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EFET comments on the final draft Electricity Balancing network code submitted by ENTSO-E to ACER on 16 September 2014

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The European Federation of Energy Traders (EFET)[1] would like to share its views with respect to the final draft network code on Electricity Balancing, which ENTSO-E submitted to ACER on 16 September 2014. This document draws on earlier EFET submissions on this network code[2].

We observe progress towards harmonisation of balancing arrangements compared to earlier versions of the draft network code, notably thanks to clearer timelines for the establishment of common methodologies, as well as regulatory approvals (**Article 6**) and market participant consultations (**Article 5**) on a wider range of elements and methodologies not yet laid out in the code. Also, more details have been included in the final draft network code with regard to the criteria to be applied by TSOs when proposing a specific methodology, notably when it comes to balancing products, pricing, and cross-border capacity reservation.

Nonetheless, EFET remains of the view that considerable work will be required from ACER to complete the drafting of the network code and to ensure that the code complies with the Framework Guidelines.

We believe **the network code on Electricity Balancing should be articulated around three founding principles**, namely the safeguard of intraday markets, the efficient functioning of balancing markets, and the preservation and promotion of the self-dispatch model.

We are ready to help with these tasks and have drafted some initial comments in the sections below. Updated remarks and detailed text proposals may also be found in the annex to this document.

[1] The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information, visit our website at www.efet.org.

[2] EFET comments on the draft Electricity Balancing network code dated 7 February 2014, available at http://www.efet.org/Cms_Data/Contents/EFET/Folders/Documents/EnergyMarkets/ElectPosPapers/~contents/XKR2DLF9B5A4WN52/EFET-comments-on-the-draft-EB-NC_08022014.pdf and 16 August 2013, available at http://www.efet.org/Cms_Data/Contents/EFET/Folders/Documents/EnergyMarkets/ElectPosPapers/~contents/YNWJK2WF2JVUVRVT/EFET-Comments-on-EB-NC_16-Aug-13.pdf.

1. Safeguarding intraday markets

While TSOs are ultimately responsible to ensure security of supply and system security, efficient and liquid cross-border intraday markets allow market participants to balance their position **close to real time (up to one hour cross-border and up to 15 minutes local and OTC)**, without cross-border capacity reservation. This principle limits the need for TSO intervention in the balancing timeframe. TSOs and regulators should therefore support the development of flexible intraday markets[3]. **We recommend the inclusion of this principle in a dedicated recital of the network code.**

The fundamental principle is to give BRPs the longest time possible to adjust their position in intraday, as close as possible to real time, by means of liquid intraday markets. Furthermore, the TSOs should, after balancing the system in real time in case of an event or disturbance, allow BRPs to correct their position as soon as possible and thus refrain to initiate system balancing actions for time periods in which BRPs can still manage their position. Any provisions in the final draft network code contradicting this principle is to be viewed very critically. In particular, **Article 32.4.b** may prove problematic, since the reference to "sufficient time for common processing of Balancing Energy bids" may be too loose and could lead to TSOs placing the Balancing Energy GCT, and in consequence the intraday GCT, excessively in advance of real time.

Concerning **Article 32.5** of the draft network code, which allows the Balancing Energy GCT to be before the Intraday Cross Zonal GCT for automatically activated Balancing Energy bids, EFET recognises that different arrangements may exist on the sequence of GCTs for balancing energy and intraday. Such arrangements should be respected to allow full functioning of intraday markets in the respective jurisdictions as long as only the submission of energy bids takes place before the Balancing Energy GCT, and activation is postponed until as close to real time as possible. We therefore acknowledge this exemption in Article 32.5 for a-FRR as acceptable. However, any anticipative and long-lasting activation of Balancing Energy, including Replacement Reserve, is to be avoided in order to allow market participants to fully meet their balancing responsibility.

2. Ensuring efficient market functioning in the Electricity Balancing NC

For the network code to ensure efficient market functioning for balancing – but also intraday – a number of key elements should be anchored in the code:

- TSOs should not be able to offer Balancing Services themselves, since this implies long-term ownership of a generation asset and as such goes against unbundling (**Article 22.4**).
- The procurement methodology for Balancing Capacity should be made explicit instead of merely referring to being 'market-based'. This avoids confusion during implementation about whether a methodology is actually market based or not (**Article 34.2**).
- Every BSP should act in concert with the BRP(s) in whose perimeter it is active. This will avoid logical but counterproductive actions by the BRP (**Articles 10.1(f), 24.1 and 27.4 (c)**).
- BSP to TSO arrangements should be maintained and facilitated until TSO to TSO arrangements are fully in place (**Article 38**).

