

**REQUEST FOR AMENDMENT BY
ALL REGULATORY AUTHORITIES AGREED AT THE
ENERGY REGULATORS' FORUM**

ON

**ALL TSOS' PROPOSAL TO FURTHER SPECIFY AND
HARMONISE IMBALANCE SETTLEMENT IN
ACCORDANCE WITH ARTICLE 52(2) OF THE
COMMISSION REGULATION (EU) 2017/2195 OF 23
NOVEMBER 2017 ESTABLISHING A GUIDELINE ON
ELECTRICITY BALANCING**

14 June 2019

I. Introduction and legal context

This document elaborates an agreement of All Regulatory Authorities made at the Energy Regulators' Forum on 14 June 2019, on the **All TSOs' proposal to further specify and harmonise imbalance settlement in accordance with Article 52(2) of the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (EBGL)** (hereafter referred to as "the Proposal").

The Proposal was received by the last Regulatory Authority on 11 February 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, i.e. by 11 August 2019.

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 Proposal pursuant to Article 6(1) of the EBGL.

The most relevant legal provisions that lie at the basis of the ISH Proposal and this All Regulatory Authorities' agreement on requesting an amendment are Articles 3, 44, 49, 52, 54 and 55 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 44 General principles

1. The settlement processes shall:

- (a) establish adequate economic signals which reflect the imbalance situation;*
- (b) ensure that imbalances are settled at a price that reflects the real time value of energy;*
- (c) provide incentives to balance responsible parties to be in balance or help the system to restore its balance;*
- (d) facilitate harmonisation of imbalance settlement mechanisms;*
- (e) provide incentives to TSOs to fulfil their obligations pursuant to Article 127, Article 153, Article 157 and Article 160 of Regulation (EU) 2017/1485;*
- (f) avoid distorting incentives to balance responsible parties, balancing service providers and TSOs;*
- (g) support competition among market participants;*
- (h) provide incentives to balancing service providers to offer and deliver balancing services to the connecting TSO;*
- (i) ensure the financial neutrality of all TSOs.*

2. *Each relevant regulatory authority in accordance with Article 37 of Directive 2009/72/EC shall ensure that all TSOs under its competence do not incur economic gains or losses with regard to the financial outcome of the settlement pursuant to Chapters 2, 3 and 4 of this Title, over the regulatory period as defined by the relevant regulatory authority, and shall ensure that any positive or negative financial outcome as a result of the settlement pursuant to Chapters 2, 3 and 4 of this Title shall be passed on to network users in accordance with the applicable national rules.*

3. *Each TSO may develop a proposal for an additional settlement mechanism separate from the imbalance settlement, to settle the procurement costs of balancing capacity pursuant to Chapter 5 of this Title, administrative costs and other costs related to balancing. The additional settlement mechanism shall apply to balance responsible parties. This should be preferably achieved with the introduction of a shortage pricing function. If TSOs choose another mechanism, they should justify this in the proposal. Such a proposal shall be subject to approval by the relevant regulatory authority.*

4. *Each injection or withdrawal into or from a scheduling area of a TSO shall either be settled in accordance with Chapter 3 or Chapter 4 of Title V.*

Article 49 Imbalance adjustment to the balance responsible party

1. *Each TSO shall calculate an imbalance adjustment to be applied to the concerned balance responsible parties for each activated balancing energy bid.*

2. *For imbalance areas where several final positions for a single balance responsible party are calculated pursuant to Article 54(3), an imbalance adjustment may be calculated for each position.*

3. *For each imbalance adjustment, each TSO shall determine the activated volume of balancing energy calculated pursuant to Article 45 and any volume activated for purposes other than balancing.*
Imbalance adjustment to the balance responsible party

Article 52 Imbalance settlement

1. *Each TSO or, where relevant, third party shall settle within its scheduling area or scheduling areas when appropriate with each balance responsible party for each imbalance settlement period pursuant to Article 53 all calculated imbalances pursuant to Article 49 and Article 54 against the appropriate imbalance price calculated pursuant to Article 55.*

