

Febeliec answer to the CREG consultation 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 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 the precise legal implications. Febeliec also appreciates that CREG provides a explanatory note, detailing the reasoning behind its proposal.

Febeliec has some general comments on the consultation at hand:

- 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 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), 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 not foreseen, but urges CREG as well as all other parties working on the design to incorporate this.
- Febeliec understands and follows to a large extent the analysis of the CREG on the disadvantages of multi-year contracts as described in the explanatory note on article 6. Febeliec in this framework wants to address the first bullet of the CREG and highlight the comment of the CREG that the method to determine the reference and strike price are essential in this context. Febeliec supports this analysis as well as the comment of the CREG that price caps for auctions will limit the problem for marginal units, but not for inframarginal units, for which hence inframarginal rents will persist. These are unneeded in the framework of the CRM and lead to windfall profits and as such are in breach with the criterion of the lowest cost of the CRM. Febeliec is also very worried that the proposal from Elia on the payback obligation does not create a cap on this latter mechanism.
- On the threshold proposed for the different contract durations, Febeliec is not an expert on the data provided by the CREG, and can as such not give a thorough comment on the proposed values, other than it hopes CREG has not chosen arbitrarily the reference points. However, Febeliec has a fundamental remark to the proposed approach: CREG uses for its analysis maximum, minimum and average values and then links the chosen thresholds arbitrarily to the average value. This means that “best of class” technologies or assets, that are below the cost of an “average” technology of asset, will have a lower cost than the threshold and thus will be pushed by definition in a category with a shorter duration. This will lead to a higher cost-per-year level and might make these technologies less attractive in the algorithm, which could lead to the perverse effect of selecting less-good technologies or assets over best of class. Febeliec would like to ask CREG to investigate whether it would not be better to take the minimum value (best-of-class) and build in a mechanism for margin, in order to avoid perverse effects of such approach (e.g. in case of ex post control, see below). In any case, by using a best-of-class levels, this would mean that all similar technologies or assets would fall in the same duration category but better technologies would have a clear competitive advantage vis-à-vis the auction algorithm, leading to a more optimal selection.
- Concerning the ex post control, 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, in case of the above-mentioned approach with best-of-class, it is important to build in some margin, in order to avoid that an asset succeeding in reducing its investment cost to be recategorized, while at the same time making sure that a clear mechanism stays in place that guarantees that candidates do not inflate artificially their investment cost expectations in order to be allowed in undue longer duration periods. Nevertheless, Febeliec invites CREG to provide a clear description of the ex-post requalification impact as well as an approach to allow to move to a best-of-class instead of average-of-class approach.