

## COMMISSION REGULATION (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing

Incorporated and adapted by the Ministerial Council Decision D/2022/03/MC-EnC of 15 December 2022 on the incorporation of Regulation (EU) 2019/942, Regulation (EU) 2019/943, Regulation (EU) 2015/1222, Regulation (EU) 2016/1719, Regulation (EU) 2017/2195, Regulation (EU) 2017/2196, Regulation (EU) 2017/1485 in the Energy Community acquis, amending Annex I of the Energy Community Treaty, and on the amendments of the Ministerial Council Decisions No 2021/13/MC-EnC and No 2011/02/MC-EnC.

*The adaptations made by Ministerial Council Decision 2022/03/MC-EnC are highlighted in **bold and blue**.*

### TITLE I GENERAL PROVISIONS

#### Article 1

#### Subject matter and scope

1. This Regulation lays down a detailed guideline on electricity balancing including the establishment of common principles for the procurement and the settlement of frequency containment reserves, frequency restoration reserves and replacement reserves and a common methodology for the activation of frequency restoration reserves and replacement reserves.
2. This Regulation shall apply to transmission system operators ('TSOs'), distribution system operators ('DSOs') including closed distribution systems, regulatory authorities, the Agency for the Cooperation of Energy Regulators, **the Energy Community Regulatory Board**, the European Network of Transmission System Operators for Electricity ('ENTSO-E'), third parties to whom responsibilities have been delegated or assigned and other market participants.
3. This Regulation shall apply to all transmission systems and interconnections in the **Energy Community** except the transmission systems <...> that are not connected with other transmission systems via interconnections.
4. Where more than one TSO exists in a **Contracting Party**, this Regulation shall apply to all TSOs in a **Contracting Party**. Where a TSO does not have a function relevant to one or more obligations under this Regulation, **Contracting Parties** may provide that the responsibility to comply with those obligations is assigned to one or more specific TSOs.
5. Where a load-frequency control ('LFC') area consists of two or more TSOs, all TSOs of that LFC area may decide, subject to the approval by the relevant regulatory authorities, to exercise one or more obligations under this Regulation in a coordinated manner for all scheduling areas of the LFC area.
6. <...>
7. <...>
8. This Regulation shall apply to all system states defined in Article 18 of Regulation (EU) 2017/1485, **as**

adapted and adopted by Ministerial Council Decision 2022/03/MC- EnC.

## **Article 2**

### **Definitions**

For the purposes of this Regulation, the definitions in Article 2 of Directive (EU) **2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC**, Article 2 of Regulation (EC) No **2019/943 as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, Article 2 of Commission Regulation (EU) No 543/2013, **as adapted and adopted by Permanent High Level Group Decision 2015/01/MC-EnC**, Article 2 of Commission Regulation (EU) 2015/1222, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, Article 2 of Commission Regulation (EU) 2016/631, **as adapted and adopted by Permanent High Level Group Decision 2018/03/MC-EnC**, Article 2 of Commission Regulation (EU) 2016/1388 **as adapted and adopted by Permanent High Level Group Decision 2018/05/MC-EnC**, Article 2 of Commission Regulation (EU) 2016/1447, **as adapted and adopted by Permanent High Level Group Decision 2018/04/MC-EnC**, Article 2 of Commission Regulation (EU) 2016/1719, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, Article 3 of Commission Regulation (EU) 2017/1485, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, and Article 3 of Commission Regulation (EU) 2017/2196, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC** shall apply.

The following definitions shall also apply:

- (1) 'balancing' means all actions and processes, on all timelines, through which TSOs ensure, in a continuous way, the maintenance of system frequency within a predefined stability range as set out in Article 127 of Regulation (EU) 2017/1485 **as adapted and adopted Ministerial Council Decision 2022/03/MC-EnC**, and compliance with the amount of reserves needed with respect to the required quality, as set out in Part IV Title V, Title VI and Title VII of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**;
- (2) 'balancing market' means the entirety of institutional, commercial and operational arrangements that establish market-based management of balancing;
- (3) 'balancing services' means balancing energy or balancing capacity, or both;
- (4) 'balancing energy' means energy used by TSOs to perform balancing and provided by a balancing service provider;
- (5) 'balancing capacity' means a volume of reserve capacity that a balancing service provider has agreed to hold and in respect to which the balancing service provider has agreed to submit bids for a corresponding volume of balancing energy to the TSO for the duration of the contract;
- (6) 'balancing service provider' means a market participant with reserve-providing units or reserve-providing groups able to provide balancing services to TSOs;
- (7) 'balance responsible party' means a market participant or its chosen representative responsible for its imbalances;
- (8) 'imbalance' means an energy volume calculated for a balance responsible party and representing the difference between the allocated volume attributed to that balance responsible party and the final

position of that balance responsible party, including any imbalance adjustment applied to that balance responsible party, within a given imbalance settlement period;

(9) 'imbalance settlement' means a financial settlement mechanism for charging or paying balance responsible parties for their imbalances;

(10) 'imbalance settlement period' means the time unit for which balance responsible parties' imbalance is calculated;

(11) 'imbalance area' means the area in which an imbalance is calculated;

(12) 'imbalance price' means the price, be it positive, zero or negative, in each imbalance settlement period for an imbalance in each direction;

(13) 'imbalance price area' means the area for the calculation of an imbalance price;

(14) 'imbalance adjustment' means an energy volume representing the balancing energy from a balancing service provider and applied by the connecting TSO for an imbalance settlement period to the concerned balance responsible parties, used for the calculation of the imbalance of these balance responsible parties;

(15) 'allocated volume' means an energy volume physically injected or withdrawn from the system and attributed to a balance responsible party, for the calculation of the imbalance of that balance responsible party;

(16) 'position' means the declared energy volume of a balance responsible party used for the calculation of its imbalance;

(17) 'self-dispatching model' means a scheduling and dispatching model where the generation schedules and consumption schedules as well as dispatching of power generating facilities and demand facilities are determined by the scheduling agents of those facilities;

(18) 'central dispatching model' means a scheduling and dispatching model where the generation schedules and consumption schedules as well as dispatching of power generating facilities and demand facilities, in reference to dispatchable facilities, are determined by a TSO within the integrated scheduling process;

(19) 'integrated scheduling process' means an iterative process that uses at least integrated scheduling process bids that contain commercial data, complex technical data of individual power generating facilities or demand facilities and explicitly includes the start-up characteristics, the latest control area adequacy analysis and the operational security limits as an input to the process;

(20) 'integrated scheduling process gate closure time' means the point in time when the submission or the update of integrated scheduling process bids is no longer permitted for the given iterations of the integrated scheduling process;

(21) 'TSO-TSO model' means a model for the exchange of balancing services where the balancing service provider provides balancing services to its connecting TSO, which then provides these balancing services to the requesting TSO;

(22) 'connecting TSO' means the TSO that operates the scheduling area in which balancing service providers and balance responsible parties shall be compliant with the terms and conditions related to balancing;

(23) 'exchange of balancing services' means either or both exchange of balancing energy and exchange of balancing capacity;

(24) 'exchange of balancing energy' means the activation of balancing energy bids for the delivery of balancing energy to a TSO in a different scheduling area than the one in which the activated balancing

service provider is connected;

(25) 'exchange of balancing capacity' means the provision of balancing capacity to a TSO in a different scheduling area than the one in which the procured balancing service provider is connected;

(26) 'transfer of balancing capacity' means a transfer of balancing capacity from the initially contracted balancing service provider to another balancing service provider;

(27) 'balancing energy gate closure time' means the point in time when submission or update of a balancing energy bid for a standard product on a common merit order list is no longer permitted;

(28) 'standard product' means a harmonised balancing product defined by all TSOs for the exchange of balancing services;

(29) 'preparation period' means the period between the request by the connecting TSO in case of TSO-TSO model or by the contracting TSO in case of TSO-BSP model and the start of the ramping period;

(30) 'full activation time' means the period between the activation request by the connecting TSO in case of TSO-TSO model or by the contracting TSO in case of TSO-BSP model and the corresponding full delivery of the concerned product;

(31) 'deactivation period' means the period for ramping from full delivery to a set point, or from full withdrawal back to a set point;

(32) 'delivery period' means the period of delivery during which the balancing service provider delivers the full requested change of power in-feed to, or the full requested change of withdrawals from the system;

(33) 'validity period' means the period when the balancing energy bid offered by the balancing service provider can be activated, where all the characteristics of the product are respected. The validity period is defined by a start time and an end time;

(34) 'mode of activation' means the mode of activation of balancing energy bids, manual or automatic, depending on whether balancing energy is triggered manually by an operator or automatically in a closed-loop manner;

(35) 'divisibility' means the possibility for a TSO to use only part of the balancing energy bids or balancing capacity bids offered by the balancing service provider, either in terms of power activation or time duration;

(36) 'specific product' means a product different from a standard product;

(37) 'common merit order list' means a list of balancing energy bids sorted in order of their bid prices, used for the activation of those bids;

(38) 'TSO energy bid submission gate closure time' means the latest point in time when a connecting TSO can forward the balancing energy bids received from a balancing service provider to the activation optimisation function;

(39) 'activation optimisation function' means the function of operating the algorithm applied to optimise the activation of balancing energy bids;

(40) 'imbalance netting process function' means the role to operate the algorithm applied for operating the imbalance netting process;

(41) 'TSO-TSO settlement function' means the function of performing the settlement of cooperation processes between the TSOs;

(42) 'capacity procurement optimisation function' means the function of operating the algorithm applied for the optimisation of the procurement of balancing capacity for TSOs exchanging balancing capacity.

(43) 'TSO-BSP model' means a model for the exchange of balancing services where the balancing service provider provides balancing services directly to the contracting TSO, which then provides these balancing services to the requesting TSO;

(44) 'contracting TSO' means the TSO that has contractual arrangements for balancing services with a balancing service provider in another scheduling area;

(45) 'requesting TSO' means the TSO that requests the delivery of balancing energy.

**(46) 'Member State' means a territory of the European Union referred to in Article 27 of the Treaty.**

### **Article 3**

#### **Objectives and regulatory aspects**

1. This Regulation aims at:

- (a) fostering effective competition, non-discrimination and transparency in balancing markets;
- (b) enhancing efficiency of balancing as well as efficiency of European and national balancing markets;
- (c) integrating balancing markets and promoting the possibilities for exchanges of balancing services while contributing to operational security;
- (d) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the **Energy Community** while facilitating the efficient and consistent functioning of day-ahead, intraday and balancing markets;
- (e) ensuring that the procurement of balancing services is fair, objective, transparent and market-based, avoids undue barriers to entry for new entrants, fosters the liquidity of balancing markets while preventing undue distortions within the internal market in electricity;
- (f) facilitating the participation of demand response including aggregation facilities and energy storage while ensuring they compete with other balancing services at a level playing field and, where necessary, act independently when serving a single demand facility;
- (g) facilitating the participation of renewable energy sources and support the achievement of the <...> targets for the penetration of renewable generation.