[3] Cf. EFET position on the implicit cross-border intraday trading project and the pre-implementation of LIPs, communicated to ACER at AESAG meetings and Florence Forum gatherings since 2012.

3. Preserving and promoting self-dispatch

The concept of the EU target model was developed to give some informal direction to the network code process and to reinforce the concepts already embodied in legislation. This model is based on a market where prices are set by the free interaction of supply and demand, where wholesale power trading determines prices, and with the TSO playing a residual role in the production and supply of electricity.

While the Framework Guidelines on Electricity Balancing allow "the parallel existence of central dispatch and self-dispatch arrangements", we believe that an electricity system based on central dispatch (**Articles 22.1 and 28**) is largely not compatible with the spirit of the target model and has much in common with the single buyer concept that has already been rejected. Instead of freezing the market well ahead of real time, the self-dispatch model allows market participants to optimise the final dispatch from an economic perspective, within the security limits provided by TSOs. Central dispatch should be considered as an exception and not an additional model that TSOs/NRAs can choose. Therefore, we believe the following principles should be anchored in the code:

- BRPs should be provided with information that allows them to optimally perform self-dispatch, including balancing their perimeter and helping the network.
- BRPs should be given every opportunity to balance their own perimeter before TSOs solve any residual imbalances.

The success of the third package now depends on a relatively standardised market design consistent with the existing legislation and the target model, and this requires self-dispatch arrangements to be consolidated[4].

[4] Cf. EFET Discussion Paper on Self Dispatch, annexed to the EFET observations on the European Commission Communication 2013/7243 of 5 November 2013, available at http://www.efet.org/Cms_Data/Contents/EFET/Folders/Documents/EnergyMarkets/ElectPosPapers/~contents/DSK2KKQM2FQFSKTB/EFET-letter-to-EC-EC-Regulatory-package.pdf.

ANNEX – Detailed amendment suggestions on the final draft Electricity Balancing network code dated 6 August 2014

Recital 10
The statement according to which "the provisions of this Network Code should be implemented without prejudice to the provisions of the Networks Codes on system operation" introduces regulatory uncertainty in the network code. We ask for harmonisation of the regulatory framework between the different network code rather and this potentially confusing principle.

Recitals 11 and 12
The terms "reasonable/best endeavours" should not be included in such a regulatory document. The purpose of the balancing pilot projects (Recital 11) is to draw lessons in view of developing a target model for balancing. TSOs and NRAs should commit to exploit synergies and draw on experiences from these pilot projects. Likewise, TSOs shall facilitate (rather than "use best endeavours to facilitate") the exchange of balancing energy within a CoBA.

Recital XX
While TSOs are ultimately responsible to ensure security of supply and system security, efficient, liquid intraday markets allow market participants to balance their position up to one hour (cross-border) or even down to 15 minutes (local and OTC) before real time, thereby limiting the need for TSO intervention in the balancing timeframe. TSOs and regulators should therefore support the development of flexible intraday markets. We recommend the inclusion of this principle in a dedicated recital of the network code.

Article 2 – Definitions
TSO-TSO model: delete sentence "The TSO-TSO model is the standard model for the Exchange of Balancing Services". This is not true since it is "TSO-TSO model with a Common Merit Order List" and anyway not useful as part of a definition.

Article 8 – Publication of information
The publication of information by TSOs shall include appropriate metering information to give BRPs a precise estimation of their imbalance in real time as well as first figures of their real time imbalances closely afterwards.

Article 9 – Delegation of functions
Delegation of functions by TSOs to a third party (Article 9) can only be authorised providing that impartiality of this latter is ensured: the third party must not be an active player in Balancing Markets.

Article 10 – General objectives of the balancing market
The objective of integration of balancing markets is still missing from the objectives of the network code. Such a reference is included in Art. 22.3 (Role of TSOs) but should also be included in the general objectives of the balancing market.

Article 10 should better reflect that the balancing market is a residual market that is as restricted as possible and that maximum possibilities must be given to market participants to balance demand and supply (see paragraph 1 of our general comments above, "Safeguarding intraday markets").

A BSP should act in concert with the BRP on whose perimeter it is active. If the BRP is not informed of BSP actions within its perimeter, the BRP may take justified, but counterproductive, measures to compensate for the imbalance it sees in its portfolio.

Article 14.1 – European Integration Model for Replacement Reserves
Since this article concerns the European target model, it should apply to all TSOs. The application should thus not be limited to a list of TSOs using Replacement Reserves.

