

*Contribution to the consultation from the  
Hungarian Energy and Public Utility Regulatory Authority  
regarding demand response framework*

The Hungarian Energy and Public Utility Regulatory Authority (HEA) opened a public consultation on demand response framework, as set forth in a consultation document (CD). DR4EU is an informal network of companies<sup>1</sup> involved in developing demand side response in more than 20 countries in Europe and beyond, including potentially Hungary. DR4EU is happy to provide a contribution focusing on a few key issues discussed in the consultation document, as follows.

**1/ Suppliers and aggregators: ensuring fair competition**

It is important to highlight, as mentioned by the CD (p.7) that "*suppliers and aggregators can be competitors*". In other words, any supplier may wish, as any company, to become a DR aggregator and develop this new business with the consumers he supplies or even with other consumers.

This competitive situation is good for consumers, who should be able to choose among aggregators and switch easily if they wish to (cf. art.13 of the Electricity Directive - ED).

Such competition also requires to be very cautious regarding possible obligations created between these competitors. In particular, operating demand response through aggregation (as per art.17 of the ED) should not require any consent from third parties (cf art.17-3-a). Besides (as per art.17-3-c), non-discriminatory access to data should be ensured, meaning that it should be as easy for (independent) aggregators as for suppliers, so that they can address consumers on similar terms.

Conversely, no obligation should be created forcing aggregators or consumers to provide suppliers with any data on their DR activities, because such asymmetrical obligation would bias competition between aggregator and supplier, and would also breach the requirement to protect commercially sensitive information (cf. art.17-3-c). Such obligations that may have been in force at national level should be removed to comply with the Directive.

Therefore, it is problematic that, as mentioned by the CD "*A VET 155. § (3) bekezdése szerint az aggregátoroknak a hálózati engedélyes felé kell adatot szolgáltatnia.*".

The CD would tend to justify such obligation with the financial interest of the supplier to receive information, so that they do not change their imbalance position wrongfully, as this would be damageable for the system. It is very unlikely that any such change should be allowed (after gate closure) or even feasible (considering the delayed information flows used by suppliers), not to mention the fact that the relevance of such change would depend on the

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<sup>1</sup> Entities most involved regarding this contribution are: Cathode, Energy Pool and Voltalis.

'model' ('corrected' or 'uncorrected') used to calculate the imbalance position of the supplier (see below). Anyhow, should providing information to the supplier be proved necessary for such imbalance reasons, information should only be provided at aggregated level, meaning the data provided to a supplier regarding DR delivered from his customers should not include any individual information on participating consumers nor on DR volumes delivered, but only on the total volume of DR delivered (per settlement period) by all his customers regardless of which customer and which aggregator.

Finally, it may be worth clarifying that DR is a two-sided market:

- on the one side ("upwards"), a DR aggregator needs to collect flexibility from consumers, and thus they compete with other (potential) aggregators, including electricity suppliers;
- on the other side ("downwards"), a DR aggregator will (as art.17-1 puts it) "*participate alongside producers in a non-discriminatory manner in all electricity markets*", meaning that DR aggregators compete with generators in electricity markets at wholesale level.

In particular, as further described below, DR aggregators will bear the same balance responsibility as generators - i.e. to deliver volumes sold, or pay for any difference between sales and deliveries.

## 2/ Balance responsibility of DR aggregators and various models for that of suppliers

According to the CD (p.8), " A VET 66/D. § (5)-(6) bekezdései szerint az „aggregátor pénzügyi felelősséget vállal az idegen mérlegkörben általa okozott, az utasított eltérés mennyiségével csökkentett vagy növelt kiegyenlítetlenségért”". This is raising concerns, because, as far as we understand, this is not complying with the proper balance responsibility established by the Clean energy package.