2. When applying this Regulation, Member States **and Contracting Parties**, relevant regulatory authorities, and system operators shall:

- (a) apply the principles of proportionality and non-discrimination;
- (b) ensure transparency;
- (c) apply the principle of optimisation between the highest overall efficiency and lowest total costs for all parties involved;
- (d) ensure that TSOs make use of market-based mechanisms, as far as possible, in order to ensure network security and stability;

- (e) ensure that the development of the forward, day-ahead and intraday markets is not compromised;
- (f) respect the responsibility assigned to the relevant TSO in order to ensure system security, including as required by national legislation;
- (g) consult with relevant DSOs and take account of potential impacts on their system;
- (h) take into consideration agreed European standards and technical specifications.

#### **Article 4**

#### **Terms and conditions or methodologies of TSOs**

1. **Where this Regulation requires** TSOs **to** develop the terms and conditions or methodologies **they shall** submit them for approval to the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** or to the relevant regulatory authorities in accordance with Article 5(3) **and Article 59** of Directive (EU) **2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** within the respective deadlines set out in this Regulation **and in the Ministerial Council Decision 2021/13/MC-EnC** . In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs, the deadlines for terms and conditions or methodologies may be prolonged <...> jointly by all relevant regulatory authorities in procedures pursuant to Article 5(3), and by the relevant regulatory authority in procedures pursuant to Article 5(4).

2. Where a proposal for terms and conditions or methodologies pursuant to **Articles 5(3) and 5(4)** of this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the relevant regulatory authorities, **the Energy Community Regulatory Board and, to the extent Member States are affected, the Agency for the Cooperation of Energy** about the progress of developing these terms and conditions or methodologies.

3. <...>

4. Where TSOs deciding on proposals for terms and conditions or methodologies listed in Article 5(3) are not able to reach an agreement, and where the regions concerned are composed of more than five **Contracting Parties and/or** Member States, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with Article 5(3) shall require the following majority:

- (a) TSOs representing at least 72 % of the **Contracting Parties and/or** Member States concerned; and
- (b) TSOs representing **Contracting Parties and/or** Member States comprising at least 65 % of the population of the concerned area. A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 5(3) shall include at least a minimum number of TSOs representing more than 35 % of the population of the participating **Contracting Parties and/or** Member States, plus TSOs representing at least one additional **Contracting Party and/or** Member State concerned, failing of which the qualified majority shall be deemed attained.

5. TSOs deciding on proposals for terms and conditions or methodologies listed in Article 5(3) in relation to regions composed of five Member States **and/or Contracting Parties** or less shall decide by consensus.

6. For TSO decisions on proposals for terms and conditions or methodologies pursuant to paragraph <...> 4, one vote shall be attributed per Member State **or Contracting Party**. If there is more than one TSO in the territory of a Member State **or a Contracting Party**, the Member State **or the Contracting Party** shall allocate the voting powers among the TSOs.

7. Where TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the relevant regulatory authorities, **the Energy Community Regulatory Board and the Agency for the Cooperation of Energy Regulators** in accordance with Articles 5 and 6 within the deadlines defined in this Regulation, they shall provide the relevant regulatory authorities, the Agency **Energy Community Regulatory Board and the Agency for the Cooperation of Energy Regulators** with the relevant drafts of proposals for the terms and conditions or methodologies and explain why an agreement has not been reached. **The Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC**, all relevant regulatory authorities jointly, or the relevant regulatory authority shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with **paragraphs 3 and 4 of Article 5**, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

### **Article 5**

#### **Approval of terms and conditions or methodologies of TSOs**

1. Each regulatory authority, **the Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** shall approve the terms and conditions or methodologies developed by TSOs under paragraphs <...> 3 and 4. Before approving the terms and conditions or methodologies, **the Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for Cooperation of Energy Regulators** or the relevant regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation **and consistent with Regulation 2017/2195** and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

2. **TSOs shall apply** the following terms and conditions or methodologies and any amendments thereof <...> approved by the Agency **for the Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC**:

- (a) the frameworks for the establishment of the European platforms pursuant to Articles 20(1), 21(1) and 22(1) **of Regulation (EU) 2017/2195**;
- (b) the modifications of the frameworks for the establishment of the European platforms pursuant to Articles 20(5) and 21(5) **of Regulation (EU) 2017/2195**;
- (c) the standard products for balancing capacity pursuant to Article 25(2) **of Regulation (EU) 2017/2195**;
- (d) the classification methodology for the activation purposes of balancing energy bids pursuant to Article 29(3) **of Regulation (EU) 2017/2195**;

- (e) the assessment on the possible increase of the minimum volume of balancing energy bids that shall be forwarded to the European platforms pursuant to Article 29(11) **of Regulation (EU) 2017/2195**;
- (f) the methodologies for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process pursuant to Article 30(1) and (5) **of Regulation (EU) 2017/2195**;
- (g) **the harmonised** methodology for the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38(3) **of Regulation (EU) 2017/2195**;
- (h) the methodology for a co-optimised allocation process of cross-zonal capacity pursuant to Article 40(1) **of Regulation (EU) 2017/2195**;
- (i) the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(1) **of Regulation (EU) 2017/2195**;
- (j) the harmonisation of the main features of imbalance settlement pursuant to Article 52(2) **of Regulation (EU) 2017/2195**;
- (k) **the framework, for the geographical area concerning all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485, for the establishment of the European platform for replacement reserves pursuant to Article 19(1) of Regulation (EU) 2017/2195**;
- (l) **for the geographical area comprising all TSOs intentionally exchanging energy within the Continental Europe synchronous area, the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(3)**;
- (m) **for the Continental Europe synchronous area, the TSO-TSO settlement rules for the unintended exchange of energy pursuant to Article 51(1)**;

<...>

3. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

(a) <...>

(b) for the geographical area concerning two or more TSOs exchanging or mutually willing to exchange balancing capacity, the establishment of common and harmonised rules and process for the exchange and procurement of balancing capacity pursuant to Article 33(1);

(c) for the geographical area covering TSOs exchanging balancing capacity, the methodology for calculating the probability of available cross-zonal capacity after intraday cross-zonal gate closure time pursuant to Article 33(6);

(d) the exemption, for the geographical area in which the procurement of balancing capacity has taken place, for not allowing balancing service providers to transfer their obligations to provide balancing capacity pursuant to Article 34(1);

(e) the application of a TSO-BSP model, in a geographical area comprising two or more TSOs, pursuant to Article 35(1);

(f) the cross-zonal capacity calculation methodology for each capacity calculation region pursuant to Article 37(3);



(g) in a geographical area comprising two or more TSOs, the application of the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38(1) ;

(h) <...>

(i) <...>

(j) <...>

(k) <...>

(m) <...>

(n) <...>

(o) for the geographical area comprising two or more TSOs exchanging balancing capacity, the principles for balancing algorithms pursuant to Article 58(3);

A Member State **or a Contracting Party** may provide an opinion to the concerned regulatory authority on the proposal for the terms and conditions or methodologies listed in the first subparagraph.

4. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by each regulatory authority of each concerned **Contracting Party** on a case-by-case basis:

(a) the exemption to publish information on offered prices of balancing energy or balancing capacity bids due to market abuse concerns pursuant to Article 12(4);

(b) where appropriate, the methodology for allocating costs resulting from actions taken by DSOs, pursuant to Article 15(3);

(c) the terms and conditions related to balancing pursuant to Article 18;

(d) the definition and the use of specific products pursuant to Article 26(1);

(e) the limitation on the amount of bids that is forwarded to the European platforms pursuant to Article 29(10);

(f) the exemption to separate procurement of upward and downward balancing capacity pursuant to Article 32(3);

(g) where appropriate, the additional settlement mechanism separate from the imbalance settlement, to settle the procurement costs of balancing capacity, administrative costs and other costs related to balancing with balance responsible parties pursuant to Article 44(3);

(h) the derogations to one or more provisions of this Regulation pursuant to Article 62(2);

(i) the costs relating to the obligations imposed on system operators or assigned third entities in accordance with this Regulation pursuant to Article 8(1);

A Member State **or a Contracting Party** may provide an opinion to the concerned regulatory authority on the proposal for the terms and conditions or methodologies listed in the first subparagraph.

5. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. The implementation timescale shall not be longer than 12 months after the approval by the relevant regulatory authorities, except where all relevant regulatory authorities agree to extend the implementation timescale or where different timescales are stipulated in this Regulation. Proposals for terms and conditions or

methodologies subject to the approval by several regulatory authorities in accordance with paragraph 3 shall be submitted to the **Energy Community Regulatory Board and, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators**, within one week of their submission to the regulatory authorities. Proposals for terms and conditions or methodologies subject to the approval by one regulatory authority in accordance with paragraph 4 may be submitted to the **Energy Community Regulatory Board and, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators** within one month of their submission at the discretion of the regulatory authority while they shall be submitted upon the **request of the Energy Community Regulatory Board or, to the extent Member States are affected, the request of the Agency for Cooperation of Energy Regulators** <...> **if the Energy Community Regulatory Board or the Agency for Cooperation of Energy Regulators consider** the proposal to have a cross-border impact. Upon request by the relevant regulatory authorities, the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** shall issue an opinion within three months on the proposals for terms and conditions or methodologies.

6. Where the approval of the terms and conditions or methodologies in accordance with paragraph 3 of this Article or the amendment in accordance with Article 6 requires a decision by more than one regulatory authority, the relevant regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where the Agency **for the Cooperation of Energy Regulators or the Energy Community Regulatory Board** issues an opinion, the relevant regulatory authorities shall take that opinion into account. Regulatory authorities or, where competent, the **Energy Community Regulatory Board or, to the extent Member States are involved, the Agency for the Cooperation of Energy Regulators acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC**, shall decide on the terms and conditions or methodologies submitted in accordance with paragraphs <...> 3 and 4, within six months following the receipt of the terms and conditions or methodologies by **the Energy Community Regulatory Board or, to the extent Member States are involved, the Agency for the Cooperation of Energy Regulators**, or the relevant regulatory authority or, where applicable, by the last relevant regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency **for the Cooperation of Energy Regulators, the Energy Community Regulatory Board or <...>** to the last regulatory authority concerned in accordance with paragraph 3 or, where applicable, to the relevant regulatory authority in accordance with paragraph 4.

7. Where the relevant regulatory authorities have not been able to reach agreement within the period referred to in paragraph 6, or upon their joint request, or upon the <...> request **of the Energy Community Regulatory Board or, to the extent Member States are involved, the Agency for the Cooperation of Energy Regulators** according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC** shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within six months from the day of referral, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

8. Any party may complain against a relevant system operator or TSO in relation to that system operator's or TSO's obligations or decisions under this Regulation and may refer the complaint to the relevant reg-

ulatory authority which, acting as dispute settlement authority, shall issue a decision within two months after receipt of the complaint. That period may be extended by a further two months where additional information is sought by the relevant regulatory authority. That extended period may be further extended with the agreement of the complainant. The relevant regulatory authority's decision shall be binding unless and until overruled on appeal.