2. *By one year after entry into force of this Regulation, all TSOs shall develop a proposal to further specify and harmonise at least:*

- (a) the calculation of an imbalance adjustment pursuant to Article 49 and the calculation of a position, an imbalance and an allocated volume following one of the approaches pursuant to Article 54(3);*
- (b) the main components used for the calculation of the imbalance price for all imbalances pursuant to Article 55 including, where appropriate, the definition of the value of avoided activation of balancing energy from frequency restoration reserves or replacement reserves;*
- (c) the use of single imbalance pricing for all imbalances pursuant to Article 55, which defines a single price for positive imbalances and negative imbalances for each imbalance price area within an imbalance settlement period; and*
- (d) the definition of conditions and methodology for applying dual imbalance pricing for all imbalances pursuant to Article 55, which defines one price for positive imbalances and one price for negative imbalances for each imbalance price area within an imbalance settlement period, encompassing:
 - (i) conditions on when a TSO may propose to its relevant regulatory authority in accordance with Article 37 of Directive 2009/72/EC the application of dual pricing and which justification must be provided;*
 - (ii) the methodology for applying dual pricing.**

3. The proposal pursuant to paragraph 2 may distinguish between self-dispatching models and central dispatching models.

4. The proposal pursuant to paragraph 2 shall provide an implementation date no later than eighteen months after approval by all relevant regulatory authorities in accordance with Article 5(2).

Article 54 Imbalance calculation

1. Each TSO shall calculate within its scheduling area or scheduling areas when appropriate the final position, the allocated volume, the imbalance adjustment and the imbalance:

- (a) for each balance responsible party;*
- (b) for each imbalance settlement period;*
- (c) in each imbalance area.*

2. The imbalance area shall be equal to the scheduling area, except in case of a central dispatching model where imbalance area may constitute a part of scheduling area.

3. Until the implementation of the proposal pursuant to Article 52(2), each TSO shall calculate the final position of a balance responsible party using one of the following approaches:

- (a) balance responsible party has one single final position equal to the sum of its external commercial trade schedules and internal commercial trade schedules;*

(b) balance responsible party has two final positions: the first is equal to the sum of its external commercial trade schedules and internal commercial trade schedules from generation, and the second is equal to the sum of its external commercial trade schedules and internal commercial trade schedules from consumption;

(c) in a central dispatching model, a balance responsible party can have several final positions per imbalance area equal to generation schedules of power generating facilities or consumption schedules of demand facilities.

4. Each TSO shall set up the rules for:

(a) the calculation of the final position;

(b) the determination of the allocated volume;

(c) the determination of the imbalance adjustment pursuant to Article 49;

(d) the calculation of the imbalance;

(e) claiming the recalculation of the imbalance by a balance responsible party.

5. Allocated volume shall not be calculated for a balance responsible party which does not cover injections or withdrawals.

6. An imbalance shall indicate the size and the direction of the settlement transaction between the balance responsible party and the TSO; an imbalance can have alternatively:

(a) a negative sign, indicating a balance responsible party's shortage;

(b) a positive sign, indicating a balance responsible party's surplus.

Article 55 Imbalance price:

1. Each TSO shall set up rules to calculate the imbalance price, which can be positive, zero or negative, as defined in Table 2:

*Table 2
Payment for imbalance*

	<i>Imbalance price positive</i>	<i>Imbalance price negative</i>
<i>Positive imbalance</i>	<i>Payment from TSO to BRP</i>	<i>Payment from BRP to TSO</i>

<i>Negative imbalance</i>	<i>Payment from BRP to TSO</i>	<i>Payment from TSO to BRP</i>
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2. The rules pursuant to paragraph 1 shall include a definition of the value of avoided activation of balancing energy from frequency restoration reserves or replacement reserves.3. Each TSO shall determine the imbalance price for:

- (a) each imbalance settlement period;
- (b) its imbalance price areas;
- (c) each imbalance direction.

