

Annex 6 – Reasons for the proposed amendments to the Electricity Balancing Regulation

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1. INTRODUCTION

- (1) The amendments to the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing ('EB Regulation') directly result from the establishment of the demand response network code ('DR NC'). Transfer and integration of certain provisions from the DR NC was done where those provisions are more suitable to be included in the already existing and corresponding framework of the EB Regulation. Such a transfer is proposed to ensure consistency between the existing legal framework and the new rules developed in the context of the DR NC, and avoid potential legal gaps stemming from including provisions on the same topic in two different pieces of legislation. These amendments encompass the provisions:
- (a) related to the imbalance settlement and aggregation models, under the titles General provisions, Electricity balancing market and Settlement;
 - (b) related to the qualification of balancing service providers, under the titles General provisions and Electricity balancing market; and
 - (c) related to the minimum balancing energy bid quantity, under the titles Electricity balancing market, and Derogations and monitoring.

2. IMBALANCE SETTLEMENT AND AGGREGATION MODELS

- (2) Articles 19.0(N) to 24 of the DR NC proposed by ENTSO-E and EU DSO entity ('proposed DR NC') include the provisions related to the implementation of the aggregation models. Moreover, Article 28 of the proposed DR NC includes some additional provisions on imbalance settlement related to the aforementioned proposed provisions on the aggregation models.
- (3) Article 18 of the EB Regulation, in the provisions for the national terms and conditions for balancing, includes the requirements for allowing the aggregation of demand facilities, energy storage facilities and power generating facilities to offer balancing services. Additionally, the imbalance settlement is covered in Title V Settlement, and in particular in Chapter 4 Imbalance settlement. ACER considers that having the same topic covered in two different regulations is inefficient and may lead to inconsistencies and delays during the implementation of the respective provisions.
- (4) Therefore, ACER proposes to move all the imbalance settlement related provisions, which include the requirements related to the aggregation models, in the EB Regulation.
- (5) In the abovementioned articles, the proposed DR NC covers also requirements related to the measurement of the energy delivered for the provision of a service, in particular in Articles 19 and 20 of the proposed DR NC. ACER considers that these provisions are relevant for three different processes: for the calculation of the activated volume for local services and for balancing (if the metered approach is used) and for the calculation of injections and withdrawals in the context of the imbalance settlement. Although these provisions could also be moved to the EB Regulation, ACER proposes to leave them in the DR NC, since they are relevant for the settlement of local services, and to add references from the EB Regulation to these provisions in the DR NC, whenever this is needed, namely in Article 45 of the EB Regulation.
- (6) Following this transfer of the imbalance settlement related provisions, including the requirements related to the aggregation models, in the EB Regulation, it was evident that a big part of the provisions in the proposed DR NC were redundant, since they were merely repeating requirements

of the EB Regulation and the Electricity Regulation, especially with respect to the balance responsibility. ACER therefore proposes to delete these provisions.