## **Article 6**

### **Amendments to terms and conditions or methodologies of TSOs**

1. Where the Agency **for the Cooperation of Energy Regulators, the Energy Community Regulatory Board**, all relevant regulatory authorities jointly or the relevant regulatory authority require an amendment in order to approve the terms and conditions or methodologies submitted in accordance with Article 5(2), (3) and (4) respectively, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency **for the Cooperation of Energy Regulators, the Energy Community Regulatory Board** or the relevant regulatory authorities. The **Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC**, or the relevant regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission.

~~2. Where the relevant regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies within the 2-month deadline, or upon their joint request, or upon the request of the Energy Community Regulatory Board or, to the extent Member States are affected, the request of the Agency for the Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in Article 4 shall apply.~~

3. The Agency **for the Cooperation of Energy Regulators, the Energy Community Regulatory Board**, or the regulatory authorities where they are responsible for the adoption of terms and conditions or methodologies in accordance with Article 5(2), (3) and (4) may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities, **the Energy Community Regulatory Board and, to the extent Member States are affected to the Agency for the Cooperation of Energy Regulators**. The proposals for amendments to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 10 and approved in accordance with the procedure set out in Articles 4 and 5.

## **Article 7**

### **Publication of terms and conditions or methodologies on the internet**

TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet following approval **according to the provisions of this Regulation** by the Agency **for the Cooperation of Energy Regulators, the Energy Community Regulatory Board**, or the relevant regulatory authorities or, where no such approval is required, following their establishment, except where such information is confidential in accordance with Article 11.

## **Article 8**

### **Recovery of costs**

1. Costs related to the obligations imposed on system operators or assigned third entities in accordance with this Regulation shall be assessed by the relevant regulatory authorities in accordance with Article **59** of Directive **(EU) 2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC**.
2. Costs considered as reasonable, efficient, and proportionate by the relevant regulatory authority shall be recovered through network tariffs or other appropriate mechanisms as determined by the relevant regulatory authorities.
3. If requested by the relevant regulatory authorities, system operators or assigned entities shall, within three months of the request, provide the information necessary to facilitate the assessment of the costs incurred.
4. Any costs incurred by market participants in meeting the requirements of this Regulation shall be borne by those market participants.

## **Article 9**

### **Stakeholder involvement**

**The Energy Community Regulatory Board or, to the extent Member States are affected, the Agency for the Cooperation of Energy Regulators, acting in accordance with Article 2 of Procedural Act No 2022/01/MC-EnC**, in close cooperation with ENTSO-E, shall organise stakeholder involvement regarding the balancing market and other aspects of the implementation of this Regulation. Such involvement shall include regular meetings with stakeholders to identify problems and propose improvements related to the integration of the balancing market.

## **Article 10**

### **Public consultation**

1. TSOs responsible for submitting proposals for terms and conditions or methodologies or their amend-

ments in accordance with this Regulation shall consult stakeholders, including the relevant authorities of each Member State **and Contracting Party**, on the draft proposals for terms and conditions or methodologies and other implementing measures for a period of not less than one month.

2. **The consultation shall last for a period of not less than one month. <...>**

3. <...>

4. At least the proposals pursuant to points <...> (b), (c), (d), (e), (f), (g), <...><sup>1</sup> and (o) of Article 5(3) shall be subject to public consultation at the concerned regional level.

5. At least the proposals pursuant to points (a), (b), (c), (d), (e), (f), (g) and (i) of Article 5(4) shall be subject to public consultation in each concerned **Contracting Party**.

6. TSOs responsible for the proposal for terms and conditions or methodologies shall duly consider the views of stakeholders resulting from the consultations undertaken in accordance with paragraphs 2 to 5, prior to its submission for regulatory approval. In all cases, a sound justification for including or not including the views resulting from the consultation shall be provided together with the submission and published in a timely manner before or simultaneously with the publication of the proposal for terms and conditions or methodologies.

### **Article 11**

#### **Confidentiality obligations**

1. Any confidential information received, exchanged or transmitted pursuant to this Regulation shall be subject to the conditions of professional secrecy laid down in paragraphs 2, 3 and 4.

2. The obligation of professional secrecy shall apply to any person subject to the provisions of this Regulation.

3. Confidential information received by the persons or regulatory authorities referred to in paragraph 2 in the course of their duties may not be divulged to any other person or authority, without prejudice to cases covered by national law, the other provisions of this Regulation or other relevant **Energy Community or national** legislation.

4. Without prejudice to cases covered by national law or **Energy Community** legislation, regulatory authorities, bodies or persons who receive confidential information pursuant to this Regulation may use it only for the purpose of carrying out their duties under this regulation, except where written consent has been provided by the primary owner of the data.

### **Article 12**

#### **Publication of information**

1. All entities referred to in Article 1(2) shall provide TSOs with all the relevant information to fulfil their obligations laid down in paragraphs 3 to 5.

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<sup>1</sup> There is a clerical error in the Ministerial Council Decision 2022/03/MC-EnC.

2. All entities referred to in Article 1(2) shall ensure that information in paragraphs 3 to 5 is published at a time and in a format that does not create an actual or potential competitive advantage or disadvantage to any individual or companies.

3. Each TSO shall publish the following information as soon as it becomes available:

(a) information on the current system balance of its scheduling area or scheduling areas, as soon as possible but no later than 30 minutes after real-time;

(b) information on all balancing energy bids from its scheduling area or scheduling areas, anonymised where necessary, no later than 30 min after the end of the relevant market time unit. The information shall include:

- (i) type of product;
- (ii) validity period;
- (iii) offered volumes;
- (iv) offered prices;
- (v) information on whether the bid was declared as unavailable;

(c) information on whether the balancing energy bid was converted from a specific product or from an integrated scheduling process no later than 30 min after the end of the relevant market time unit;

(d) information regarding how balancing energy bids from specific products or from integrated scheduling process have been converted into balancing energy bids from standard products no later than 30 min after the end of the relevant market time unit;

(e) aggregated information on balancing energy bids no later than 30 min after the end of the relevant market time unit, which shall include:

- (i) total volume of offered balancing energy bids;
- (ii) total volume of offered balancing energy bids separately per type of reserves;
- (iii) total volume of offered and activated balancing energy bids separately for standard and specific products;
- (iv) volume of unavailable bids separately per type of reserves;

(f) information on offered volumes as well as offered prices of procured balancing capacity, anonymised where necessary, no later than one hour after the results of the procurement have been notified to the bidders;

(g) the initial terms and conditions related to balancing referred to in Article 18 at least one month before the application and any amendments to the terms and conditions immediately following approval by the relevant regulatory authority in accordance with Article 59 of Directive (EU) 2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC;

(h) information on the allocation of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38 at the latest 24 hours after the allocation and no later than 6 hours before the use of the allocated cross-zonal capacity:

- (i) date and time when the decision on allocation was made;
- (ii) period of the allocation;

(iii) volumes allocated;

(iv) market values used as a basis for the allocation process in accordance with Article 39 **of Regulation (EU) 2017/2195**;

(i) information on the use of allocated cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38 at the latest one week after the use of allocated cross-zonal capacity:

(i) volume of allocated and used cross-zonal capacity per market time unit;

(ii) volume of released cross-zonal capacity for subsequent timeframes per market time unit;

4. Subject to approval pursuant to Article 18, a TSO may withhold the publication of information on offered prices and volumes of balancing capacity or balancing energy bids if justified for reasons of market abuse concerns and if not detrimental to the effective functioning of the electricity markets. A TSO shall report such withholdings at least once a year to the relevant regulatory authority in accordance with Article 59 of Directive (EU) 2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC.

5. No later than two years after entry into force of this Regulation, each TSO shall publish the information pursuant to paragraph 3 in a commonly agreed **or applied** harmonised format at least through the information transparency platform established pursuant to Article 3 of Regulation (EU) No 543/2013 **as adapted and adopted by Ministerial Council Decision 2015/01/MC-EnC**. <...>

### **Article 13**

#### **Delegation and assignment of tasks**

1. A TSO may delegate all or part of any tasks with which it is entrusted under this Regulation to one or more third parties in case the third party can carry out the respective function at least as effectively as the delegating TSO. The delegating TSO shall remain responsible for ensuring compliance with the obligations under this Regulation, including ensuring access to information necessary for monitoring by the relevant regulatory authorities in accordance with Article 59 of Directive (EU) 2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC.

2. Prior to the delegation, the third party concerned shall demonstrate to the delegating TSO its ability to meet the tasks to be delegated.

3. In the event that all or part of any tasks specified in this Regulation are delegated to a third party, the delegating TSO shall ensure that suitable confidentiality agreements in accordance with the confidentiality obligations of the delegating TSO have been put in place prior to the delegation. After delegating all or part of any tasks to a third party, the delegating TSO must inform the relevant regulatory authority and publish this decision on the internet.

4. Without prejudice to the tasks entrusted to TSOs pursuant to Directive (EU) 2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC, a **Contracting Party**, or where applicable a relevant regulatory authority, may assign tasks or obligations entrusted to TSOs under this Regulation to one or more third parties. The concerned **Contracting Party**, or where applicable the concerned regulatory authority, may only assign TSOs' tasks and obligations which do not require direct

cooperation, joint decision-making or entering into contractual relationship with TSOs from other Member States **or Contracting Parties**. Prior to the assignment, the third party concerned shall demonstrate to the **Contracting Party**, or where applicable the relevant regulatory authority, its ability to meet the task to be assigned.

5. In the event that tasks and obligations are assigned to a third party by a **Contracting Party**, or a regulatory authority, references to TSO in this Regulation shall be understood as referring to the assigned entity. The relevant regulatory authority shall ensure regulatory oversight of the assigned entity in respect of the assigned tasks and obligations.

## **TITLE II**

### **ELECTRICITY BALANCING MARKET**

#### **CHAPTER 1**

#### **Functions and responsibilities**

##### *Article 14*

##### **Role of the TSOs**

1. Each TSO shall be responsible for procuring balancing services from balancing service providers in order to ensure operational security.
2. Each TSO shall apply a self-dispatching model for determining generation schedules and consumption schedules. TSOs that apply a central dispatching model at the time of the entry into force of this Regulation shall notify to the relevant regulatory authority in accordance with Article **59 of Directive (EU) 2019/944, as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** in order to continue to apply a central dispatching model for determining generation schedules and consumption schedules. The relevant regulatory authority shall verify whether the tasks and responsibilities of the TSO are consistent with the definition in Article 2(18).

##### *Article 15*

##### **Cooperation with DSOs**

1. DSOs, TSOs, balancing service providers and balance responsible parties shall cooperate in order to ensure efficient and effective balancing.
2. Each DSO shall provide, in due time, all necessary information in order to perform the imbalance settlement to the connecting TSO in accordance with the terms and conditions related to balancing pursuant to Article 18.
3. Each TSO may, together with the reserve connecting DSOs within the TSO's control area, jointly elaborate a methodology for allocating costs resulting from actions of DSOs pursuant to paragraphs 4 and 5 of Article 182 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council**



**Decision 2022/03/MC-EnC.** The methodology shall provide for a fair allocation of costs taking into account the responsibilities of the parties involved.

