



Brussels, 30.4.2020
C(2020) 2655 final

COMMISSION OPINION

of 30.4.2020

**pursuant to Article 20(5) of Regulation (EC) No 2019/943 on the implementation plan of
Lithuania**

(ONLY THE LITHUANIAN VERSION IS AUTHENTIC)

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I. PROCEDURE

On 20 December 2020, the Commission received an implementation plan from Lithuania prepared pursuant to Article 20(3) of Regulation (EC) No 2019/943 (hereafter “Electricity Regulation”). Article 20(3) of the Electricity Regulation requires Member States with adequacy concerns to set out measures to eliminate regulatory distortions or market failures on their markets in an implementation plan.

Pursuant to Article 20(5) of the Electricity Regulation, the Commission is required to issue an opinion on whether the proposed measures and the timeline for their adoption are sufficient to eliminate the regulatory distortions or market failures.

II. DESCRIPTION OF THE IMPLEMENTATION PLAN

In its implementation plan, Lithuania proposes to implement the following measures:

1. General wholesale price conditions

Day-ahead and intraday electricity prices on wholesale markets are only limited by the technical price limits.

2. Balancing markets

- (a) Lithuania commits to apply no price caps other than the technical price limits as determined according to Article 30(2) of Commission Regulation (EU) 2017/2195¹ (hereinafter “EBGL”), at the latest by the time of Lithuania’s participation in the future EU platform for manual Frequency Restoration Reserve (mFRR).
- (b) By 1 January 2021, Lithuania shall implement a 15 minutes imbalance settlement period according to Article 53 of EBGL.
- (c) By the date of synchronisation with Continental Europe at the latest, Lithuania will introduce changes in the imbalance settlement model in respect of the implementation of automated Frequency Restoration Reserve (aFRR) balancing energy market and changes of the TSO financial neutrality mechanism in respect of the TSO-TSO settlement mechanism.
- (d) Lithuania commits to introduce a shortage pricing function no later than 2025.

¹ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, 28.11.2017, OJ, L 312, p.6

- (e) At the date of synchronisation with Continental Europe at the latest, Lithuania commits to participating in existing initiatives for the joint procurement of FCR resources.
- (f) Lithuania commits to participating in the EU platform for mFRR according to Article 20 of EBGL when it becomes operational.
- (g) At the date of synchronisation with Continental Europe at the latest, Lithuania commits to participating in the future EU platform for aFRR according to Article 21 of EBGL.
- (h) At the date of synchronisation with Continental Europe at the latest, Lithuania commits to participating in the future EU platform for imbalance netting according to Article 22 of EBGL.

3. Demand side response

- (a) By the end of 2023, Lithuania commits to operating a centralised electricity consumption data collection and sharing platform (data hub) for energy market participants.
- (b) No later than 1 January 2021, a separate role for independent aggregators shall be introduced who will be eligible to participate in the wholesale and balancing markets.
- (c) Smart meters shall be rolled out in different phases:
 - No later than December 2023 – household consumers who consume more than 1000 kWh per year (representing around 90% of all electricity consumed);
 - After 2024 – household consumers who consume less than 1000 kWh per year.
 - Lithuania commits to provide customers who request it with smart meters, while bearing the associated costs according to Article 21 of Directive (EU) 2019/944² (hereinafter “Electricity Directive”).

² Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, 14.6.2019, OJ, L 158

4. Retail markets: regulated prices

Regulated prices shall be terminated in three stages:

- (a) No later than 1 January 2021 – household consumers whose actual electricity consumption between 1 June 2019 and 31 May 2020 is not less 5000 kWh, for household consumers who are connected to medium-voltage electricity networks and for certain exclusive groups of consumers as prescribed by the Electricity Law (i.e gardeners, associations of owners of individual car garages, associations of owners of dormitory type multi-apartment residential buildings), except vulnerable consumers;
- (b) No later than 1 January 2022 – household consumers whose actual electricity consumption between 1 June 2020 and 31 May 2021 is not less than 1000 kWh, except for vulnerable consumers;
- (c) No later than 1 January 2023 – other household consumers to whom electricity is supplied for the regulated public price of electricity. Vulnerable consumers will be subject to a special regime (see below).