Indeed, the balance responsibility of the aggregator is mentioned by art.17-3-d of the Electricity Directive, thus referring to the Electricity Regulation and its article 5, further clarified by its recital 15. According to these provisions, the imbalance of the aggregator is the difference between the volumes of DR he delivers (his "allocated volume") and the volumes of his net sales (his "final position in the market"). Thus the aggregator should be responsible to match sales with deliveries, exactly as a generator should. If the aggregator delivers exactly the volume of DR equal to his sales in the market, he has no imbalance.

Hence, in no way should an aggregator be responsible for any impact on a third party's balance sheet. Such imbalance should be treated as that party's responsibility - only. It may depend on the 'model' chosen. As clarified by Recital 39 of the Electricity Directive, "*Member States should be free to choose the appropriate implementation model [...] such as models where imbalances are settled or perimeter correction are introduced.*" Hence, when consumers reduce their demand as part of the action of an aggregator:

- either, if a "model where imbalances are settled" is used, their supplier will be settled with a positive imbalance, and receive a payment for this from the TSO;
- or, in a "model where perimeter corrections are introduced", such correction will cancel the positive imbalance, leaving no imbalance for the supplier (/BRP).

In the latter case, the correction deprives the supplier of his positive imbalance and related payment, so that he may request to be compensated for this correction. However, this is not related to any imbalance the aggregator should be responsible for (as per art.17-3-d), but raises the so-called 'compensation' issue (covered by art.17-4).

### 3/ Compensation to suppliers and who should pay it

As highlighted by the CD (page 8), "*az aggregátor pénzügyileg felelős az általa okozott kiegyenlítetlenségért, de nem felel a kereskedő elmaradt hasznáért*" (the aggregator is financially liable for the imbalance it causes, but is not liable for the trader's loss of profit).

Hence, as described above, an aggregator selling 10 MWh and delivering demand reduction down 10 MWh does not create any imbalance in the system, and, accordingly, should not be liable for any payment.

However, the ED allows Member States to ensure suppliers are compensated (not more than their proven costs<sup>2</sup>), while not creating a barrier to DR. To this end, the compensation cost may be spread among "*electricity undertakings*" and not charged to aggregators. Indeed, it is a key achievement of the negotiation of the Clean energy package to have clearly split the compensation issue in two steps:

(a) should a compensation be paid to suppliers

(b) is so, who should pay it - taking into account this should not create a barrier for DR.

The solution proposed by the CEP is to take account of the benefits DR provides to suppliers<sup>3</sup>, and thus spread the cost among suppliers: this ensures that both benefits *and* costs are fairly shared among all suppliers, hence ultimately among all consumers. Only in the case where benefits would not exceed costs may DR requested to contribute, up to the difference.

While these principles are straightforward, the CD highlights that it may take a long time to establish nationally, yet "*az erre „várakozás” hátráltathatja az aggregátorok piacra lépését*" („waiting" for it may hinder the entry of aggregators into the market).

To overcome this, it should be highlighted that establishing a compensation mechanism is an option for Member States, not an obligation (under art.17-4). Conversely, allowing DR to participate in all electricity markets is an obligation, not an option (under art.17-1). Hence while Hungary may be considering the pros and cons of a compensation mechanism that may eventually be established after long negotiations, this should not delay the rapid opening of all electricity markets to DR, that should already be achieved since 2020.

### 4/ Baseline methodologies

The CD mentions that it may be appropriate to select those entities responsible for the development and adoption of (various) baseline methodologies. Experience shows that the most effective way forward on this is to have aggregators propose and implement baseline methodologies, so that these baselines are appropriate in each case to the way DR is operated. Of course, methodologies need be approved by the regulator, and their implementation by aggregators need be checked by a neutral third party (for instance: via audits ordered by the TSO or the regulator).

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<sup>2</sup> It should also be noted that the costs to be considered are those incurred during DR activation, so that the rebound effect, if any, should not be included in the costs that may be compensated.

<sup>3</sup> By participating in the wholesale market as an alternative to (more expensive) generation, DR is to reduce price peaks and thus benefit all suppliers - and ultimately all consumers.