ACER
European Union Agency for the Cooperation of Energy Regulators

PUBLIC

DECISION No 03/2021
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS

of 30 April 2021

REQUESTING INFORMATION FROM SVENSKA KRAFTNÄT, ENERGINET ELSYSTEMANSVAR A/S AND FINGRID OYJ FOR MONITORING THE MARGINS AVAILABLE FOR CROSS-ZONAL TRADE ON CRITICAL NETWORK ELEMENTS

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators[1], and, in particular, Article 3(2) and Article 15(1) thereof,

Having regard to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity[2], and, in particular, Article 16(8) thereof,

Whereas:

1. INTRODUCTION

(1) The present Decision to request information is necessary for ACER to carry out its monitoring duties under Article 15(1) of Regulation (EU) 2019/942, in particular with regard to the margin available for cross-zonal trade ('MACZT') in light of Article 16(8) of Regulation (EU) 2019/943. In that context, following a request of the Electricity Cross-Border Committee of 28 March of 2019, as well as extensive interactions with the European Commission, national regulatory authorities, TSOs and

[1] OJ L158, 14.6.2019, p. 22.

[2] OJ L158, 14.6.2019, p. 54

ENTSO-E[3], ACER adopted Recommendation no. 01/2019 of 8 August 2019 on the implementation of the minimum margin available for cross-zonal trade pursuant to Article 16(8) of Regulation (EU) 2019/943[4] ('Recommendation no. 01/2019').

(2) The present Decision clarifies and specifies which information ACER needs from the Swedish, Danish and Finnish TSOs.

2. PROCEDURE BEFORE THE AGENCY

(3) By letter of 20 December 2019, ACER informed ENTSO-E and TSOs (which were in copy) that ACER would assess the level of the MACZT on critical network elements (with contingency/ies where relevant) ('CNECs') for 2020, in line with Recommendation no. 01/2019; ACER also informed them that such assessment would require data from TSOs. Therefore, pursuant to Article 3(2) of Regulation (EU) 2019/942, ACER requested TSOs to provide certain information related to CNECs, allocation constraints, net transfer capacities (NTC), forecasted commercial cross-zonal schedules and grid models. The letter included a list of the requested data items and the formats to be used when providing the data. Data covering the first semester of 2020 had to be delivered by 31 July 2020 at the latest; data covering the second semester of 2020 had to be delivered by 31 January 2021 at the latest. As regards non-compliance with the request, ACER reserved the right to issue a formal decision requiring the provision of the data. As regards confidentiality of the data to be provided, ACER pointed out that Article 3(2) of Regulation (EU) 2019/942 allows for the use of confidential information for the purpose of carrying out ACER's tasks, that ACER implemented security rules pursuant to Article 42 of Regulation (EU) 2019/942, and that ACER, thus, was entitled to request and receive also confidential information.

(4) In response to this request, the vast majority[5] of TSOs provided data, which allowed ACER to carry out the MACZT monitoring. The Swedish TSO Svenska kraftnät, the Danish TSO Energinet Elsystemansvar A/S ('Energinet') and the Finish TSO Fingrid Oyj ('Fingrid'), all of which belong to the Nordic capacity calculation region, did not provide the minimum set of data that ACER needs to perform its monitoring task for all borders and market time units, in a consistent manner.

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[3] This included the organisation of several workshops, e.g. in Brussels on 17 May 2019 and in Ljubljana on 24 June 2019 with the participation of the European Commission, national regulatory authorities, TSOs and ENTSO-E.

[4] https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Recommendations/ACER%20Recommendation%2001-2019.pdf

[5] The Estonian TSO Elering AS, the Latvian TSO AS Augstsprieguma tïkls, and the Lithuanian TSO Litgrid AB, all of which are not part of the Nordic capacity calculation region, did not provide all the requested data due to the unavailability of some data related to the forthcoming synchronisation of the electricity systems of the Baltic States with the ones in Continental Europe. The French TSO RTE Réseau de Transport d'Électricité, which is not part of the Nordic capacity calculation region either, provided the requested data with delay.

Svenska kraftnät

(5) By letter of 8 July 2020, ACER requested Svenska kraftnät to provide a list of network elements whose overloading caused the activation of costly remedial actions and merged grid models, with regard to ACER's decision on the bidding zone configuration pursuant to Article 14(5) of Regulation (EU) 2019/943. Given previous discussions between Svenska kraftnät and ACER where Svenska kraftnät expressed difficulties to deliver the requested data because of the Swedish legislation on confidentiality, ACER pointed out that, in accordance with the third subparagraph of Article 3(2) of Regulation (EU) 2019/942, ACER would use confidential information only for the purpose of carrying out its tasks and would preserve the confidentiality of any commercially sensitive information. Hence, according to ACER, there was no ground for claiming confidentiality, whether based on domestic legislation or elsewhere, as a basis for not disclosing the aforementioned information to ACER. In the context of this request, ACER reminded also of its data request of 20 December 2019, recalling that TSOs should deliver the relevant data covering the first semester of 2020 by 31 July 2020.

(6) By reply letter of 10 August 2020, Svenska kraftnät explained to ACER, among other aspects, that the requested data on grid models, network elements and contingencies was classified as secret because, if handled incorrectly, it would entail serious damage. Svenska kraftnät stated that it could not share that data with ACER and all regulatory authorities because it was not confirmed that all parties would fulfil the requirements for both physical protection and IT security for premises, facilities and systems in the Swedish security legislation. According to Svenska kraftnät, its judgement was strictly from a national security legislation viewpoint, not from any commercially sensitive information aspect.

