



Comments on the draft Emergency and Restoration network code



EFET memo – 13 October 2016

The European Federation of Energy Traders (EFET) would like to raise Member States' attention to some remaining concerns we have with the latest draft Emergency and Restoration network code, to be discussed at the Cross-Border Committee of 24-25 October.

Although many elements of the draft network code are generally beyond the traditional scope of action of EFET, we wanted to bring a market expert perspective to the discussion on Chapter 4 (*Market Interactions*). As a matter of principle, market forces should play their role as long and as close to real time as possible, and scarcity prices in times of tense network conditions are a vital element to guide, *inter alia*, investment decisions. Suspending the market not only has potentially significant financial consequences for all involved parties, it can also be, if activated for unwarranted reasons, a deterrent to market-based investments in the electricity sector. Therefore, markets should only be suspended in precise situations and appropriate monitoring of TSO practices in that regard should be established, as specified in article 36 of the draft code. Also proper remuneration should be provided for the settlement of imbalances in those periods.

Much has improved in the latest draft provided by the Commission in terms of clarifying the rules and conditions according to which TSOs will be able to suspend market activities. However, we remain worried about a couple of elements in article 39 that could put at risk the progress attained so far in the draft network code.

Article 39 defines the conditions under which balancing service providers (BSPs) will be remunerated for the provision of balancing energy/capacity and balancing responsible parties (BRPs) will need to settle their imbalances. We welcome the inclusion of these principles in the code, as it is crucial that even in (extreme) scarcity situations, power prices are not dampened and individual imbalances remain being settled. For example, if physical scarcity results in under-frequency load shedding (brown-out), imbalances must be settled at a price that reflects the Value of Lost Load.

TSOs do need to develop specific methodologies for the remuneration of balancing energy/capacity and the settlement of imbalances in case of market suspension, as they cannot count on the real time price signal normally sent by the market under normal conditions. Hence, we believe that the second sentence of paragraph 1 should be deleted, as the rules applied when the market is suspended will necessarily differ from those in normal conditions:

1. By *[12 months after entry into force of this Regulation]*, each TSO shall develop rules for imbalance settlement and settlement of balancing capacity and balancing energy which shall be applicable for imbalance settlement periods during which the market activities were suspended. ~~The TSO may propose the same rules it applies for normal operations.~~ The TSO may include the proposal for these rules within the proposal for terms and conditions related to balancing pursuant to Article 37(6)(b) of Directive 2009/72.

Further, we believe that the rules should include the principle according to which the imbalance price should reflect the value of the actions taken by the TSOs to maintain and restore system security. Failing to appropriately reflect the value of reliability to consumers and system operators' actions taken to ensure system security in the imbalance price would lead to inefficient signals, system utilisation, and investment signals. This should be made explicit in paragraph 3 and included as follows:

3. The rules developed in accordance with paragraph 1 shall:
 - (a) **ensure the imbalance price reflects the value of actions taken by the TSO to maintain and restore the system**

As a summary, EFET suggests article 39 should look as follows:

Article 39
Settlement principles

1. By [12 months after entry into force of this Regulation], each TSO shall develop rules for imbalance settlement and settlement of balancing capacity and balancing energy which shall be applicable for imbalance settlement periods during which the market activities were suspended. ~~The TSO may propose the same rules it applies for normal operations.~~ The TSO may include the proposal for these rules within the proposal for terms and conditions related to balancing pursuant to point (b) of Article 37(6) of Directive 2009/72/EC.

The TSO shall publish these rules on its website following their approval by the regulatory authority.

A TSO may delegate the TSO's tasks referred to in this Article to one or more third parties, provided that the third party can carry out the respective function at least as effectively as the TSO(s). A Member State may assign the tasks referred to in this Article to one or more third parties, provided that the third party can carry out the respective function at least as effectively as the TSO(s).

2. The rules referred to in paragraph 1 shall address the settlements of TSO's and third parties, where relevant, with balance responsible parties, and balancing services providers.
3. The rules developed in accordance with paragraph 1 shall:
 - (a) **ensure the imbalance price reflects the value of actions taken by the TSO to maintain and restore the system [NEW]**
 - (b) ensure the financial neutrality of each TSO and relevant third party referred to in paragraph 1;
 - (c) avoid distortions of incentives or counterproductive incentives to balance responsible parties, balance service providers and TSOs;
 - (d) incentivise balance responsible parties to strive to be balanced or help the system to restore its balance;
 - (e) avoid any financial penalties imposed on balance responsible parties and balancing service providers due to the execution of the actions requested by the TSO;
 - (f) discourage TSOs from suspending market activities, unless strictly necessary, and incentivise TSOs to restore the market activities as soon as possible, and
 - (g) incentivise balance service providers to offer services to the connecting TSO that helps restore the system to normal state.