4. DSOs shall report to the connecting TSO any limits defined pursuant to paragraphs 4 and 5 of Article 182 of Regulation (EU) 2017/1485, **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, that could affect the requirements set out in this Regulation.

### **Article 16**

#### **Role of balancing service providers**

1. A balancing service provider shall qualify for providing bids for balancing energy or balancing capacity which are activated or procured by the connecting TSO or, in a TSO-BSP model, by the contracting TSO. Successful completion of the prequalification, ensured by the connecting TSO and processed pursuant to Article 159 and Article 162 of Regulation (EU) 2017/1485 **as adapted and adopted by Decision 2022/03/MC-EnC**, shall be considered as a prerequisite for the successful completion of the qualification process to become a balancing service provider pursuant to this Regulation.

2. Each balancing service provider shall submit to the connecting TSO its balancing capacity bids that affect one or more balance responsible parties.

3. Each balancing service provider participating in the procurement process for balancing capacity shall submit and have the right to update its balancing capacity bids before the gate closure time of the procurement process.

4. Each balancing service provider with a contract for balancing capacity shall submit to its connecting TSO the balancing energy bids or integrated scheduling process bids corresponding to the volume, products, and other requirements set out in the balancing capacity contract.

5. Any balancing service provider shall have the right to submit to its connecting TSO the balancing energy bids from standard products or specific products or integrated scheduling process bids for which it has passed the prequalification process pursuant to Article 159 and Article 162 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

6. The price of the balancing energy bids or integrated scheduling process bids from standard and specific products pursuant to paragraph 4 shall not be predetermined in a contract for balancing capacity. A TSO may propose an exemption to this rule in the proposal for the terms and conditions related to balancing set-up pursuant to Article 18. Such an exemption shall only apply to specific products pursuant to Article 26(3)(b) and be accompanied with a justification demonstrating higher economic efficiency.

7. There shall be no discrimination between balancing energy bids or integrated scheduling process bids submitted pursuant to paragraph 4 and balancing energy bids or integrated scheduling process bids submitted pursuant to paragraph 5.

8. For each product for balancing energy or balancing capacity, the reserve providing unit, the reserve providing group, the demand facility or the third party and the associated balance responsible parties pursuant to Article 18(4)(d), shall belong to the same scheduling area.

## **Article 17**

### **Role of balance responsible parties**

1. In real time, each balance responsible party shall strive to be balanced or help the power system to be balanced. The detailed requirements concerning this obligation shall be defined in the proposal for terms and conditions related to balancing set up pursuant to Article 18.
2. Each balance responsible party shall be financially responsible for the imbalances to be settled with the connecting TSO.
3. Prior to the intraday cross-zonal gate closure time, each balance responsible party may change the schedules required to calculate its position pursuant to Article 54. TSOs applying a central dispatching model may establish specific conditions and rules for changing the schedules of a balance responsible party in the terms and conditions related to balancing set up pursuant to Article 18.
4. After the intraday cross-zonal gate closure time, each balance responsible party may change the internal commercial schedules required to calculate its position pursuant to Article 54 in accordance with the rules set out in the terms and conditions related to balancing set up pursuant to Article 18.

## **Article 18**

### **Terms and conditions related to balancing**

1. No later than six months after entry into force of this Regulation and for all scheduling areas of a **Contracting Party**, the TSOs of this **Contracting Party** shall develop a proposal regarding:

- (a) the terms and conditions for balancing service providers;
- (b) the terms and conditions for balance responsible parties.

Where a LFC area consists of two or more TSOs, all TSOs of that LFC area may develop a common proposal subject to the approval by the relevant regulatory authorities.

2. The terms and conditions pursuant to paragraph 1 shall also include the rules for suspension and restoration of market activities pursuant to Article 36 of Regulation (EU) 2017/2196 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, and rules for settlement in case of market suspension pursuant to Article 39 of Regulation (EU) 2017/2196 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, once approved in accordance with Article 4 of Regulation (EU) 2017/2196 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

3. When developing proposals for terms and conditions for balancing service providers and balance responsible parties, each TSO shall:

- (a) coordinate with the TSOs and DSOs that may be affected by those terms and conditions;
- (b) respect the frameworks for the establishment of European platforms for the exchange of balancing energy and for the imbalance netting process pursuant to Articles 19, 20, 21 and 22 **of Regulation (EU) 2017/2195**;
- (c) involve other DSOs and other stakeholders throughout the development of the proposal and take into account their views without prejudice to public consultation pursuant to Article 10.

4. The terms and conditions for balancing service providers shall:

- (a) define reasonable and justified requirements for the provisions of balancing services;
- (b) allow the aggregation of demand facilities, energy storage facilities and power generating facilities in a scheduling area to offer balancing services subject to conditions referred to in paragraph 5 (c);
- (c) allow demand facility owners, third parties and owners of power generating facilities from conventional and renewable energy sources as well as owners of energy storage units to become balancing service providers;
- (d) require that each balancing energy bid from a balancing service provider is assigned to one or more balance responsible parties to enable the calculation of an imbalance adjustment pursuant to Article 49.

5. The terms and conditions for balancing service providers shall contain:

- (a) the rules for the qualification process to become a balancing service provider pursuant to Article 16;
- (b) the rules, requirements and timescales for the procurement and transfer of balancing capacity pursuant to Articles 32, 33 and 34;
- (c) the rules and conditions for the aggregation of demand facilities, energy storage facilities and power generating facilities in a scheduling area to become a balancing service provider;
- (d) the requirements on data and information to be delivered to the connecting TSO and, where relevant, to the reserve connecting DSO during the prequalification process and operation of the balancing market;
- (e) the rules and conditions for the assignment of each balancing energy bid from a balancing service provider to one or more balance responsible parties pursuant to paragraph 4 (d);
- (f) the requirements on data and information to be delivered to the connecting TSO and, where relevant, to the reserve connecting DSO to evaluate the provisions of balancing services pursuant to Article 154(1), Article 154(8), Article 158(1)(e), Article 158(4)(b), Article 161(1)(f) and Article 161(4)(b) of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-Enc**;
- (g) the definition of a location for each standard product and each specific product taking into account paragraph 5 (c);
- (h) the rules for the determination of the volume of balancing energy to be settled with the balancing service provider pursuant to Article 45;
- (i) the rules for the settlement of balancing service providers defined pursuant to Chapters 2 and 5 of Title V;
- (j) a maximum period for the finalisation of the settlement of balancing energy with a balancing service provider in accordance with Article 45, for any given imbalance settlement period;
- (k) the consequences in case of non-compliance with the terms and conditions applicable to balancing service providers.

6. The terms and conditions for balance responsible parties shall contain:

- (a) the definition of balance responsibility for each connection in a way that avoids any gaps or overlaps in the balance responsibility of different market participants providing services to that connection;
- (b) the requirements for becoming a balance responsible party;
- (c) the requirement that all balance responsible parties shall be financially responsible for their imbalances, and that the imbalances shall be settled with the connecting TSO;

- (d) the requirements on data and information to be delivered to the connecting TSO to calculate the imbalances;
- (e) the rules for balance responsible parties to change their schedules prior to and after the intraday energy gate closure time pursuant to paragraphs 3 and 4 of Article 17;
- (f) the rules for the settlement of balance responsible parties defined pursuant to Chapter 4 of Title V;
- (g) the delineation of an imbalance area pursuant to Article 54(2) and an imbalance price area;
- (h) a maximum period for the finalisation of the settlement of imbalances with balance responsible parties for any given imbalance settlement period pursuant to Article 54;
- (i) the consequences in case of non-compliance with the terms and conditions applicable to balance responsible parties;
- (j) an obligation for balance responsible parties to submit to the connecting TSO any modifications of the position;
- (k) the settlement rules pursuant to Articles 52, 53, 54 and 55;
- (l) where existing, the provisions for the exclusion of imbalances from the imbalance settlement when they are associated with the introduction of ramping restrictions for the alleviation of deterministic frequency deviations pursuant to Article 137(4) of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

7. Each connecting TSO may include the following elements in the proposal for the terms and conditions for balancing service providers or in the terms and conditions for balance responsible parties:

- (a) a requirement for balancing service providers to provide information on unused generation capacity and other balancing resources from balancing service providers, after the day-ahead market gate closure time and after the intraday cross-zonal gate closure time;
- (b) where justified, a requirement for balancing service providers to offer the 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, without prejudice to the possibility of balancing service providers to change their balancing energy bids prior to the balancing energy gate closure time or the integrated scheduling process gate closure time due to trading within intraday market;
- (c) where justified, a requirement for balancing service providers to offer the unused generation capacity or other balancing resources through balancing energy bids or integrated scheduling process bids in the balancing markets after intraday cross-zonal gate closure time;
- (d) specific requirements with regard to the position of balance responsible parties submitted after the day-ahead market timeframe to ensure that the sum of their internal and external commercial trade schedules equals the sum of the physical generation and consumption schedules, taking into account electrical losses compensation, where relevant;
- (e) an exemption to publish information on offered prices of balancing energy or balancing capacity bids due to market abuse concerns pursuant to Article 12(4);
- (f) an exemption for specific products defined in Article 26(3)(b) to predetermine the price of the balancing energy bids from a balancing capacity contract pursuant to Article 16(6);
- (g) an application for the use of dual pricing for all imbalances based on the conditions established pursuant to Article 52(2)(d)(i) **of Regulation (EU) 2017/2195** and the methodology for applying dual

pricing pursuant to Article 52(2)(d)(ii) **of Regulation (EU) 2017/2195**.

8. TSOs applying a central dispatching model shall also include the following elements in the terms and conditions related to balancing:

- (a) the integrated scheduling process gate closure time pursuant to Article 24(5);
- (b) the rules for updating the integrated scheduling process bids after each integrated scheduling process gate closure time pursuant to Article 24(6);
- (c) the rules for using integrated scheduling process bids prior to the balancing energy gate closure time pursuant to Article 24(7);
- (d) the rules for converting integrated scheduling process bids pursuant to Article 27.

9. Each TSO shall monitor the fulfilment by all parties of the requirements set out in the terms and conditions for balancing within its scheduling area or scheduling areas.

## CHAPTER 2

### European platforms for the exchange of balancing energy

#### *Article 19*

##### **European platform for the exchange of balancing energy from replacement reserves**

1. <...>
2. <...>
3. <...>
4. <...>

5. By one year after the **entry into force of this Regulation**, all **Contracting Parties'** TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC** and that have at least one interconnected neighbouring TSO performing the replacement reserves process shall <...> use the European platform **established in accordance with Article 19 of Regulation 2017/2195** to:

- (a) submit all balancing energy bids from all standard products for replacement reserves;
- (b) exchange all balancing energy bids from all standard products for replacement reserves, except for unavailable bids pursuant to Article 29(14);
- (c) strive to fulfil all their needs for balancing energy from replacement reserves.