Art. 21.5 – Targets for imbalance settlement
The option to develop alternative methodologies for imbalance calculation and the calculation of imbalance prices is contrary to the objective of harmonization of balancing arrangements at European level. The target should be to obtain one methodology for the whole of Europe. If Art. 21.5 is maintained, appropriate criteria should be proposed for NRAs to assess the need to deviate from the common methodology, and time restriction should be included.

Art. 22 – Role of the TSOs
Art. 22.1 of the code should set a European Target Model for cross-border balancing, even though exceptions and derogations can be provided. Therefore, Central Dispatch systems should be considered as an exception and not set an additional model that TSOs and/or NRAs could follow. Ultimately Central Dispatch is not compatible with an internal market, requiring that generators can sell across borders independently. No switch from self-dispatch to central dispatch models should be allowed in this network code (see paragraph 3 of our general comments above, "Preserving and promoting self-dispatch").

We observe progress in terms of the specifications included in Art. 22.4 that allow deviating from the principle that TSOs should not offer balancing services. As a principle, we remain of the view that TSOs should not offer Balancing Services themselves. This would imply ownership of a generation asset, which is a long term measure that goes completely against the unbundling principle of the Internal Energy Market as put forward in Article 9§1(a) of the Third Energy Package (Directive 2009/72/EC). Instead it should be stated that Balancing Services should be priced efficiently enough to give correct incentives to (potential) Balancing Service Providers in order to avoid a situation where there is insufficient Reserve Capacity in regard to requirements of NC LFCR.

In addition to the criteria set in Art. 22.4 a) to f) that allow deviating from this principle, it should be clarified that measures should only be submitted for regulatory approval in case of insufficient volumes of Reserve Capacity with respect to dimensioning requirements.

Article 24.1 – Role of Balancing Service Providers
In the role of the BSPs it should be included that BSPs should provide BRPs with the necessary information in case the BSP is active within the balancing perimeter of the BRP. Otherwise, if the BRP is not informed of BSP actions within its perimeter, the BRP may take justified, but counterproductive, measures to compensate for the imbalance it sees in its portfolio.

Article 25.3 Role of Balance Responsible Parties
The role of Balance Responsible Parties is not correctly described. Instead it must be written that Balance Responsible Parties should *strive* to be balanced. Complete balancing of individual positions of each BRP is neither possible nor should it be a goal in itself.

Article 27.4(c) – Terms and conditions related to balancing
The assignment of a Balancing Energy bid from a BSP to a BRP should be performed in concert with the BRP, pursuant the comment made in Article 10.1(f) and 24.1.

Article 28 – Scheduling and dispatch arrangements
It should not be possible to roll back the liberalization of the Internal Energy Market by reverting to Central Dispatch System. As such, TSOs should not be able to apply to their NRA to be acknowledged as a TSO operating a Central Dispatch System. Central Dispatch Systems should be limited to the TSOs that currently operate them (Greece, Hungary, Ireland, Italy, Northern Ireland and Poland) and be phased-out (see

paragraph 3 of our general comments above, “Preserving and promoting self-dispatch”, and our comments to Art. 22.1).

Article 29 – Requirements for Standard and Specific Products
We observe progress in the level of detail relating to the development and review of methodologies for standard products (Art. 29.1 to 29.7).

We also welcome the new criteria introduced in Art. 29.8 for NRAs to assess proposals for the development of specific products. However, we call on ACER and NRAs to exercise strict scrutiny when approving the methodology for the development of specific products: while we recognise the need for specific products to allow all categories of assets to participate in the balancing market and to fulfil all TSOs needs, we must avoid the over-multiplication of specific products, which would go against the purpose of this code. We believe that with each new specific product, the complexity of building a merit order will increase, and the comparability of prices will become more complex.

Article 32 – Balancing Energy Gate Closure Time
Market parties, as BRPs, should be given maximal opportunity to balance their own portfolio through self-balancing. Fixing the Balancing Energy Bids at a Balancing Energy Gate Closure Time that allows “sufficient time for common processing of Balancing Energy bid” (Art. 32.4(b)), in combination with an obligation to offer unused generation capacity (as stated in Article 27.7(c)), would severely restrict the ability of market parties to balance their own portfolio. Especially in light of the growing share of RES and the obligation of RES to become balance responsible, the ability for position changes (including trading and dispatch of own assets) as close as possible to real-time should be safeguarded. Art. 32.4 should specify that (manually activated) balancing energy GCT should not be set further away than one hour before real time.