If a consumer does not have a contract with an independent supplier by the phase out date, the DSO will provide a service of warranted supply during a 6-month period. The price of the warranted supply shall be calculated by applying a coefficient of 1.25 (except for vulnerable consumers) to the average price of the power exchange formed in Lithuania during the previous reporting month. After the 6-month period, in case a consumer remains with the incumbent supplier, the supplier will be free to set its price (except for vulnerable consumers). Vulnerable consumers will benefit from a social tariff which shall be determined by the NRA based on the average price of the power exchange in Lithuania during the previous reporting month. This timetable for the phase out of regulated prices is a stand-alone commitment in that any delays in accompanying measures such as the roll-out of smart meters will not delay the price deregulation timetable.

5. Interconnection

Lithuania refers to the Political Roadmap³ implementing the synchronisation of the Baltic States' electricity networks with the Continental European Network via Poland. Lithuania also mentions that after synchronisation no imports of electricity from Russia and Belorussia into the Baltic electricity system is envisaged.

³ https://ec.europa.eu/commission/presscorner/detail/en/IP_19_3337

III. COMMENTS

On the basis of the present notification the Commission has the following comments on the implementation plan. As a general consideration, the Commission reiterates that the thorough implementation of the rules proposed as part of the Clean energy for all Europeans package⁴ is essential to making sure that the transition to a climate natural energy system takes place at least cost and that the security of supply is maintained during transition.

1. General wholesale market considerations

The Commission welcomes that there are no price caps for day-ahead and intraday markets in Lithuania other than the harmonised maximum and minimum clearing prices for single day-ahead and intraday coupling in accordance with Articles 41(1) and 54(1) of Commission Regulation (EU) 2015/1222⁵. The Commission understands that the Lithuanian TSO maintains a certain amount of generation capacity, which it bids into the day-ahead wholesale market with a view to activate this generation if prices reach a certain level. The Commission is of the view that this arrangement is capable of distorting price formation on the market and requests Lithuania to review the arrangement and remove those bids from the market.

2. Balancing markets

The Commission welcomes Lithuania's commitment to apply no price caps other than the technical price limits as determined according to Article 30(2) of Commission Regulation (EU) 2017/2195⁶ (EGBL), at the latest by the time of Lithuania's participation in the future EU platform for mFRR.

The Commission welcomes the commitment of Lithuania to participate in the EU platform for mFRR, aFRR and imbalance netting according to Article 20, 21 and 22 of EBGL as well as existing initiatives for joint procurement of FCR resources.

The Commission recommends that at the latest by the date of synchronisation with Continental Europe, the Baltic region would form a single Load Frequency Control (LFC) Block. This would allow FRR to be dimensioned at Baltic regional level. In the Commission's view this could contribute to significant savings across Baltic States. The Commission also recommends that the Lithuanian TSO, in cooperation with its counterparts in the Baltic region takes the necessary steps to enter into FRR exchange and sharing agreements with TSOs of neighbouring LFC blocks, in accordance with Articles 165 and 166 of Commission Regulation (EU) 2017/1485⁷.

⁴ <https://ec.europa.eu/energy/en/topics/energy-strategy/clean-energy-all-europeans>

⁵ Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management, 25.7.2015, OJ, L 197, p.24

⁶ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, 28.11.2017, OJ, L 312, p.6

⁷ Commission Regulation (EU) 2017/1485 of 2 August 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation, 25.8.2017, OJ, L 220, p.1

Effective scarcity pricing will encourage market participants to react to market signals and to be available when the market most needs them and ensures that they recover their costs in the wholesale market. Article 44(3) of EGBL describes an additional settlement mechanism separate from the imbalance settlement, to settle the procurement costs of balancing capacity, administrative costs and other costs related to balancing, preferably achieved with the introduction of a shortage pricing function. The Commission welcomes Lithuania's commitment to introduce a scarcity pricing function. This will help better reflecting the value of balancing reserves in energy prices during scarcity situations and thus reduce the extent of the adequacy concern. The Commission invites Lithuania to introduce the scarcity pricing function as soon as possible but no later than Lithuania's participation in the EU platform for mFRR.

In addition, the Commission invites Lithuania to consider whether the scarcity pricing function should apply not only to balancing responsible parties (BRPs) but also to balancing supplier parties (BSPs). This may support security of supply by making sure that BRPs and BSPs face the same price for the energy produced/consumed, as price differentiation here may result in inefficient arbitrage from market players. The Commission also considers that the scarcity pricing function should be triggered by the scarcity of reserves in the system and it should be calibrated to increase balancing energy prices to the Value of Lost Load when the system runs out of reserves.

