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REQUEST FOR AMENDMENT (RfA) BY RELEVANT REGULATORY AUTHORITIES

ON

THE TSOs' PROPOSAL FOR THE ESTABLISHMENT OF COMMON AND HARMONISED RULES AND PROCESSES FOR THE EXCHANGE AND PROCUREMENT OF BALANCING CAPACITY FOR FREQUENCY CONTAINMENT RESERVES (FCR) IN ACCORDANCE WITH ARTICLE 33 AND EXEMPTION IN ACCORDANCE WITH ARTICLE 34 OF COMMISSION REGULATION 2017/2195 ESTABLISHING A GUIDELINE ON ELECTRICITY BALANCING

25 September 2018



I. Introduction and legal context

Article 33(1) of the Regulation 2017/2195¹ requires that TSOs exchanging balancing capacity shall develop a proposal for the establishment of common and harmonised rules and processes for the exchange and procurement of balancing capacity. TSOs shall respect in the procurement the requirements in Article 32 of Regulation 2017/2195.

The FCR TSOs' proposal for the establishment of common and harmonised rules and processes for the exchange and procurement of balancing capacity for FCR was received by the last relevant Regulatory Authority on 14 June 2018, together with a request for exemption in accordance with Article 34 of Regulation 2017/2195.

This agreement of the relevant Regulatory Authorities shall provide evidence that a decision on the FCR proposal in accordance with Article 33 and the request for exemption in accordance with Article 34 do not, at this stage, need to be adopted by ACER pursuant to Article 5(7) of Regulation 2017/2195. This agreement is intended to constitute the basis on which the **relevant Regulatory Authorities will each subsequently request amendments** to the TSOs' proposal for the establishment of common and harmonised rules and processes for the exchange and procurement of balancing capacity for FCR and the request for amendment in accordance with Article 34.

The legal provisions relevant to the submission and approval of the FCR proposal can be found in Articles 5, 32, 33 and 34 of Regulation 2017/2195.

Article 5(5) of Regulation 2017/2195 specifies that the proposal shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation.

Article 32 lays down general procurement rules for reserve capacity, which shall be market based and close to real time.

Article 33 of Regulation 2017/2195 gives general provisions regarding the exchange of balancing capacity, which can be established on a voluntary basis by TSOs.

Article 34 provides rules for allowing the transfer of balancing capacity in the geographical area where the procurement takes place and lays down the possibility for giving TSOs an exemption. The condition for this exemption is a contracting period of strictly less than one week.

In particular, Article 5(5) specifies that: Relevant Regulatory Authorities can grant a longer implementation timescale than 12 months if by common approval.

The common FCR procurement covers currently TSOs in Austria, Belgium, France, Germany, Switzerland and the Netherlands. Relevant Regulatory Authorities for the common FCR procurement are situated in Austria, Belgium, Denmark, France, Germany and the Netherlands.

¹ Commission regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing

In the specific case of Denmark the relevant Regulatory Authority DUR will approve the FCR proposals together with the other participating countries but the requirements will become applicable at a later point in time which is yet to be defined.

Switzerland with the Swiss TSO Swissgrid participates in the common procurement but is not part of the approval process in accordance with Commission regulation (EU) 2017/2195 due its non-EU status. Nevertheless Swissgrid will apply the requirements in the FCR proposal in accordance with the TSOs' implementation plan in line with national Swiss law.

II. The TSOs' FCR Proposal

The draft FCR proposal was consulted by relevant TSOs for one month, from 15 January 2018 to 15 February 2018, in line with Article 10 of Regulation 2017/2195. Along with the draft proposal, the relevant TSOs published a consultation report from the first unofficial consultation.

The final version of the relevant TSOs' FCR proposal, dated 26 April 2018, was received by the last Regulatory Authority on 14 June 2018, together with a separate document providing a clear and robust justification for including or not the views resulting from the consultation. The proposal includes a proposed timescale for its implementation and a description of its expected impact on the objectives of Regulation 2017/2195, in line with Article 10(6) of Regulation 2017/2195. Next to this proposal, TSOs have also requested an exemption from the obligation to allow the transfer of balancing capacity in accordance with Article 34.

