

DECISION No 12/2023
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS

of 19 July 2023

**on the Regional Coordination Centre Regional Sizing of Reserve Capacity
Methodology**

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 Regulators¹ ('ACER'), and, in particular, Article 6(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 electricity², and, in particular, Article 27(3) and Article 37(5) thereof,

Having regard to the outcome of the consultation with the European Network of Transmission System Operators for Electricity ('ENTSO-E'),

Having regard to the outcome of the consultation with ACER's Electricity Working Group ('AEWG'),

Having regard to the favourable opinion of the Board of Regulators of 12 July 2023, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

1. INTRODUCTION

(1) Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity provided a legal framework to strengthen

¹ OJ L158, 14.6.2019, p. 22.

² OJ L158, 14.6.2019, p. 54.

regional coordination between transmission system operators ('TSOs') via the introduction of regional coordination centres ('RCCs') and assigning them with tasks of regional relevance. These tasks include performing the regional sizing of reserve capacity in accordance with Article 37(1)(j) of Regulation (EU) 2019/943 with further details outlined in Annex I of Regulation (EU) 2019/943.

- (2) Pursuant to Article 37(5) of Regulation (EU) 2019/943, ENTSO-E shall develop, in accordance with the procedure set out in Article 27 of Regulation (EU) 2019/943, for the relevant tasks not covered by the applicable network codes or guidelines a proposal and submit it to ACER for approval.
- (3) The present Decision follows from ENTSO-E's submission of a proposal for regional sizing of reserve capacity in accordance with Article 37(1)(j) of Regulation (EU) 2019/943 seeking approval by ACER; Annex I of this Decision sets out the methodology following from this proposal as approved by ACER.

2. PROCEDURE

- (4) On 8 November 2022, ENTSO-E published for public consultation the draft 'Proposal for the Regional Coordination Centres' task 'regional sizing of reserve capacity' in accordance with Article 37(1)(j) of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity'. The consultation lasted from 8 November 2022 to 9 December 2022.
- (5) On 17 March 2023, ENTSO-E submitted the 'Proposal for the Regional Coordination Centres' task 'regional sizing of reserve capacity' in accordance with Article 37(1)(j) of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity' (hereinafter 'the Proposal') to ACER for approval.
- (6) On 13 April 2023, ACER launched a public consultation on the Proposal, inviting all market participants to submit their comments by 15 May 2022. The summary and evaluation of the responses received are presented in Annex II to this Decision.
- (7) Between 17 March 2023 and 26 June 2023, ACER held regular discussions with ENTSO-E, RCCs and all TSOs and all regulatory authorities. In particular, the following procedural steps were taken:
 - 28 April 2023: discussion with ENTSO-E, RCCs, all TSOs and all regulatory authorities;
 - 3 May 2023 discussion with the regulatory authorities at the AEWG meeting;
 - 4 May 2023: discussion with ENTSO-E, RCCs, all TSOs and all regulatory authorities;
 - 10 May 2023: discussion with all regulatory authorities at the EB TF meeting;
 - 11 May 2023: discussion with ENTSO-E, RCCs, all TSOs and all regulatory authorities;

- 16 May 2023: discussion with the regulatory authorities at the EB TF meeting;
 - 17 May 2023: discussion with ENTSO-E, RCCs, all TSOs and all regulatory authorities;
 - 6 June 2023: oral hearing with ENTSO-E, RCCs and all TSOs;
 - 22 June 2023: discussion with the regulatory authorities at AEWG meeting.
- (8) On 24 May 2023, ACER shared its preliminary position on the Proposal with ENTSO-E, TSOs and regulatory authorities, inviting them to submit their written inputs by 5 June 2023, and offering a possibility to request an oral hearing.
- (9) By 5 June 2023, ACER has received from ENTSO-E written observations of ENTSO-E and the TSOs on ACER's preliminary position as well as the information that TSOs request an oral hearing. The requested oral hearing was held on 6 June 2023.
- (10) The AEWG was consulted between 19 and 26 June 2023 and provided its advice on 26 June 2023 (see Section 5.3).
- (11) On 12 July 2023, ACER's Board of Regulators issued a favourable opinion.