3. Each TSO shall determine the imbalance price for:

- (a) each imbalance settlement period;
- (b) its imbalance price areas;
- (c) each imbalance direction.

4. The imbalance price for negative imbalance shall not be less than, alternatively:

- (a) the weighted average price for positive activated balancing energy from frequency restoration reserves and replacement reserves;
- (b) in the event that no activation of balancing energy in either direction has occurred during the imbalance settlement period, the value of the avoided activation of balancing energy from frequency restoration reserves or replacement reserves.

5. The imbalance price for positive imbalance shall not be greater than, alternatively:

- (a) the weighted average price for negative activated balancing energy from frequency restoration reserves and replacement reserves;
- (b) in the event that no activation of balancing energy in either direction has occurred during the imbalance settlement period, the value of the avoided activation of balancing energy from frequency restoration reserves or replacement reserves.

6. In the event that both positive and negative balancing energy from frequency restoration reserves or replacement reserves have been activated during the same imbalance settlement period, the imbalance settlement price shall be determined for positive imbalance and negative imbalance based on at least one of the principles pursuant to paragraphs 4 and 5.

II. All TSOs' Proposal

A draft proposal was consulted by all TSOs through ENTSO-E from 16 July 2018 to 28 September 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: 26 September 2018).

The final version of the Proposal, dated 18 December 2018, was received by the last Regulatory Authority on 11 February 2019, together with an updated explanatory document giving background information and rationale for the Proposal.

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 pursuant to Article 6(1) of the EBGL and to incorporate the following All Regulatory Authorities' assessment.

III. 1. Requests for changes to the Proposal

Article 2: Definitions and interpretation

In article 2(2)(d) of the Proposal, the term "net volume of balancing energy demand" is used in the definition of "aggravating imbalance". All NRAs do not consider the term "net volume of balancing energy demand" to be sufficiently clear and request all TSOs to further specify the term within the definition of "aggravating imbalance".

Article 2(3)(f) of the Proposal specifies that the abbreviation "TSO" stands for "Transmission System Operators or any third party entrusted with settlements in accordance with the EBGL Article 13", and by this creates a new definition of TSOs.

All NRAs do not consider it necessary to define “TSO” as a third party within the Proposal, as the possibility to delegate or assign tasks from TSOs to third parties follows directly from EBGL Article 13. All NRAs therefore request all TSOs to amend Article 2(3)(f) to avoid defining TSOs in a different way than already done existing regulations.

Article 3: The calculation of an imbalance adjustment

Article 3(1)(a) of the Proposal refers to EBGL article 18(5)(h) i.e. “national terms and conditions” and EBGL Article 49. All NRAs are in the opinion that the reference to EBGL Article 18(5)(h) is not appropriate and that the reference to EBGL Article 49 is not the relevant reference. All NRAs therefore request all TSOs to amend the Proposal to remove the reference to EBGL Article 18(5)(h) and 49 and instead only refer to EBGL Article 45 as it sets out the overarching obligations.

Article 4: The calculation of a position, an imbalance and an allocated volume

According to EBGL Article 18(6)(a), “*The terms and conditions for balance responsible parties shall contain: (a) the definition of balance responsibility for each connection in a way that avoids any gaps or overlaps in the balance responsibility of different market participants providing services to that connection*” and according to EBGL Article 44(4) “*Each injection or withdrawal into or from a scheduling area of a TSO shall either be settled in accordance with [...] Chapter 4 of Title V*”.

According to Article 4(3)(d) of the Proposal, “*The total allocated volume to each BRP [...] shall be calculated [...] as the netted volume: [...] of all corrections that are related to volumes assigned per ISP to third parties [...]*”

All NRAs do not consider the correction of volumes related to “third parties” as compliant with the EBGL Article 18(6)(a) and 44(4), as it could create gaps or overlaps in the balance responsibility of different market participants and could allow TSOs to exempt certain volumes of injection and withdrawal within a scheduling area from imbalance settlement via the BRP.

