

TSOs' Proposal for the exemption from the obligation to allow balancing service providers to transfer their obligations to provide balancing capacity in accordance with Article 34 (1) of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing

18 October 2018

FCR Procurement TSOs, taking into account the following,

Whereas

- 1) This document is the proposal for the exemption of the FCR Cooperation TSOs from the obligation to allow balancing service providers to transfer their obligations to provide balancing capacity within the geographical area of the FCR Cooperation.
- 2) As balancing capacity in this Proposal it is meant the Frequency Containment Reserves (hereafter "FCR") currently procured by the Transmission System Operators of the involved countries Austria, Belgium, France, Germany, the Netherlands and Switzerland in accordance with the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (hereafter "EBGL"). This is also compliant with the applicable law in Switzerland (Stromversorgungsgesetz). The presented Proposal is hereinafter referred to as the "Proposal".
- 3) Article 1 of the EBGL states, among others, that common principles for the procurement and the settlement of frequency containment reserves are laid down in the EBGL.
- 4) Pursuant to Article 5(3) of EBGL the exemption request included in this proposal requires approval by all regulatory authorities in the concerned region.
- 5) Article 5(5) of EBGL requires that *"the proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. The implementation timescale shall not be longer than 12 months after the approval by the relevant regulatory authorities, except where all relevant regulatory authorities agree to extend the implementation timescale or where different timescales are stipulated in this Regulation."*
- 6) Article 6(1) of EBGL stipulates that *"Where one or several regulatory authorities in accordance with Article 37 of Directive 2009/72/EC require an amendment in order to approve the terms and conditions or methodologies submitted in accordance with paragraphs 2, 3 and 4 of Article 5, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the relevant regulatory authorities. The relevant regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission."*
- 7) Article 10(1) of EBGL stipulates that *"TSOs responsible for submitting proposals for terms and conditions or methodologies or their amendments in accordance with this Regulation shall consult stakeholders, including the relevant authorities of each Member State, on the draft proposals for terms and conditions or methodologies and other implementing measures for a period of not less than one month"*.
- 8) In article 10(6) of EBGL it is provided that *"TSOs responsible for the proposal for terms and conditions or methodologies shall duly consider the views of stakeholders resulting from the consultations undertaken in accordance with paragraphs 2 to 5, prior to its submission for regulatory approval. In all cases, a sound justification for including or not including the views resulting from the consultation shall be provided together with the submission and published in a timely manner before or simultaneously with the publication of the proposal for terms and conditions or methodologies"*.

- 9) Article 12(3)(k) of EBGL requires that *"each TSO shall publish the following information as soon as it becomes available,... description of the requirements of any algorithm developed and amendments to it referred to in Article 58, at least one month before the application"*.
- 10) Article 34(1) of EBGL stipulates that *"Within the geographical area in which the procurement of balancing capacity has taken place, the TSOs shall allow balancing service providers to transfer their obligations to provide balancing capacity. The concerned TSO or TSOs may request an exemption where contracting periods for balancing capacity [...]. are strictly less than one week"*.
- 11) Article 34(5) of EBGL provides that *"If a TSO does not allow the transfer of balancing capacity, the concerned TSO shall explain the reason for the rejection to the balancing service providers involved"*.
- 12) Article 65(2) of EBGL stipulates that *"For Articles [] 34 [], this Regulation shall apply from one year after entry into force of this Regulation."*
- 13) In Article 163(2) of Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (SOGL) it is required that *"all TSOs involved in the exchange of FCR within a synchronous area shall respect the limits and requirements for the exchange of FCR within the synchronous area specified in Table of Annex VI"*.

SUBMIT THE FOLLOWING PROPOSAL FOR THE EXEMPTION OF THE FCR COOPERATING PARTIES FROM THE OBLIGATION TO ALLOW BALANCING SERVICE PROVIDERS TO TRANSFER THEIR OBLIGATIONS TO PROVIDE BALANCING CAPACITY IN ACCORDANCE WITH Art. 34(1) of EBGL TO THE RELEVANT REGULATORY AUTHORITIES.

Article 1 - Subject matter and scope

1. The Parties to the FCR Cooperation procure balancing capacity for Frequency Containment Reserves ("FCR") jointly in a FCR Procurement.
2. Article 34(1) of the COMMISSION REGULATION (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing provides that within the geographical area in which the procurement of balancing capacity has taken place, the TSOs shall allow balancing service providers to transfer their obligations to provide balancing capacity. The concerned TSO or TSOs may request an exemption where contracting periods for balancing capacity pursuant to Article 32(2)(b) are strictly less than one week.

Article 2 - Definitions and interpretations

1. For the purposes of the market design Proposal, terms used in this document shall have the
2. meaning of the definitions included in EBGL and SOGL. In addition, the following definitions shall apply:
 - (a) FCR Cooperation means the cooperation between TSOs who have signed the FCR Cooperation contract

- (b) FCR Procurement means the jointly procurement of FCR by all TSOs who have signed the FCR Cooperation contract and participate in the common auction for procurement of FCR capacity
3. In this document:
- (a) headings are inserted for convenience only and do not affect the interpretation of this Proposal; and
 - (b) any reference to legislation, regulation, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force.

Article 3 - Transfer of balancing capacity

1. As of 1 July 2019, pursuant to rights stipulated in Article 34(1) of EBGL, TSOs propose that cross border transfer of awarded capacity obligations will be prohibited in the FCR Procurement. The FCR Cooperation TSOs request an exemption of the Cross Border transfer of balancing capacity, under the argument that as of this date the contracting period is planned to be strictly less than one week and it is introduced within one year after entry into force of EBGL.
2. Pursuant to Article 34(1) of EBGL this Proposal is subject to the approval of the NRAs of the proposed implementation roadmap included in *TSO's proposal for the establishment of common and harmonised rules and processes for the exchange and procurement of Balancing Capacity for Frequency Containment Reserves (FCR) in accordance with Article 33 of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing*.

Article 4 – Language

1. The reference language for this Proposal for common and harmonised rules and process shall be English. For the avoidance of doubt, where TSOs need to translate this Proposal into their national language(s), in the event of inconsistencies between the English version published by TSOs in accordance with Article 7 of EBGL and any version in another language, the English version shall prevail and the relevant TSOs shall, in accordance with national legislation, provide the relevant NRA(s) with an updated translation of the Proposal.