

Subject	Relevant Article(s)	Current Text
Imbalance Area, Imbalance Price Area and Bidding Zone	Article 2, Article 27(6)	
Market Operator Role	Article 9	
Delegation and assignment of functions to third parties	Article 9 para 4	Member States or NRAs, if allowed to do so by the national legislation, may, at the request of the relevant TSO, assign the task of Imbalance Settlement to another party than the TSO pursuant to Article 60 and Article 62. In such a case the party to whom the task is assigned shall meet all the requirements that are applicable to the TSO according this Network Code and shall work in close cooperation with a TSO when defining appropriate procedures.
	Article 9 para 5	Notwithstanding paragraph 4, if the rules of national law at the date of the entry into force of this Network Code assign to a different party and according to a different legal framework non-essential tasks which, according to this Network Code, are assigned to the TSO, then the national legislation prevails.

	Chapter 2 Section 2	
	Chapter 2 Sections 7 and Chapter 5	
Targets for imbalance settlement	Article 21	<i>"..requirement that the Imbalance Settlement period shall not exceed 30 minutes"</i>
"Cannibalisation" of intraday market	Article 27(7)	<i>"(b) a requirement for Balancing Service Providers to offer their unused generation capacity or other Balancing resources through Balancing Energy bids or Integrated Scheduling Process bids in the Balancing Markets after Day Ahead Market Gate Closure Time;"</i>
	Article 32(4) and 32(5)	<i>"4. A Balancing Energy Gate Closure Time shall: (a) be after the Intraday Cross Zonal Gate Closure Time for manually activated Balancing Energy bids and avoid cross zonal Intraday Market and Balancing Market taking place at the same time;(…) 5. All TSOs of a Coordinated Balancing Area shall have the right to submit a proposal to their respective NRAs to define Balancing Energy Gate Closure Time for automatically activated Balancing Energy bids before the Intraday Cross Zonal Gate Closure Time. (...)"</i>
Activation of Balancing Energy Bids for other purposes	Article 40(1)	<i>Each TSO shall have the right to activate Balancing Energy bids within its Responsibility Area for ensuring Operational Security. In case Balancing Energy bids are activated for purposes other than Balancing, the price of these activated Balancing Energy bids, shall not determine the Imbalance Price</i>

Cross zonal capacity for balancing services	Article 43-47	
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Suggested Wording

Member States or NRAs may assign the tasks performed by the TSO under this Network Code to a third party. In such a case the third party to whom the task is assigned shall meet all the requirements relating to the assigned tasks that are applicable to the TSO according to this Network Code.

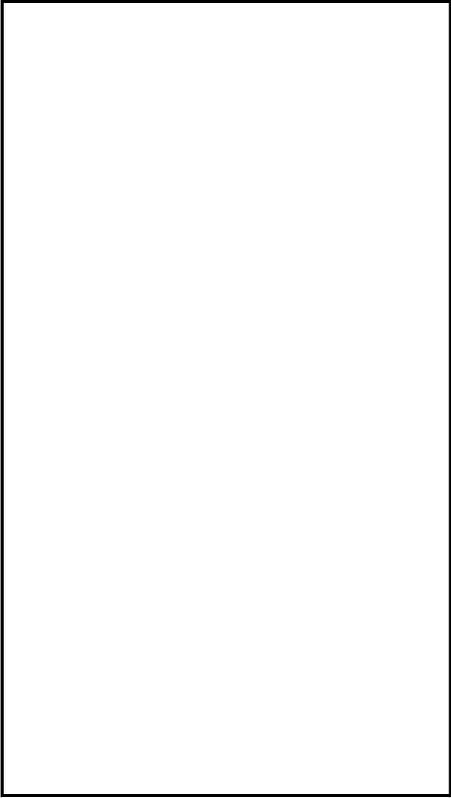
Notwithstanding paragraph 4, if a national legal framework at the date of the entry into force of this Network Code assigns to a third party tasks which, according to this Network Code, would be assigned to the TSO, then these tasks may remain assigned to the third party in accordance with national legislation. In such a case the party to whom the tasks are assigned shall meet all the requirements that are applicable to the TSO according to this Network Code.

*"..the requirement that the Imbalance Settlement period shall not exceed **one hour** "*

[text to be deleted]

*"4. A Balancing Energy Gate Closure Time shall:
(a) be after the Intraday Cross Zonal Gate Closure Time for Balancing Energy bids and avoid cross zonal Intraday Market and Balancing Market taking place at the same time;(…)
5. [deleted article 32(5)]"*

Each TSO shall have the right to activate Balancing Energy bids within its Responsibility Area for ensuring Operational Security.



Comment

It appears that the Imbalance Area, Imbalance Price Area and Bidding Zones might not correspond to identical geographical areas. We are concerned that this might create distortions on the wholesale market (e.g. where parties acting within a same Bidding Zone might be exposed to different imbalance prices or where parties having to trade withing different Bidding Zones would be exposed to the same imbalance prices).