Concerning Art. 32.5 of the draft network code, which allows the Balancing Energy GCT to be before the Intraday Cross Zonal GCT for automatically activated Balancing Energy bids, EFET recognises that different arrangements may exist on the sequence of GCTs for balancing energy and intraday. Such arrangements should be respected to allow full functioning of intraday markets in the respective jurisdictions as long as only the submission of energy bids takes place before the Balancing Energy GCT, and activation is postponed until as close to real time as possible. We therefore acknowledge an exemption for a-FRR, as in Article 32.5 as acceptable. The restriction to 12 hours, however, should be removed. This restriction runs the risk to force the balancing energy and intraday markets to run concurrently, which would be detrimental to the liquidity of the intraday market and create inappropriate signals for system balancing.

Any anticipative and long-lasting activation of Balancing Energy, including Replacement Reserve, is to be avoided in order to allow market participants to fully meet their balancing responsibility and to avoid that responsibilities for balancing in one timeframe are shared between TSOs and BRPs, which would result in counteracting balancing actions and, therefore, inefficiencies.

The request for a proposal to eliminate the special GCT for automatic balancing energy in Art. 32.5 (d) should only intervene provided that this proposal does not negatively impact the system and the functioning of the a-FRR. Hence, point (d) should be carefully worded to ensure this condition, otherwise removed from the network code altogether.

We welcome progress on the methodology specifications included in Art. 32.7 and 32.8.

Article 34.2 – General Provisions
The procurement of Balancing Capacity, both within a Responsibility Area or a CoBA should be based on a call for tender since this is the only interpretation acceptable of a market-based method. Any mandatory delivery of balancing capacity in combination with secondary trading of such an obligation is not a market-based procurement method. Procurement of FCR should also be done through a market-based method.

This remark also applies to Art. 36.7.

Art. 42 – Activation mechanism for balancing energy
As noted in our comments to Art. 32.5, while we recognise that different arrangements may exist on the sequence of GCTs for balancing energy and intraday, only the submission of energy bids should be allowed to take place before the Balancing Energy GCT, and activation should be postponed until as close to real time as possible. Any anticipative and long-lasting activation of Balancing Energy, particularly Replacement Reserve, is to be avoided in order to allow market participants to fully meet their balancing responsibility.

Art. 43 – Reservation of cross-zonal capacity for TSOs
Any ex-ante cross-border capacity reservation for optional balancing needs should be avoided, whichever the reason or the applicant for such capacity reservation (market participants, TSO). The full available cross-border capacity should be allocated to the market and used for forward capacity allocation, day ahead market coupling and cross-border intraday trading. Any remaining unused capacity after the intraday gate closure can then be used for cross-border balancing and for creating a common merit order for ancillary services. Market participant must be given full opportunity to balance their positions, including across borders, with the maximum available cross-border capacity, until one hour before real time. Any ex-ante reservations of cross-border capacity would not allow this and would introduce uncertainty in the market (see paragraph 1 of our general comments above, "Safeguarding intraday markets").

However, if the possibility for a reservation will still be foreseen, it is very essential that the socio-economic efficiency is proved und published by TSOs. Also any procurement process for cross-border balancing energy has to be market based, fully transparent and non-discriminatory.

These remarks also apply to Art. 45 to 48.

Art. 52.1 – General settlement principles
Deletion of Art. 52.1 (b) and (c) should be considered. While they are valid principles in general, we believe that points (a) and (d) are sufficient to ensure the objectives detailed in points (b) and (c) which are rather general objectives of the balancing market rather than specific objectives of the settlement mechanism. Having these principles included in the general settlement principles could result in wrongly designed settlement mechanisms.

On the other hand, we believe that the wording of Art. 52.1(d) should be stronger. **C**lear price signals are essential for an efficient market. Thus each damping effect on prices should be avoided. This means that BRPs should be responsible for their balance between supply and demand and should always be encouraged to use the market for this. The wording of Art. 52.1(d) should be changed to following: "the settlement principles shall ***ensure*** (and not encourage) the Balance Responsible Parties strive to be balanced as close to the physical reality as possible or help the system to restore its balance".

Art. 61.2 – Imbalance Price

There should be a single imbalance price. This single price should be irrespective of the direction of the individual imbalance and irrespective of the type of portfolio (generation or demand). Therefore, 61.2(c) should be removed.

Art. 69.2 – Cost-Benefit Analysis
The objectives of the network code to be taken into account for the cost-benefit analysis should include the efficient integration in the overall market design, as well as the potential impacts on local, regional and EU markets and competition.