3. ACER'S COMPETENCE TO DECIDE ON THE PROPOSAL

- (12) Pursuant to Article 6(1) of Regulation (EU) 2019/942, ACER should adopt individual decisions on technical issues where those decisions are provided for in Regulation (EU) 2019/943.
- (13) Pursuant to Article 37(5) of Regulation (EU) 2019/943, for the tasks set out in this Article and not already covered by the relevant network codes or guidelines, ENTSO-E should develop a proposal, in accordance with the procedure under Article 27 of the same Regulation, and this proposal is subject to approval by ACER.
- (14) Pursuant to Article 27(3) of Regulation (EU) 2019/943, ACER should either approve or amend the proposal for the regional sizing of reserve capacity, within three months after receiving it from ENTSO-E. If it amends the proposal, ACER should consult ENTSO-E before approving the amended proposal.
- (15) ENTSO-E submitted the Proposal in accordance with Article 37(5) of Regulation (EU) 2019/943 to ACER for approval. The Proposal concerns the RCCs' task of the regional sizing of reserve capacity under Article 37(1)(j) of Regulation (EU) 2019/943. This task concerns technical issues and is not yet covered by any network code or guideline.
- (16) Therefore, ACER is competent to decide on this Proposal under Article 6(1) of Regulation (EU) 2019/942 and Articles 27(3) and Article 37(5) of Regulation (EU) 2019/943.

4. SUMMARY OF THE PROPOSAL

- (17) The Proposal consists of the following elements:
- a. The recitals and Articles 1 and 2, which contain the subject matter and scope and provisions on definitions and interpretation;
 - b. Article 3, which includes the general principles;
 - c. Articles 4 and 5, which contain the provisions for performing the RCCs' task of regional sizing of reserve capacity, namely the determination of minimum reserve capacity at system operation region level and the short-term assessment of availability of sharing amounts;
 - d. Article 6, which lays down the provisions for the RCCs' monitoring and reporting requirements in the context of this task;
 - e. Articles 7 and 8, which contain the requirements for the implementation timeline of the methodology and the reference language.

5. SUMMARY OF THE OBSERVATIONS RECEIVED

5.1. Public consultation on the Proposal

- (18) Responses to ACER's public consultation are summarised in Annex II to this Decision.

5.2. Consultation on ACER's preliminary position

- (19) The following paragraphs provide a summary³ of views on ACER's preliminary position received during the hearing phase between 24 May and 6 June 2023. ACER received written comments from ENTSO-E and all TSOs. In addition, ENTSO-E and TSOs provided oral comments to ACER during an oral hearing.
- (20) In their written response, ENTSO-E and the TSOs presented some general remarks on third country provisions, implementation deadlines, reporting and monitoring, effects on cost minimisation and considerations of different types of reserve capacity. With respect to the determination of the minimum capacity at SOR level, ENTSO-E and the TSOs included in the written submission their views on the definition of the sizing incident, the determination of the parameters used in the sizing process, and the thresholds which are impacting TSOs dimensioning of reserve capacity. Regarding the short-term assessment of the availability of sharing amounts, ENTSO-E and the

³ This is ACER's summary of key concerns and not to be considered a complete representation of the comments received.

TSOs presented their views with respect to the specificities of TSOs with multiple sharing agreements.

- (21) A detailed summary and assessment of the feedback received can be found in Section 6 below.
- (22) In their hearing input, ENTSO-E and the TSOs also mentioned that they would have needed more time than the 8 working days after receiving ACER's preliminary position. ACER generally agrees that the availability of time for this decision process was challenging for all involved parties, considering also that ACER should take its decision within three months according to Article 27(3) of Regulation (EU) 2019/943. This is why ACER extended the consultation period up to the last moment (taking into account the internal approval process that had to be launched afterwards), which did not allow the possibility for further extending the deadline for submitting views on the preliminary position. However, ACER exchanged extensively, including on preliminary drafts, with ENTSO-E and the TSOs, as well as regulatory authorities, during the entire consultation phase. This allowed ENTSO-E and the TSOs to be informed about ACER's position and prepare their views well ahead of ACER's actual submission of its preliminary position. Therefore, ACER considers that the period of two weeks given to ENTSO-E and the TSOs to provide their views on ACER's preliminary position was still sufficient and also justified.

5.3. Consultation of the AEWG

- (23) The AEWG provided its advice on 26 June 2023 and endorsed the draft Decision.

