



Comments on the draft Electricity Balancing Guideline



EFET memo – 18 October 2016

The European Federation of Energy Traders (EFET) welcomes the advancement of the comitology process for the Balancing Guideline. With the finalisation of the last market-oriented Network Code, the process of integrating the European electricity markets can be further accelerated. The Balancing Guideline is a significant step in that direction, as the balancing markets are still lagging behind in their integration compared to the other markets such as the intraday and forward markets. Yet, as the final timeframe of the electricity market, balancing markets perform the vital function of setting the price signal that will be used by market participants in all other timeframes. For EFET, it is not only important that the balancing markets across Europe become more integrated, but also that this integration is done in a way that strengthens and improves the functioning of the market as a whole.

EFET has been following the drafting of the Balancing Guideline from the beginning, together with other stakeholders. The Balancing Guideline has seen some significant improvements, thanks to the contribution of market participants, ACER and the European Commission. Yet again, some elements over which market participants have raised concerns still remain in the version that was submitted to the Member States by the European Commission. EFET already commented on the draft version submitted to Member States at the end of June¹. In the present submission², we would like to reiterate our view on a selection of changes, highlighting welcome improvements but also pointing to some elements which remain of particular concern.

¹ See the EFET comments on the draft Electricity Balancing Guideline dated 1 July 2016, available at: http://www.efet.org/Cms_Data/Contents/EFET/Folders/Documents/EnergyMarkets/ElectPosPapers/~contents/VK B2YJZW4FXZAGDC/EFET-comments-EB-GL_01072016.pdf.

² Based on the version of the Guideline circulated to Member States for the purpose of initial discussion at the Cross-border Electricity Committee of 24-25 October.

There are **two major improvements** to the new draft Balancing Guideline for EFET:

- The integration process no longer includes the concept of Coordinated Balancing Areas (CoBAs) but instead opts for an integration based on the use of a European balancing platform to which individual markets can plug-in. For EFET, the use of CoBAs posed the risk that the integration process would stall due to regional integration projects based on diverging market designs. **The new approach to the integration process presented in the last draft is thus an improvement, as it will ensure that the target model of European integration is reached.**

Nevertheless, EFET would like to point to the risk of difficulties in achieving agreement on the European market platform. It is indeed an essential first step of the new approach and a key to keeping the tight deadlines of the Balancing Guideline. As the Balancing Guideline makes no clear choice of a target model for the balancing market, agreement on the target model may prove difficult.

- EFET also welcomes the explicit prohibition of price caps and floors for balancing energy introduced in Art. 19.3(d) and Art. 47.2. In order to allow the balancing market to function optimally, free pricing of balancing energy bids is essential. Only this way can the right price signals be propagated throughout the various market timeframes and help identify, as the case may be, scarcity or surplus. EFET has been advocating the removal of artificial price caps and floors consistently in the past, and we therefore welcome this explicit prohibition in the Balancing Guideline. **We welcome the new wording of Art. 19.3(d) and Art. 47.2, which prohibits caps and floor both on bidding and clearing prices.**

On the other hand, the new draft Balancing Guideline has introduced **some changes that EFET considers as a step back compared to the previous draft version:**

- The provision that Transmission System Operators (TSOs) cannot offer balancing services has been removed compared to the ACER version of the Guideline. For EFET, this was – and should remain – a key provision to ensure the integrity of the balancing market. TSOs are the single buyer on the balancing market and have, as such, significant market power. Allowing them to offer balancing services on this market would seriously undermine the correct functioning of the balancing market. It would also go directly against the principle of unbundling enshrined in the Third Energy Directive, as TSOs would become active market participants on the electricity market. EFET also

sees no reason for TSOs to provide balancing services, especially in a market with free pricing where the balancing needs of TSOs are signalled correctly. **We strongly recommend the reinsertion in Art. 15 of the sentence “TSOs shall not provide any Balancing Services to the Balancing Market”.**

- The Balancing Energy Gate Closure Time (BE GCT) has been disconnected from the Intraday Cross-Zonal Gate Closure Time (ID XZ GCT). While the provision that the BE GCT cannot be further from real-time than 60 minutes is a positive change, the connection to the ID XZ GCT also served a role to ensure that the cross-border intraday markets cannot be closed after the BE GCT. Doing so poses the risk to remove liquidity from the cross-border intraday market as balancing bids have to be submitted before the cross-border intraday market is closed. It is vital that the final decision concerning the BE GTC must not negatively impact the local intraday market(s), weaken existing liquidity or compromise the potential for further developments of these markets (e.g. implementation of a shorter ID GTC). **EFET therefore proposes to keep the 60-minute limit but to re-introduce in Art. 24.2 the provision that the BE GCT has to be after the ID XZ GCT in any case, and has to take account of the local ID GCT.**

Finally, **EFET considers that some elements remaining in the draft Balancing Guideline are detrimental** to the functioning of the electricity market:

- The cross-border reservation of transmission capacity for balancing purposes poses a risk to the previous trading timeframes. The concept has been rebranded in Art. 39 to 43 of the Guideline, but its effect remains the same: by allocating transmission capacity specifically for use in the balancing timeframe, TSOs remove available capacity from the allocation in the other timeframes, thereby restricting market participants' ability to adjust their position across borders in the most economically efficient manner.

