

# Decision

(B)2237/2  
17 June 2021

## Decision on the formal requirements for a request for a derogation from the intermediate price cap

Article 21, § 2, paragraph 2 of the Royal Decree of 28 April 2021 laying down the parameters for determining the volume of capacity to be anticipated, including their calculation methods, and the other parameters necessary for the organisation of the auctions, as well as the method and conditions for granting an individual derogation from the application of the intermediate price cap(s) under the capacity remuneration mechanism

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# INTRODUCTION

The purpose of this decision is to update the formal conditions for an application for a derogation from the intermediate price cap. This decision has been approved by the Management Committee of the CREG on 17 June 2021.

## 1. LEGAL FRAMEWORK

1. In accordance with Article 21, § 2, paragraph 2 of the Royal Decree of 28 April 2021 laying down the parameters for determining the volume of capacity to be anticipated, including their calculation methods, and the other parameters necessary for the organisation of the auctions, as well as the method and conditions for granting an individual derogation from the application of the intermediate price cap(s) under the capacity remuneration mechanism (hereafter: Methodology RD), it is the CREG's responsibility to define the formal requirements for requesting a derogation from the intermediate price cap (hereafter: IPC)

2. This article lists the minimum elements that this request must contain:

*"1° the identification of the capacity market unit, or units in the event of linked capacities, via a unique identification number from the pre-qualification procedure as defined in the operating rules, and the auction to which the request applies;*

*2° an accurate estimate and description, or a description of the absence, if any, of the following cost components with respect to the capacity market unit, or units in the event of linked capacities, for the capacity supply period to which the request applies:*

- a) broken down by delivery point where applicable, the annual fixed operational and maintenance costs (in €/year), including the additional specification of fixed network tariffs and activation costs for the availability tests requested by Elia, as defined in the operating rules, if these are deemed relevant, supplemented where applicable by the assumptions as to at least the number of hours during which the unit(s) has (have) been activated and the number of start-ups or activations on which these estimates are based, as well as the relationship between the fixed costs and the number of activations on the one hand, and the number of operating hours on the other;*
- b) the fixed costs associated with the management of a portfolio of delivery points relevant for operating on the energy market (in €/year) by the relevant capacity market unit, during the capacity supply period to which the request applies;*
- c) broken down by delivery point where applicable, the annualised recurring investment expenditure not directly linked to an extension of the technical lifetime of the installation or to an increase in the nominal reference power, including, where applicable, the provisions for major maintenance work on the installations, which does not necessarily take place every year, (in €/year), supplemented where applicable, by the assumptions as to at least the number of hours during which the unit(s) has (have) been activated and the number of start-ups or activations on which these estimates are based, as well as the relationship between the fixed costs and the number of activations on the one hand, and the number of operating hours on the other;*
- d) broken down by delivery point, where applicable, the annualised non-recurring investment expenditure relevant for the provision of the service with the relevant*

*capacity market unit, or units in the event of linked capacity, during the capacity provision period to which the request applies (in €/year);*

- e) the variable costs for the energy supply (in €/MWh), including the additional specification, where appropriate, of at least the following elements included in these variable costs: variable operational and maintenance costs, including variable network tariffs if deemed relevant, the efficiency factor or, in the event of storage systems, the round-trip efficiency;*
- f) for an aggregated bid, the difference between the capacity offered and the sum of the installed capacity of the various delivery points;*
- g) the fixed start-up or activation costs by specifying the cost per start-up or activation, excluding the costs for the fuel needed purely for start-up (in €/start-up or €/activation), supplemented, where appropriate, by an indication of the type and quantity of fuel needed purely for start-up (in GJ/start-up).*

*For each investment, the following data should be provided as a minimum: the total investment expenditure, the financing expenditure including the weighted average cost of capital, the economic lifetime of the investment, the justification relating to the provision of the service, the year of the investment and the resulting annualised cost.*

*The non-recurring investment costs eligible for the calculation of the missing money of the capacity market unit, or units if they are linked capacities, are the initial non-recurring investment costs ordered based on the first decision, in accordance with Article 7j, §6 of the Electricity Law, and that are incurred at the latest on the day before the first day of the capacity supply period.*

*3° where applicable, a precise estimate and description of the revenues (in €/year) with respect to the capacity market unit, or units in the event of linked capacities, for the capacity supply period to which the request applies, other than the annual inframarginal rents and the net revenues from the provision of balancing services referred to in paragraph 8, 3° and 4°, such as, but not necessarily limited to, revenues related to steam and/or heat;*

*4° where applicable, a precise estimate of the operating restrictions linked to operation that affect the provision of the service with the capacity market unit in question, or units in the event of linked capacities, and a description of the impact of these restrictions on revenues, during the capacity supply period to which the request applies, for example, but not necessarily restricted to: energy restrictions, activation restrictions, planned maintenance periods, must-run restrictions;*

*5° an estimate and a precise calculation of the missing-money (in €/MW/year) of the capacity market unit concerned, or units in the event of linked capacities, for the capacity supply period to which the request applies.*

*The components issued by the applicant for derogation referred to in points 2° to 4° in support of the application must be specific to the capacity market unit concerned, or units in the event of linked capacities.”*

## 2. BACKGROUND

### 2.1. CONSULTATION

Given the publication of the Methodology RD on 30 March 2021 and the obligation for the CREG to publish the formal conditions of the IPC derogation request on 15 May 2021, the CREG did not have enough time to organise a public consultation on a draft decision. Moreover, the CREG's competence is limited to the formal requirements that a request for derogation must meet, so this decision does not concern any substantive element.

### 2.2. DECISION ON THE FORMAL REQUIREMENTS FOR A REQUEST FOR A DEROGATION FROM THE INTERMEDIATE PRICE CAP

In order to facilitate its interpretation, the CREG has decided to publish an adapted version of the formal conditions for an application for a derogation from the intermediate price cap. The CREG has published an Excel version of these formal requirements to facilitate the input of data by the applicants for the derogation.

## 3. FORMAL REQUIREMENTS FOR A DEROGATION REQUEST

The updated formal requirements for a derogation request to be considered are set out in Appendix 1.

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For the Commission of Electricity and Gas Regulation:



Laurent JACQUET  
Director



Andreas TIREZ  
Director



Koen LOCQUET  
Acting President of the  
Board of Directors

## **APPENDIX 1**

**IPC derogation application form**

## **APPENDIX 2**

**Declaration on honour derogation from the intermediate price cap**