

**REQUEST FOR AMENDMENT BY  
REGIONAL REGULATORY AUTHORITIES AGREED AT  
THE (NORDIC) ENERGY REGIONAL REGULATORS'  
FORUM**

**ON**

**NORDIC TSOS' PROPOSAL FOR EXEMPTION FOR NOT  
ALLOWING BALANCE SERVICE PROVIDERS TO  
TRANSFER THEIR OBLIGATIONS TO PROVIDE AFFR  
CAPACITY IN ACCORDANCE WITH ARTICLE  
34(1) OF THE COMMISSION REGULATION (EU)  
2017/2195 OF 23 NOVEMBER 2017 ESTABLISHING A  
GUIDELINE ON ELECTRICITY BALANCING**

**17 October 2019**

## **I. Introduction and legal context**

This document elaborates an agreement of the Regulatory Authorities of Denmark, Finland, Norway and Sweden (hereafter referred to as the Regulatory Authorities) made at the (Nordic) Energy Regional Regulators' Forum on 17 September 2019, on Energinet's, Fingrid's, Statnett's and Svenska kraftnät's (hereafter referred to as the TSOs) proposal for exemption for not allowing balance service providers to transfer their obligations to provide aFRR capacity in accordance with article 34(1) 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 17 April 2019. EBGL article 5(6) 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 17 October 2019.

The Regulatory Authorities reached an agreement in the (Nordic) ERRF on 17 September 2019 to request an amendment to the Proposal.

## **II. All TSOs' Proposal**

The proposal is an element in the TSOs' plans to establish a Nordic aFRR capacity market and, as such, is to be seen in the context of two other proposals submitted to approval with the Regulatory Authorities pursuant to, respectively, EBGL articles 33(1) and 38(1) and article 41(1).

## **III. Agreed Regulatory Authorities' Position**

The Regulatory Authorities have reached an agreement that the proposal cannot be approved and therefore request the TSOs to amend the Proposal, in accordance with article 6(1) of the EBGL, taking into consideration the comments presented below.

## **IV. Requests for changes to the Proposal**

### Consultation

Earlier drafts of the TSOs proposal for a Nordic aFRR capacity market was consulted by the TSOs through ENTSO-E from 3 September 2018 to 4 October 2018. This consultation, however, only related to the proposals pursuant to EBGL articles 33(1), 38(1) and 41(1)

Consequently, the Regulatory Authorities do not find that the Proposal has been consulted properly by the TSOs in accordance with EBGL article 10(4).

The Regulatory Authorities therefore request that the TSOs launch a consultation in accordance with the procedure stipulated in EBGL article 10(4) following which the TSOs can resubmit the proposal taking stakeholders comments into consideration, cf. EBGL article 10(4), for instance when it comes to an evaluation outlined in article 3(2) of the proposal.

## Implications of new Electricity Market Regulation

Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (hereafter the Electricity Market Regulation) article 6(9) implies that the procurement shall be done D-1 and the contracting period be no longer than one day. Article 6(9) will apply as of 1 January 2020, cf. article 71(2) in the Electricity Market Regulation.

A deviation from that can only be considered if TSOs motivates and requests a derogation following the requirements in the Electricity Market Regulation article 6(9).

Irrespective of a derogation, at least 40 % of the standard balancing products and a minimum of 30 % of all products used for balancing capacity, must be procured D-1.

Article 6(9) in the Electricity Market Regulation has led the Regulatory Authorities to request amendments to the two other proposals submitted for regulatory approval referred to above. These requests will have implications for the present Proposal.

The Regulatory Authorities thus ask TSOs to consider this in the Proposal. To give an example, the last sentence in recital 5 implies a market design that is not compliant with article 6(9) in the Electricity Market Regulation

### Justification of the proposal

Recital 8 last sentence reads:

*Creating a secondary aFRR capacity market time-wise close to Nordic aFRR capacity market for transferring aFRR capacity bids between BSPs might not introduce added value to competition and efficiency of aFRR capacity market.*

The Regulatory Authorities do not find this sufficiently justified.

The Regulatory Authorities therefore request the TSOs to further justify the assumption made in recital 8, in particular when it comes to not allowing BSPs to transfer bids within a bidding zone.

### Evaluation

The Regulatory Authorities request the TSOs to specify how the TSOs plan to implement and follow up on the evaluation outlined in article 3(2) in the Proposal.

The Regulatory Authorities request the TSOs to omit the last sentence in article 3(2). The sentence is unnecessary since the Regulatory Authorities in any event can require an amendment in order to approve the terms and conditions or methodologies according to EBGL article 6(1).

## **V. Conclusion**

The Regulatory Authorities have assessed, consulted, closely cooperated and coordinated to reach the agreement that they cannot approve the Request for an exemption pursuant to EBGL article 34(1).

According to EBGL article 6(1), the Regulatory Authorities hereby request amendments to the Request for an exemption. The amendments shall take into account the Regulatory Authorities' assessment above and be submitted by all TSOs no later than two months after receiving the last Regulatory Authorities request for amendment in accordance with EBGL article 6(1).

The Regulatory Authorities have agreed to issue their national decision to request an amendment to the amended Proposal on the basis of this agreement by 17 October 2019.