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Dear Mr. Pototschnig, *dear Alberto,*

Subject: Amendments to the ENTSO-E Network Code on Load Frequency Control and Reserves

With this letter, I wish to refer to ENTSO-E's Network Code on Load Frequency Control and Reserves (NC LFCR), as submitted on 28 June 2013 to the Agency for a reasoned opinion pursuant to Article 6(7) of Regulation (EC) No 714/2009.

Recitals (7) to (9) as well as Articles 4(1) to (4) of the NC LFCR, related to the regulatory approvals, are equivalent to the Recitals (8) to (10) and Articles 4(1) to (3) of the Network Code on Operational Security (NC OS) and to the Recitals (7) to (9) and Articles 4(1) to (4) of the Network Code of Operational Planning and Scheduling (NC OPS) as respectively submitted to the Agency on 28 February 2013 and 28 March 2013.

With regard to those provisions, the Agency raised two areas of concerns in its Opinions No 10/2013 and No 12/2013. In the recitals, the Agency recommended to clarify the legal framework applicable to the regulatory approvals, especially as regards the relationship between the competences of national regulatory authorities or other relevant national authorities and the 3rd Package. In Article 4, the Agency recommended to ensure that the list of items submitted to regulatory approvals is not limitative of the regulatory approval powers at national level.

To address these concerns, ENTSO-E adopted a wording to replace the above-mentioned provisions in the NC OS and NC OPS. For the equivalent NC LFCR's provisions, ENTSO-E supports a consistent alignment during the comitology preparatory phase so that the relevant provisions of the NC LFCR read as outlined in the annex to this letter.

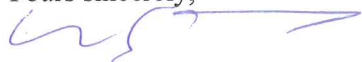
When assessing the NC LFCR for its reasoned opinion pursuant to Article 6(7) of Regulation (EC) No 714/2009, ENTSO-E asks the Agency therefore to consider the submitted NC LFCR as being amended as per the annex to this letter.

Consequently, ENTSO-E sees no need, nor will it use its possibility pursuant to Article 6(8) of Regulation (EC) No 714/2009 to resubmit a revised version of the NC LFCR merely to amend Recitals (7) to (9) as well as Articles 4(1) to (4) of the NC LFCR, in case the Agency would issue a reasoned opinion with similar considerations on the two above mentioned concerns as expressed in its Opinions No 10/2013 and No 12/2013. For the avoidance of doubt, this position does not refer to other provisions of the NC LFCR than the ones aforementioned, nor does it reflect ENTSO-E's position in

case the Agency issues an opinion reflecting any other substantial non-compliance of the NC LFCR with the Framework Guidelines on Electricity System Operation.

I hope this enables a smooth and efficient continuation of the NC LFCR elaboration process towards its speedy adoption via the comitology process, ideally with the Agency being able to adopt a reasoned opinion and a recommendation at the same time.

Yours sincerely,



Konstantin Staschus, PhD
Secretary-General
ENTSO-E

Annex: Amendments to the NC LFCR

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New recitals 7 and 8 for the NC LFCR:

“(7) Directive 2009/72/EC and Regulation (EC) No 714/2009 provide for powers and duties of national regulatory authorities with regard to measures taken by Transmission System Operators (TSO), allowing Member States to involve in certain cases also other national authorities. Those competences should also apply to measures taken by TSOs under this Network Code. To ensure consistent cross-border application of the most relevant of those competences, it is necessary to clarify the competence of national regulatory authorities to approve or fix specific terms and conditions or actions necessary to ensure operational security or their methodologies. The Network Code does not preclude Member States from providing for the approval or fixing by national regulatory authorities of other relevant terms and conditions or actions necessary to ensure operational security or their methodologies within a timeframe allowing the timely delivery of those terms and conditions or actions.

(8) This Network Code is not detrimental to the right of any party having a complaint against a Transmission System Operator or Distribution System Operator in relation to that operator’s obligations under this Network Code to direct its complaint to the regulatory authority”

New Article 4 on Regulatory Approval for the NC LFCR:

“1. National Regulatory Authorities or, when explicitly foreseen in national law, other relevant national authorities shall be responsible for approving the methodologies and conditions establishing the framework for the adoption by TSOs of terms and conditions or actions necessary for Operational Security as referred to in Article 4(2) to Article 4(4).