6. ASSESSMENT OF THE PROPOSAL

6.1. Legal framework

- (24) Article 37(1)(j) of Regulation (EU) 2019/943 provides that each RCC shall carry out the task of regional sizing of reserve capacity in the entire system operation region where it is established.
- (25) Point 7 of Annex I of Regulation (EU) 2019/943 sets out in more detail the task of regional sizing of reserve capacity.
- (26) Article 37(5) of Regulation (EU) 2019/943 provides that, for the tasks set out in Article 37 which are not already covered by the relevant network codes or guidelines, ENTSO-E must develop a proposal in accordance with the procedure set out in Article 27 of Regulation (EU) 2019/943.
- (27) Article 27(2) of Regulation (EU) 2019/943 requires ENTSO-E to consult on the proposal before submitting it.

6.2. Consultation and submission of the Proposal

- (28) Article 27(2) in conjunction with Article 37(5) of Regulation (EU) 2019/943 requires ENTSO-E to carry out a consultation involving all relevant stakeholders, including

regulatory authorities and other national authorities, and take the results of that consultation into consideration in its proposal, before submitting it.

- (29) As indicated in Recitals (4) and (5) above, ENTSO-E consulted stakeholders from 8 November 2022 until 9 December 2022, as well as regional security coordinators, and submitted the Proposal on 17 March 2023.
- (30) Therefore, ENTSO-E fulfilled the requirements of Article 27(2) in conjunction with Article 37(5) of Regulation (EU) 2019/943 regarding the involvement of stakeholders and the submission.

6.3. Required content of the Proposal

- (31) Article 37(1)(j) of Regulation (EU) 2019/943 on the RCCs' task of regional sizing of reserve capacity is set out in more detail in point 7 of Annex I of Regulation (EU) 2019/943, and in particular in point 7.1 of it, which provides that RCCs must calculate the reserve capacity requirements for the system operation region, and that the determination of reserve capacity requirements must:
- a. pursue the general objective to maintain operational security in the most cost effective manner;
 - b. be performed at the day-ahead or intraday timeframe, or both;
 - c. calculate the overall amount of required reserve capacity for the system operation region;
 - d. determine minimum reserve capacity requirements for each type of reserve capacity;
 - e. take into account possible substitutions between different types of reserve capacity with the aim to minimise the costs of procurement;
 - f. set out the necessary requirements for the geographical distribution of required reserve capacity, if any.
- (32) ACER considers that all of these elements have been included in the Proposal as explained below.
- (33) Article 1 of the Proposal provides that the task of regional sizing of reserve capacity consists of two subtasks (i) the determination of minimum reserve capacity at system operation region (hereafter referred to as 'SOR') level, and (ii) the short-term assessment of availability of sharing amounts. Articles 4 and 5 of the Proposal further specify those subtasks. The combination of the two subtasks, which forms the task of regional sizing of reserve capacity, is meant to fulfil the requirements of point 7.1 of Annex I of Regulation (EU) 2019/943.
- (34) The determination of minimum reserve capacity at SOR level as described in Article 4 of the Proposal aims at exploiting cost reduction potentials with regard to required

reserve capacity within the technical framework set by Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (the ‘SO Regulation’), thus maintaining operational security. However, some aspects of this process were not clarified in the Proposal. Therefore, ACER had to make amendments, as described in Section 6.4.3 below. In any case, ACER considers that once more information and experience is gained regarding the performance of the subtask described in Article 4 of the Proposal, additional amendments may be required in the methodology. Moreover, the short-term assessment of availability of sharing amounts, as described in Article 5 of the Proposal aims at avoiding high expenses for additional measures to maintain operational security in case of insufficient reserve capacity available. Thus, it allows TSOs to maintain operational security in the most cost-effective manner and enhances regional cooperation. Therefore, the Proposal as amended by ACER fulfils the requirement of point 7.1 (a) of Annex I of Regulation (EU) 2019/943.