(7) By email of 25 August 2020, ACER replied to Svenska kraftnät's letter of 10 August 2020 that the delivery of data that would enable ACER to perform its monitoring of the MACZT target was still outstanding. ACER suggested an interaction at working level with representatives from both Svenska kraftnät and the Swedish Energy Market Inspectorate ('Ei') with a view to clarify the remaining open points, namely to assess the possibility of providing prototype common grid models ('CGM') and limiting CNECs, with some level of anonymisation, which would reconcile the security concerns in Sweden with the need for ACER to perform its monitoring activities.

(8) On 1 September 2020, a virtual meeting was held between ACER, Svenska kraftnät and Ei representatives on the possibilities to share additional data relevant for the MACZT. During the meeting, the constraints for Svenska kraftnät to deliver the data were identified and Svenska kraftnät offered to provide a follow up on the possibility to deliver data within the identified constraints.

(9) On 3 and 4 September 2020, Svenska kraftnät's constraints to deliver the data were clarified in an email correspondence between Svenska kraftnät and ACER. The correspondence concerns, *inter alia,* how to overcome the confidentiality issue related to Swedish law. ACER proposed Svenska kraftnät to provide ACER with anonymised CGMs for some representative timestamps and anonymised limiting CNECs on an

hourly basis. On the other hand, Svenska kraftnät confirmed that information on the limiting CNECs in capacity calculation with market time unit granularity was available, but was confidential due to national legislation. Svenska kraftnät added that the information might not be easily accessible in the requested format. Svenska kraftnät could not confirm that it had CGMs for all market time units from 1 January 2020, and offered to check the feasibility of delivering CGMs for some representative weeks. Svenska kraftnät confirmed that the development of CGMs for the Nordic area was not yet finalised. However, Svenska kraftnät declared to have prototype CGMs, meaning CGMs that were not used for the daily capacity calculation process, but for test and/or research and development purposes, and that it was going to try to merge real-time Nordic CGMs.

(10) On 11 September 2020, Svenska kraftnät sent an email to ACER providing NTC values, while no further information was provided on the feasibility to deliver the full set of data as requested by ACER after considering the constraints and the possibility to anonymise certain data items as mentioned in the previous paragraph.

(11) On 16 December 2020, ACER's Board of Regulators discussed that data from Svenska kraftnät was still missing for ACER to properly monitor the MACZT despite the discussion to provide the missing data with some anonymisation.

(12) On 18 December 2020, ACER published its first report on the Result of Monitoring the MACZT in the EU in the first semester of 2020[6]. In paragraphs 62 and 67 of that report, ACER highlighted that ACER's monitoring of the MAZCT on alternate current (AC) interconnectors in the Nordic Capacity Calculation Region was impeded due to insufficient or no data. ACER referred to an explanation from the Nordic TSOs indicating national security legislation in Sweden as a reason for the missing data. Further, the report states that despite ACER suggesting different alternatives to meet the data request of 20 December 2019, including a certain degree of anonymisation of CNECs, the necessary data was finally not provided. ACER stressed that the issue should be urgently addressed to allow ACER's monitoring of the MACZT, for the second semester of 2020.

(13) By email of 8 January 2021, ACER contacted Svenska kraftnät about the data collection for the MACZT monitoring of the second semester 2020, referring to templates and indications to follow in this respect in order to submit the data by 31 January 2021, as requested in the data request of 20 December 2019. ACER stressed that the data submitted by Svenska kraftnät for the data collection for the first semester 2020 did not allow ACER to perform a monitoring on AC borders that would be in line with Recommendation no. 01/2019. ACER referred to its correspondence following the above-mentioned meeting with Svenska kraftnät and Ei on 1 September

6 https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/MACZT%20report%20-%20S1%202020.pdf

2020 on data on CNECs and CGM that could be shared. ACER also asked Svenska kraftnät to inform on Svenska kraftnät's plans to provide these (possibly anonymised) elements (CNECs and CGMs) for the second semester of 2020.

(14) By email of 11 January 2021, Svenska kraftnät informed ACER that Svenska kraftnät was preparing the input for the MACZT monitoring of the second semester 2020. Svenska kraftnät furthermore informed ACER that it was looking into if and how to share an anonymised individual grid model with ACER. Moreover, regarding the Nordic common grid model, Svenska kraftnät referred to delays in the development and to discussions with its Nordic TSO colleagues if, when and how they could share data from this model with ACER.

(15) By email of 28 January 2021, Svenska kraftnät informed ACER that Svenska kraftnät had provided data only with NTC values, i.e. the same data as for the delivery for the first semester of 2020. Svenska kraftnät furthermore informed ACER that it would continue to look into if and how it could be possible to share an anonymised individual grid model with ACER. Moreover, Svenska kraftnät informed, once more, ACER about delays in the development of the Nordic CGM and on discussions with Svenska kraftnät's Nordic TSOs colleagues if, when and how data from this model could be shared with ACER.

Energinet

(16) On 3 July 2020, Energinet sent to ACER its NTC values that were part of the data request of 20 December 2019, but did not submit any data on the AC borders between Denmark and Sweden and Denmark and Germany, i.e. no grid model, nor lists of limiting CNECs.

(17) By email of 20 July 2020, ACER reminded Energinet of ACER's need to have at least one CGM and the list of hourly limiting CNECs, in order to be able to perform the monitoring on the two AC borders mentioned above.

(18) By email of 18 August 2020, Energinet declared that it would not be able to deliver the prototype Nordic CGM because it was not allowed to share information on Svenska kraftnät's CNECs due to the Swedish national legislation.

(19) On 20 August 2020, Energinet provided ACER with the list of hourly AC CNECs between Denmark and Germany. Energinet did not deliver the Danish limiting CNECs on the AC border between Denmark and Sweden.

Fingrid

(20) On 1 July 2020, Fingrid submitted to ACER its limiting CNECs for the AC border between Finland and Sweden. For these limiting CNECs, Fingrid provided the results of its own MACZT calculation. Fingrid also sent some individual grid models ('IGMs'), which were the grid models that contained solely the Finnish network elements. Fingrid explained that it only provided the Finnish IGM because it could

provide only the data of the Finnish system, but that the Finnish IGM alone could not be used for capacity calculation.