We welcome progress that is been made regarding this issue however not all our concerns were tackled in NC EB. In nine EU countries (Czech Republic, Slovenia, Austria, Slovakia, Italy , Romania, Ireland, Great Britain and Croatia) a "Market Operator" was introduced to the Electricity Market. Market Operators' responsibilities are assigned by law and they are licenced and regulated by the NRA as the TSOs are:

- a. Define and/or accept rules for Balance Responsible Parties (BRPs);
- b. Define the rules for imbalance settlement (imbalance price, imbalance calculation, settlement period etc.)
- c. Perform imbalance settlement (evaluation, billing and settlement)
- d. Define and issue the rules for balancing markets
- e. Facilitate/operate balancing markets platforms and balancing energy settlement.

Since in the Network Codes national specifics are not taken into consideration as otherwise defined by the Framework Guidelines (FG EB 2.3), and they do not presently recognise current existing arrangements, we set out below the main points that we consider as being critical, some of which were already presented and explained in detail to ACER in a bilateral meeting in Ljubljana in February 2014. In this regard Europex would like to point out that any change of current status quo can cause a delay in the implementation of the relevant Network code, or even slow down the proces of harmonization of Balancing Market inside the European electricity Market due to implement necessary changes into current National legislation and contractual framework.

If the latest draft of NC comes into force this would greatly impact current arrangements which recognise Market Operators as independent parties. Roles are defined by Member States' law and arrangements do not depend on TSO's decision of assignment of the tasks defined by the NC. Europex therefore proposes that NC is amended in way that assignment of the tasks is not dependent on the decision of the TSO.

With the proposed solution we suggest that designation should be made in accordance with applicable national law or regulations either by Member State or NRA or otherwise by the TSO. In this way each Member State would have rights to decide based on subsidiarity what entity/authority decides upon designation, without excluding one or the other option.

Europex proposes that NC is amended in the way that the principle of subsidiarity is fully respected and any of the tasks that are already assigned to a different party than the TSO can remain assigned even after NC enters into force.

There are also other important functions and/or responsibilities that are being transferred to TSO. I.e. in Slovenia, the Market Operator is entitled to elaborate the rules for operation of balancing market (while the TSO has veto power) and as another example in two countries, Slovenia and the Czech Republic, the Market Operator is responsible for the operation of a platform for collecting and optimisation of activation of energy bids. In this regard, NC EB should reflect this in the Section 2, allowing member states to designate third parties (i.e. Market Operators) to perform these tasks.

The fact that some of Market Operators also have the obligation of definition of the rules related to imbalance settlement also gives emphasis to our concerns. These include also elaboration of the terms and conditions for Balance Responsible Parties. In this regard the Sections 4 and 7 of NC EB should allow for member states to designate third parties (i.e. Market Operators) to define the rules for imbalance settlement (imbalance price, imbalance calculation, settlement period etc.) and also perform different related functions like those in paragraphs 4 to 6 in Article 25.

The text shall not be written in a way forcing regions with hourly Imbalance Settlement period into shorter settlement periods.

Some regions currently have hourly imbalance settlement. A decision to move into imbalance settlement period with higher granularity could have a large impact on the complete energy value chain affecting utilities, market participants and TSO's in terms of both IT and System resources as well as operational resources.

Any decision to move into shorter balance settlement periods should not be forced from NCEB but be a result of a discussion and impact assessment around actual system and market needs from a wider perspective. Accordingly, the subsidiarity principle should apply; e.g. allow for national decisions on settlement period as long as it does not negatively impact market integration.

In reactive balancing regimes, the flexibility should be made available to the BRPs to balance their position until the end of the intraday gate closure time. Forcing (or even allowing) BSPs to offer their flexibility on the balancing market during the intraday timeframe is in contradiction with this principle, and likely to damage liquidity on the intraday market. This should remain clearly optional and only permitted under strict conditions, if at all.

See comment above on reactive balancing.

It is unclear in which cases a TSO might be allowed to activate Balancing Energy Bids for other purposes than Balancing (e.g. as an alternative to procuring losses?). *A priori* such situation should be avoided as there is a risk that this would overlap with other market timeframes.

Article 43-47 open up for TSO's to reserve cross zonal capacity from Day-Ahead market to be used for balancing purposes. There are concerns that such set up might have negative implications like

- a) price effects on other market timeframes
- b) lack of transparency of valuation methods used for capacity reservations
- c) overall reduced predictability and transparency of Day Ahead and Intraday markets

The reference to other market timeframes to establish a value for CZC for balancing is irrelevant since we are not comparing the same products (e.g. not nominated long term capacity is made available to the market through UIOSI).

ENTSO-E also refers to "avoided costs" when valuing the CZC (e.g. in Article 44(4)) but does not take into account for example the additional cost of procuring more strategic reserve to guarantee security of supply locally (as a consequence of reducing imports) or the impact on the European industry of a reduced convergence of wholesale energy prices.

Finally, it appears that TSOs intend to develop methodologies for the allocation of CZC to the balancing market based on forecasted market values (e.g. Art. 46(2), 47(1), 47(3)). It does not seem appropriate that TSOs base capacity allocation on their own forecasts of market prices as this could lead to market distortions. Surprisingly, it looks like the methodology referred to in Article 47 will not be subject to consultation.

This is a major topic where we think it is important to point out and address the concerns mentioned above.