- (35) The short-term assessment of the availability of the sharing amounts as described in Article 5 of the Proposal is assessed at least on a day-ahead basis. Moreover, the deadline set for the RCC for making the recommendation available to the relevant TSO(s) is set at the day-ahead timeframe related to the day-ahead balancing capacity procurement. Therefore, the Proposal fulfils the requirement of point 7.1 (b) of Annex I of Regulation (EU) 2019/943.
- (36) The determination of minimum reserve capacity at SOR level as described in Article 4 of the Proposal calculates the overall amount of required reserve capacity through a long-term top-down assessment at SOR level. Moreover, the short-term assessment of the availability of the sharing amounts as described in Article 5 of the Proposal calculates through a detailed bottom-up approach the amount of required reserve capacity in the short-term. However, Article 5(6) of the Proposal excluded some of the TSOs from this calculation process with respect to the assessment of the available cross-zonal capacity, so that the short-term calculation did not determine the amount of required reserve capacity for the SOR. Hence, ACER had to make amendments, as described in Section 6.4.4 below. Therefore, the Proposal as amended by ACER fulfils the requirement of point 7.1 (c) of Annex I of Regulation (EU) 2019/943.
- (37) Article 5 of the Proposal describes the process for the short-term assessment of availability of reserve capacity that can be shared on the basis of a sharing agreement between LFC blocks within a synchronous area following the provisions of Articles 166, 168 and 170 of the SO Regulation or between synchronous areas following the provisions of Articles 177 and 179 of the SO Regulation. These provisions include both frequency restoration reserves and replacement reserves, thus fulfilling the requirement of point 7.1 (d) of Annex I of Regulation (EU) 2019/943, with respect to these two types of reserves. ACER noted during the consultation phase that the Proposal does not include provisions for the determination of the reserve capacity requirements for the third type of reserves, i.e. frequency containment reserves. However, ACER understands that there is already a process at SOR level for the determination of the minimum requirements for frequency containment reserves, pursuant to Article 153 of the SO Regulation. ENTSO-E and the TSOs noted in their

hearing input that the reason for not including in the Proposal provisions for the determination of the reserve capacity requirements for the frequency containment reserves was that *“introducing an RCC role in facilitating TSOs in this well-known, simple, and already efficiently and effectively implemented task was considered to bring no benefits”*. Although ACER considers that there are benefits in such process, ACER acknowledges that the process for establishing the tasks already described in the Proposal is demanding and time-consuming both for the RCCs and the TSOs, hence no additional burden is necessary at the beginning of this implementation. However, ACER considers that the determination of the reserve capacity requirements also for the frequency containment reserves at SOR level should be performed by the RCC, and once this methodology is implemented for frequency restoration reserves and replacement reserves, an amendment is expected to also include the frequency containment reserves. Therefore, the Proposal fulfils the requirement of point 7.1 (d) of Annex I of Regulation (EU) 2019/943.

- (38) Article 5 of the Proposal describes the process for the short-term assessment of the availability of the sharing amounts, allowing the TSOs to rely on sharing of reserves, thus supporting them in concluding sharing agreements. Through these agreements, the TSOs with expensive local reserve capacity are able to substitute these with cheaper reserve capacity available cross-border, minimising their costs related to the procurement of balancing capacity. Hence, possible substitutions between different types of reserve capacity with the aim to minimise the costs of procurement are taken into account implicitly in Article 5 of the Proposal. Therefore, the Proposal fulfils the requirement of point 7.1 (e) of Annex I of Regulation (EU) 2019/943.
- (39) Article 4 of the Proposal defines the sizing incident for the determination of the minimum reserve capacity, listing cases resulting from the outage of different assets, while the local data – and changes to the assets status – at LFC block level should be communicated to the RCC, so that it performs a recalculation of the required reserve capacity. Article 5 of the Proposal describes the process for the short-term assessment of the availability of the sharing amounts and if insufficient availability is detected by the RCC, a redistribution of the required reserve capacity to the relevant LFC blocks is performed. Therefore, the Proposal fulfils the requirement of point 7.1 (f) of Annex I of Regulation (EU) 2019/943.

6.4. Amendments to the Proposal

- (40) Further to the amendments that ACER had to make, in order for the Proposal to fulfil the requirement of point 7.1 of Annex I of Regulation (EU) 2019/943, as already mentioned in the previous Section, additional amendments were required either to align the Proposal with the legal framework or to clarify its provisions. All the amendments to the Proposal, in the order of the Articles of the Proposal, are described in this Section. Finally, ACER introduced some necessary editorial changes to improve the readability and the structure of the Proposal.