(21) By email of 7 October 2020, ACER informed Fingrid that it was not able to run a calculation from these IGMs, since it would be necessary to have also the grid models of the other Nordic countries, and asked Fingrid which CGMs it used to perform its calculation.

(22) By email of 13 October 2020, Fingrid replied that its values were calculated with a common Nordic model. It confirmed on the same day that this Nordic model was encompassing Finland, Sweden, Norway and Denmark.

Decision-making proceedings

(23) On 22 February 2021 and pursuant to Article 5 of its Rules of Procedure (RoP)[7], ACER notified Svenska kraftnät, Fingrid and Energinet of the initiation of a procedure with a view to adopt a decision pursuant to the second subparagraph of Article 3(2) of Regulation (EU) 2019/942, requiring the missing data relevant for ACER's monitoring of the MACZT target. On the same day, ACER informed also the Swedish, Danish and the Finish regulatory authorities about the initiation of this proceeding.

(24) On 26 February 2021, ACER informed Svenska kraftnät, Fingrid and Energinet, as well as the Swedish, Danish and the Finish regulatory authorities about its preliminary position on the subject-matter of the case.

(25) By email of 5 March 2021, the Finnish regulatory authority, Energiavirasto ('EV') provided comments to ACER's preliminary position. EV pointed at some terminological inaccuracies regarding the term "common grid model". EV stated that Article 15(1) of Regulation (EU) 2019/942 does not provide the legal basis for ACER requesting a prototype model including the bidding zones of Sweden, Finland and Denmark, as Article 15(1) does not define a specific geographical scope consisting of specific bidding zones. EV argued that ACER is asking either CGMs used within the day-ahead calculation process (which is a Union wide model as defined in Article 2(2) of Regulation (EU) 2015/1222) or a prototype including the bidding zones of Sweden, Finland and Denmark (thus possibly excluding Norway). In other words, EV considers that ACER is either asking Fingrid to develop a prototype model for the purpose of the information request, or that Fingrid's ability to follow ACER's decision depends on the consent from a third party not bound by the ACER decision, i.e. the Norwegian TSO Statnett SF ('Statnett'). EV added that there is no legal or technical justification for requesting from Fingrid a network model that would cover other bidding zones

7 https://www.acer.europa.eu/en/The_agency/Organisation/Administrative_Board/Administrative%20Board%20Decision/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf

than Finland. EV found no justification for the basis under which Fingrid is to develop a grid model for Sweden and Denmark for the sole reason to follow a decision by ACER to request information for ACER's monitoring task. Moreover, EV could not see the justification on the basis of which Fingrid should provide any information under other national jurisdictions than Finland.

(26) A virtual meeting was held on 16 March 2021 between ACER and EV to clarify EV's comments. At the meeting, EV said that it supports ACER's efforts to monitor the MACZT and that Fingrid has shown efforts to provide the information available to Fingrid, but that it cannot be an obligation of one TSO to provide data that belongs to another TSO. EV considered that there is a difference between a simple request for information and an actual decision in terms of the requirement for legal basis as a precondition for subsequent enforcement by the regulatory authority and that EV is not convinced that such a legal basis is at hand as regards the information required by Fingrid.

(27) By letter of 8 March 2021, Fingrid commented on ACER's preliminary position. Fingrid stated that it had responded to ACER's data request with the best available information which it had been allowed to share with other parties outside the Nordic TSOs. Fingrid therefore had provided ACER only with the Finnish internal grid models, even though Fingrid is aware that such individual grid models cannot be used to study the Finnish cross-border capacities without data from the neighbouring networks. Fingrid underlined that the Nordic planning model, currently used by Fingrid, is the best alternative available to Fingrid to calculate Finnish cross-border capacities for 2020. Fingrid noted, however, that providing this planning model requires permission from all other Nordic TSOs. Fingrid also remarked that this model is most accurate to calculate cross-zonal capacities between Finland and Sweden but that the model has not been tested to be the most accurate to calculate cross-zonal capacities between e.g. Sweden and Denmark. Fingrid expressed its willingness to provide a prototype CGM model as fallback option, and to give permission to provide the Finnish IGM within this prototype CGM, but asked ACER to take into consideration a number of methodological weaknesses in using such a model to monitor the MACZT. In addition, Fingrid stressed that the prototype CGM includes the grid model used by the Norwegian TSO, Statnett, which implies that the Norwegian grid model will have to be extracted from the prototype if such a prototype is sent as a result of a decision requesting information addressed to Fingrid, Energinet, and Svenska kraftnät. Furthermore, Fingrid stressed that the non-existence of a CGM should be taken into account by ACER in its setting of the deadline to implement this Decision.

(28) By letter of 15 March 2021, Svenska kraftnät provided comments to ACER's preliminary position. Svenska kraftnät mentioned that the development of CGMs for the Nordic capacity calculation region was ongoing and therefore it was not possible to deliver the preferred data set, i.e. one CGM used within the day-ahead calculation process for each month of 2020. Existing CGMs have not been tested in operation or used for calculations of cross-zonal capacities for 2020. Moreover, these models include information on the Norwegian grid. Svenska kraftnät further mentioned that,

