancing services can be exempted in the Baltic states only in case that is necessary to ensure system security. If there is no threat to system security then application of demand reduction resources can be considered (based on REMIT regulation) as market manipulation or attempt of market manipulation (giving false or misleading signals as to the supply of, demand for, or price of wholesale energy products).

In conclusion, current consultation document does not provide any assurances that application of demand reduction resources by Latvian TSO is justified.

4. Assessment of the impact on target groups in society that are affected or could be affected by the legal framework

PUC has concluded in its assessment that *“the regulation has a positive impact on electricity transmission system users (the regulation provides capacity on the market that market participants are not yet ready to offer, promoting the transmission system operator's ability to ensure stable and continuous network operation), on the one hand, and a neutral impact on potential electricity balancing capacity service providers, on the other hand (mechanisms that ensure the participation of storage facilities owned by the transmission system operator in the market on market-based principles)”*.

Firstly, Eesti Energia strongly disagrees that application of demand reduction resources by Latvian TSO has neutral impact on potential balancing capacity service providers. On the contrary, application of demand reduction resources by TSO artificially reduces the size of the market and takes away the market share from “potential balancing capacity service providers”. In fact, the proposed approach “neutralises” any potential balancing capacity service providers because they won’t have any chance to compete for the market share, which is artificially taken away by TSO.

Secondly, Eesti Energia strongly disagrees that proposed mechanism ensures that TSO's storage facilities would participate in the market based on market-based principles. On the contrary, proposed approach has nothing to do with market-based principles. Setting balancing capacity product bid price equal to zero and then getting its costs covered from transmission tariff sets an example of unfair competition.

Most importantly, if the proposed regulation is expected to provide capacity to the market that market participants are not yet ready to offer, then we would like to receive analytical data-based explanation how much capacity is currently missing from the market which market participants are not yet ready to offer and which conditions shall be fulfilled to end intervention of TSO to the market. We remind you that exemption provided by the European Union to the Baltic states should be phased out as soon as possible. Therefore, the PUC should define clear and transparent conditions fulfilment of which will bring an end to market intervention by TSO.

5. Draft decision on the rules for the use of electricity storage facilities owned by the TSO

5.1 According to the draft decision, *"the system operator shall use the total usable capacity of the storage facility as a demand reduction resource and a reserve resource"*.

Eesti Energia would hereby like to receive analytical data-based explanation which would justify TSOs intervention into market (specifically applying demand reduction resources) with total usable capacity of the storage facility (80 MW/160 MWh).

5.2 According to the draft decision, *"when using storage as a demand reduction resource, the system operator shall set the FCR and aFRR balancing capacity product bid price equal to zero (EUR per MW per hour)"*.

Eesti Energia would hereby like to receive an explanation why TSO will be obliged to set its FCR and aFRR balancing capacity product price bid equal to zero €/MWh? Moreover, we would like to ask for PUC's assessment whether such approach could pose market manipulation or attempt of market manipulation (giving false or misleading signals as to the supply of, demand for, or price of wholesale energy products) according to REMIT regulation.

6. For conclusion

6.1 Legal explanation which is provided by the PUC in the consultation materials for justifying entrance of storage facilities owned and operated by Latvian TSO to the Baltic balancing market is not in compliance with the European Union's applied legislation.

6.2 There is alternative way for Latvian TSO for intervening the Baltic balancing market (based on exemption which was provided to the Baltic states by the European Union) but this alternative way is conditional and requires assurances. Current consultation document does not contain any required assurances and therefore Eesti Energia considers that entrance of storage facilities owned and operated by Latvian TSO to the Baltic balancing market is not in compliance with the exemption provided by the European Union either.

6.3 For justifying the entrance of storage facilities owned and operated by Latvian TSO to the Baltic balancing market, the PUC should clearly and transparently define 1) the amount of capacity which market participants are not yet ready to offer to the market; and 2) which conditions shall be fulfilled (by the market and/or market participants) to end intervention of TSO to the market. Otherwise, market participants cannot undertake required investments for introduction of fully market-based balancing market.

6.4 If PUC should endorse entrance of storage facilities owned and operated by Latvian TSO to the Baltic balancing market without any further scrutiny and provision of assurances, then Eesti Energia would consider it as a potential violation of European Union legislation. Under the circumstances, Eesti Energia would consider sending a formal complaint to the European Commission.

6.5 Eesti Energia would hereby like to specify that we are specifically questioning application of demand reduction resources by Latvian TSO, which would have very significant distortive effect to the market. At the same time, we would not object if storage facilities owned and operated by Latvian TSO would be used as back-up resources because of their very limited distortive effect to the market. All in all, we would nevertheless suggest that TSO(s) would sell all their generation and storage resources on public tender to avoid any potential conflict of interests. Eesti Energia is currently conducting similar discussion with Estonian regulatory authority and TSO.

Best regards



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