#### *Article 20*

##### **European platform for the exchange of balancing energy from frequency restoration reserves with manual activation**

1. <...>

2. <...>

3. <...>

4. <...>

5. <...>

6. **By two years after the entry into force of this Regulation Contracting Parties'** TSOs shall implement and make operational the European platform for the exchange of balancing energy use the European platform **established in accordance with Article 20 of Regulation 2017/2195** to:

(a) submit all balancing energy bids from all standard products for frequency restoration reserves with manual activation;

(b) exchange all balancing energy bids from all standard products for frequency restoration reserves with manual activation, except for unavailable bids pursuant to Article 29(14);

(c) strive to fulfil all their needs for balancing energy from the frequency restoration reserves with manual activation.

#### **Article 21**

##### **European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation**

1. <...>

2. <...>

3. <...>

4. <...>

5. <...>

6. **By two years after the entry into force of this Regulation** all **Contracting Parties'** TSOs performing the automatic frequency restoration process pursuant to Part IV of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC <...>** shall use the European platform **established in accordance with Article 21 of Regulation 2017/2195** to:

(a) submit all balancing energy bids from all standard products for frequency restoration reserves with automatic activation;

(b) exchange all balancing energy bids from all standard products for frequency restoration reserves with automatic activation, except for unavailable bids pursuant to Article 29(14);

(c) strive to fulfil all their needs for balancing energy from the frequency restoration reserves with automatic activation.

#### **Article 22**

##### **European platform for imbalance netting process**

1. <...>

2. <...>

3. <...>

4. <...>

5. By one year after the **entry into force of this Regulation** all **Contracting Parties'** TSOs performing the automatic frequency restoration process pursuant to Part IV of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC <...>** shall use the European platform **established in accordance with Article 22 of Regulation 2017/2195** to perform the imbalance netting process, at least for the Continental Europe synchronous area.

### **Article 23**

#### **Cost sharing between TSOs in different Member States and Contracting Parties**

1. All TSOs shall provide a yearly report to the relevant regulatory authorities in accordance with Article **59** of Directive (EU) **2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** in which the costs of <...> operating the European platforms pursuant to Articles 19, 20, 21 and 22 **of Regulation 2017/2195, applicable to the relevant Contracting Party's TSO** are explained in detail.

2. The costs referred to in paragraph 1 shall be broken down into:

3. Common costs referred to in paragraph 2(a) shall be shared among the TSOs in the Member States **and Contracting Parties** participating in the European platforms. **<...> The amount to be paid is calculated in line with Article 23(3) of Regulation (EU) 2017/2195.**

4. To take into account changes in the common costs or changes in the participating TSOs, the calculation of common costs shall be regularly adapted.

5. TSOs cooperating in a certain region shall jointly agree on a proposal for the sharing of regional costs in accordance with paragraph 2(b). The proposal shall then be individually approved by the relevant regulatory authorities of each of the **Contracting Parties** and <...> Member States in the region. <...>

6. The cost sharing principles shall apply to costs contributing to the establishing, amending and operating the European platforms from the approval of the proposal for the relevant implementation frameworks pursuant to Articles 19(1), 20(1), 21(1) and 22(1) **of Regulation 2017/2195**. In case the implementation frameworks propose that existing projects shall evolve into a European platform, all TSOs participating in the existing projects may propose that a share of the costs incurred before the approval of the proposal for the implementation frameworks directly related to the development and implementation of this project and assessed as reasonable, efficient and proportionate is considered as part of the common costs pursuant to paragraph 2(a).

### **Article 24**

#### **Balancing energy gate closure time**

1. <...> All TSOs shall harmonise the balancing energy gate closure time for standard products **with the**

**balancing energy gate closure time** at the Union level, at least for each of the following processes:

- (a) replacement reserves;
  - (b) frequency restoration reserves with manual activation;
  - (c) frequency restoration reserves with automatic activation.
2. Balancing energy gate closure times shall:
- (a) be as close as possible to real time;
  - (b) not be before the intraday cross-zonal gate closure time;
  - (c) ensure sufficient time for the necessary balancing processes.
3. After the balancing energy gate closure time, the balancing service providers shall no longer be permitted to submit or update their balancing energy bids.
4. After the balancing energy gate closure time, balancing service providers shall report to the connecting TSO any unavailable volumes of balancing energy bids without undue delay in accordance to 158(4)(b) and 161(4)(b) of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**. If the balancing service provider has a connection point to a DSO, and if required by the DSO, the balancing service provider shall also report any unavailable volumes of balancing energy bids to the DSO without undue delay.
5. By two years after entry into force of this Regulation, each TSO applying a central dispatching model shall define at least one integrated scheduling process gate closure time which shall:
- (a) enable balancing service providers to update their integrated scheduling bids as close as possible to real time;
  - (b) be no longer than eight hours before real-time;
  - (c) be set before the TSO energy bid submission gate closure time.
6. After each integrated scheduling process gate closure time, the integrated scheduling process bid may only be changed in accordance with the rules defined by the connecting TSO in the terms and conditions for balancing service providers set up pursuant to Article 18. Those rules shall be implemented before the connecting TSO joins any process for the exchange of balancing energy and shall allow balancing service providers to update their integrated scheduling bids to the extent possible until the intraday cross-zonal gate closure time, while ensuring:
- (a) the economic efficiency of the integrated scheduling process;
  - (b) operational security;
  - (c) consistency of all iterations of the integrated scheduling process;
  - (d) fair and equal treatment of all balancing service providers in the scheduling area;
  - (e) no negative effect on the integrated scheduling process.
7. Each TSO applying a central dispatching model shall establish the rules for using the integrated scheduling process bids prior to the balancing energy gate closure time in accordance with Article 18( 8) (c) in order to:
- (a) ensure that the TSO meets its reserve capacity requirements in real time;
  - (b) ensure sufficient resources to solve internal congestions;



(c) ensure the possibility of feasible dispatching of power generating facilities and demand facilities in real time.

### **Article 25**

#### **Requirements for standard products**

1. Standard products for balancing energy shall be **applied** as part of <...> the implementation **of** the European platforms pursuant to Articles 19, 20 and 21. **No** later than the time when a **Contracting Party's** TSO uses the respective European platform, the TSO shall use only standard and, where justified, specific balancing energy products in order to maintain the system's balance in accordance with Article 127, Article 157 and Article 160 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

2. By **one year** after entry into force of this Regulation, all TSOs shall **apply the** list of standard products for balancing capacity for frequency restoration reserves and replacement reserves **adopted pursuant to Article 25 of Regulation 2017/2195**.

3. <...>

4. <...>

5. <...>

6. Standard products for balancing energy and balancing capacity shall:

(a) ensure an efficient standardisation, foster cross-border competition and liquidity, and avoid undue market fragmentation;

(b) facilitate the participation of demand facility owners, third parties and owners of power generating facilities from renewable energy sources as well as owners of energy storage units as balancing service providers.

### **Article 26**

#### **Requirements for specific products**

1. **For** the <...> implementation **of** the European platforms pursuant to Articles 19, 20 and 21, each TSO may develop a proposal for defining and using specific products for balancing energy and balancing capacity. This proposal shall include at least:

(a) a definition of specific products and of the time period in which they will be used;

(b) a demonstration that standard products are not sufficient to ensure operational security and to maintain the system balance efficiently or a demonstration that some balancing resources cannot participate in the balancing market through standard products;

(c) a description of measures proposed to minimise the use of specific products subject to economic efficiency;

(d) where applicable, the rules for converting the balancing energy bids from specific products into balancing energy bids from standard products;

(e) where applicable, the information on the process for the conversion of balancing energy bids from specific products into balancing energy bids from standard products and the information on which common merit order list the conversion will take place;

(f) a demonstration that the specific products do not create significant inefficiencies and distortions in the balancing market within and outside the scheduling area.

2. Each TSO using specific products shall review at least once every two years the necessity to use specific products in accordance with the criteria laid down in paragraph 1.

3. The specific products shall be implemented in parallel to the implementation of the standard products. Following the use of the specific products, the connecting TSO may alternatively:

(a) convert the balancing energy bids from specific products into balancing energy bids from standard products;

(b) activate the balancing energy bids from specific products locally without exchanging them.

4. The rules for converting balancing energy bids from specific products into balancing energy bids from standard products pursuant to paragraph 1(d) shall:

(a) be fair, transparent and non-discriminatory;

(b) not create barriers for the exchange of balancing services;

(c) ensure the financial neutrality of TSOs.

### ***Article 27***

#### **Conversion of bids in a central dispatching model**

1. Each TSO applying a central dispatching model shall use the integrated scheduling process bids for the exchange of balancing services or for the sharing of reserves.

2. Each TSO applying a central dispatching model shall use the integrated scheduling process bids available for the real time management of the system to provide balancing services to other TSOs, while respecting operational security constraints.

3. Each TSO applying a central dispatching model shall convert as far as possible the integrated scheduling process bids pursuant to paragraph 2 into standard products taking into account operational security. The rules for converting the integrated scheduling process bids into standard products shall:

(a) be fair, transparent and non-discriminatory;

(b) not create barriers for the exchange of balancing services;

(c) ensure the financial neutrality of TSOs.

### ***Article 28***

#### **Fall-back procedures**

1. Each TSO shall ensure that fall-back solutions are in place in case the procedures referred to in paragraphs 2 and 3 fail.

2. Where the procurement of balancing services fails, the concerned TSOs shall repeat the procurement process. TSOs shall inform market participants that fall-back procedures will be used as soon as possible.
3. Where the coordinated activation of balancing energy fails, each TSO may deviate from the common merit order list activation and shall inform market participants as soon as possible.

## TITLE III PROCUREMENT OF BALANCING SERVICES

### CHAPTER 1 Balancing energy

#### *Article 29*

#### **Activation of balancing energy bids from common merit order list**

1. In order to maintain the system's balance in accordance with Article 127, Article 157 and Article 160 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, each TSO shall use cost-effective balancing energy bids available for delivery in its control area based on common merit order lists or another model as **applied** pursuant to paragraph 2 of Article 5.
2. TSOs shall not activate balancing energy bids before the corresponding balancing energy gate closure time, except in the alert state or the emergency state when such activations help alleviate the severity of these system states and except when the bids serve purposes other than balancing pursuant to **Article 5(2)(d)**.
3. By one year after the entry into force of this Regulation, all TSOs shall **apply the** methodology for classifying the activation purposes of balancing energy bids **adopted pursuant to Article 29(3) of Regulation (EU) 2017/2195 in line with Article 5(2)(d)**. <...>
4. For each balancing energy bid activated from the common merit order list, the TSO activating the bid shall define the activation purpose based on the methodology pursuant to **Article 5(2)(d)**. The activation purpose shall be notified and visible to all TSOs through the activation optimisation function.
5. In the event that the activation of balancing energy bids deviates from the results of the activation optimisation function, the TSO shall publish the information about the reasons for the occurrence of such deviation in a timely manner.
6. The request for activation of a balancing energy bid from the activation optimisation function shall oblige the requesting TSO and connecting TSO to accept the firm exchange of balancing energy. Each connecting TSO shall ensure the activation of the balancing energy bid selected by the activation optimisation function. The balancing energy shall be settled pursuant to Article 50 and between the connecting TSO and the balancing service provider pursuant to Chapter 2 of Title V.
7. The activation of balancing energy bids shall be based on a TSO-TSO model with a common merit order list.
8. Each TSO shall submit all necessary data for the operation of the algorithm in paragraphs 1 and 2 of

Article 58 **of Regulation 2017/2195** to the activation optimisation function in accordance with the rules established pursuant to Article 31(1).