according to Statnett, there are restrictions under Norwegian law, limiting the abilities of Statnett to share detailed data on its grid. Consequently, the model requested as a fallback option does not exist and, therefore, a new CGM covering only Sweden, Finland and Denmark must be developed or the Norwegian grid must be extracted from the existing Nordic CGM. To create such a model, as well as to anonymise the Swedish grid data while maintaining a sufficient quality of the data and upholding security regulations will be time consuming. A prototype CGM will contain outdated data and therefore Svenska kraftnät did not consider it as relevant for ACER's monitoring purposes. Svenska kraftnät noted a number of limitations in the quality of its IGM, which is still in an early development phase. Svenska kraftnät found that the workload to create this new CGM seemed disproportionate compared to the benefits for ACER in its market monitoring activities. Svenska kraftnät moreover stressed that providing the list of CNECs in the format outlined by ACER seemed disproportionate compared to the benefits for ACER in its market monitoring activities. Svenska kraftnät added that the information requested by ACER is classified according to the Swedish Public Access to Information and Secrecy Act. Svenska kraftnät acknowledged that ACER can request such information pursuant to Articles 3(2) of Regulation (EU) 2019/942, provided that the request is necessary for the tasks of ACER, such as for those under Article 15(1) of the same regulation. Svenska kraftnät added that it is still assessing whether this is the case. In addition, Svenska kraftnät referred to an agreement between the Nordic TSOs, according to which confidential information that has been shared for developing the common grid model for the Nordics, must be held in strict confidence and cannot be disclosed to any third party without the permission of each TSO. Failing to comply with this agreement may entail liability for breaches of professional secrecy according to the Swedish Criminal Code. Svenska kraftnät welcomed the possibility to anonymise the data requested, but found that it may need several months to be able to deliver the requested information.

(29) By letter of 15 March 2021, Energinet provided comments to ACER's preliminary position. Energinet argued that it had provided all the data it could provide considering what Energinet deemed legally possible for them to disclose. Energinet added that the delivery of AC CNECs on the DK2-SE bidding zone border, that Energinet noted as still outstanding, is very resource-demanding, and that, to Energinet's understanding, ACER agreed that the provision of those data could wait as long as Energinet confirmed that delivery would take place before disclosure of the CGM. Energinet stressed that there are no restrictions under Danish law prohibiting Energinet from disclosing data that Energinet owns, but that Energinet or its employees might face criminal sanctions under Swedish legislation if they disclose confidential information under Swedish law that Svenska kraftnät has shared with them. Further, Energinet confirmed its ability and willingness to disclose the Danish individual grid model, as this is the data which Energinet can legally dispose over, and to permit disclosure by Svenska kraftnät of the CGM to ACER to the extent such approval is required by Energinet as data owner. In light of these confirmations, Energinet found that it would be disproportionate for ACER to issue a decision requesting such information from Energinet for which it already confirmed its willingness to submit to ACER.

(30) In an email sent on 16 March 2021, Energinet supplemented its letter from 15 March 2021 with a decision (including an unauthorised English translation) issued by Svenska kraftnät to an employee at Energinet obliging the employee not to share confidential information on the Swedish part of the so-called Nordic planning model developed between the Nordic TSOs. According to the decision, the employee might face criminal sanctions under the Swedish law if information is shared in contravention of the decision, which, however, allows for a disclosure of the confidential information in circumstances that limit the recipient's right to use the information and his right to disclose to others. The decision moreover allows for a disclosure of grid models with or without Svenska kraftnät's approval, depending on the purpose and the level of anonymisation of the grid model. In particular, the decision mentions that a grid-equivalent, which includes some of the Swedish grid data, could be disclosed with specific approval from Svenska kraftnät, provided that 'information such as name and location' are anonymised.

(31) On 17 March 2021, ACER invited Svenska kraftnät, Fingrid, Energinet, Ei, Danish Utility Regulator ('DUR') and EV to an oral hearing on 25 March 2021. Prior to the oral hearing, ACER sent, by email of 23 March 2021, a list of issues to be discussed at the hearing. As a background document for the hearing, ACER sent a revised version of the preliminary position.

(32) On 25 March 2021, the oral hearing was held with the participants mentioned in the previous paragraph. The participants discussed the scope of the information requested by ACER as set out in the revised preliminary position and the challenges and deadline for providing it. One relevant aspect discussed during the hearing was the possibility for TSOs to anonymise certain information on grid elements. ACER mentioned that, as a possible pragmatic solution in the context of this decision, it would be acceptable to receive information on network elements with a degree of anonymisation as long as such solution would allow identifying the bidding zone border or bidding zone where the network element is located. Moreover, ACER asked the three TSOs to submit a precise estimate of the time they would need to provide the information with a justification/explanation for the estimated time needed.

(33) By email of 26 March 2021, Svenska kraftnät sent its presentation from the oral hearing on 25 March 2021 to ACER.

(34) By emails of 26 and 29 March 2021, Fingrid sent its estimate of the time it would need to provide the requested information together with underlying assumptions. Fingrid declared that it would need approximately six weeks to deliver the data. Fingrid expressed a preference to comply with the data request by providing ACER with zone-to-zone PTDFs calculated by Fingrid, and based its estimate of the time needed to provide the requested information on this assumption.

(35) By email of 29 March 2021, Svenska kraftnät sent its estimate of the time it would need to provide the requested information together with underlying assumptions. Svenska kraftnät declared that it would be able to deliver the data within eight weeks. Svenska kraftnät expressed a preference to comply with the data request by providing

ACER with zone-to-zone PTDFs calculated by Svenska kraftnät, and based its estimate of the time needed to provide the requested information on this assumption.

(36) By email of 29 March 2021, Energinet sent its estimate of the time it would need to provide the requested information together with underlying assumptions. Energinet indicated that it would be able to deliver the requested data within three weeks from the decision. Energinet expressed a preference to comply with the data request by providing ACER with zone-to-zone PTDFs calculated by Energinet, and based its estimate of the time needed to provide the requested information on this assumption.

(37) On 30 March 2021 ACER held bilateral calls with EV, DUR, and Ei outlining and discussing ACER's reading of the responses given by the three TSOs on 26 and 29 March 2021.

(38) By emails sent on 30 March 2021 to Svenska kraftnät, Fingrid, Energinet, ACER clarified the scope and deadline of the information as set out in this Decision.

