



Comments on ACER's Draft Framework Guidelines on Electricity Balancing

prepared by Elpec Advisors GmbH

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1 Introduction

This set of comments should be read as an *amicus curiae* brief. While the general subject area of electricity balancing is highly relevant to the business of Elpec Advisors GmbH, the comments provided in the present note have not been commissioned for submission to ACER by any third party. Where this set of comments cites ACER's draft Framework Guidelines on Electricity Balancing (FGEB), the relevant passages have been highlighted in green.

2 Comments

2.1 Consistency of Network Codes with EU Legislation

Section 1.1; p. 5/22: "The Network Code(s) developed according to these Framework Guidelines (henceforth referred to as the "Electricity Balancing Network Code(s)") have to be in line with these Framework Guidelines and also with relevant EU legislation."

The reference to the relevant EU legislation also being applicable is in principle redundant because ENTSO-E clearly should not propose a Network Code that is inconsistent with EU legislation. However, if there are specific provisions in other EU legislation that the FGEB drafting team had in mind, it would be helpful for the remainder of the Network Code development process if these could be spelt out in detail (e.g, articles 15(7), 37(6), and 37(8) of the Electricity Directive are specifically cited).

2.2 Concept of "efficiency"; other methodological clarifications

"Efficiency" is clearly a key term but in our view is not defined in a sufficiently operational manner. For illustration, "efficiency" is referred to in the following passages of the draft Framework Guidelines:

- Section 1.1; p. 5/22: "(...) creating appropriate incentives for network users and [TSOs] for more efficient balancing" (note that the articles 15(7), 37(6), and 37(8) of the Electricity Directive cited here do not clarify the concept of efficiency to be applied either)
- Section 1.2; p. 6/22: "to maximise the efficiency of balancing while safeguarding operational security"
- Section 2.1; p. 10/22: "use the most efficient balancing resources"
- Section 2.2; p. 11/22: "keeping the system in balance in the most efficient manner"
- Section 3.2.1; p. 13/22: "efficient balancing of the system" (in the context of pricing)
- Section 5.1; p. 21/22: "general objective of imbalance settlement in national balancing mechanism is to ensure that BRPs support the system's balance in an efficient way and incentivise market participants in keeping and/or helping to restore the system balance."

In our view, the Impact Assessment accompanying the draft FGEB does not provide sufficient clarification either. The risk we see in using a concept that is not clearly defined is that different stakeholders will be able to read different meanings into it. In order to keep discussions focussed, our recommendation would be for ACER to propose an operational definition of "efficiency". Even a simple criterion such as "marginal cost should not exceed and, ideally, should equal marginal benefits" might be helpful.

Clear guidance from the regulators on similar methodological issues would also be helpful. For example, section 1.4; p. 9/22; stipulates that "Where the standards and requirements introduced in the Electricity Balancing Network Code(s) significantly go beyond the principles and objectives of these Framework Guidelines, ENTSO-E shall provide ACER with a justification of these standards and requirements, including a cost-benefit analysis." Regulators could clarify, at least in

general terms, how the phrase "going significantly beyond" is to be understood and it should also be up to regulators to fix the key parameters to be used in such a cost-benefit analysis.

2.3 Criterion for attainment of objectives

At least the Impact Assessment should outline a methodology for measuring the extent to which the objectives stated in the FGEB have been achieved resp. which (objective / quantifiable) objectives are to be achieved. Specifically, it would be helpful to fix technical criteria (e.g., related to the number and/or duration and/or magnitude of frequency excursions or another proxy for the quality of balancing) that transmission system operators (TSOs) are expected to meet.

The sizing of reserves is apparently to be defined in the Network Code on Load-Frequency Control, but the sizing decision must be based on a cost-benefit analysis that addresses the tradeoff between cost and security of supply. The principles to be applied in this kind of optimisation exercise might preferably be set out in the FGEB. Such principles would, on the one hand, help avoid excessive cost of ancillary services procurement. On the other hand, TSOs would be reassured - general provisions on cost-recovery notwithstanding - that they can recoup the costs of procuring the reserves required for meeting the quality criterion.

The listing of objectives for the "**national balancing reserve and balancing energy procurement specifications and cross-border balancing exchanges**" in section 2.1; p. 11/22; would be a good place in the document to set out such principles.

Note that section 3.2.1 of the FGEB seems to suggest that the corresponding Network Code(s) should provide product definitions; however, the issue of speed of response of balancing resources and the question of how much reserve capacity to procure are clearly interdependent and should therefore be addressed in a single code. Since one key factor in sizing is from which time onwards balance-responsible parties (BRPs) [as opposed to TSOs] are responsible for providing their own reserve for covering a generator trip, this requirement might usefully be fixed at European level.

