Febeliec answer to the CREG Public Consultation (PRD)1110/10 on the proposal of decision on the tariff methodology for the transport grid of electricity and the grids with a transport function of electricity for the regulatory period 2020-2023

Febeliec would like to thank the CREG for the opportunity to provide its input and comments on the public Consultation (PRD)1110/10 on the proposal of decision on the tariff methodology for the transport grid of electricity and the grids with a transport function of electricity for the regulatory period 2020-2023.

Febeliec welcomes the proposal that tariff decisions and thus the effective tariffs will already be known on November 10th 2019 for application as of January 1st 2020, which is an improvement as compared to the past and allows grid users at least some time to adapt their actions to any modifications in tariff structures and/or tariffs. It would however be preferable to have the new tariffs published even earlier, as is the case for natural gas.

Febeliec would like to stress clearly that it is of the utmost importance to distinguish between the regulated and the non-regulated activities of Elia, as the structure of the company could lead to cross-subsidization of non-regulated activities on the dime of the Belgian consumers, which are subject to Elia's regulated monopoly in Belgium. For Febeliec, a reliable and well-functioning grid with an efficient cost structure, leading to the lowest system cost for grid users, is the main task of the transmission system operator. The CREG in point 3.1 of its proposal of decision refers correctly in this context to §§1&2 of art.8 of the Electricity Law on the tasks of the transmissions system operator. All other activities of Elia System Operator should be secondary to this and in any case not lead to any costs or other disadvantages for the Belgian grid users, directly nor indirectly (e.g. through higher financing costs of the embedded debt). Moreover, if any financial or non-financial advantages should be the result of the assets, competences or knowledge obtained by Elia through its Belgian regulated monopoly and leveraged through its non-regulated activities, at least part of the fruits hereof should return to the Belgian grid users to lower the costs they incur, as they have been financing the regulated activities in Belgium.

Febeliec has always been inclined to provide the transmission system operator with a fair remuneration, in order for it to allow fulfilling its (regulated) tasks, but has always principally opposed the introduction of additional incentives for the transmission system operator. However and as already admitted by Febeliec on numerous occasions, a pragmatic approach towards such incentive schemes can be acceptable, as results from the past have shown that this approach leads to clear results, insofar the objectives are selected on criteria of cost efficiency for the system and/or necessity and/or reasonable character of budgets and/or added value for the grid users beyond the normal operations of the transmission system operator, and/or clear links to timeliness of realisation of projects, to the benefit of the grid users. Thus, also in this proposal for a tariff methodology for 2020-2023, Febeliec will not oppose this pragmatic approach of the CREG insofar the objectives are selected under the above-mentioned criteria.

With respect to the Modular Offshore Grid and HVDC technologies, Febeliec wants to refer to its comments on the earlier consultations on these topics, and wants to specifically reiterate its position that the utmost attention should be given to these topics, as a higher remuneration and/or shorter depreciation period are attributed to them and a concise follow-up should be done in order to avoid over-remuneration for these activities on the dime of the grid users. Febeliec does for example not agree with the comments from the CREG under side number 31 on the larger risk profile of these projects, as any incurred risk and/or cost, insofar justified and reasonable, can in any case be recuperated through the "normal" grid tariffs, in the current or following tariff period.

With respect to the approach of embedded debt, Febeliec has no comments except referring to the above-mentioned comment on the non-regulated activities of Elia, which should have under no circumstance an impact on the regulated activities and related grid tariffs. However, through the impact of external funding for the non-regulated activities on the rating of Elia, Febeliec remains concerned. Febeliec asks the CREG to remain very vigilant for this element, especially for example in light of the very high expenditures from Elia to acquire an additional 20% of 50Hertz (and maybe yet another 20% in the future, as speculated in the press) or any other activities or participations by Elia that go beyond its tasks as foreseen in the Electricity Law. Febeliec draws the attention of the impact of the financing by Elia of the Walloon Green Certificates at the guaranteed minimum price of 65€/certificate, a task imposed by the Walloon legislator on Elia and yet beyond the mission of Elia as described in the Electricity Law, on the rating of Elia, as mentioned in the comments

of rating agencies, implicitly already leading to a cross-regional cross-subsidization, but would not want this to be even exacerbated by the impact of non-regulated and non-imposed tasks.

On side number 33, Febeliec would like to formulate a reservation as towards the last bullet of improving security of supply, as security of supply is a task of the government, and Elia is only concerned insofar it has received clear mission from the government and/or in its mission of guaranteeing a stable and reliable grid with sufficient and effectively available cross-border transmission capacity.