(39) By email of 6 April 2021, Fingrid provided ACER with further information on the dynamic stability constraints that are relevant in Fingrid's capacity calculation and identification of limiting CNECs.

(40) On 7 April 2021, a virtual meeting was held between ACER and Fingrid where Fingrid presented in more details its capacity calculation process, and how it takes into account the dynamic stability constraints. ACER and Fingrid discussed about how it should be taken into account for ACER's MACZT monitoring.

(41) On 16 April 2021, to follow up on the email sent by Svenska kraftnät on 29 March 2021, a virtual meeting was held between ACER and Svenska kraftnät. Svenska kraftnät described the different allocation constraints that are limiting the capacity offered on the AC bidding-zone borders between Sweden and Denmark and Sweden and Finland. ACER and Svenska kraftnät discussed the implication of such constraints for ACER's MACZT monitoring.

(42) On 21 April 2021, following up on its email of 29 March 2021, Energinet informed ACER that it could not promise to deliver the requested data before 2 May 2021, however if it were not to encounter problems, then a delivery of the data early in the of week 2 May 2021 should be possible.

3. ASSESSMENT OF THE REQUEST FOR INFORMATION

3.1. Legal basis

(43) According to the second subparagraph of Article 3(2) of Regulation (EU) 2019/942, ACER has the power to request, by decision, transmission system operators to provide information necessary for the purpose of carrying out its tasks under Regulation (EU) 2019/942, unless ACER has already requested and received such information. Such decision should specify the purpose of the request, make a reference to the legal basis

under which the information is requested, and set a proportionate time limit within which the information is to be provided.

(44) According to Article 15(1) of Regulation (EU) 2019/942, ACER has to monitor the internal electricity market, in particular access to the networks, the progress made with regard to interconnectors, and potential barriers to cross-border trade.

(45) According to Article 16(8) of Regulation (EU) 2019/943, transmission system operators must not limit the volume of interconnection capacity to be made available to market participants below a minimum level of 70 % of the transmission capacity respecting operational security limits.

3.2. ACER's task

(46) ACER's task to monitor the internal electricity market, in particular access to the networks, the progress made with regard to interconnectors, and potential barriers to cross-border trade, according to Article 15(1) of Regulation (EU) 2019/942, requires that ACER monitors the level of available cross-zonal capacity against the 70% minimum level required under Article 16(8) of Regulation (EU) 2019/943.

3.3. The requested information is necessary

(47) In its Recommendation no. 01/2019, ACER set out a methodology that provides a harmonised approach on how to implement and monitor the MACZT. The importance of such harmonised approach is confirmed by the fact that the Electricity Cross-border Committee, where Member States are represented, called for coordination at EU level on the matter, and requested ACER to recommend a harmonised methodology to estimate the MACZT[8]. That methodology aims to estimate the level of MACZT offered on CNECs introduced in capacity calculation methodologies for all considered timeframes and capacity calculation market time units, and by assessing the impact of allocation constraints and technical profiles on the capacity that is effectively available for cross-zonal trade on CNECs.

(48) In order to monitor, in accordance with Recommendation no. 01/2019, the MACZT on CNECs and to compare them with the 70% minimum MACZT target defined by Article 16(8) of Regulation (EU) 2019/943, information related to CNECs, allocation constraints, NTC values, forecasted commercial cross-zonal schedules and grid models is necessary. To that end, ACER needs at least the list of hourly limiting CNECs, and the zone-to-zone Power Transfer Distribution Factors ('PTDFs') on relevant bidding-zone borders for each CNEC. The list of hourly limiting CNECs in a bidding-zone does not require any provision of data from other TSOs, and can thus be provided independently by each TSO. The PTDFs can be either provided by TSOs individually (option a) or calculated by ACER from a merged grid model ('MGM')

[8] See paragraph **Error! Reference source not found.**

(option b). An MGM requires a collaboration between several TSOs, as it is created by merging the individual grid models of each TSO into the MGM. Option a does not presuppose that TSOs coordinate with other TSOs in providing the information. Option a also allows TSOs to deliver the requested information without having to develop an MGM, e.g. anonymised, for the purpose of providing the information.

(49) For both options a and b, the calculation of PTDFs can be done, respectively by ACER or by the TSO, using a limited number of snapshots of merged grid models, such as one snapshot per month for the year 2020. For option a, the zone-to-zone PTDFs to be provided should at least cover the bidding-zone borders of the Nordic area and can be larger if the TSO deem it relevant. Delivering zone-to zone PTDFs for the limiting network elements in a given TSO's area or border does not require a TSO to disclose any data from the neighbouring TSOs.

(50) A summary of the information that is necessary for ACER's monitoring is listed and described below. As explained above, TSOs are given two options (option a or b) to provide the data. More details on the information required specifically from Svenska kraftnät, Energinet and Fingrid is provided in the annexes to the present Decision.

(51) When relevant, TSOs are also given the possibility to provide either the 'preferred data', which corresponds to the data previously requested in the letters mentioned in Section 2, or the 'alternative data', which could be provided as a fall-back only in case that the 'preferred data' is not currently available or that generating it would entail a disproportionate workload. Any claim of such disproportionate workload should be substantiated and justified.