6.4.1. On the scope and the definitions of the methodology (Articles 1 and 2 of the Proposal)

(41) Article 1(2) of the Proposal includes interpretations of the relevant provisions, which are better suited in the whereas section. ACER deleted and replaced paragraph 2 of Article 1 of the Proposal with paragraph 1 of Article 3 of the Proposal, which reflects the scope of the methodology, explicitly mentioning the subtasks that it covers.

(42) ACER amended the ‘sharing amount’ definition, in order to align it with the wording of Article 163 of the SO Regulation (which is also referred to in the definition) and introduced a new definition (for the ‘sizing incident’), which is extensively used in Article 4 of the Proposal. The wording which was proposed by ENTSO-E and the TSOs during the consultation phase was used for the definition in ACER’s preliminary position. Additional amendments which were proposed by ENTSO-E and the TSOs in their hearing input were also accepted.

6.4.2. On the general principles (Article 3 of the Proposal)

(43) ACER moved paragraph 1 of Article 3 of the Proposal to Article 1 of the Proposal, as explained above, and deleted the first part of paragraph 3 of Article 3 of the Proposal, which is more appropriately and sufficiently addressed in the whereas-section. .

(44) Moreover, in paragraph 3 of Article 3 of the Proposal, ENTSO-E proposed that the TSOs decide in a coordinated manner on the values of specific parameters referred to in the Proposal. ACER agrees with the coordinated determination of these values; however, it considers that since these parameters are essential for the implementation of this methodology and its effects, the values should be part of and be defined in this methodology. ACER understands that ENTSO-E does not have sufficient data at this point to already determine the value of the parameters, and ACER is also in no position to make this determination without the relevant data. Therefore, in its preliminary position ACER amended paragraph 3 of Article 3 of the Proposal to introduce a process in accordance with Article 27 of Regulation (EU) 2019/943, requiring ENTSO-E to submit a proposal for amending this methodology in the future, and in any case before the implementation of this methodology, proposing the concrete values of the specific parameters. ACER suggests these values to be included in an Annex of this methodology, in order to limit the scope of necessary changes to the methodology, which may also facilitate their approval process. In their hearing input, ENTSO-E and the TSOs argued that this process is an unjustified effort to define relevant parameters per SOR and suggests their values to be decided at SOR level. ACER acknowledges that the parameters may have different values per SOR. However, the geographical scope for the approval of this methodology is European and there is no relevant methodology on the level of individual SORs in which such parameters could be approved. Therefore, ACER amended the Proposal as indicated in its preliminary position.

(45) Apart from the parameters that were listed in the Proposal, ACER identified an additional one, following the discussions with ENTSO-E and the TSOs, linked to the determination of the sizing incident as explained in the next Section. ACER added this parameter as point (c) in paragraph 3 of Article 3 of the Proposal in its preliminary

position. However, considering the comments of ENTSO-E and the TSOs on the definition of the sizing incident, as explained above, ACER did not include this amendment in the Proposal as finally approved.