Article 5(6) of Regulation 2017/2195 requires relevant Regulatory Authorities to consult and closely cooperate and coordinate with each other in order to reach an agreement, and make decisions within six months following receipt of submissions of the last relevant Regulatory Authority concerned. A decision is therefore required by each relevant Regulatory Authority by 14 December 2018.

III. Relevant FCR Regulatory Authorities' position on FCR proposal in accordance with Article 33

In accordance with Article 5(5) of Regulation 2017/2195 relevant Regulatory Authorities shall approve the included timescale for implementation for the FCR proposal.

Due to stakeholder feedback received in the official consultation relevant Regulatory Authorities request TSOs to move the first implementation step to 1 July 2019. This solution will further allow synchronising the implementation of daily auctions with the introduction of marginal pricing.

Relevant Regulatory Authorities are of the opinion that, except for the date of the first implementation step (26 November 2018), the other provisions for common and harmonised procurement rules for balancing capacity for FCR are fully in line with Articles 32 and 33 of regulation 2017/2195.



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In order to take into account the feedback received during the public consultation, relevant Regulatory Authorities ask FCR TSOs to communicate the technical details of the participation to the new platform in a timely manner in order to facilitate the implementation of daily auctions with marginal pricing. This could be in the form of an implementation guide.

IV. Relevant FCR Regulatory Authorities' position on exemption in accordance with Article 34

Relevant Regulatory Authorities have assessed the situation for granting an exemption in accordance with Article 34 of Regulation 2017/2195. With the introduction of daily auctions by 1 July 2019, the conditions would be fulfilled to grant an exemption from the obligation to allow the transfer of obligations to provide FCR capacity. This exemption would be applicable in the whole geographic region where the FCR capacity is commonly procured.

Relevant Regulatory Authorities therefore will request an amendment to the request for exemption in accordance with Article 34 to change the date from 26 November 2018 to 1 July 2019. From the date of the relevant Regulatory Authorities approval on the exemption until the introduction of daily auctions (1 July 2019) no cross-border transfer of obligations for providing FCR capacity has to be allowed by TSOs in the geographic region of the FCR cooperation.

V. Actions / conclusion

Relevant Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to reach an agreement that the FCR proposal in accordance with Article 33 cannot be approved by relevant Regulatory Authorities.

Relevant Regulatory Authorities therefore request TSOs to change the proposal in accordance with Article 33 in such a way that the implementation time for daily auctions and marginal pricing is moved to 1 July 2019.

Relevant Regulatory Authorities have also assessed, consulted and closely cooperated and coordinated to reach an agreement that the proposal asking for an exemption in accordance with Article 34 needs to be adapted accordingly. The adaptation should cover an alignment with the date for the introduction of daily auctions (1 July 2019). From the date of relevant Regulatory Authorities' approval no cross-border transfer of the obligation of providing FCR in the FCR region has to be allowed by TSOs and with this approval relevant Regulatory Authorities will grant an exemption in accordance with Article 34 from the day on that the condition of daily auctions (1 July 2019) is fulfilled.



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In accordance with Article 6(1) of Regulation 2017/2195, relevant Regulatory Authorities request an amendment to the proposals for the establishment of common and harmonised rules and processes for the exchange and procurement of balancing capacity for FCR pursuant to Article 33(1) and the exemption pursuant to Article 34(1) of Regulation 2017/2195.

The amended proposals shall take into account the relevant Regulatory Authorities position stated above, and shall be submitted by all FCR TSOs no later than two months following the requirement from the Regulatory Authorities, in accordance with Article 6(1) of Regulation 2017/2195.

Relevant Regulatory Authorities must therefore make their decisions to request an amendment on the FCR proposal, on the basis of this agreement, by 2 October 2018.