- *Data necessary for both options a and b:*

<table>
<tr><th>Element requested</th><th>Description of the preferred data</th><th>Description of the alternative data</th><th>Further considerations</th></tr>
<tr><td>List of hourly CNECs (1)</td><td>All CNECs together with MCCC (2).</td><td>Only limiting CNECs (3).</td><td rowspan="2">This data can be provided individually by the relevant TSO and does not require cooperation with the neighbouring TSOs. The network elements could be anonymised, if such anonymisation still allows identifying the bidding-zone or bidding-zone border where the element is located, and allows for a correct matching with the MGM if the TSO opted for option b.</td></tr>
<tr><td>Relevant information for each hourly CNEC</td><td colspan="2">- EIC code of the critical network element ('CNE') and of the associated contingencies.
- The "Fmax" value (4) of the CNEC.</td></tr>
</table>

Notes:
1) The CNECs are to be provided for at least each of the coordination areas encompassing the following borders: FI-SE1 or DK2-SE4, for both directions (import and export) and for each market time unit ('MTU') of 2020.
2) Margin from coordinated capacity calculation, as defined in the Recommendation no. 01/2019) values per MTU calculated in line with the Recommendation no. 01/2019.
3) CNECs for which one combination of NTCs (within the coordination area) fully loads the CNEC for the considered MTU.
4) The "Fmax" value is the maximum flow on critical network elements, respecting operational security limits. Fmax values shall include each of the operational security limit relevant in the TSO's capacity calculation that can be attributed to specific CNEC(s) and that can be efficiently translated into Fmax on CNEs. If a constraint cannot be efficiently translated into Fmax, it shall be monitored separately from the MACZT on each CNEC. In such case, TSOs have to report the allocation constraints which directly restrict the net position of a given bidding-zone, or the cross-zonal capacity on a given bidding-zone border or set of bidding-zone borders, in line with the data request of 20 December 2019 (the formats for the provision of data on allocation constraints are described in Annex 3 of this decision).

- *Data necessary for option a:*

Element requested	**Description of the preferred data**	**Description of the alternative data**	**Further considerations**
PTDFs per hourly CNEC (1)	PTDFs calculated from hourly historical MGMs.	PTDFs calculated from one or several historical or prototype MGMs.	This data can be provided individually by the relevant TSO and does not require cooperation with the neighbouring TSOs.

Note:
1) Zone-to-zone PTDFs, for each oriented bidding-zone border deemed relevant by the TSO to calculate the MACZT. ACER has identified those bidding-zone borders as being at least the bidding-zone borders between the Swedish, Finnish, Danish and Norwegian bidding-zones, with the possibility for TSOs to provide PTDFs on other bidding-zone borders. PTDFs that are not provided will be considered as null.

- *Data necessary for option b:*

Element requested	**Description of the preferred data**	**Description of the alternative data**	**Further considerations**
Merged grid models (1) ('MGMs')	At least one, and no more than one for every month of the year 2020,	At least one, possibly prototype, MGM.	The network elements of the MGMs could be anonymised, if such anonymisation still allows identifying the bidding

	representative MGMs used within the day-ahead calculation process.		zone where they are located, a correct processing of the MGMs to calculate zone-to-zone PTDFs and a correct matching with the list of hourly CNECs. This data item requires TSOs to coordinate to allow for its provision.
Relevant information for each CNEC	The identifier of the CNE and of the contingencies in the MGMs.		The identifiers of the CNE and contingencies should match the identifiers of the MGMs.

Note:
1) The MGMs are expected to cover at least the coordination area in which the MACZT is calculated, and the neighbouring grids that significantly influence flows in the capacity calculation region. ACER has identified those grids as being at least the grids in Sweden, Finland, Denmark and Norway, with the possibility for TSOs to provide grid models covering a wider scope. Norway may be included (possibly anonymised) if Statnett agrees to send this information on a voluntary basis. The MGMs provided should be the best representation available to Svenska kraftnät, Fingrid and Energinet of the network during the year 2020. They should be provided following the UCTE, CGMES or CIM (v14) data format.

(52) The list of CNECs should be provided in the format annexed to the Decision, which corresponds to the template on AC CNECs in the set of templates that ACER sent by email to all TSOs via ENTSO-E on 5 January 2021. The data request of 20 December 2019 and ACER's email of 5 January 2021 explaining how to use the templates should be considered when providing the data with those templates.

3.4. The requested information is not available to ACER

(53) All the information requested from Svenska kraftnät, Energinet and Fingrid in this Decision was previously requested to all TSOs by letter of 20 December 2019. This letter envisaged two delivery deadlines for each of the semesters of 2020. An initial deadline for the data of the first semester, 31 July 2020, i.e. seven months after the letter was sent, and a second for the second semester data, 31 January 2021, i.e. more than one year after the letter was sent. Since this initial request, ACER restated and reaffirmed its request towards Svenska kraftnät, Energinet and Fingrid several times (see above Section 2).

(54) To allow TSOs to test and address potential issues before the first data submission deadline, ACER organised a 'dry-run' data collection, during the first semester of 2020. During this dry-run phase, ACER already informed Svenska kraftnät about the impossibility for ACER to perform its monitoring tasks with the limited data that Svenska kraftnät intended to provide, and recalled to Energinet that ACER would not be able to perform any calculation without receiving, as requested, information on CNECs and CGMs.

(55) Except for Svenska kraftnät, Energinet and Fingrid, the vast majority of the TSOs across the European Union provided the data requested by ACER in due time. In order to do so, many TSOs developed ad-hoc tools that ensured a timely submission of the data to ACER when this information was not directly available to them or when some pre-processing before sending the information to ACER was necessary.

(56) The information requested, as set out in Section **Error! Reference source not found.**, has not been provided by Svenska kraftnät, Energinet and Fingrid to ACER as a data set comprising either the list of CNECs and the associated zone-to-zone PTDFs (option a) or both the MGM and the list of CNECs (option b), and it is not available to ACER. Therefore, ACER needs to request this information from each of those TSOs, as specified in the annexes to this Decision.

3.5. The requested information can be provided by Svenska kraftnät, Energinet and Fingrid

(57) First, as mentioned above in Section 3.3, the PTDFs can be provided by TSOs individually (option a), i.e. with none of the TSOs having to provide information that falls outside of the jurisdiction of the Member State where the TSO operates. By providing the information according to this option a, the zone-to-zone PTDFs will be calculated by the TSO, from the MGM available to it. From these PTDFs, ACER can calculate the MACZT, without the need of an MGM.