- (7) Article 19.0(N) of the proposed DR NC specifies the aggregation models. ACER considers that the way the different models are described in this article is not clear and not in line with the requirements of the demand response framework guideline ('DR FG'), and in particular with paragraph (27), where an exhaustive list of the possible types of aggregation models that may be applied by the Member States is required. ACER proposes to provide this exhaustive list of the possible types of aggregation models, by describing exhaustively the ways the imbalance settlement can be performed for the different set up of balance responsible parties, when different aggregation models are implemented. Therefore, ACER proposes to introduce different types of corrections that may be calculated during the imbalance settlement, amending Article 54 of the EB Regulation, to specify the way the imbalance adjustment is calculated, amending Article 49 of the EB Regulation, and to align the definitions and other relevant provisions, amending Articles 1, 2, 15 and 18 of the EB Regulation. In this context, ACER proposes to transfer in the EB Regulation also the provisions related to the harmonisation of the aggregation models, pursuant to Article 84 of the proposed DR NC, and in particular by amending Article 52 of the EB Regulation, where the imbalance settlement harmonisation methodology is specified.
- (8) Moreover, Article 20.b of the proposed DR NC introduces the concept of the transfer of energy service, for the case of a transfer of energy between two balance responsible parties. Although ACER agrees that this concept should be covered by the European rules for demand response, it does not consider that the introduction of a new "service" is required for that, since this is addressed with the different types of corrections that ACER proposed to introduce in the imbalance settlement. According to ACER's proposed amendments in the EB Regulation, the description of the aggregation models in terms of imbalance settlement process, as explained in the previous paragraph, covers the case of the energy transfer between balancing responsible parties, through the possible correction in the final position or the allocated volume, depending on the implemented aggregation model.
- (9) Articles 22a, 22b and 23 of the proposed DR NC include requirements related to the financial transfer and financial compensation. ACER agrees with the general concept proposed in these articles, however, it considers that some of the provisions merely provide possible – not exclusive – options, hence ACER proposes to delete them. Moreover, Article 23(3) of the proposed DR NC includes an exhaustive list of benefits that can be assessed in the context of the financial compensation. However, after discussion with the NRAs, ACER considers that not all the items in the list should account necessarily for benefits, and on the other hand, there could be items not included in the list. The financial transfer and financial compensation, pursuant to Article 17(4) of the Electricity Directive, may be established between balance responsible parties or market participants. As mentioned above in paragraph (4), ACER proposes to move all the provisions related to the aggregation models in the EB Regulation, within Title V Settlement, and in particular in Chapter 4 Imbalance settlement. Following the comments included in the AEWG advice, ACER proposes to also include also market participants in the scope of the applicability of the financial transfer and compensation, despite the fact that imbalance settlement involves balance responsible parties. Therefore, ACER proposes to amend these provisions, as described above, and to integrate them into the EB Regulation text, and, in particular, with the addition of a new Article 55A.

3. QUALIFICATION OF BALANCING SERVICE PROVIDERS

- (10) According to paragraph (45) of the DR FG, the rules on demand response should define a unique and common prequalification process per product for different situations with the same steps, lead

times, and as many technical requirements as possible. Article 35 of the proposed DR NC describes the provisions for the prequalification of standard balancing products, but does not include this unique and common prequalification process. It describes a process for the development of a European methodology that will include all the relevant provisions. ACER considers that this is not in line with the requirements of the DR FG, and poses a risk to the development of demand response and the fulfilment of the aims of the Electricity Regulation.

- (11) Following extensive discussions with TSOs and NRAs, ACER acknowledges that the TSOs had limited time to develop such a common prequalification process during the drafting of the proposed DR NC. However, during the discussions, the TSOs agreed to pursue this target, in the context of the framework for harmonisation of the terms and conditions related to balancing set up pursuant to Article 18 of the EB Regulation, in accordance with Articles 19(3)(f), 20(3)(f) and 21(3)(f) of the EB Regulation, for the respective European platforms for the exchange of balancing energy ('platforms'). Moreover, the implementation frameworks of the platforms, pursuant to Articles 19(3)(i), 20(3)(i) and 21(3)(i) of the EB Regulation, include the definition of the standard products of balancing energy of the respective platform. Therefore, ACER proposes the requirement for a European methodology for the harmonisation of the prequalification of standard products to be included in the EB Regulation by amending Articles 19(3)(i), 20(3)(i) and 21(3)(i) of the EB Regulation.
- (12) Additionally, since the proposed DR NC did not include a harmonised product prequalification process for each of the standard balancing products, during the public consultation ACER proposed a product verification process to be applied by default for the standard balancing products, the same as for the specific balancing products and the products for local services. Strong concerns were raised both by the TSOs and some NRAs with this approach, so when the solution described in paragraph (11) was agreed, the possibility of keeping the product verification as an option was suggested by NRAs, although the DR FG required the development – and inclusion in the DR NC – only of a harmonised product prequalification process. ACER agrees with this suggestion, and, therefore, proposes the amendments in Articles 19(3)(i), 20(3)(i) and 21(3)(i) of the EB Regulation to include also a harmonised product verification process.
- (13) The implementation frameworks pursuant to Articles 19, 20 and 21 of the EB Regulation include the requirements for the standard products for balancing energy, but the qualification of balancing service providers is also related to the balancing capacity. Article 33 of the EB Regulation requires that two or more TSOs exchanging or mutually willing to exchange balancing capacity develop common and harmonised rules and processes for the exchange and procurement of balancing capacity. Following the comments received, ACER considers that since the TSOs exchanging balancing capacity are using the same standard products, a common product prequalification and/or verification process should be part of the common and harmonised rules and processes to be developed pursuant to Article 33(1) of the EB Regulation. Therefore, ACER proposes, to amend Article 33(1) of the EB Regulation to include also the requirement for the product prequalification and/or product verification, for the case of standard products for balancing capacity.
- (14) Moreover, Article 33B of the proposed DR NC included provisions on the standardisation of data exchange, including the data exchange related to the standard balancing products. ACER considers that, although this article describes a process that could lead to standardisation, the requirement that is put on TSOs to implement at least one of the listed European standards could endanger the effort for harmonisation. During its public consultation, ACER deleted these provisions. In the comments submitted by ENTSO-E, the TSOs proposed to have a clear requirement for the implementation of a single standard across Europe for the relevant data exchange for the interactions between TSOs and balancing service providers with regard to standard balancing