On side number 36, Febeliec continues to support the split of costs into controllable, non-controllable and influencable costs, but reiterates its disappointment that such third category has not been introduced for the gas transmission system operator Fluxys.

On side number 37, Febeliec appreciates the approach of four independent annual budgets based on actual investments and costs incurred in each of these years. Nevertheless, Febeliec wants to draw the attention of the CREG towards avoiding too important jigsaw variations between consecutive years in function of specific expensive investment programs in distinct years, as there is also a value for grid users in a certain level of stability in grid tariffs over the tariff period(s).

Febeliec strongly supports the focus of the CREG (point 3.3.7) on the non-acceptance of any sort of discrimination by Elia between the participation of consumers or products and storage towards balancing products. Febeliec would like to reiterate its appreciation for the role of the CREG in opening up markets for participation of new players, giving Belgium a clear frontrunner position in this field in Europe. Febeliec strongly urges the CREG, as well as Elia, to continue opening up all products and markets for all types of participants, as the task has not yet been completely accomplished.

With respect to the tariff methodology and the corresponding explanatory notes form the CREG, Febeliec would like to make following comments:

- Art.2: In light of the new Federal Grid Code, which is currently under elaboration, it might be required to adapt accordingly and after approval of the new Federal Grid Code some of the terminology and/or definitions as proposed in the tariff methodology under consultation, in order to align both documents. Examples include the use of ARP, which will become BRP, but also the notion of distribution system operator, as a clear distinction should always be made between the general concept of distribution system operators, including the closed distribution system operators, and the public distribution system operators, to which is mostly referred in the document under consultation when mentioning distribution system operator, and this to avoid any confusion. A "*koppelpunt*" will become a "*verbindingspunt*" and will separate the grids of the transmission system operator from those of the *public* distribution system operators.
- Art.3: Febeliec remarks that in paragraph 2 the CREG stipulates that the closed industrial grid/closed distribution system operator can request the CREG to be exempted from the application of this tariff methodology. For Febeliec, this should be automatically applicable, of course under the condition of fulfilment of the requirements in paragraphs 3 and 4 of art.3 and subject to the possibility for underlying grid users to request a decision of the CREG.
- Art.4, §9: Febeliec does not agree with the proposal of the CREG and refers to its comments on the consultation on the specific topic of a separate regime for storage facilities and the exemption or reduction of grid tariffs for such faculties. Furthermore, Febeliec would like to refer towards the explanatory note of the Government on the modification of the Electricity Law of 13/07/2017, where the government also indicates a similar benchmarking mechanism for grid users with specific profiles, as is already the case in the Germany, France and the Netherlands. Febeliec strongly urges the CREG to follow a similar approach and refers to France where the initiative to introduce such reduction was taken in first place by CRE and only subsequently codified in French legislation.
- Art.5: Febeliec remarks that no change has been made in the structure of the tariffs, resulting in stability and predictability for grid users. However, from the current overview it is unclear whether the modalities and/or tariff carriers of the tariffs will be modified. Febeliec would like Elia and CREG to bring some more clarity on these aspects as soon as possible, in order to allow grid users ample time to adapt their behaviour in function of the expected modifications, as was also done during the preparation of the current tariff period.
- Art.6&7: Febeliec continues to support the position of the CREG to maintain a strict separation between the grid tariffs and the surcharges for the pass-through of public service obligations and surcharges and levies, as

well as a strict vision on non-cross-subsidization for the latter between regions. On this point, Febeliec would like to refer also to the potential impact of regional public service obligations and/or levies and surcharges on the rating and thus the financing cost of the transmission system operator, implicitly leading to regional cross-subsidiation.