(58) Therefore, the concerns of Energinet, Fingrid, Svenska kraftnät as well as EV over a request for information, the submission of which presupposes coordination between Energinet, Fingrid and Svenska kraftnät, can be overcome.

(59) Alternatively, the PTDFs can be calculated by ACER from an MGM (option b), the submission of which requires a collaboration between several TSOs, which have to merge the individual grid models of each TSO, into an MGM, possibly by the use of anonymised version of the individual models.

(60) ACER acknowledges that option b, i.e. the ‘preferred data’ as well as the ‘alternative data’ referred to in the tables in Section 3.3 might be less resource demanding for Energinet, Fingrid, and Svenska kraftnät than option a. However, option b would require, as above mentioned, the necessary coordination among the Nordic TSOs and possibly some degree of anonymisation, which could in practice result in a more demanding exercise for TSOs than option a. Moreover option b would require information on the Norwegian grid to be provided by Statnett. Since Statnett is not subject to ACER’s decision-making power under Article 3(2) of Regulation (EU) 2019/942, ACER will inform Statnett and the Norwegian regulatory authority about this decision and ask Statnett to coordinate, if needed, with Svenska kraftnät, Energinet and Fingrid in providing an MGM covering also Norway (option b).

(61) Second, as regards constraints under Swedish national security legislation on sharing the data, both prior to ACER’s notification of 22 February 2021 concerning the intended adoption of a decision and following the notification, Svenska kraftnät has mentioned that the requested data on the Nordic MGM, network elements and

contingencies had been classified as secret according to the Swedish legislation on national security because, if handled incorrectly, it would entail serious damage. As a consequence, Svenska kraftnät, argued that it could not share that data with ACER and all regulatory authorities because it was not confirmed that all parties fulfil the requirements for both physical protection and IT security for premises, facilities and systems in the Swedish security legislation. Energinet also pointed to the constraints following from this Swedish legislation.

(62) In that regard, it is to note that ACER will use confidential information received under this request only for the purpose of carrying out its tasks, in accordance with the third subparagraph of Article 3(2) of Regulation (EU) 2019/942. Further, ACER will preserve the confidentiality of any sensitive information, in accordance with its obligation to protect sensitive and classified information under Article 42 of Regulation (EU) 2019/942 and with security rules implemented to that effect. Therefore, where the requested information, or parts of it, is of confidential nature, ACER is obliged and able to ensure reasonably expected protection of confidentiality. Consequently, there are no grounds for invoking confidentiality as a reason for not disclosing the requested information to ACER. Indeed, such non-disclosure would restrict ACER's prerogatives under Union law to be provided with the information necessary for the performance of its duties.

(63) Where Svenska kraftnät, Energinet or Fingrid consider that information, or a piece thereof, which it provides to ACER is confidential, it should state the scope of and the reasons for the claimed confidentiality when providing the data to ACER.

(64) Third, as regards a Nordic MGM, Energinet, Fingrid, Svenska kraftnät, and Fingrid are concerned that a Nordic MGM is not yet in operation and that the request for such a common or merged model just for the purpose of ACER's monitoring of the MACZT would not be proportionate.

(65) However, the present request does not require the MGM to be operative. It only requires that this MGM provided by TSOs is the best grid model currently available to them. Such MGM can be an MGM currently used as part of the TSO(s)'s capacity calculation, or developed for other purposes than daily operation, or, as a fall-back solution, a prototype MGM. The MGM is expected to cover at least the coordination area in which the MACZT is calculated, and the neighbouring grids that significantly influence flows in the capacity calculation region. ACER has identified those grids as being at least the grids in Sweden, Denmark and Finland with the possibility for TSOs to provide grid models covering a wider scope. As such, Norway may be included (possibly anonymised) if Statnett agrees to send this information on a voluntary basis as mentioned in paragraph (60). Furthermore, TSOs are also given the possibility not to provide an MGM and, instead, to directly provide, individually, the PTDFs on relevant borders for each CNEC (option a).

(66) Fourth, as regards the relevance to use net transmission capacity values as suggested by Svenska kraftnät, ACER would like to highlight that such approach is not in line with Recommendation no. 01/2019, which was developed to ensure a harmonised

monitoring of the MACZT in line with Regulation (EU) 2019/943 and which ACER should follow.

(67) Against that background, ACER considers that the requested information of option b is available to Svenska kraftnät, Energinet and Fingrid and that there is no valid ground which prevents those TSOs from providing this information to ACER, both individually for the elements that can be provided individually, and with the necessary coordination – if possible also with Statnett – to merge the individual grid models into an MGM. ACER considers that the requested information of option a is, for the part of the data that is common with option b, available to Svenska kraftnät, Energinet and Fingrid, and, for the part of the data that is not common with option b, if not already available to Svenska kraftnät, Energinet and Fingrid, reasonably possible to calculate.

3.6. The time limit within which the information should be provided is proportionate

(68) The present request refers to information and a format which were provided to ACER within the set deadline by other TSOs within the context of analogous requests from ACER as part of ACER's MACZT monitoring under Article 15 of Regulation (EU) 2019/942 and Article 16(8) of Regulation (EU) 2019/943.

(69) Following the dialogue between ACER, national regulatory authorities and TSOs, which started early 2019 and led to the adoption of Recommendation no. 01/2019, and the letter to formally request the needed data sent by ACER to all TSOs on 20 December 2019, described in paragraph (3), Svenska kraftnät, Energinet and Fingrid have been aware about ACER's request.

(70) Having run a dry-run session, as well as two data collections, and having published a first monitoring report, ACER considers that the content of the data request is clear to Svenska kraftnät, Energinet and Fingrid. As Svenska kraftnät, Energinet and Fingrid have already used some of the templates that have been sent by ACER and that need to be used for the data collection, and that explanations on how to fill them in have been given by ACER in the data request letter of 20 December 2019 and in other informal communications addressed to all EU TSOs, ACER considers that Svenska kraftnät, Energinet and Fingrid have the technical ability and sufficient knowledge to accurately fill in the template to provide the CNECs.