6.4.3. On the determination of minimum reserve capacity at SOR level (Article 4 of the Proposal)

- (46) ENTSO-E proposed in paragraph 3 of Article 4 of the Proposal the determination of the sizing incident following the assessment of three distinct cases to identify the largest imbalance at SOR level based on the N-2 criterion, for SORs with multiple LFC blocks. ACER agrees with the concept. However, in order to reduce the calculations – and the required data exchange –, and since the principle remains the same, ACER, in its preliminary position, suggested the RCC to perform the same exercise (i.e. to identify the largest imbalance based on the N-2 criterion at SOR level) not based on the primary data to be sent by the TSOs, but using already the outcome of the TSOs' calculations when determining their dimensioning incident. Following the discussions with the TSOs, ACER amended the process for determining the sizing incident described in Article 4(3) of the Proposal, defining different cases for SORs with one, two and more than two LFC blocks, in line with the comments of ENTSO-E and the TSOs to ACER's preliminary position.
- (47) In paragraph 4 (point (a)) of Article 4 of the Proposal, ENTSO-E proposed the sampling for the imbalance data time series to cover the time to restore frequency according to Annex III of the SO Regulation. ACER notes that this value is the same for all SORs, i.e. 15 minutes. Therefore, in its preliminary position, ACER replaced this reference to the SO Regulation with the actual value for the sampling period. ENTSO-E and the TSOs argued in their hearing input that this detailed definition is not necessary, and that the reference to the SO Regulation would help avoid unnecessary efforts in the event of an adjustment of the relevant provisions in the SO Regulation. ACER understands that in case of a change of the SO Regulation, indeed an amendment of the methodology would be required, however ACER considers that such a change is not foreseen in the future and in case it happens, additional provisions would have to be amended anyway. Therefore, ACER amended the Proposal as indicated in its preliminary position.
- (48) In paragraph 4 (points (c) and (d)) of Article 4 of the Proposal, ENTSO-E included a reliability level of 99.99% of the time for covering (positive and negative, respectively) imbalances. Following the discussions with the TSOs, it became evident that this reliability level is not based on a specific analysis. Hence its impact on the calculation of the minimum amount of reserve capacity is not known. ACER understands that the TSOs cannot provide simulation results at this point, to justify and support a value for this reliability threshold. Therefore, ACER amended the Proposal to replace this value with a parameter to be defined later, through an amendment of this methodology, in line with the process described in paragraph 3 of Article 3 of the Proposal as approved, as explained in the previous Section.
- (49) In paragraph 6 of Article 4 of the Proposal, ENTSO-E proposed some margin (5% in case of shortage and 10% in case of surplus), when comparing the sum of the reserve

capacity requirements of the relevant SOR to the regional sized reserve capacity, in order for the RCC to issue a recommendation to either of the two directions (reducing or increasing the sharing amounts, respectively). ACER considers that since there will anyway be a reliability threshold in the calculation of the minimum amount of reserve capacity at SOR level, there is no need to have an additional margin in this comparison. Therefore, in its preliminary position, ACER considered that 100% of the regional sized reserve capacity should be taken into account for the comparison, and deleted the proposed margin accordingly. ENTSO-E and the TSOs argued in their hearing input that the margins were introduced to avoid inefficient adaptations of the TSO's dimensioning of reserve capacity based on the RCC sizing process, and that TSOs should not be additionally overloaded with unnecessary tasks that do not bring significant efficiency gains. ACER understands that following the subtask described in Article 4 of the Proposal the RCC calculates the minimum reserve capacity at SOR level and does not force adaptations to TSOs' processes. Moreover, it is an annual process, so there is no overload put on TSOs. Therefore, ACER amended the Proposal as indicated in its preliminary position.

- (50) Finally, in the last part of paragraph 8 of Article 4 of the Proposal, ENTSO-E proposed an additional calculation "for reasons of comparison". However, the outcome of this calculation is not used in the methodology, nor is it clear in which way it would be useful/helpful for the TSOs. Therefore, ACER deleted this part, but acknowledges that TSOs and RCCs have the discretion to perform any kind of analysis or calculation they consider helpful for reasons of comparison in the context of their tasks.

6.4.4. On the short-term assessment of availability of sharing amounts (Article 5 of the Proposal)

- (51) ACER deleted some sentences in paragraphs 2 and 3 of Article 5 of the Proposal, as they did not include any enforceable provisions, but rather described the purpose of the provisions that are included in this Article.
- (52) ENTSO-E proposed in paragraph 6 of Article 5 of the Proposal the assessment of the available cross-zonal capacity to be limited to TSOs with less than 3 sharing agreements. ACER understands that in case of a control capability receiving TSO with multiple sharing agreements, the assessment of the available cross-zonal capacity is not straightforward, as there are interdependencies in the availability of the cross-zonal capacity on the multiple borders included in the sharing agreements. Therefore, instead of excluding these TSOs from the scope of the RCC task, ACER included in its preliminary position an additional requirement for the RCC to take into account these interdependencies when performing the task for a control capability receiving TSO with multiple sharing agreements. In their comments to ACER's preliminary position, ENTSO-E and the TSOs suggested to keep the original proposal for excluding these TSOs from the scope of the assessment of the available cross-zonal capacity. Moreover, during the oral hearing, TSOs stated that they prefer to define exact parameters in the methodology and mentioned that TSOs have contractual freedom and should act only on the basis of what is approved by the national regulator. ACER understands that all TSOs should be included in the scope of the task, so that the requirements of point 7.1 (c) are fulfilled, as explained in Recital (36) above, and

considers that the additional requirement for the RCC – to take into account the interdependencies for a control capability receiving TSO with multiple sharing agreements – still provides the RCC with flexibility of how to do it.