The use of cross-border transmission capacity is a key element in the European market integration of forward, day-ahead and intraday timeframes. A major objective of integration projects such as the EU Harmonised Allocation Rules for forward transmission rights, day-ahead flow-based market coupling and the future platform for implicit cross-border intraday trading are to improve the access and use of such transmission capacity. In its last version, the Balancing Guideline would turn the clock back on those improvements. **EFET strongly recommends that all cross-border transmission capacity be available to the market, and that the different options for TSOs and DC cable operators to reserve transmission capacity for balancing purposes in Art. 39 to 43 be removed from the Guideline.**

- The procurement methodology for balancing capacity remains too vague for EFET, as the term ‘market-based method’ remains open for interpretation. As this is a key feature in the organisation of the balancing market – including the access of TSO to sufficient balancing capacity – the establishment of a real, functioning market should be better ensured. Only by establishing a primary market to procure balancing capacity are market participants assured that they participate in a free market with correct remuneration of their services. In turn, TSOs are assured that market participants remain willing and available to meet their balancing requirements. The establishment of such a primary market for the procurement of balancing capacity is a necessity, irrespective of whether a secondary market is available. **EFET therefore asks that Art. 32.1 refers explicitly to the establishment of a primary market for the procurement of all balancing reserves.**
- The option that remains in the draft for TSOs to propose dual pricing for imbalances is prone to maintaining inefficient price signals from the balancing timeframe. Dual pricing has the potential to blur the price signals emerging from the balancing market, and runs the risk to create a barrier to entry for new entrants or market participants with small portfolios. It may also be a deterrent to the application of balancing responsibility for intermittent renewable energy sources in view of their full integration into the market. **EFET therefore asks the removal of the dual pricing option from Art. 19.6(d) and 54.2(d).**

The points as listed above are the main elements of improvement, deterioration and concern for EFET in the draft Balancing Guideline submitted by the European Commission to Member States in view of the comitology process. Keeping the points of improvement and addressing the points of deterioration and concern would guarantee major steps forward to ensure a cost-efficient European integration of balancing markets. They would also mean a European balancing market that sets the right condition for a better functioning of markets in all timeframes, to the benefit of European consumers.

We would also like to express our reservations with regard to the formulation of Art. 55 on imbalance settlement periods (ISPs), which foresees the **harmonisation of ISPs to 15 minutes in all control areas within three years**. This provision can be waived in case all TSOs of a synchronous area jointly request an exemption, based on a cost-benefit analysis of the harmonisation of the ISPs within and between synchronous areas, to be renewed every three years. In our view, the Balancing Guideline should promote efficient and liquid markets across all timeframe, including

the intraday market, to enable market participants to balance their position as close to real time as possible. Harmonising ISPs closer to real time should facilitate this, by improving both intraday trading close to real time (including across borders) and facilitating the cross-border procurement of reserve capacity and the exchange of balancing energy across borders. However, harmonising ISPs may also come at a cost, as some control areas may not have the market framework that would enable them to reap benefits from a switch to a 15-minute ISP. This is recognised in the exemption of Art. 55.2. However, the scope of this exemption – per synchronous area – seems to lack rationale and applies to no other methodology in the draft Guideline. In order to provide the necessary flexibility to adapt systems of varying maturity while ensuring that we maintain the harmonisation target, EFET would recommend (1) maintaining the objective of harmonisation to 15 minutes in Art. 55.1, (2) nonetheless allowing each TSO to request an exemption from this rule, but (3) making this exemption conditional on a joint ACER-TSO(s) cost-benefit analysis including cross-border effects and (4) adding a requirement for the requesting TSO(s) to commit to improve the local intraday and balancing markets framework of the concerned control area(s) with an objective to reduce and harmonise the local ISP towards 15 minutes. We believe this solution is legally more robust than the currently proposed wording of Art. 55, and remains fully in line with the objective set in the ACER Framework Guidelines of 2012³.

On a last note, we wish to voice our regret that the “**Swiss exclusion clause**” of **Art. 1.5 and 1.6** remains in the Guideline. As mentioned in earlier contributions and public statements, EFET is opposed to provisions discriminating against non-EU TSOs and non-EU market participants that may otherwise fully participate and contribute to the single energy market. Efforts to harmonise balancing procurement and settlement rules with markets outside of the EU should not be hampered by legislation when the inclusion of those actors would effectively contribute to creating an integrated European electricity market, to enhancing security of supply, and to increasing flexibility within Europe by allowing for cross-border energy exchange between non-adjacent EU Member States. Therefore, we call for the adoption of a sensible agreement between the EU and Switzerland to enable a seamless interaction between the Swiss and the European electricity markets. Bearing in mind the imminence of the negotiations between the United Kingdom and the EU regarding Brexit, we call for a similar, pragmatic approach in the establishment of rules allowing the GB and Irish markets to contribute to sharing reserves and exchanging balancing energy across borders in Europe.

³ This objective is consistent with paragraph 5.3 of the ACER Framework Guidelines of 20 September 2012, which foresees that "The *imbalance settlement period* shall not exceed 30 minutes. However, in case a TSO provides a detailed cost-benefit analysis to its NRA, the NRA may decide to have a longer *imbalance settlement period*."