products. ACER agrees with the proposal made by ENTSO-E, and, therefore, proposes the amendment of Article 25 of the EB Regulation, with the addition of two paragraphs in the end, describing the process for adopting and implementing European standards for data exchange related to standard balancing products, and the amendment of Article 16 of the EB Regulation, on the role of the balancing service providers, with the requirement for implementing with the connecting TSO the data exchange in line with European standards.

4. MINIMUM BALANCING ENERGY BID QUANTITY

- (15) Article 29 of the proposed DR NC does not further specify the minimum bid quantity of standard balancing products that are submitted to the platforms, but refers to the implementation frameworks pursuant to Articles 19, 20, and 21 of the EB Regulation for its definition. It only defines the minimum bid granularity and a timeline – with the possibility of derogation at national level – for its implementation.
- (16) The minimum bid size is one of the main barriers for new entrants in the balancing markets. This was acknowledged by the legislator, and, in the recent revision of the Electricity Regulation, it was addressed for day-ahead and intra-day markets. In particular, Article 8(3) of the Electricity Regulation requires that *“NEMOs [...] provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 100 kW or less, to allow for the effective participation of demand response, energy storage and small-scale renewables including direct participation by customers, as well as through aggregation”*.
- (17) ACER, in its public consultation, proposed the minimum bid quantity of standard balancing products to be set at 0.1 MW and asked stakeholders’ views on that. The responses received and ACER’s evaluation of them are included in Annex 9. Taking into consideration the comments submitted in the public consultation, and following the consultation with relevant stakeholders and the discussions with system operators and NRAs, ACER considers that reducing the minimum bid quantity of standard balancing products to 0.1 MW may be burdensome for the performance of the optimisation algorithm of the platforms, and technically challenging for the TSOs who are accessing the platforms in the coming years; ACER considers that since the bid granularity will be set at 0.1 MW for standard balancing bids, the technical effort for lowering the minimum bid quantity to 0.1 MW at the platform level is significantly reduced. However, ACER considers that the minimum bid quantity of standard balancing products is an entry barrier for smaller market participants, especially the ones who are starting their business, before they reach a higher level of aggregation. Therefore, ACER considers that even if it is challenging from algorithm performance perspective to reduce the minimum bid quantity of standard balancing products to 0.1 MW for all bids in the next few years, it should be possible for market participants with portfolio smaller than 1 MW to access the balancing markets. In order to achieve this, ACER proposes that, for each BSP, there should be the possibility of submitting one bid at a value lower than 1 MW, thus setting the minimum quantity for this standard balancing product bid at 0.1 MW. Following the concerns raised by some NRAs, as reflected in the AEWG advice, ACER considers that an assessment is required, to determine the general minimum bid quantity requirements, supported by a cost benefit analysis, to determine the timely implementation of the new requirements.
- (18) ACER therefore proposes to amend the provisions related to the minimum bid quantity of standard balancing products, to allow one bid of each balancing service provider to be lower than 1 MW, but not lower than 0.1 MW, followed by an all TSOs assessment for determining the general minimum bid quantity requirements. Moreover, since there might be technical difficulties to implement that at national level, ACER proposes also to provide the possibility of a derogation

until 1 January 2029 for the implementation of this requirement, by amending Article 62 of the EB Regulation.

- (19) Additionally, Article 25 of the EB Regulation contains the provisions related to the standard balancing products, including requirements on the characteristics of the respective bids, and in particular, related to the minimum bid quantity. For consistency, ACER proposes to transfer the requirements related to the minimum bid quantity and granularity of standard balancing products, as revised by ACER, from the DR NC to the EB Regulation.