2. For the purpose of this Network Code, each TSO shall submit the following methodologies and conditions to the National Regulatory Authority or, when explicitly provided for in national law, other relevant national authority for approval:

- a) the additional requirements for FCR Providing Groups pursuant to Article 44(3);
- b) the exclusion of FCR Providing Groups from the provision of FCR pursuant to Article 44(3);
- c) FRR technical requirements defined by the TSO pursuant to Article 47(3);
- d) the exclusion of FRR Providing Groups from the provision of FRR pursuant to Article 47(4);
- e) RR technical requirements defined by the TSO pursuant to Article 49(3); and
- f) the exclusion of RR Providing Groups from the provision of RR pursuant to Article 49(4).

3. For the purpose of this Network Code, each TSO shall submit the following methodologies and conditions established in cooperation with the other TSOs of the same LFC Block to the relevant National Regulatory Authority or, when explicitly provided for in national law, other relevant national authority for approval:

- a) definition of mitigation measures pursuant to Article 29;
- b) definition of the Process Responsibility Structure pursuant to Article 32;
- c) the definition of the methodology to limit the amount of FRR Capacity that can be made available for the Cross-Border FRR Activation Process pursuant to Article 37(7);
- d) the definition of the methodology to limit the amount of RR Capacity that can be made available for the Cross-Border RR Activation Process pursuant to Article 38(7);

- e) the measures to reduce the FRCE by requiring changes in the Active Power production or consumption of Power Generating Modules and Demand Units pursuant to Article 42(17);
- f) definition of FRR dimensioning rules pursuant to Article 46(1);
- g) escalation procedure pursuant to Article 46(4);
- h) definition of FRR Availability Requirements and control quality pursuant to Article 47(2);
- i) requirements of RR dimensioning rules pursuant to Article 48(3);
- j) escalation procedure pursuant to Article 48(7);
- k) definition of RR Availability Requirements pursuant to Article 49(2);
- l) limits for the Exchange of FCR within a LFC Block for Synchronous Area CE pursuant to Article 50(2);
- m) limits for the Exchange of FRR within a LFC Block Article 54; and
- n) limits for the Exchange of RR within a LFC Block Article 56(2).

4. For the purpose of this Network Code, each TSO shall submit the following methodologies and conditions established in cooperation with the other TSOs of the same Synchronous Area to the relevant National Regulatory Authority or, when explicitly provided for in national law, other relevant national authority for approval:

- a) the modification of the Frequency Quality Defining Parameters or the Frequency Quality Target Parameter pursuant to Article 19(6);
- b) common methodology to assess the risk of FCR Exhaustion pursuant to Article 21(3);
- c) definition of mitigation measures pursuant to Article 29;
- d) the dimensioning approach for FCR pursuant to Article 43(2);
- e) determination of additional properties of the FCR pursuant to Article 44(2);
- f) methods to ensure recovery of energy reservoirs for FCR in GB and IRE pursuant to Article 45(6)b);
- g) limits for the Exchange of FCR within the Synchronous Areas IRE, GB and NE pursuant to Article 50(2);
- h) limits for the cross Synchronous Area Exchange of FCR pursuant to Article 59(1);
- i) limits for the cross Synchronous Area Sharing of FCR for GB and IRE pursuant to Article 60(2);
- j) limits for the cross Synchronous Area Exchange of FRR pursuant to Article 62(1);
- k) limits for the cross Synchronous Area Sharing of FRR pursuant to Article 63(1);
- l) limits for the cross Synchronous Area Exchange of RR pursuant to Article 64(1); and
- m) limits for the cross Synchronous Area Sharing of RR pursuant to Article 65(1).

5. National Regulatory Authorities shall, no later than six months after having received the methodologies or conditions establishing the framework for the adoption by TSOs of terms and conditions or actions necessary to ensure Operational Security, provide TSOs with an approval or request to amend the proposed methodology or condition.

6. Where the concerned National Regulatory Authorities have not been able to reach an agreement within a period of six months from when the case was referred to the last of those National Regulatory Authorities, or upon a joint request from the competent National Regulatory Authorities, the Agency shall decide upon those regulatory issues that fall within the competence of National Regulatory Authorities as specified under Article 8 of Regulation (EC) No 713/2009.”