9. Each connecting TSO shall submit, prior to the TSO energy bid submission gate closure time, all balancing energy bids received from balancing service providers to the activation optimisation function, taking into account the requirements in Articles 26 and 27. The connecting TSOs shall not modify or withhold balancing energy bids, except for:

- (a) balancing energy bids related to Articles 26 and 27;
- (b) balancing energy bids that are manifestly erroneous and include an unfeasible delivery volume;
- (c) balancing energy bids that are not forwarded to the European platforms in accordance with paragraph 10.

10. Each TSO applying a self-dispatching model and operating within a scheduling area with a local intraday gate closure time after the balancing energy gate closure time pursuant to Article 24 may develop a proposal to limit the amount of bids that is forwarded to the European platforms pursuant to Articles 19 to 21. The bids forwarded to the European platforms shall always be the cheapest bids. This proposal shall include:

- (a) the definition of the minimum volume that shall be forwarded to the European platforms. The minimum volume of bids submitted by the TSO shall be equal to or higher than the sum of the reserve capacity requirements for its LFC block according to Articles 157 and 160 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC** and the obligations arising from the exchange of balancing capacity or sharing of reserves;
- (b) the rules to release the bids that are not submitted to the European platforms and the definition of the point in time at which the concerned balancing service providers shall be informed of the release of its bids.

11. At least once every two years after the approval of the proposal in paragraph 10 by the respective regulatory authority, all TSOs shall assess the impact of limiting the volume of bids sent to the European platforms and the functioning of the intraday market. This assessment shall include:

- (a) an evaluation by the relevant TSOs on the minimum volume of bids that shall be forwarded to the European platforms pursuant to paragraph 10(a);
- (b) a recommendation to the relevant TSOs limiting balancing energy bids.

Based on this assessment, all TSOs shall make a proposal to all regulatory authorities to review the minimum volume of balancing energy bids that shall be forwarded to the European platforms pursuant to paragraph 10(a).

12. Each requesting TSO may request the activation of balancing energy bids from the common merit order lists up to the total volume of balancing energy. The total volume of balancing energy that can be activated by the requesting TSO from balancing energy bids from the common merit order lists is calculated as a sum of volumes of:

- (a) balancing energy bids submitted by the requesting TSO not resulting from sharing of reserves or exchange of balancing capacity;
- (b) balancing energy bids submitted by other TSOs as a result of balancing capacity procured on behalf of the requesting TSO;
- (c) balancing energy bids resulting from the sharing of reserves under the condition that the other TSOs

participating in the sharing of reserves have not already requested the activation of those shared volumes.

13. <...> When a TSO requests balancing energy bids beyond the limit set out in paragraph 12, all other TSOs shall be informed.

14. Each TSO may declare the balancing energy bids submitted to the activation optimisation function unavailable for the activation by other TSOs because they are restricted due to internal congestion or due to operational security constraints within the connecting TSO scheduling area.

### **Article 30**

#### **Pricing for balancing energy and cross-zonal capacity used for exchange of balancing energy or for operating the imbalance netting process**

1. By one year after the entry into force of this Regulation, all TSOs shall **apply the methodology adopted in accordance with Article 5(2)(f)** to determine prices for the balancing energy that results from the activation of balancing energy bids for the frequency restoration process pursuant to Articles 143 and 147 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**, and the reserve replacement process pursuant to Articles 144 and 148 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

2. <...>

3. <...>

4. The harmonised pricing method defined in paragraph 1 shall apply to balancing energy from all standard and specific products pursuant to Article 26(3)(a). For specific products pursuant to Article 26(3)(b), the concerned TSO may propose a different pricing method in the proposal for specific products pursuant to Article 26.

5. Where all TSOs identify inefficiencies in the application of the methodology proposed pursuant to **Article 30(1)(a) of Regulation (EU) 2017/2195**, they may request an amendment and propose a pricing method alternative to the pricing method in **Article 30(1)(a) of Regulation (EU) 2017/2195**. In such case, all TSOs shall perform a detailed analysis demonstrating that the alternative pricing method is more efficient.

### **Article 31**

#### **Activation optimisation function**

1. All TSOs shall **apply the activation optimisation function established** in accordance with Article 29 and **Article 31 of Regulation (EU) 2017/2195** for the optimisation of the activation of balancing energy bids from different common merit order lists. <...>

2. Common merit order lists shall consist of balancing energy bids from standard products. All TSOs shall establish the necessary common merit order lists for the standard products. Upward and downward balancing energy bids shall be separated in different common merit order lists.

3. <...>

4. TSOs shall ensure that the balancing energy bids submitted to the common merit order lists are expressed in euros and make reference to the market time unit.
5. Depending on the requirement for standard products for balancing energy, TSOs may create more common merit order lists.
6. Each TSO shall submit its activation requests for balancing energy bids to the activation optimisation function.
7. **The activated balancing service providers shall be responsible for delivering the requested volume until the end of the delivery period.**
8. All TSOs that operate the frequency restoration process and the reserve replacement process to balance their LFC area shall strive to use all balancing energy bids from relevant common merit order lists to balance the system in the most efficient way, taking into account operational security.
9. TSOs that do not use the reserve replacement process to balance their LFC area shall strive to use all balancing energy bids from relevant common merit order lists for frequency restoration reserves to balance the system in the most efficient way, taking into account operational security.
10. Except in the normal state, TSOs may decide to balance the system using only the balancing energy bids from balancing service providers in its own control area if such decision helps alleviate the severity of the current system state. The TSO shall publish a justification for such decision without undue delay.

## **CHAPTER 2**

### **Balancing capacity**

#### **Article 32**

##### **Procurement rules**

1. All TSOs of the LFC block shall regularly and at least once a year review and define the reserve capacity requirements for the LFC block or scheduling areas of the LFC block pursuant to dimensioning rules as referred in Articles 127, 157 and 160 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**. Each TSO shall perform an analysis on optimal provision of reserve capacity aiming at minimisation of costs associated with the provision of reserve capacity. This analysis shall take into account the following options for the provision of reserve capacity:
  - (a) procurement of balancing capacity within control area and exchange of balancing capacity with neighbouring TSOs, when applicable;
  - (b) sharing of reserves, when applicable;
  - (c) the volume of non-contracted balancing energy bids which are expected to be available both within their control area and within the European platforms taking into account the available cross-zonal capacity.
2. Each TSO procuring balancing capacity shall define the rules for the procurement of balancing capacity in the proposal for the terms and conditions related to balancing service providers developed pursuant to Article 18. The rules for the procurement of balancing capacity shall comply with the following principles:
  - (a) the procurement method shall be market-based for at least the frequency restoration reserves and

the replacement reserves;

(b) the procurement process shall be performed on a short-term basis to the extent possible and where economically efficient;

(c) the contracted volume may be divided into several contracting periods.

3. The procurement of upward and downward balancing capacity for at least the frequency restoration reserves and the replacement reserves shall be carried out separately. Each TSO may submit a proposal to the relevant regulatory authority in accordance with Article 59 of Directive (EU) **20109/944, as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** requesting the exemption to this requirement. The proposal for exemption shall include:

(a) specification of the time period during which the exemption would apply;

(b) specification of the volume of balancing capacity for which the exemption would apply;

(c) analysis of the impact of such an exemption on the participation of balancing resources pursuant to Article 25(6)(b);

(d) justification for the exemption demonstrating that such an exemption would lead to higher economic efficiency.

### **Article 33**

#### **Exchange of balancing capacity**

1. Two or more TSOs exchanging or mutually willing to exchange balancing capacity shall develop a proposal for the establishment of common and harmonised rules and processes for the exchange and procurement of balancing capacity while respecting the requirements set out in Article 32.

2. Except in cases where the TSO-BSP model is applied pursuant to Article 35, the exchange of balancing capacity shall always be performed based on a TSO-TSO model whereby two or more TSOs establish a method for the common procurement of balancing capacity taking into account the available cross-zonal capacity and the operational limits defined in Chapters 1 and 2 of Part IV Title VIII of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

3. All TSOs exchanging balancing capacity shall submit all balancing capacity bids from standard products to the capacity procurement optimisation function. TSOs shall not modify or withhold any balancing capacity bids and shall include them in the procurement process, except under conditions set out in Article 26 and Article 27.

4. All TSOs exchanging balancing capacity shall ensure both the availability of cross-zonal capacity and that the operational security requirements set out in Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC** are met, either by:

(a) the methodology for calculating the probability of available cross-zonal capacity after intraday cross-zonal gate closure time pursuant to paragraph 6;

(b) the methodologies for allocating cross-zonal capacity to the balancing timeframe pursuant to Chapter 2 of Title IV.

5. Each TSO using the methodology for calculating the probability of available cross-zonal capacity after

intraday cross-zonal gate closure time shall inform other TSOs in their LFC block of the risk of unavailability of reserve capacity in the scheduling area or areas of its control area that may affect the fulfilment of the requirements pursuant to Article 157(2)(b) of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

6. TSOs exchanging balancing capacity for frequency restoration reserves and replacement reserves may develop a proposal for a methodology for calculating the probability of available cross-zonal capacity after intraday cross-zonal gate closure time. The methodology shall at least describe:

- (a) the procedures to notify to other TSOs in the LFC block;
- (b) the description of the process to perform the assessment for the relevant period for the exchange of balancing capacity;
- (c) the method to assess the risk of unavailability of cross-zonal capacity due to planned and unplanned outages and due to congestions;
- (d) the method to assess the risk of insufficient reserve capacity due to unavailability of cross-zonal capacity;
- (e) the requirements for a fall-back solution in case of unavailability of cross-zonal capacity or insufficient reserve capacity;
- (f) the requirements for *ex-post* review and monitoring of risks;
- (g) the rules in order to ensure the settlement pursuant to Title V.

7. TSOs shall not increase the reliability margin calculated pursuant to Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC** due to the exchange of balancing capacity for frequency restoration reserves and replacement reserves.

### **Article 34**

#### **Transfer of balancing capacity**

1. Within the geographical area in which the procurement of balancing capacity has taken place, the TSOs shall allow balancing service providers to transfer their obligations to provide balancing capacity. The concerned TSO or TSOs may request an exemption where contracting periods for balancing capacity pursuant to Article 32(2)(b) are strictly less than one week.

2. The transfer of balancing capacity shall be allowed at least until one hour before the start of the delivery day.

3. The transfer of balancing capacity shall be allowed if the following conditions are met:

- (a) the receiving balancing service provider has passed the qualification process for the balancing capacity for which the transfer is performed;
- (b) the transfer of balancing capacity is not expected to endanger operational security;
- (c) the transfer of balancing capacity does not exceed the operational limits set out in Chapters 1 and 2 of Part IV Title VIII of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

4. In case the transfer of balancing capacity requires the use of cross-zonal capacity, such transfer shall



only be allowed in case:

(a) the cross-zonal capacity required to perform the transfer is already available from previous allocation processes pursuant to Chapter 2 of Title IV;

(b) the cross-zonal capacity is available pursuant to the methodology for calculating the probability of available cross-zonal capacity after intraday cross-zonal gate closure time in accordance with Article 33(6).

