REQUEST FOR AMENDMENT (RfA) BY ALL REGULATORY AUTHORITIES AGREED AT THE ENERGY REGULATORS' FORUM

ON

ALL TSOs' PROPOSAL FOR THE IMPLEMENTATION FRAMEWORK FOR AN EUROPEAN PLATFORM FOR THE IMBALANCE NETTING PROCESS IN ACCORDANCE WITH ARTICLE 22 OF COMMISSION REGULATION (EU) 2017/2195 ESTABLISHING A GUIDELINE ON ELECTRICITY BALANCING

9 November 2018

I. Introduction and legal context

This document elaborates an agreement of All Regulatory Authorities made at the Energy Regulators' Forum on 9 November 2018, on the All TSOs' proposal for the implementation framework for a European platform for the imbalance netting process in accordance with Article 22 of the Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing (hereafter referred to as "EBGL").

Article 22 (1) of the EBGL requires that by six months after entry into force of the EBGL all TSOs shall develop a proposal for the implementation framework for a European platform for the imbalance netting process (hereafter: IN-platform).

The final proposal shall be subject to the approval of All Regulatory Authorities.

The all TSOs' proposal for the implementation framework for a European platform for the imbalance netting process in accordance with Article 22 of the EBGL (hereafter: the Proposal) was received by the last Regulatory Authority on 10 July 2018. Article 5(6) of the EBGL requires relevant Regulatory Authorities to consult and closely cooperate and coordinate with each other in order to reach an agreement, and make decisions within six months following receipt of submissions of the last relevant Regulatory Authority concerned.

This agreement of All Regulatory Authorities shall provide evidence that a decision on the Proposal does not, at this stage, need to be adopted by ACER pursuant to Article 5(7) of the EBGL. However, at the same time the Proposal is not approvable by All Regulatory Authorities. Therefore, this agreement is intended to constitute the basis on which all Regulatory Authorities will each subsequently request an amendment to the Implementation framework for a European platform for the imbalance netting process pursuant to Article 6(1) of the EBGL.

The legal provisions that lie at the basis of the Proposal and this All Regulatory Authorities' agreement on requesting an amendment can be found in Articles 3, 22, 23 and 58 of the EBGL. They are quoted here for reference:

Article 3 Objectives and regulatory aspects

1. This Regulation aims at:

(a) fostering effective competition, non-discrimination and transparency in balancing markets;

(b) enhancing efficiency of balancing as well as efficiency of European and national balancing markets;

(c) integrating balancing markets and promoting the possibilities for exchanges of balancing services while contributing to operational security;

(d) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union while facilitating the efficient and consistent functioning of day-ahead, intraday and balancing markets;

(e) ensuring that the procurement of balancing services is fair, objective, transparent and market-based, avoids undue barriers to entry for new entrants, fosters the liquidity of balancing markets while preventing undue distortions within the internal market in electricity;

(f) facilitating the participation of demand response including aggregation facilities and energy storage while ensuring they compete with other balancing services at a level playing field and, where necessary, act independently when serving a single demand facility;

(g) facilitating the participation of renewable energy sources and support the achievement of the European Union target for the penetration of renewable generation.

2. When applying this Regulation, Member States, relevant regulatory authorities, and system operators shall:

(a) apply the principles of proportionality and non-discrimination;

(b) ensure transparency;

(c) apply the principle of optimisation between the highest overall efficiency and lowest total costs for all parties involved;

(d) ensure that TSOs make use of market-based mechanisms, as far as possible, in order to ensure network security and stability;

(e) ensure that the development of the forward, day-ahead and intraday markets is not compromised;

(f) respect the responsibility assigned to the relevant TSO in order to ensure system security, including as required by national legislation;

(g) consult with relevant DSOs and take account of potential impacts on their system;

(h) take into consideration agreed European standards and technical specifications.

Article 22 European platform for imbalance netting process

1. By six months after entry into force of this Regulation, all TSOs shall develop a proposal for the implementation framework for a European platform for the imbalance netting process.

2. The European platform for the imbalance netting process, operated by TSOs or by means of an entity the TSOs would create themselves, shall be based on common governance principles and business processes and shall consist of at least the imbalance netting process function and the TSO-TSO settlement function. The European platform shall apply a multilateral TSO-TSO model to perform the imbalance netting process.