- (53) Moreover, in paragraph 6 of Article 5 of the Proposal, ENTSO-E proposed also that, in case of a reserve capability receiving TSO with multiple sharing agreements, only the minimum sharing amount should be taken into account. ACER understands that this may not reflect accurately the amount which could be considered from the combination of the sharing agreements in general, leading to the paradox case where the signing of an additional sharing agreement by a TSO could lower the sharing amount that should be taken into account for this TSO. Hence, in its preliminary position, ACER deleted this provision in paragraph 6 of Article 5 of the Proposal and added a relevant provision in paragraph 8 of Article 5 of the Proposal which requires the RCC to take into account the specificities of TSOs with multiple sharing agreements when checking whether the agreed sharing amount can be provided to the control capability receiving TSO. In their comments to ACER's preliminary position, ENTSO-E and the TSOs, suggested to keep the original proposal for paragraph 6 of Article 5 of the Proposal, as the economic interest in reducing the costs for balancing capacity procurement should be given lower priority than the interest in stable and cost-efficient system operation. ACER understands the concerns on accurately calculating the sharing amount in case of a reserve capability receiving TSO with multiple sharing agreements, and the tendency of TSOs to prefer a more conservative approach. However, ACER did not simply delete the provision, but it replaced it with one which requires the RCC to take into account the specificities of TSOs with multiple sharing agreements, hence addressing the concerns from ENTSO-E and the TSOs. Therefore, ACER amended the Proposal as indicated in its preliminary position.
- (54) In paragraph 9 of Article 5 of the Proposal, ACER clarified that when the RCC informs the relevant TSOs about the possibility to increase the sharing amount, it needs to do so in the form of a recommendation.
- (55) In paragraph 11 of Article 5 of the Proposal, ACER clarified that the concerns of affected TSOs should be taken into account according to the process established pursuant to Article 150 of the SO Regulation.

6.4.5. On the monitoring and reporting (Article 6 of the Proposal)

- (56) In paragraph 4 of Article 5 of the Proposal, ENTSO-E proposed that the RCC, when assessing the availability of the sharing amounts, may conclude (based on the simultaneously expected demands for reserve capacity in the SOR derived from the uncertainties of the day-ahead generation and load forecasts of the SOR) that it is likely to have insufficient reserve capacity available for the sharing of reserves. Since there is no clear methodology envisaged for this assessment, ACER, following the discussions with TSOs and ENTSO-E, suggested the RCCs to have a regular reporting to document these cases and assess the efficiency of the process. In its preliminary position, ACER introduced a new paragraph 2 in Article 6 of the Proposal to describe this monitoring task. ENTSO-E and the TSOs argued in their hearing input that these

obligations are redundant with the provisions in Article 46(1)(b) of Regulation (EU) 2019/943, as a recommendation would be issued by the RCC in case of insufficient reserve capacity, and, therefore, the new provision can be deleted. ACER, taking into account the comments of ENTSO-E and the TSOs in their hearing input, agrees that such reporting and monitoring can be considered as required under Article 46(1) of Regulation (EU) 2019/943, and amended accordingly paragraph 2 of Article 6 of the Proposal.