All NRAs therefore request all TSOs to amend the Proposal by replacing the term “third party” with “*a market participant bearing balance responsibility or has contractually delegated its balance responsibility to a BRP of its choice*”.

Article 4(4) of the Proposal refers to “terms and conditions for BSPs”. According to NRAs understanding, the reference should instead be to terms and conditions for BRPs. All NRAs therefore request all TSOs to amend the Proposal to refer to “terms and conditions for BRPs” instead of “terms and conditions for BSPs”.

Article 5: Components used for the calculation of the imbalance price

Article 5(2) of the Proposal refers to “volume fulfilling the balancing energy demand”. All NRAs does not consider this concept to be sufficiently clear. All NRAs therefore request all TSOs to define or further specify this concept within the Proposal in order to ensure legal clarity.

In general throughout Article 5 of the Proposal, all NRAs do not consider it sufficiently clear which components are mandatory and which components are voluntary for TSOs to use when calculating the imbalance price. All NRAs therefore request all TSOs amend the wording of Article 5 by using a clear and unambiguous language with respect to which components are mandatory and which components are optional for TSOs when calculating the imbalance price.

Article 5(4) of the Proposal establish that the best available estimations shall be used if the final values for the volumes in accordance with Article 5(3) are not known at the moment of the calculation of the imbalance price. All NRAs do not consider it appropriate to define in the Proposal that estimations shall be used, as the procedures for this should rather be defined at a national level. All NRAs therefore request all TSOs to remove Article 5(4) from the Proposal.

Article 5(5)(c) of the Proposal refers to a “a component with regard to the financial neutrality of the connecting TSO pursuant Article 44(2) of the EBGL“. All NRAs accept the concept of using a component to ensure no economic gains or losses with regard to the financial outcome of the settlement pursuant to chapter 2, 3 and 4 of Title V of EBGL, but all NRAs do not consider the legal reference to EBGL Article 44(2) to be correct, as the mechanism described in EBGL Article 44(2) ultimately refers to transfer of surplus or deficits to *network users*, and not to BRPs. All NRAs therefore request all TSOs to amend the Proposal to remove the *legal reference* to EBGL Article 44(2).

All NRAs do not consider the wording in Article 5(6) of the Proposal to be sufficiently clear. All NRAs request all TSOs to amend the text to ensure clarity.

Article 5(7) of the Proposal describes a process where additional components according to Article 5(5) of the Proposal will be added or subtracted to the imbalance price. All NRAs do not consider this setup to be appropriate, as the components according to Article 5(5) of the Proposal instead should serve as components to calculate the final imbalance price, and not be added or subtracted to the imbalance price ex post. All NRAs therefore request all TSOs to amend the proposal to ensure that the inclusion of additional components would serve as components for the calculation of the (final) imbalance price, and not be added or subtracted to the imbalance price.

Further, all NRAs request all TSOs to include a requirement that the imbalance price calculated using all components introduced in Article 5 of the Proposal shall respect the boundary conditions defined in EBGL Article 55(4), (5) and (6).

In addition, NRAs request all TSOs to explore if the approach to boundary conditions for the FRR process should be further harmonized given the settlement principles of article 44(1) and request TSOs to properly justify the decision to harmonize or not the approach for the FRR process.

Article 6: Definition of the value of avoided activation of balancing energy from frequency restoration reserves or replacement reserves

According to EBGL Article 52(2)(b), all TSOs shall develop a proposal to further specify and harmonise at least “*the main components used for the calculation of the imbalance price for all imbalances pursuant to Article 55 including, where appropriate, the definition of the value of avoided activation of balancing energy from frequency restoration reserves or replacement reserves*”;

All NRAs do not consider that the Proposal provides a sufficiently specified *definition* of the value of avoided activation of balancing energy from frequency restoration reserves or replacement reserves, as required by EBGL Article 52(2). Further, all NRAs also consider that links to the pricing proposal and the TSO-TSO settlement proposals in the absence of activation are not clear enough. Due to this, all NRAs cannot approve the Proposal.