3. The proposal in paragraph 1 shall include at least:

(a) the high level design of the European platform;

(b) the roadmap and timelines for the implementation of the European platform;

(c) the definition of functions required to operate the European platform;

(d) the proposed rules concerning the governance and operation of the European platform, based on the principle of non-discrimination and ensuring equitable treatment of all member TSOs and that no TSO benefits from unjustified economic advantages through the participation in the functions of the European platform;

(e) the proposed designation of the entity or entities that will perform the functions defined in the proposal. Where the TSOs propose to designate more than one entity, the proposal shall demonstrate and ensure:

> *(i) a coherent allocation of the functions to the entities operating the European platform. The proposal shall take full account of the need to coordinate the different functions allocated to the entities operating the European platform;*
> *(ii) that the proposed setup of the European platform and allocation of functions ensures efficient and effective governance, operation and regulatory oversight of the European platform as well as supports the objectives of this Regulation;*
> *(iii) an effective coordination and decision making process to resolve any conflicting positions between entities operating the European platform;*

(f) the framework for harmonisation of the terms and conditions related to balancing set up pursuant to Article 18;

(g) the detailed principles for sharing the common costs, including the detailed categorisation of common costs, in accordance with Article 23;

(h) the description of the algorithm for the operation of imbalance netting process function in accordance with Article 58.

4. By six months after the approval of the proposal for the implementation framework for a European platform for the imbalance netting process, all TSOs shall designate the proposed entity or entities entrusted with operating the European platform pursuant to paragraph 3(e).

5. By one year after the approval of the proposal for the implementation framework for a European platform for the imbalance netting process, all TSOs performing the automatic frequency restoration process pursuant to Part IV of Regulation (EU) 2017/1485 shall implement and make operational the European platform for the imbalance netting process. They shall use the European platform to perform the imbalance netting process, at least for the Continental Europe synchronous area.

Article 23 Cost sharing between TSOs in different Member States

1. All TSOs shall provide a yearly report to the relevant regulatory authorities in accordance with Article 37 of Directive 2009/72/EC in which the costs of establishing, amending and operating the European platforms pursuant to Articles 19, 20, 21 and 22 are explained in detail. This report shall be published by the Agency taking due account of sensitive commercial information.

2. The costs referred to in paragraph 1 shall be broken down into:

- *(a) common costs resulting from coordinated activities of all TSOs participating in the respective platforms;*
- *(b) regional costs resulting from activities of several but not all TSOs participating in the respective platforms;*
- *(c) national costs resulting from activities of the TSOs in that Member State participating in the respective platforms.*

3. Common costs referred to in paragraph 2(a) shall be shared among the TSOs in the Member States and third countries participating in the European platforms. To calculate the amount to be paid by the TSOs in each Member State and, if applicable, third country, one eighth of the common cost shall be divided equally between each Member State and third country, five eighths shall be divided between each Member State and third country proportionally to their consumption, and two eighths shall be divided equally between the participating TSOs pursuant to paragraph 2(a). The Member State's share of the costs shall be borne by the TSO or TSOs operating in a territory of that Member State. In case several TSOs are operating in a Member State, the Member State's share of the costs shall be distributed among those TSOs proportionally to the consumption in the TSOs control areas.

4. To take into account changes in the common costs or changes in the participating TSOs, the calculation of common costs shall be regularly adapted.

5. TSOs cooperating in a certain region shall jointly agree on a proposal for the sharing of regional costs in accordance with paragraph 2(b). The proposal shall then be individually approved by the relevant regulatory authorities of each of the Member States and, if applicable, third country in the region. TSOs cooperating in a certain region may alternatively use the cost sharing arrangements set out in paragraph 3.

6. The cost sharing principles shall apply to costs contributing to the establishing, amending and operating the European platforms from the approval of the proposal for the relevant implementation frameworks pursuant to Articles 19(1), 20(1), 21(1) and 22(1). In case the implementation frameworks propose that existing projects shall evolve into a European platform, all TSOs participating in the existing projects may propose that a share of the costs incurred before the approval of the proposal for the implementation frameworks directly related to the development and implementation of this project and assessed as reasonable, efficient and proportionate is considered as part of the common costs pursuant to paragraph 2(a).

Article 58 Balancing algorithms

[…]

2. In the proposal pursuant to Article 22, all TSOs shall develop an algorithm to be operated by the imbalance netting process function. This algorithm shall minimise the counter activation of balancing resources by performing the imbalance netting process pursuant to Part IV of Regulation (EU) 2017/1485.

[…]

4. All algorithms developed in accordance with this Article shall:

(a) respect operational security constraints;
(b) take into account technical and network constraints;
(c) if applicable, take into account the available cross-zonal capacity.