5. If a TSO does not allow the transfer of balancing capacity, the concerned TSO shall explain the reason for the rejection to the balancing service providers involved.

## CHAPTER 3 TSO-BSP model

### *Article 35*

#### Exchange of balancing services

1. Two or more TSOs may at their initiative or at the request of their relevant regulatory authorities in accordance with Article 59 of Directive (EU) **2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** develop a proposal for the application of the TSO- BSP model.

2. The proposal for application of a TSO-BSP model shall include:

(a) a cost-benefit analysis performed pursuant to Article 61 that identifies the efficiencies of applying the TSO-BSP model for at least the scheduling area or scheduling areas of the TSOs involved;

(b) the requested application period;

(c) a description of the methodology for ensuring sufficient cross-zonal capacity in accordance with Article 33(6).

3. Where the TSO-BSP model applies, the respective TSOs and balancing service providers may be exempted from the application of the requirements in Article 16(2), Article 16(4), Article 16(5) and Article 29(9) for the relevant processes.

4. Where the TSO-BSP model applies, the involved TSOs shall agree on the technical and contractual requirements and on information exchanges for the activation of balancing energy bids. The contracting TSO and the balancing service provider shall establish contractual arrangements based on the TSO-BSP model.

5. The TSO-BSP model for the exchange of balancing energy from frequency restoration reserves may be applied only where the TSO-BSP model is also applied for the exchange of balancing capacity for frequency restoration reserves.

6. The TSO-BSP model for the exchange of balancing energy from replacement reserves may be applied where the TSO-BSP model is applied for the exchange of balancing capacity for replacement reserves or where one of the two involved TSOs does not operate the reserve replacement process as part of the load-frequency-control structure pursuant to Part IV of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

7. By **one** year after entry into force of this Regulation, all exchanges of balancing capacity shall be based on the TSO-TSO model. This requirement shall not apply to the TSO-BSP model for replacement

reserves if one of the two involved TSOs does not operate the reserve replacement process as part of the load-frequency-control structure pursuant to Part IV of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

## **TITLE IV**

### **CROSS-ZONAL CAPACITY FOR BALANCING SERVICES**

#### **CHAPTER 1**

#### **Exchange of balancing energy or imbalance netting process**

##### *Article 36*

##### **Use of cross-zonal capacity**

1. All TSOs shall use the available cross-zonal capacity, computed according to paragraphs 2 and 3 of Article 37, for the exchange of balancing energy or for operating the imbalance netting process.
2. Two or more TSOs exchanging balancing capacity may use cross-zonal capacity for the exchange of balancing energy when cross-zonal capacity is:

##### *Article 37*

##### **Cross-zonal capacity calculation**

1. After the intraday-cross-zonal gate closure time, TSOs shall continuously update the availability of cross-zonal capacity for the exchange of balancing energy or for operating the imbalance netting process. Cross-zonal capacity shall be updated every time a portion of cross-zonal capacity has been used or when cross-zonal capacity has been recalculated.
2. Before the implementation of the capacity calculation methodology pursuant to paragraph 3, TSOs shall use the cross-zonal capacity remaining after the intraday cross-zonal gate closure time.
3. By five years after entry into force of this Regulation, all TSOs of a capacity calculation region shall develop a methodology for cross-zonal capacity calculation within the balancing timeframe for the exchange of balancing energy or for operating the imbalance netting process. Such methodology shall avoid market distortions and shall be consistent with the cross-zonal capacity calculation methodology applied in the intraday timeframe established under Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

#### **CHAPTER 2**

#### **Exchange of balancing capacity or sharing of reserves**

## **Article 38**

### **General requirements**

1. Two or more TSOs may at their initiative or at the request of their relevant regulatory authorities in accordance with Article **59** of Directive (EU) **2019/944** set up a proposal for the application of one of the following processes:

Cross-zonal capacity allocated for the exchange of balancing capacity or sharing of reserves before the entry into force of this Regulation may continue to be used for that purpose until the expiry of the contracting period.

2. The proposal for the application of the allocation process shall include:

(a) the bidding zone borders, the market timeframe, the duration of application and the methodology to be applied;

(b) in case of allocation process based on economic efficiency analysis, the volume of allocated cross zonal capacity and the actual economic efficiency analysis justifying the efficiency of such allocation.

3. By **one** year after entry into force of this Regulation, all TSOs shall **apply** the harmonised methodology for the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves per timeframe pursuant to Article 40 and, where relevant, pursuant to Articles 41 and 42 of **Regulation (EU) 2017/2195**.

4. Cross-zonal capacity allocated for the exchange of balancing capacity or sharing of reserves shall be used exclusively for frequency restoration reserves with manual activation, for frequency restoration reserves with automatic activation and for replacement reserves. The reliability margin calculated pursuant to Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC** shall be used for operating and exchanging frequency containment reserves, except on Direct Current ('DC') interconnectors for which cross-zonal capacity for operating and exchanging frequency containment reserves may also be allocated in accordance with paragraph 1.

5. TSOs may allocate cross-zonal capacity for the exchange of balancing capacity or sharing of reserves only if cross-zonal capacity is calculated in accordance with the capacity calculation methodologies developed pursuant to Regulation (EU) 2015/1222 **as adapted and adopted by Ministerial Council 2022/03/MC-EnC** and (EU) 2016/1719 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**.

6. TSOs shall include cross-zonal capacity allocated for the exchange of balancing capacity or sharing of reserves as already allocated cross-zonal capacity in the calculations of cross-zonal capacity.

7. If physical transmission right holders use cross-zonal capacity for the exchange of balancing capacity, the capacity shall be considered as nominated solely for the purpose of excluding it from the application of the use-it-or-sell-it ('UIOSI') principle.

8. All TSOs exchanging balancing capacity or sharing of reserves shall regularly assess whether the cross-zonal capacity allocated for the exchange of balancing capacity or sharing of reserves is still needed for that purpose. Where the allocation process based on economic efficiency analysis is applied, this assessment shall be done at least every year. When cross-zonal capacity allocated for the exchange of balancing capacity or sharing of reserves is no longer needed, it shall be released as soon as possible and returned in the subsequent capacity allocation timeframes. Such cross-zonal capacity shall no longer be

included as already allocated cross-zonal capacity in the calculations of cross-zonal capacity.

9. When cross-zonal capacity allocated for the exchange of balancing capacity or sharing of reserves has not been used for the associated exchange of balancing energy, it shall be released for the exchange of balancing energy with shorter activation times or for operating the imbalance netting process.

#### **Article 39**

#### **Calculation of market value of cross-zonal capacity**

<...>

#### **Article 40**

#### **Co-optimised allocation process**

<...>

#### **Article 41**

#### **Market-based allocation process**

<...>

#### **Article 42**

#### **Allocation process based on economic efficiency analysis**

<...>

#### **Article 43**

#### **Use of cross-zonal capacity by balancing service providers**

1. Balancing service providers which have a contract for balancing capacity with a TSO on the basis of a TSO-BSP model pursuant to Article 35 shall have the right to use cross-zonal capacity for the exchange of balancing capacity if they are holders of physical transmission rights.
2. Balancing service providers which use cross-zonal capacity for the exchange of balancing capacity on the basis of a TSO-BSP model pursuant to Article 35 shall nominate their physical transmission rights for the exchange of balancing capacity to the concerned TSOs. Such physical transmission rights shall provide the right to their holders to nominate the exchange of balancing energy to the concerned TSOs and shall therefore be excluded from the application of the UIOSI principle.
3. Cross-zonal capacity allocated for the exchange of balancing capacity in accordance with paragraph 2 shall be included as already allocated cross-zonal capacity in the calculations of cross-zonal capacity.

## TITLE V SETTLEMENT

### CHAPTER 1 Settlement principles

#### *Article 44* General principles

1. The settlement processes shall:

- (a) establish adequate economic signals which reflect the imbalance situation;
- (b) ensure that imbalances are settled at a price that reflects the real time value of energy;
- (c) provide incentives to balance responsible parties to be in balance or help the system to restore its balance;
- (d) facilitate harmonisation of imbalance settlement mechanisms;
- (e) provide incentives to TSOs to fulfil their obligations pursuant to Article 127, Article 153, Article 157 and Article 160 of Regulation (EU) 2017/1485 **as adapted and adopted by Ministerial Council Decision 2022/03/MC-EnC**;
- (f) avoid distorting incentives to balance responsible parties, balancing service providers and TSOs;
- (g) support competition among market participants;
- (h) provide incentives to balancing service providers to offer and deliver balancing services to the connecting TSO;
- (i) ensure the financial neutrality of all TSOs.

2. Each relevant regulatory authority in accordance with Article 59 of Directive (EU) 2019/944, **as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** shall ensure that all TSOs under its competence do not incur economic gains or losses with regard to the financial outcome of the settlement pursuant to Chapters 2, 3 and 4 of this Title, over the regulatory period as defined by the relevant regulatory authority, and shall ensure that any positive or negative financial outcome as a result of the settlement pursuant to Chapters 2, 3 and 4 of this Title shall be passed on to network users in accordance with the applicable national rules.

3. Each TSO may develop a proposal for an additional settlement mechanism separate from the imbalance settlement, to settle the procurement costs of balancing capacity pursuant to Chapter 5 of this Title, administrative costs and other costs related to balancing. The additional settlement mechanism shall apply to balance responsible parties. This should be preferably achieved with the introduction of a shortage pricing function. If TSOs choose another mechanism, they should justify this in the proposal. Such a proposal shall be subject to approval by the relevant regulatory authority.

4. Each injection or withdrawal into or from a scheduling area of a TSO shall either be settled in accordance with Chapter 3 or Chapter 4 of Title V.

## CHAPTER 2 Settlement of balancing energy

### **Article 45** **Balancing energy calculation**

1. As regards the settlement of balancing energy for at least the frequency restoration process and the reserve replacement process, each TSO shall establish a procedure for:
  - (a) the calculation of the activated volume of balancing energy based on requested or metered activation;
  - (b) claiming the recalculation of the activated volume of balancing energy.
2. Each TSO shall calculate the activated volume of balancing energy according to the procedures pursuant to paragraph 1(a) at least for:
  - (a) each imbalance settlement period;
  - (b) its imbalance areas;
  - (c) each direction, with a negative sign indicating relative withdrawal by the balancing service provider, and a positive sign indicating relative injection by the balancing service provider.
3. Each connecting TSO shall settle all activated volumes of balancing energy calculated pursuant to paragraph 2, with the concerned balancing service providers.