- Art.10: Febeliec would like to add in the first sentence a clear reference to the necessary nature of the costs, as the reference to art.9 is not sufficient in this respect as the necessary aspect is only mentioned in the title of section 5.3.2, but not explicitly in art.9 nor 10. With respect to 12bis, Febeliec is not convinced that the second bullet should be completely considered as a non-controllable cost, as this aspect and its occurrence are at least influencable by Elia by a strict follow-up of this aspect of the project during the construction phase of the MOG. With respect to 12ter, Febeliec would like to have a clearer view on the impact of dismantlement provisions and wonders why this is explicitly mentioned for MOG but not for the onshore grid, while also wondering to which grid users these costs will be allocated. With respect to 12quater, Febeliec does not agree that these costs should be fully considered as non-controllable costs, as Elia can have an impact during the negotiations on the level of remuneration for the use of the concession of other market actors.
- Art.11: Febeliec can only support this article and would even reinforce its impact, as this is currently only a commitment of means and not of results.
- Art.12: Febeliec adamantly supports the interdiction of cross-subsidization between regulated and non-regulated activities, explicitly or implicitly, as also referred to in several other comments on this consultation of the tariff methodology.
- Art.14: Febeliec accepts the separate treatment of the offshore interconnector (NEMO) with the UK, but refers to its comments during the consultations on the specific regime and urges the CREG to remain very attentive to any potential abuse and/or negative impact of this approach on the Belgian grid users through their grid tariffs. The offshore interconnector should be financially self-sustainable and the impact of the floor remuneration on the Belgian consumer should to the largest possible extent be avoided.
- Art.15: Febeliec takes note from the decision of the CREG to evolve from surplus value in the regulated asset base based on decommissioning towards a fixed amount per year, in order to avoid that the transmission system operator limits its decommissioning of assets, but is unable with the very limited information available to discern the impact on the grid users and thus asks CREG to clarify which would be the monetary impact on the grid users through the tariffs of this modified approach.
- Art.17: With respect to the risk free rate which is put by the CREG at 2,40%, Febeliec has some serious questions, as the OLO10y on 14/05/2018 was 0,83% and the average over the last 4 years was 0,82% (and the last 10 years 1,99%). Febeliec does not see how CREG has composed the 2,40% and thus asks CREG to provide all the input data and the calculation formula it applied to come to the proposed result. With respect to the market risk premium of 3,50%, Febeliec re-iterates its comments made also on the consultation of the tariff methodology for gas, as Febeliec does not see any clear justification from CREG to take the *highest* value of the three conducted studies, instead of an average value. Febeliec also notices that the CREG states that the 3,50% is not an underestimation, but wonders if 3,50% is not an *overestimation* of the market risk premium, which would then increase the cost for the grid users and also asks the CREG on this point a more precise justification. With respect to the illiquidity factor of 10%, Febeliec deplores that CREG does not justify (only) this §5 in its accompanying notes, as explicitly on this specific point Febeliec has many questions on the pertinence of this coefficient and does not see any reason to apply an illiquidity factor for Elia, knowing that Elia is stock market listed and is considered as a safe investment and thus never has seen any issues to find sufficient interested parties for absorbing any volumes if any reference shareholder would decide to market part of his holdings. Febeliec thus explicitly asks to remove this illiquidity coefficient by putting at 0%. With respect to §6 on the additional risk premium for the MOG, Febeliec refers to its aforementioned comments as well as its comments during the specific consultation on this topic and does not agree to provide such risk premium as any justified costs can always be recuperated during the (next) tariff period and thus no real risks exist for the regulated monopolist as investor.
- Artt.18: Febeliec does not agree with a modification of the gearing from 33/67 to 40/60, as also mentioned during the consultation on the tariff methodology for gas, and deplores that the CREG mentions an analysis but does not give any clear and transparent justification within its explanatory notes. Febeliec hopes that CREG will provide a more transparent and clear argumentation or revert towards the previous gearing factor, as this new gearing has an impact on the cost for the grid users. For Febeliec regulated monopolists do not encounter the same risks as non-regulated companies, (a.o. through the application of embedded debt and thus in worst case only a temporary issue until a next regulatory period through the application of regulatory accounts).

Febeliec understands that this can be interesting for shareholders such as local municipalities as the return on these investments is higher than on risk-free investments or cash, while not pertaining any higher intrinsic risk exposure, but is not convinced that this should be the purpose of grid tariffs and a tariff methodology