(71) Furthermore, the requested CNECs should already be available to Svenska kraftnät, Energinet and Fingrid, as a result of their capacity calculation process. Svenska kraftnät and Energinet expressed concerns that gathering the requested information on limiting CNECs in the format requested by ACER would entail manual processing, and, therefore, be a significant workload to TSOs. While ACER does not contest that gathering information on limiting CNECs and providing them in the format requested by ACER may be a manual process that can generate a workload to TSOs, ACER finds that this workload cannot be considered as disproportionate. First, the required data is only available and accessible by the TSOs themselves. Second, the amount of work related to the manual data extraction and use of the format requested by ACER have proven to be manageable by other TSOs in Europe, which provided on due time the requested data. This includes the cases of Fingrid and Energinet, for its border with

Germany. These two TSOs have already provided the list of their hourly CNECs for the year 2020, meeting the deadlines set by the data request of 20 December 2019.

(72) The existence of Nordic network models (Network Planning model) used for capacity calculation has been confirmed by Fingrid, and the availability of at least a prototype MGM has been confirmed by Svenska kraftnät, Energinet and Fingrid. Furthermore, the vast majority of the TSOs across the European Union provided the data requested by ACER in due time. In order to do so, many TSOs developed ad-hoc tools that ensured a timely submission of the data to ACER when this information was not directly available to them or when some pre-processing before sending the information to ACER was necessary. As an example, Continental Europe TSOs have made coordinated efforts to provide the information on merged grid models requested by ACER, also comprising data from a number of third countries, e.g. Switzerland.

(73) Based on these considerations, ACER has assessed the estimates of Svenska kraftnät, Energinet and Fingrid on when, each of them, could provide the requested information. As described above in Section 2, the estimated time ranged up to eight (8) weeks.

(74) Against that background, ACER considers that a period of eight weeks after the notification of the intended decision provides sufficient time for Svenska kraftnät, Energinet and Fingrid to compile the requested information, with any anonymisation necessary, and to transmit it to ACER. This period of eight (8) weeks is greater or equal to the time that each of the three TSOs estimated necessary for them to produce the requested data.

4. CONCLUSION

(75) For all these reasons, ACER considers that the information requested is necessary for the performance of its duties pursuant to Article 15(1) of Regulation (EU) 2019/942 in conjunction with Article 16(8) of Regulation (EU) 2019/943 and does not go beyond what is strictly necessary, and that the time limit set to provide this information is proportionate. Therefore, the present request for information is justified under Article 3(2) of Regulation (EU) 2019/942.

HAS ADOPTED THIS DECISION:

Article 1

1. Svenska kraftnät and Energinet Elsystemansvar A/S shall provide to ACER the information defined as ‘data necessary for both options a and b’ as set out in, respectively, annexes IIa and IIb.

2. Svenska kraftnät, Energinet Elsystemansvar A/S and Fingrid Oyj shall provide to ACER the information defined as ‘data necessary for option a’ of, respectively, annexes IIa, IIb, and IIc.

3. As an alternative to paragraph 2, Svenska kraftnät, Energinet Elsystemansvar A/S and Fingrid Oyj may prvide the information set out in Annex I, and, respectively for each TSO, the information defined as 'data necessary for option b' of the annexes IIa, IIb, and IIc. If they do so, Svenska kraftnät, Energinet Elsystemansvar A/S and Fingrid Oyj shall coordinate with each other to ensure that the data on the Nordic merged grid model is compatible with the data on limiting critical network elements provided individually by Svenska kraftnät, Energinet Elsystemansvar A/S and Fingrid Oyj.

4. Where Svenska kraftnät, Energinet Elsystemansvar A/S and/or Fingrid Oyj provide the requested information by providing the data defined as 'alternative' rather than 'preferred' in accordance with the Annexes I, and, respectively, IIa, IIb and IIc they shall justify it.

5. Svenska kraftnät, Energinet Elsystemansvar A/S and Fingrid Oyj may provide information referred to in paragraphs 1 to 4 to ACER also indirectly, through one of them. Where one of them provides information for one or both of the other two, it requires an authorisation of, as applicable, that other one or those other two, and it shall notify the authorisation to ACER before providing the information.

6. Where Svenska kraftnät, Energinet Elsystemansvar A/S or Fingrid Oyj considers that information, or a piece thereof, which it provides to ACER is confidential, it shall state the scope of and the reasons for the claimed confidentiality when providing the data to ACER.

Article 2

The information referred to in Article 1 shall be provided in the format set out in Annex III.

Article 3

The information referred to in Article 1 shall be provided within eight (8) weeks from the notification of the Decision.

Article 4

This Decision is addressed to:

Svenska kraftnät
Energinet Elsystemansvar A/S
Fingrid Oyj

Done at Ljubljana, on 30 April 2021.

- SIGNED -

For the Agency
The Director

C. ZINGLERSEN

Annex I – Information requested from Svenska kraftnät, Energinet Elsystemansvar A/S and Fingrid Oyj in a coordinated manner

Annex IIa – Information requested individually from Svenska kraftnät

Annex IIb – Information requested individually from Energinet Elsystemansvar A/S

Annex IIc – Information requested individually from Fingrid Oyj

Annex III – Format for providing the requested information

In accordance with Article 28 of Regulation (EU) 2019/942, the addressees may appeal against this Decision by filing an appeal, together with the statement of grounds, in writing at the Board of Appeal of the ACER within two months of the day of notification of this Decision.

In accordance with Article 29 of Regulation (EU) 2019/942, the addressees may bring an action for the annulment before the Court of Justice only after the exhaustion of the appeal procedure referred to in Article 28 of that Regulation.