All NRAs therefore request all TSOs to amend the Proposal by including a clearly specified *general definition* of the value of avoided activation, which meets the relevant general settlement principles of EBGL Article 44(1), especially that the settlement process shall:

- a) establish adequate economic signals which reflect the imbalance situation;
- b) ensure that imbalances are settled at a price that reflects the real time value of energy;

- c) provide incentives to balance responsible parties to be in balance or help the system to restore its balance;
- f) avoid distorting incentives to balance responsible parties, balancing service providers and TSOs;

At the same time, all NRAs agree that the Proposal itself does not need to contain a detailed methodology for how to calculate the value of avoided activation, as these details could be developed at a national level by each TSO as part of the national terms and conditions according to EBGL Article 18(6)(k), which again will be approved by each relevant regulatory authority.

Article 8: Definition of conditions and methodology for applying dual imbalance pricing

According to EBGL Article 52(2), “*all TSOs shall develop a proposal to further specify and harmonise at least: [...]*”

(d) the definition of conditions [...] for applying dual imbalance pricing for all imbalances pursuant to Article 55, [...], encompassing:

- (i) conditions on when a TSO may propose to its relevant regulatory authority in accordance with Article 37 of Directive 2009/72/EC the application of dual pricing and which justification must be provided;*
[...]”

All NRAs do not consider all of the proposed conditions according to Article 8 of the Proposal to be sufficiently enforceable and/or justified. All NRAs therefore request all TSOs to make the following amendments related to definition of conditions for applying dual imbalance pricing included in Article 8(1) of the Proposal:

- Clarify the definition of “power oscillations” relevant for the condition according to Article 8(1)(a) and consider if any existing definitions from other regulations such as SOGL could serve as a basis for this, e.g. the terms “dynamic stability” and/or “frequency stability.
- Clarify that the condition according to Article 8(1)(a) can be applied for “*specific ISPs in which the TSO subsequently requests activation of both positive and negative balancing energy from frequency restoration reserves, if dual imbalance pricing is justified as a mitigation measure to avoid power oscillations*”, providing more clarity that the rule is implemented as an ex ante rule to avoid power oscillations, given the activations of both positive and negative balancing energy.

- Clarify the condition according to Article 8(1)(b) in order to ensure clarity and enforceability.
- Remove the condition according to Article 8(1)(c), as cost recovery and cost distribution should not be a primary motivation for the introduction of dual pricing
- Correct the reference in Article 8(1)(d) to refer to only Article 5(5)(a) and not 5(5)(b), and further replace the phrase “each individual ISP” with “specific ISPs”
- Specify, in the condition according to Article 8(1)(e), that the conditions applies to “specific ISPs”
- Remove the condition according to Article 8(1)(f), as the underlying motivation of this condition is already covered by the condition according to Article 8(1)(a), following the request made by all NRAs related to Article 8(1)(a)
- Add a new condition for applying dual pricing in case the ISP is 60 minutes

Further, all NRAs do not consider that the Proposal contains a description of the necessary justification which must be provided by the TSO when proposing to its regulatory authority to apply dual imbalance pricing. All NRAs therefore request all TSOs to amend the Proposal to include a description of the information that needs to be provided by each TSO together with the application for the use of dual pricing for all imbalances according to EBGL Article 18(7)(g), which will provide the justification for applying dual pricing. This information must according to all NRAs’ view at least include an analysis identifying the negative impacts of not applying dual pricing. All NRAs also request all TSOs to include a description of this in the recitals of the Proposal.

III. Conclusion

All Regulatory Authorities have assessed, consulted, closely cooperated and coordinated to reach the agreement that the Proposal according to Article 52(2) 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 Authority’s Request for amendments 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 before 11 August 2019.