

**REQUEST FOR AMENDMENT (RfA) BY
CONCERNED REGULATORY AUTHORITIES**

ON

**ALL CONTINENTAL EUROPEAN TSOs' PROPOSAL
FOR COMMON SETTLEMENT RULES FOR ALL
UNINTENDED EXCHANGES OF ENERGY IN
ACCORDANCE WITH THE ARTICLE 51(1) OF
COMMISSION REGULATION (EU) 2017/2195 OF 23
NOVEMBER 2017 ESTABLISHING A GUIDELINE ON
ELECTRICITY BALANCING**

4 December 2019

I. Introduction and legal context

Article 51 (3) of the Commission Regulation (EU) 2017/2195 (hereafter: EBGL)¹ requires that by 18 months after the entry into force of the EBGL, all SOs intentionally exchanging energy within a synchronous area shall develop a proposal for common settlement rules applicable to all unintended exchanges of energy.

The all Continental European TSOs' proposal for a methodology for common settlement rules applicable to all unintended energy exchanges (hereafter: the Proposal), was received by the last concerned RA on 7 July 2019. 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. A decision is therefore required by all concerned RAs by 7 January 2020.

This agreement of all concerned RAs shall provide evidence that a decision on the Proposal does not 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 concerned RAs. Therefore, this agreement is intended to constitute the basis on which concerned RAs will each subsequently request an amendment to the Proposal.

The all concerned RAs' joint RfA was coordinated through the Electricity Balancing TF (hereafter: EB TF) of ACER and agreed on 4 December 2019. Amending the Proposal according to the RfA should make it approvable for all concerned RAs.

The legal provisions that lie at the basis of the Proposal and this all concerned RAs' agreement on the RfA can be found in Articles 3 and 51 of the EBGL:

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;*

¹ Commission regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, referred to as the "EBGL"

(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 51 Unintended exchanges of energy

1. By eighteen months after the entry into force of this Regulation, all TSOs of a synchronous area shall develop a proposal for common settlement rules applicable to all unintended exchanges of energy. The proposal shall include the following requirements:

(a) the price for unintended exchanges of energy withdrawn from the synchronous area shall reflect the prices for activated upward balancing energy for frequency restoration process or reserve replacement process for this synchronous area;

(b) the price for unintended exchanges of energy injected into the synchronous area shall reflect the prices for activated downward balancing energy for frequency restoration process or reserve replacement process for this synchronous area.

- 2. By eighteen months after the entry into force of this Regulation, all asynchronously connected TSOs shall develop a proposal for common settlement rules applicable to all unintended exchanges of energy between asynchronously connected TSOs.*
- 3. The proposals of common settlement rules of unintended exchanges of energy between TSOs shall ensure a fair and equal distribution of costs and benefits between them.*
- 4. All TSOs shall establish a coordinated mechanism for adjustments to settlements between them.*

II. All Continental European TSOs' Proposal

The Proposal was not consulted by all TSOs, since it is not explicitly provided by Article 10 of the EBGL.

All concerned RAs closely observed, analysed and continuously provided feedback and guidance to all TSOs during various meetings.

The final version of the Proposal, dated 18 June 2019, was received by the last Regulatory Authority on 7 July 2019, together with an updated explanatory document giving background information and rationale for the Proposal.

The Proposal covers the rules for the common settlement for all unintended exchanges of energy within Synchronous Area Continental Europe. The Proposal includes the methodology for calculating volumes of unintended exchanges and relevant prices, as well as the high-level process for the common settlement between TSOs.

III. Concerned RAs Assessment

All concerned RAs request all Continental European TSOs to amend the Proposal and to take into account the following RAs' assessment. The assessment contains a part with general remarks and a part going into detail, assessing every article of the Proposal individually.

1. General Remarks

1. On the pricing rule

All concerned RAs consider the usage of day-ahead market prices as not fully compliant with the EBGL, as art. 51(1) explicitly requires that prices for unintended exchanges shall reflect the prices for activated balancing energy for frequency restoration process or reserve replacement process. However, all concerned RAs acknowledge that until the European platforms for the exchange of balancing energy will not be live, there is not a reliable set of harmonized balancing energy prices to be used in the settlement of unintended exchanges. Therefore, all concerned RAs can accept to start with a price reflecting day ahead market instead of balancing energy, but the Proposal shall include a stronger commitment to evolve the methodology towards the usage of balancing energy prices, with a clear deadline after the approval of the Proposal to achieve a new price definition, based on the balancing energy prices.

2. On the entity

Concerned RAs acknowledge that there is not any provision in EBGL about the appointment of entities, but TSOs should describe at least in which framework the entities will be appointed. This is notably mentioned in Article 3(2), 3(5), 3(11) and 4(2) points b, c, d and e.

2. Requests for changes to the Proposal

Article 2: Definitions and interpretation

- Art. 2(3)b should be removed, as the meaning of SA CE is already given in the abbreviation part.

Article 3: High level design of the common settlement

- Art. 3(4): When "intended exchanges of energy" is mentioned it should be specified between what areas the exchange takes place.
- Art. 3(11): TSOs are invited to clarify who can claim a review in case of errors, within which deadline the review can be asked and who is the entity entrusted to review the calculation.

Article 4: Implementation of the common settlement

- Art. 4(2)(h): TSOs are invited to propose a more specific timeline for the reviewal process and a stronger commitment to change the price calculation, including balancing energy prices. RAs consider the “the possibility for evolving to balancing energy prices instead of day-ahead market prices” mentioned in the proposal too weak, as it does not define any deadline to evolve to balancing energy prices. TSOs are thus invited to express in the methodology a firm deadline after the approval of the proposal for the evolution of the settlement price based on balancing energy prices.
- Art. 4(3): concerned RAs do not understand the scope of this article. TSOs are invited to further clarify this paragraph or to remove it, in case it is not a provision that directly applies to the settlement of this methodology.

Article 7 Volume determination per TSO-TSO settlement period

- Art. 7(2): the description should reflect the formula given in ED 3.4.3. In the RAs opinion, the reference in the last row should be 7(1)(g) instead of only 7(1). Otherwise, the references to art. 50(1) and 50(3) of EBGL should be deleted, leaving only the reference to the entire art. 7(1) of the Proposal.

Article 8 Pricing rules

- Paragraph 2(a)ii): TSOs are invited to clarify on which criteria the price to be used is selected.

IV. Conclusion

All concerned RAs have assessed, consulted and closely cooperated and coordinated to reach the agreement that the Proposal according to Article 51(1) of the EBGL cannot be approved.

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

All concerned RAs must make their decision to request an amendment to the proposal on the basis of this agreement by 7 January 2020.