6.4.6. On the implementation timeline (Article 7 of the Proposal)

- (57) Paragraph 3 of Article 7 of the Proposal includes a general provision for obliging TSOs to endeavour concluding agreements with third country TSOs for the implementation of this methodology. In its preliminary position, ACER considered that if a third country TSO is to be included in the implementation of this methodology, there should be amendments to it to be developed by TSOs and RCCs, proposed by ENTSO-E and approved by ACER, hence ACER deleted the respective paragraph. In their hearing input, ENTSO-E and the TSOs stated that the deleted provision aims specifically at allowing EU TSOs to conclude bilateral agreements with third country TSOs to cooperate with third country TSOs as appropriate. In that regard, ENTSO-E and the TSOs explained the relevance of this provision in the first place for TSOs of the Energy Community Contracting Parties only: The transposition of Regulation (EU) 2019/943, of the EB Regulation and the SO Regulation in the Energy Community would mean that all the TSOs of the Energy Community Contracting Parties would have to apply the methodology and, if necessary, to have agreements with the TSOs of the neighbouring EU Member States regarding cross-zonal capacity. Later, ENTSO-E claimed that the deleted provision ensures clarity about the fact that TSOs from third countries can generally enter into bilateral, respectively multilateral, agreements with EU SOR TSOs, and consistency with the third country provisions already approved by ACER in other RCC task methodologies following Article 37(1) of Regulation (EU) 2019/943, on the model of the clause used in ACER Decision No 05/2022 on the definition of SORs⁴. According to ENTSO-E, deleting the provision would therefore create on the one hand unclarity about the possibility of third country TSOs to access certain RCCs services and of EU TSOs to conclude the related arrangements with third country TSOs, on the other hand it would cause inconsistencies with already approved methodologies. According to ENTSO-E, such deletion would have also other consequences, such as potentially hampering the cooperation with third countries within the synchronous area of Continental Europe. First, ACER notes that independently of the inclusion of such a provision in this methodology TSOs already have in principle the freedom to conclude bilateral agreements with third country TSOs in accordance with the current legal framework. Additionally, the inclusion of such a provision in this methodology cannot grant to TSOs rights that are not already provided to them by the current legal framework. Second, as regards TSOs of the Energy Community Contracting Parties, ACER does

⁴ Article 5 of Annex I.

not consider the provision necessary to allow the transposition of Regulation (EU) 2019/943, of the EB Regulation and the SO Regulation in the Energy Community. Indeed, the implementation of term and conditions or methodologies adopted under EU Regulations by the Contracting Parties of the Energy Community and their TSOs is addressed in a more general and overarching legal framework, including the Decision of the Ministerial Council of the Energy Community No D/2022/03/MC-EnG of 15 December 2022. Moreover, ACER considers that the provision is too general and too vague to provide legal clarity on how the implications of the bilateral agreements with the TSOs of the Contracting Parties of the Energy Community may affect the implementation of the methodology. Third, ACER considers that the geographical scope of the RCC task described in this methodology is the respective SOR, and ACER understands that there is no legal basis for extending the geographical scope of this task outside the respective SOR, i.e. to include also a third country TSO. ACER acknowledges and supports the intention of the TSOs to conclude with the third country TSOs not bound by Regulation (EU) 2019/943 agreements setting the basis for their cooperation concerning secure system operation and setting out arrangements for the compliance of the third country TSOs with the obligations set in Regulation (EU) 2019/943. However, ACER understands that the particular RCC task described in this methodology is not about system operation (although it pursues the general objective to maintain operational security in the most cost effective manner), but it is related to a calculation (of the reserve capacity requirements) that should be performed at SOR level, in accordance with the requirements of point 7 of Annex I of Regulation (EU) 2019/943; hence extending this calculation beyond the borders of the SOR lacks legal basis. Therefore, ACER amended the Proposal as indicated in its preliminary position.

7. CONCLUSION

- (58) For all the above reasons, ACER considers the Proposal in line with the requirements of Regulation (EU) 2019/943, provided that the amendments described in this Decision are integrated in the Proposal, as presented in Annex I.
- (59) Therefore, ACER approves the Proposal subject to the necessary amendments and editorial changes. To provide clarity, Annex I to this Decision sets out the Proposal as amended and approved by ACER,

HAS ADOPTED THIS DECISION:

Article 1

The Regional Coordination Centre Regional Sizing of Reserve Capacity Methodology according to Article 37(1)(j) of Regulation (EU) 2019/943 is adopted as set out in Annex I to this Decision.

Article 2

This Decision is addressed to ENTSO-E.

Done at Ljubljana, on 19 July 2023.

- SIGNED -

*For the Agency
The Director*

C. ZINGLERSEN

Annexes:

Annex I – RCC Regional Sizing of Reserve Capacity Methodology

Annex Ia – RCC Regional Sizing of Reserve Capacity Methodology – with track changes -
(For information only)

Annex II – Evaluation of responses to the public consultation on the harmonised cross-zonal capacity allocation methodology, the methodology for the regional sizing of reserve and the methodology for the regional procurement of balancing capacity - (For information only)

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 Agency 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.