- Art. 21: In §1, point 4 (Dutch version), Febeliec believes that a "niet" is superfluously added; if not, Febeliec would like an explanation of this point by CREG. With respect to the 50/50 split in §2, Febeliec understand the reasoning vis-à-vis incentivization towards a sharing of benefits (and extra costs) between the regulated transmission system operator and the grid users, but wonders whether a 50/50 split is not overdone and whether a smaller share towards the system operator would not suffice (in positive but also negative) to incentive towards the desired behaviour.
- Art.24-28: Febeliec refers to its aforementioned position towards incentives. Febeliec also wants to point out that the combined (potential and maximal) amount of the incentives as compared to the turnover of Elia is very significant, and hopes that this will at least lead to the desired outcome as described by CREG. Febeliec has some questions as towards the amount of the incentive at (maximum) 5MEUR for art.25 (3) on the quality of data, which Febeliec finds quite steep, especially as it is put at the same amount as the incentive for security of supply (art.24) and higher than the combined incentive for satisfaction of grid users (art.25 1 &2). With respect to art.26, Febeliec understands that CREG wants to incentivize Elia to submit for subsidies for its projects, as this will lower the costs for grid users, but finds it conceptually strange to give part of a subsidy as incentive to shareholders. For §2 of art.26, Febeliec does not agree with the inclusion of public acceptance as parameter for the attribution of the incentive. On art.28, Febeliec regrets that CREG has not provided a very clear and concise methodology for the determination of the amount of the incentives, in particular for the availability of the MOG. Febeliec has taken note of the comments in the joined document by CREG on the proposed calculation methodologies for incentives, but regrets that this has not been included within the tariff methodology itself, which is the relevant regulatory reference document.
- Art.30: With respect to point H, point 5, Febeliec wants to explicitly reiterate its previous comments on this point, especially in light of the potential impact of the acquisition of participations in other entities, e.g. the already acquired additional 20% of 50Hertz and a potential further acquisition of the remaining 20% of 50Hertz in the future. These should not be allowed to have any impact on the cost for Belgian grid users through the financing cost; insofar these participations have nothing to do with the Belgian regulated activities of the transmission system operator.
- Art.33: Febeliec strongly supports point D, as it is unacceptable that the costs for Belgian grid users would increase as a result of outsourcing staff, of which the training has been paid for by Belgian grid users, towards other entities and then rehiring them at a higher costs in order to generate additional profit margins for the stakeholders through unregulated activities. Febeliec also strongly supports point i, all income that has been realised through the means resulting from the regulated activities should solely benefit the Belgian grid users.
- Art.34: In its accompanying notes, CREG refers to a concrete ceiling, but in the tariff methodology itself, such ceiling has not been specified. Febeliec requests the CREG to provide some more transparent input and/or to amend the tariff methodology to clearly reflect this point.
- Art.35: (Dutch version) in the 3rd paragraph, either the first (part of) sentence is superfluous or a part of this sentence is missing. Febeliec would like to ask CREG to clarify this point.
- Annex 2, point 1.2, 3° (Dutch version): Febeliec believes an error has occurred during the translation of the document, which should be corrected.
- Annex 2, point 1.3: Febeliec wants to strongly support the fact that for the tariffs under 1.2.4° and 1.2.5° a distinction can be made between the onshore and offshore localisation for the periodical tariffs, as it would be unfair for certain categories of current grid users on specific voltage levels if their grid tariffs would more than significantly increase merely because of the creation of an offshore grid. For Febeliec, it is adamant that the Elia during the composition of its tariff proposal and CREG during the approval hereof take this element explicitly into account and create a separate tariff for onshore and offshore grid users, in order to reflect the true costs that are linked to their respective grids and grid use, for reasons of cost-reflectiveness and non-discrimination, but also transparency.
- Annex 2, point 2.6: For Febeliec, also referring to a previous comment on this topic, it is important to explicitly state "public" distribution system operators, as closed distribution system operators fall under the same tariff structure as all other grid users.
- Annex 4: Febeliec suspects an error has been made as this annex (in the Dutch version) only refers to the projects that have been listed for the current tariff period and not for the period 2020-2023. Febeliec urges the CREG to correct this error.

- On the agreement of the procedures between Elia and the CREG, added to consultation of the methodology as additional documents, Febeliec noticed a mistake in art.8 as the dates of 19/04/2018 and 17/05/2018 presumably refer to the gas tariff methodology and not electricity, where these dates should be 02/05/2018 and 29/05/2018 respectively. Febeliec asks CREG for clarity on this point. Febeliec supports, as mentioned before, that the tariffs for 2020-2023 will already be known by 10/11/2019, which gives at least some time for grid users to adapt their behaviour.
- On the additional document on modalities for the incentives, Febeliec deplores that no amounts have been specified. Moreover, Febeliec has a question on 2.1.2, as 3 times 40 diesel motors are mentioned and it is unclear what the function of these motors will be. On 3.2.1, question 4, Febeliec would not only refer to the work realised by Elia but also towards the priorities defined by Elia. On 4.1.3, febeliec notices a reference of 8h AIT, whereas the tariff methodology refers to 9h. On 4.2, Febeliec would like CREG to clarify its interpretation of 4.2.1, last paragraph, as compared to 4.2.2, where an availability of at least 99% is required to fulfil the objective of the incentive. This high level presumably means that a wide range of situations are to be excluded of the calculation of the availability of the MOG, but it is based on the available information very unclear to Febeliec which would be exactly the excluded elements. On 5.1, it is very unclear what is the exact goal for Elia, while also the amount of the incentive is missing, thus making it impossible for Febeliec to validate this element. The same applies for point 6.2