II. All TSOs' Proposal

A draft proposal was consulted by all TSOs through ENTSO-E from 15 January 2018 to 15 March 2018 in line with Article 10 of the EBGL. Along with the draft proposal, all TSOs published an explanatory document. In the public consultation, all TSOs were seeking input from stakeholders and market participants on the draft proposal. All Regulatory Authorities closely observed, analysed and continuously provided feedback and guidance to all TSOs during various meetings and through a shadow opinion of All Regulatory Authorities (dated: 13 March 2018).

The final version of the all TSOs' proposal (Proposal), dated 18 June 2018, was received by the last Regulatory Authority on 10 July 2018, together with an updated explanatory document giving background information and rationale for the all TSOs' proposal.

The Proposal covers the design, functional requirements, governance and cost sharing of the IN-platform, as well as the allocation of the functions of the IN-platform to the entities performing these functions. The IN-platform shall consist of the imbalance netting process function as well as the TSO-TSO settlement function as described in Article 22 of the EBGL.

III. Agreed all Regulatory Authorities' Position

All Regulatory Authorities cannot approve the Proposal for the reasons that are detailed below and request all TSOs to amend the Proposal and to incorporate the following All Regulatory Authorities' assessment pursuant to Article 6(1) of the EBGL. The assessment contains a part with general remarks and a part going into detail, assessing every article of the Proposal individually.

III. 1. General Remarks

The Proposal is not sufficiently clear and described in such a way that All Regulatory Authorities are able to enforce it after approval on a national level. TSOs should write the Proposal in a legal format which is directly enforceable and legally sound, in that it should be possible to foresee how the methodologies will be applied.

The Proposal includes a term already defined in legislation and then gives a different meaning to it. The term cross zonal capacity should be used in the meaning given to it in the Transparency regulation 543/2013 in Article 2(10) as 'the capability of the interconnected system to accommodate energy transfer between bidding zones'.

The Proposal furthermore contains articles describing tasks and responsibilities but using the passive voice. This can result in confusion as to who is responsible of performing a duty. TSOs should use the active voice as much as possible when describing tasks and responsibilities.

Furthermore, reference to definitions or concepts used in other proposals, which have not been approved by All Regulatory Authorities at the time of submission, should be avoided. In addition, definitions should be consistent across proposals.

III. 2. Requests for changes to the Proposal

Whereas

- Mistakes concerning the references in recitals (11), (12) and (14). References indicated 2(a) to 2(f) should be made to Article 3 of the EBGL.
- Recital (3) refers to "the entity", whereas the Proposal itself contains two entities.

Abbreviations

- As stated above, the definition of cross zonal capacity (without "-") can be found in the Transparency Regulation 543/2013 in Article 2(10). It can only be used in the sense of this definition throughout the Proposal. This can be achieved by removing the abbreviation and/or referring to the applicable definition in the abbreviations, e.g. "CZC: cross zonal capacity, as defined in Regulation 543/2013, Article 2(10)".

Article 1: Subject matter and scope

- Article 22(5) of EBGL provides that "by one year after approval of the proposal all TSOs performing the automatic frequency restoration process pursuant to Part IV of Regulation (EU) 2017/1485 shall implement and make operational the European platform for the imbalance netting process" and they (the TSOs) shall use this platform at least for the Continental Europe synchronous area. Implementation of the platform by Baltics, IE/NI and GB is mentioned. However, Nordics are not mentioned in Article 1. All Regulatory Authorities ask all TSOs to clarify in the Proposal how the Nordic synchronous area is considered. This is needed to ensure that the Proposal is legally applicable to other synchronous areas other than Continental Europe if the platform is implemented there at a later point in time.

Article 2: Definitions and interpretation

- Article 2(1) should be expanded to also cover the Transparency Regulation 543/2013
- 'aFRR demand' should be defined more clearly as the difference or sum between ACE and already activated aFRR taking correction values into account (definition is based on the mathematical formulation in the IGCC document on principles of IGCC[1]). The definition should be made more in line with already used definitions in IGCC documents and existing definitions from SOGL. TSOs' definition should not refer to products.
- 'Optimisation region' should be more clearly defined by also including the netting within LFC Blocks (and thus between LFC areas).
- The definition of 'usage of the platform' should be clearer. Usage of the platform would be when the IN-platform will receive FRCE values and send out corrections that will be used in the national controllers.
- The definition of borders should be made consistent between this Proposal and the proposals for aFRR and mFRR implementation frameworks.

Article 3: High-level design of the IN-platform

- List of inputs and outputs need to be exhaustive, i.e. 'at least' needs to be deleted throughout the Article. Non-crucial implementation details, that are not foreseeable now and could, for example, arise during IT implementation, should be addressed by adding a sentence. For example, it could be added: "Other input and outputs of the imbalance netting process function can be information that ensures safe and correct communication, the stability of the IT system or monitoring of the working of the system."