3. Demand-side response

The Commission notes that Lithuania has decided to roll out the smart metering solutions in two major stages. First, smart meters with basic functionalities, then smart meters with full system functionalities. The Commission considers that Lithuania should reach full functionality in the smart metering systems they deploy to household metering points that represent 90% of energy consumed by 2024 at the latest. That is to match the timing of the launching of the data hub, which will help operationalise the provisions for access and exchange of data (see Articles 23, 24 of the Electricity Directive), and support data-driven novel energy services and products of benefit to consumers and the system as a whole.

In addition, Lithuania should re-examine all measures to increase the deployment of price-based demand response in order to help follow the balance evolution between supply and demand in real time and also reduce peak loads, including through the rollout of smart metering systems with the necessary functionalities. The Commission considers that the market-wide rollout of smart meters will facilitate the uptake of price-based demand response and help to reduce peak loads.

4. Retail markets: regulated prices

The Commission welcomes Lithuania's commitment to a staged phase out of regulated prices for all consumers at retail level by 2023 at the latest. The Commission notes that for consumers that have not opted for an alternative supplier after the phase out date, they will receive during 6 months the regulated warranty price (except vulnerable consumers). The Commission also notes that if a consumer would decide to stay with the incumbent supplier, after the 6 month period elapses, incumbent suppliers are free to set their prices in relation to the said consumer (except for vulnerable consumers). Finally, the Commission notes that vulnerable consumers represent approximately 6% of all household consumers and will receive a social tariff from the price regulation phase out date.

The Commission would like to stress the importance of compliance with Article 5 of the recast Electricity Directive. In particular, public interventions in the price setting for the supply of electricity to customers other than energy poor or vulnerable households should be set at a price that is above cost, at a level where effective price competition can occur. Also, given that public service obligations that concern price regulation must be non-discriminatory, it is important that the designation of the undertaking(s) vested with such obligations be based on transparent and objective criteria.

The Commission welcomes Lithuania's commitment to ensure that any delay in the roll-out of smart meters shall not delay the price deregulation process. The Commission invites Lithuania to implement additional measures to accompany the price deregulation process, for example building on the intended Data Hub that can act as a broker and facilitator for switching and promoting a level playing field.

5. Interconnection

The Commission welcomes Lithuania's commitment to synchronising the Baltic electricity system with the Continental European Network and invites Lithuania to continue implementing related projects including developing network infrastructure in cooperation with EU neighbours. The certainty about the volume of available future interconnection capacity is important for market participants to be able to make informed decisions about investments in generation or demand response. Therefore, the Commission invites Lithuania, in coordination with its EU neighbours, to articulate the likely evolution of future interconnection capacity to market participants in a timely manner.

6. Other recommendations

The Commission recommends that Lithuania together with the other Member States in the Baltic region strive for establishing a regional coordination centre in accordance with Article 34 to 47 of the Electricity Regulation. The regional coordination centre should be operational by July 2022. Regional coordination centres support the increasingly integrated operation of electricity systems across the EU, thereby ensuring their efficient and secure performance.

IV. CONCLUSION

Pursuant to Article 20.5 of the Electricity Regulation, the Commission invites Lithuania to amend its implementation plan to take utmost account of the above comments of the Commission. Lithuania is invited to publish its amended plan within three months and inform the Commission.

Pursuant to Article 20.6 of the Electricity Regulation, Lithuania shall monitor the application of its implementation plan and shall publish the results of the monitoring in an annual report and submit that report to the Commission. In this report, Lithuania is invited to explain whether and to what extent the market reforms have been implemented according to the planned timeline, and if not explain the reasons why.

The Commission's position on this particular notification is without prejudice to any position it may take on the compatibility of any national implementing measure with EU law.

The Commission will publish this document on its website. The Commission does not consider the information contained therein to be confidential. Lithuania is invited to inform the Commission within ten working days following receipt whether and why they consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential information which they wish to have deleted prior to such publication.

Done at Brussels, 30.4.2020

For the Commission
Kadri SIMSON
Member of the Commission