One last observation in respect of the objectives: it would appear that at present at least some control areas experience a pattern of imbalances that suggests that imbalances are not random. As this phenomenon indirectly affects all control areas within the synchronous area concerned, the FGEB might stipulate that TSOs and National Regulatory Authorities (NRAs) develop measures that reduce (and ideally avoid completely) predictable imbalances.

2.4 Deadlines

The rationale for imposing very specific deadlines for implementation of the target models is not explained in the document. This puts the cart before the horse. Would it not be more reasonable to first conduct a cost-benefit analysis and then let the pace and sequencing of implementation be guided by the results rather than to impose somewhat arbitrary targets ex ante? At the workshop in Ljubljana on 29 May 2012 at which the FGEB were presented, the regulators' drafting team seemed to suggest that such deadlines were necessary in order to get anything done. To require TSOs to provide a timeline for implementation that takes into account the constraints that TSOs see as well as, for example, the results of such a cost-benefit analysis would allow for a more flexible approach while ensuring that there are clear milestones to work towards.

2.5 Emphasis on market-basedness and marginal pricing

The FGEB emphasize the objective of market-based procurement. For example, section 1.2; p. 6/22; notes that the Electricity Balancing Network Code "**shall deal with market-based selection of balancing services for load frequency control and, where relevant, real-time congestion management**". Section 2.2; p. 11/22; likewise stipulates that procurement is to be "**market-based**".

It would be helpful if the FGEB could clarify the concept of market-basedness to be applied. For example, in our

understanding true market-basedness requires that balancing services providers be free not to participate in the market and that prices be established by the interaction of supply and demand without price ceilings etc. However, given the market power of incumbents in many control areas and given that the relevant markets are likely to be national (resp. corresponding to control areas) and not regional in size, such an extensive interpretation of market-based procurement may well lead to greatly increased costs. This concern applies, a fortiori, to curative redispatch where market power by definition is even greater. Where significant market power exists, it is compounded by marginal pricing (which is also stipulated by the FGEB with respect to balancing energy; see section 3.2.1; p. 14/22). We urge regulators to also provide an escape clause such that, subject to suitable objective tests, TSOs resp. NRAs would be allowed to weaken the "market-basedness" requirement at least on a temporary basis. "Cost-basedness" may well be an acceptable alternative.

Note that the FGEB implicitly recognise the conflicts potentially resulting from market-based procurement by referring to possible public service obligations under Art. 3 (2) of the Electricity Directive.

Given the emphasis on market-based procurement, section 3.2.1; p. 14/22; seems inconsistent. The wording used here - "The Electricity Balancing Network Code(s) shall allow TSOs to require information on unused generation capacity after day-ahead and intraday markets and require them to promote the offer of this capacity in the balancing markets." - could be read as implying a procurement mechanism that is not actually voluntary. As an aside, the reference to "generation capacity" should be rephrased so as to include all types of balancing services providers.

2.6 Implications for settlement of unintentional deviations

Section 3.2.2; p. 15; contains the sentence "The Electricity Balancing Network Code(s) shall foresee that the settlement rules include financial compensation for balancing energy exchanged implicitly, in particular due to the netting of imbalances and due to unintentional deviations (difference between the control area schedules and tie-line flows), based on the prices of balancing energy." This requirement would have significant implications for the way in which unintentional deviations are accounted for, respectively, settled / compensated. As these implications seem quite intentional, it might be helpful to state explicitly that regulators expect the system of compensating for unintentional deviations to be revised.

2.7 Requirement for being balanced in day-ahead timeframe

The FGEB require BRPs to be balanced in the day-ahead timeframe (see section 5.2; p. 21/22). At the workshop on 29 May 2012 there was some discussion as to whether this requirement is needed. When intra-day markets are sufficiently liquid a BRP could presumably still ensure that it is balanced in real-time (which is what a requirement to be balanced in the day-ahead timeframe is ultimately aimed at). Following up on that discussion we would note that if intra-day markets really are that liquid, then a requirement to be balanced in the day-ahead timeframe imposes hardly any cost on the BRPs as they can easily trade out of their positions again. This implies that there is no need to delete the requirement.

2.8 Day of publication vs. "entry into force"

The FGEB refer to both the "day of publication (...) in the Official Journal of the European Union" and to the date of "entry into force" (which, for example, in the case of the Electricity Directive was on the 20th day following its publication). If there are good reasons for keeping separate references to two dates that in all likelihood will be close to each other, no changes are needed. Alternatively, it might be simpler to refer to a single date only.