[1] See page 14 at the bottom of the "Stakeholder document for the principles of IGCC": https://docstore.entsoe.eu/Documents/Network%20codes%20documents/Implementation/IGCC/20161020_IGCC_Stakeholder_document.pdf

- According to the definition in the Transparency Regulation, 'cross zonal capacity' means the capability of the interconnected system to accommodate energy transfer between bidding zones. Thus, the Proposal cannot use this term for capacity within bidding zones. In Article 3(4)(b) it should be changed to 'the cross zonal capacity available on bidding zone borders' instead of 'CZC for concerned borders'. The capacity limitations within bidding zones are already mirrored in letter (c).
- Article 3(5)(b) should be adapted to correspond to the definition of cross zonal capacity as described under Article 3(4)(b) as well (see reasoning above). In general, it should be ensured across the Proposal that cross zonal capacity is used in this meaning and applied in a way that cross zonal capacity remaining after the intraday market is the constraint limiting the exchange of Balancing Energy. Only in case of real time operational constraints, that would provide an additional limitation to this cross zonal capacity, it can be further reduced.
- The Proposal should give more than a mere repetition of the EBGL by referring to Article 37 of the EBGL under (5)(a). Article 37 of the EBGL does not describe how the cross zonal capacity is updated. What should be described here in the high-level design of the IN-platform is the way the available cross zonal capacity for the platform is defined. A common starting point should be defined for cross zonal capacity remaining after IDCZGCT (Intraday Cross-Zonal Gate Closure Time), preferably by referring to data/information generated on the basis of CACM GL[2] methodology, like IDCC (Intraday Capacity Calculation) for available cross zonal capacity and ID scheduled exchanges for the used portion of that cross zonal capacity, as reported by the CMM (capacity management module) of the intraday XBID platform. Furthermore, it should explicitly be included which prior processes could lead to a prior use of cross zonal capacity (e.g. other platforms, optimisation regions) or to – at a later point in time when required – a recalculation(s) of cross zonal capacity for balancing.
- Under Article 3(5)(a) the sentence 'The automatic frequency restoration power exchange on bidding zone borders must not exceed the cross zonal capacity updated in accordance with Article 37 of the EBGL' should be moved to the algorithm description as a constraint and included here in the definition of the cross zonal capacity on bidding zone borders.
- Concerning the 'additional limitations' under Article 3(5)(d) a reference should be included. Are the additional limitations from Article 150 of the SOGL[3] meant?

[2] Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management.

[3] Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation.
Article 150(3)(b) of the SOGL states that "The affected TSO shall have the right to: […] (b) require the implementation of an operational procedure enabling the affected TSO to set limits for the imbalance netting power interchange, frequency restoration power interchange and control program between the respective LFC areas based on operational security analysis in real-time."

- The ‘relevant validity period’ under Article 3(5)(d) should be the ‘Market Time Unit’ as defined by the Terms and Conditions on the Intraday GOT and GCT.
- The permanent limitations based on technical reasons under Article 3(6) should refer to the relevant article in SOGL.
- In Article 3(9)(a) a clarification is needed on how the ‘intended exchange of energy’ is defined (is it equal to the correction value or is it an average value over an ISP?) Please refer to the methodology of Article 50(1), as was done under (9)(b) of Article 3 as well.
- Article 3(12) should be under Article 6 Governance.

Article 4: Implementation of the IN-platform

- Wording change in Article 4(2)(c) required: ‘adaptation’ instead of ‘adaptions’.
- The Article 4(2)(f) should be adapted to: “Accession to IN-Platform: According to Article 22(5) of the EBGL, all participating TSOs in Continental Europe shall use the IN-Platform […]”.
- Regulatory Authorities request to include a paragraph to Article 4 to reflect how TSOs from other Synchronous Areas can implement the IN-platform at a later point in time.

Article 5: Functions of the IN-platform

- It should be mentioned that the principle of proportional distribution of netting potential cannot be strictly ensured in case of congestion. It should also be described how the proportional distribution works in case of congestion. This description should be included in Article 11 and not in Article 5 of the Proposal.

