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Van: [REDACTED] <[REDACTED]>
Verzonden: maandag 10 april 2023 16:20
Aan: ACM-Post
CC: [REDACTED]; [REDACTED]
Onderwerp: ACM/22/177510 - Undesirable balancing behaviour - EFET comments

Netherlands Authority for Consumers & Markets
Energy

Dear ACM

We note the publication of the draft decision in respect of undesirable balancing behaviour. While EFET recognises that it is important to discourage behaviour that endangers the system or imposes unnecessary additional costs, the draft does not provide the necessary clarity to give market parties confidence that legitimate behaviour will escape penalty. The design of appropriate compliance procedures becomes hugely problematic, with the risk that shippers are uncertain of how they can respond to changing imbalance circumstances or what trades may be offered in the market without risking investigation. These risks are likely to discourage activity to the detriment of the market as a whole. EFET members believe that the new rules are unnecessary at this time, and are potentially harmful, and should be shelved or at least paused for a period of time.

- Our primary concern is that the proposals capture legitimate commercial behaviour, introducing a new unintended risk to market participation and a lack of clarity in how compliance programmes could be designed in order to ensure that the rules are met. The outcome may be that parties can no longer engage in certain types of transactions. Compliance programmes designed to ensure that rules are met may only be able to do so by prohibiting broader ranges of transactions, reducing liquidity around balancing periods.
- In particular, the draft states that the PPR must have *consciously built up a large imbalance* but without explaining how this will be judged or providing clarity on legitimate circumstances where this may occur. Where a party experiences changes in balancing circumstances as a result of unanticipated changes in supply or demand, or disruption to an entry or exit point, it becomes unclear how they should behave in order to avoid a penalty.
- The original problem which gave rise to these proposals is no longer a concern. Back in September 2020 GTS started taking balancing actions at a random moment between 21 and 22 minutes past the hour. This was to prevent the predictability of a GTS balancing action so that network users could not take advantage of the situation by adjusting the bids to their own benefit depending on the balancing action. GTS has since said that the price discovery process has improved which would suggest that the action that GTS has taken has had the desired effect and is sufficient, at least for the time being.
- In any case, whether or not a change is to be introduced, it would be reasonable to have a periodic review, for example after 12 months, to ensure the rules in force are not locked in, if they carry unintended adverse consequences.

EFET was previously supportive of some additional discretion by GTS when taking balancing actions, and the rules in place since 2020 appear to have been effective. In case behaviour arises that does appear suspect, there are other ways of addressing this including approaching the individual shipper concerned, by GTS directly or in conjunction with ACM or ICE Endex for repeated offences or when the system is endangered. A formal warning, with threats of licence revocation, or a REMIT penalty, or membership withdrawal by ICE Endex would allow consideration of the circumstances. As previously stated, EFET is willing to participate in discussion about what other changes could be considered (for example, system operator incentives) whereby market confidence can be maintained without introducing such uncertainties to the market.

Yours sincerely,



Chair of Gas Committee

Board Member

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