Article 7: Decision-making

- Article 7(1) should be adapted, as the Proposal cannot be changed by a TSOs’ decision alone. However, all TSOs can decide on a change of the Proposal that they subsequently propose as an amendment of the approved imbalance netting implementation framework (INIF) to All Regulatory Authorities for approval. Therefore, Article 7(1) should say: “Decisions leading to a proposal for a change of the INIF […]”

Article 8: Proposal for entity or entities

- The governance, decision-making and cost-sharing all apply to the IN-platform as a whole. This may be an indication for a coordination of the different functions as required by Article 22(3)(e)(i) and (iii) of the EBGL. This reasoning, for complying with Article 22(3)(e)(i) and (iii), should also be extensively elaborated in the explanatory document and summarized in the Recitals. The Proposal does not explain how the setup of two entities ensures efficient and effective governance, operation and regulatory oversight of the European platform as required by Article 22(3)(e)(ii) of the EBGL. The explanatory document only explains why later on the proposed designation of the EU-TSO operating IGCC, both as the entity for TSO-TSO settlement and real-time entity, is efficient, but not why having two different entities might ensure efficient and effective governance, operation and regulatory oversight. Extensive explanations are needed in the explanatory document. The chosen set-up of having two different entities should also be justified in the Recitals.
- The 'IN-platform settlement entity' should become a 'settlement entity'. This settlement entity could then be used analogically in the other platforms' IF, thus ensuring compliance with Article 22(3)(e)(ii) of the EBGL. This would also enable the establishment of one settlement entity for all settlement functions of the different platforms, if this would be considered efficient during the development of the implementation frameworks of the other platforms. Definition in Article 2 needs to be adjusted accordingly. All Regulatory Authorities question the efficiency of creating a separate settlement entity for every platform.

Article 10: Categorisation of costs and detailed principles for sharing the costs

- In order to clarify and ease understanding of the cost sharing applied, reference to paragraph 15 should be made in paragraphs 4 and 8, and reference to paragraph 18 should be made in paragraphs 5 and 9.
- In Article 10(6)(a) the notion of 'several, directly beneficiary member TSOs', in relation to member TSOs of the concerned region and participating TSOs of the concerned region, as mentioned in Article 10(8) and 10(9), needs to be clarified.

Article 11: Description of the algorithm for the operation of imbalance netting process function

- Description of the algorithm should also contain a generalised mathematical description. The level of detail could be similar to the one presented in the "Stakeholder document for the principles of IGCC" (September 2016; page 14). And/or the description of the algorithm needs to be more concrete.
- Also TSOs should ensure that the algorithm is not spread across the Proposal (currently parts of the algorithm can be found in Article 3, 5 and 11). The full algorithm description should be included in Article 11.

- In addition, under Article 11(1)(c) the principle of proportional distribution, described in Article 5(3)(a), conflicts with the examples given in the explanatory document where the distribution is not solely dependent on the aFRR demands but also on the available cross zonal capacity (see for example figure 9 in the explanatory note). The Proposal needs to be adapted to reflect the cross zonal capacity in the principle of proportional distribution.
- Following from Article 11(1)(d)(i) the capacity between LFC areas should be sent to the imbalance netting function as well under (1)(d)(ii), as a limitation between LFC-areas within a bidding zone to the imbalance netting power interchange or as a change to CZC between bidding zones.

Explanatory Note

The explanatory note is not part of the all Regulatory Authorities' decision on the Proposal. However, the requested amendments to the explanatory note would be beneficial when it comes to reading and understanding the Proposal.

- In general, large parts of the explanatory note need to be brought in line with the Proposal and revised where needed (see for example chapter 1.1 of the explanatory document, or the definition of member and participating TSOs). Currently, the explanatory note creates unclarity about the Proposal itself as the explanatory note can be read as describing a different organisation than the Proposal itself (for instance on the entities). Furthermore, the explanatory note includes a link to an IGCC-document ("Stakeholder document for the principles of IGCC") that can be considered largely as a relevant part of the explanatory note, as it more clearly describes the functioning of the platform than the current explanatory note does.
- Examples should be added under chapter 6.4 of the explanatory document using the same number basis for the case "no optimization region" in order to show the effects of optimization regions. In addition, implicit imbalance netting should be further explained in the explanatory document.

IV. Conclusion

All Regulatory Authorities have assessed, consulted, closely cooperated and coordinated to reach the agreement that the Proposal according to Article 22 of the EBGL cannot be approved by All Regulatory Authorities.

According to Article 6(1) of the EBGL, All Regulatory Authorities hereby request an amendment to the Proposal. The amended proposal shall take into account the All Regulatory Authorities' assessment stated above and shall be submitted by all TSOs no later than two months after receiving the last Regulatory Authorities RfA in accordance with Article 6(1) of the EBGL.

All Regulatory Authorities have agreed to issue their national decision to request an amendment to the proposal on the basis of this agreement within ten working days after the agreement reached at the Energy Regulators Forum, i.e. by 23 November 2018.