### **Article 46** **Balancing energy for frequency containment process**

1. Each connecting TSO may calculate and settle the activated volume of balancing energy for the frequency containment process with balancing service providers pursuant to paragraphs 1 and 2 of Article 45.
2. The price, be it positive, zero or negative, of the activated volume of balancing energy for the frequency containment process shall be defined for each direction as defined in Table 1:

Table 1

Payment for balancing energy

	<b>Balancing energy price positive</b>	<b>Balancing energy price negative</b>
<b>Positive balancing energy</b>	Payment from TSO to BSP	Payment from BSP to TSO
<b>Negative balancing energy</b>	Payment from BSP to TSO	Payment from TSO to BSP

**Article 47****Balancing energy for frequency restoration process**

1. Each connecting TSO shall calculate and settle the activated volume of balancing energy for the frequency restoration process with balancing service providers pursuant to paragraphs 1 and 2 of Article 45
2. The price, be it positive, zero or negative, of the activated volume of balancing energy for the frequency restoration process shall be defined for each direction pursuant to Article 30 as defined in the Table 1.

**Article 48****Balancing energy for reserve replacement process**

1. Each connecting TSO shall calculate and settle the activated volume of balancing energy for the reserve replacement process with balancing service providers pursuant to paragraphs 1 and 2 of Article 45.
2. The price, be it positive, zero or negative, of the activated volume of balancing energy for reserve replacement process shall be defined for each direction pursuant to Article 30 as defined in the Table 1.

**Article 49****Imbalance adjustment to the balance responsible party**

1. Each TSO shall calculate an imbalance adjustment to be applied to the concerned balance responsible parties for each activated balancing energy bid.
2. For imbalance areas where several final positions for a single balance responsible party are calculated pursuant to Article 54(3), an imbalance adjustment may be calculated for each position.
3. For each imbalance adjustment, each TSO shall determine the activated volume of balancing energy calculated pursuant to Article 45 and any volume activated for purposes other than balancing.

**CHAPTER 3****Settlement of the exchanges of energy between TSOs****Article 50****Intended exchanges of energy**

1. By one year after the entry into force of this Regulation, all TSOs shall **apply** common settlement rules applicable to all intended exchanges of energy <...> pursuant to Articles 146, 147 and 148 of Regulation (EU) 2017/1485. <...>
2. Each TSO-TSO settlement function shall perform the settlement in accordance with the settlement rules pursuant to **Article 5(2)(i)**.

3. By **one year** after the entry into force of this Regulation, all TSOs intentionally exchanging energy within **the Continental Europe** synchronous area shall **apply the common TSO-TSO settlement rules for the** intended exchanges of energy **in line with Article 5(2)(l)**.

4. <...>

5. <...>

6. <...>

7. <...>

8. All TSOs shall establish a coordinated mechanism for adjustments to settlements between all TSOs.

#### **Article 51**

### **Unintended exchanges of energy**

1. By **one year** after the entry into force of this Regulation, all TSOs of **the Continental Europe** synchronous area shall **apply a <...>** common settlement rules applicable to all unintended exchanges of energy **in line with Article 5(2)(m)**. <...>

2. <...>

3. <...>

4. <...>

## **CHAPTER 4**

### **Imbalance settlement**

#### **Article 52**

### **Imbalance settlement**

1. Each TSO or, where relevant, third party shall settle within its scheduling area or scheduling areas when appropriate with each balance responsible party for each imbalance settlement period pursuant to Article 53 all calculated imbalances pursuant to Article 49 and Article 54 against the appropriate imbalance price calculated pursuant to Article 55.

2. By one year after entry into force of this Regulation, all TSOs shall **apply the harmonised provisions on of the main features of imbalance settlement pursuant to Article 52(2) of Regulation (EU) 2017/2195 in line with art. 5(2)(j) of this regulation**.

3. <...>

4. <...>



**Article 53****Imbalance settlement period**

1. By **one** year after the entry into force of this Regulation, all TSOs shall apply the imbalance settlement period of 15 minutes in all scheduling areas while ensuring that all boundaries of market time unit shall coincide with boundaries of the imbalance settlement period.
2. <...>
3. <...>

**Article 54****Imbalance calculation**

1. Each **Contracting Party's** TSO shall calculate within its scheduling area or scheduling areas when appropriate the final position, the allocated volume, the imbalance adjustment and the imbalance:
  - (a) for each balance responsible party;
  - (b) for each imbalance settlement period;
  - (c) in each imbalance area.
2. The imbalance area shall be equal to the scheduling area, except in case of a central dispatching model where imbalance area may constitute a part of scheduling area.
3. Until the implementation of <...> Article 5(2), each TSO shall calculate the final position of a balance responsible party using one of the following approaches:
  - (a) balance responsible party has one single final position equal to the sum of its external commercial trade schedules and internal commercial trade schedules;
  - (b) balance responsible party has two final positions: the first is equal to the sum of its external commercial trade schedules and internal commercial trade schedules from generation, and the second is equal to the sum of its external commercial trade schedules and internal commercial trade schedules from consumption;
  - (c) in a central dispatching model, a balance responsible party can have several final positions per imbalance area equal to generation schedules of power generating facilities or consumption schedules of demand facilities.
4. Each TSO shall set up the rules for:
  - (a) the calculation of the final position;
  - (b) the determination of the allocated volume;
  - (c) the determination of the imbalance adjustment pursuant to Article 49;
  - (d) the calculation of the imbalance;
  - (e) claiming the recalculation of the imbalance by a balance responsible party.
5. Allocated volume shall not be calculated for a balance responsible party which does not cover injec-

tions or withdrawals.

6. An imbalance shall indicate the size and the direction of the settlement transaction between the balance responsible party and the TSO; an imbalance can have alternatively:

- (a) a negative sign, indicating a balance responsible party's shortage;
- (b) a positive sign, indicating a balance responsible party's surplus.

### **Article 55**

#### **Imbalance price**

1. Each **Contracting Party's** TSO shall set up rules to calculate the imbalance price, which can be positive, zero or negative, as defined in Table 2:

Table 2

Payment for imbalance

	<b>Imbalance price positive</b>	<b>Imbalance price negative</b>
<b>Positive imbalance</b>	Payment from TSO to BRP	Payment from BRP to TSO
<b>Negative imbalance</b>	Payment from BRP to TSO	Payment from TSO to BRP

2. The rules pursuant to paragraph 1 shall include a definition of the value of avoided activation of balancing energy from frequency restoration reserves or replacement reserves.

3. Each TSO shall determine the imbalance price for:

- (a) each imbalance settlement period;
- (b) its imbalance price areas;
- (c) each imbalance direction.

4. The imbalance price for negative imbalance shall not be less than, alternatively:

- (a) the weighted average price for positive activated balancing energy from frequency restoration reserves and replacement reserves;
- (b) in the event that no activation of balancing energy in either direction has occurred during the imbalance settlement period, the value of the avoided activation of balancing energy from frequency restoration reserves or replacement reserves.

5. The imbalance price for positive imbalance shall not be greater than, alternatively:

- (a) the weighted average price for negative activated balancing energy from frequency restoration reserves and replacement reserves;
- (b) in the event that no activation of balancing energy in either direction has occurred during the imbalance settlement period, the value of the avoided activation of balancing energy from frequency restoration reserves or replacement reserves.

6. In the event that both positive and negative balancing energy from frequency restoration reserves or

replacement reserves have been activated during the same imbalance settlement period, the imbalance settlement price shall be determined for positive imbalance and negative imbalance based on at least one of the principles pursuant to paragraphs 4 and 5.

## **CHAPTER 5**

### **Settlement of balancing capacity**

#### *Article 56*

#### **Procurement within a scheduling area**

1. Each TSO of a scheduling area using balancing capacity bids shall establish rules for the settlement of at least frequency restoration reserves and replacement reserves pursuant to the requirements set out in Article 32.
2. Each TSO of a scheduling area using balancing capacity bids shall settle at least all procured frequency restoration reserves and replacement reserves pursuant to the requirements set out in Article 32.

#### *Article 57*

#### **Procurement outside a scheduling area**

1. All TSOs exchanging balancing capacity shall establish rules for the settlement of procured balancing capacity pursuant to Article 33 and Article 35.
2. All TSOs exchanging balancing capacity shall jointly settle procured balancing capacity using the TSO-TSO settlement function pursuant to Article 33. TSOs exchanging balancing capacity based on a TSO-BSP model shall settle procured balancing capacity pursuant to Article 35.
3. All TSOs exchanging balancing capacity shall establish rules for the settlement of allocation of cross-zonal capacity pursuant to Chapter 2 of Title IV.
4. All TSOs exchanging balancing capacity shall settle the allocated cross-zonal capacity pursuant to Chapter 2 of Title IV.

## **TITLE VI**

### **ALGORITHM**

#### *Article 58*

#### **Balancing algorithms**

1. <...>
2. <...>

3. In the proposal pursuant to Article 33, two or more TSOs exchanging balancing capacity shall develop algorithms to be operated by the capacity procurement optimisation functions for the procurement of balancing capacity bids. Those algorithms shall:

- (a) minimise the overall procurement costs of all jointly procured balancing capacity;
- (b) if applicable, take into account the availability of cross-zonal capacity including possible costs for its provision.

4. All algorithms developed in accordance with this Article shall:

- (a) respect operational security constraints;
- (b) take into account technical and network constraints;
- (c) if applicable, take into account the available cross-zonal capacity.

## **TITLE VII REPORTING**

### **Article 59**

#### **European report on integration of balancing markets**

**1. When monitoring the implementation of Regulation (EU) 2017/2195 in accordance with its Article 59, the ENTSO for Electricity, acting in accordance with Article 3 of Procedural Act No 2022/01/MC-EnC, shall extend this report to include the Contracting Parties, where feasible.**

2. <...>

3. <...>

4. <...>

5. Before the submission of the final report, ENTSO **for Electricity, acting in accordance with Article 3 of Procedural Act No 2022/01/MC-EnC**, shall **deliver the** proposal for a draft report **developed pursuant to paragraph 1 <...>** to the **Energy Community Regulatory Board** which shall be entitled to require amendments within two months after the submission of the proposal.

6. The report pursuant to paragraph **1** shall also contain an executive summary in English of each TSO report on balancing pursuant to Article 60.

7. The reports shall provide disaggregated information and indicators for each scheduling area, each bidding zone border, or each LFC block.

8. ENTSO-E shall publish the reports on internet and submit it to the **Energy Community Regulatory Board** no later than six months after the end of the year it refers to.

9. <...>

**Article 60****TSO report on balancing**

1. At least once every two years, each TSO shall publish a report on balancing covering the previous two calendar years, respecting the confidentiality of information in accordance with Article 11.
2. The report on balancing shall:
  - (a) include information concerning the volumes of available, procured and used specific products, as well as justification of specific products subject to conditions pursuant to Article 26;
  - (b) provide the summary analysis of the dimensioning of reserve capacity including the justification and explanation for the calculated reserve capacity requirements;
  - (c) provide the summary analysis of the optimal provision of reserve capacity including the justification of the volume of balancing capacity;
  - (d) analyse the costs and benefits, and the possible inefficiencies and distortions of having specific products in terms of competition and market fragmentation, participation of demand response and renewable energy sources, integration of balancing markets and side-effects on other electricity markets;
  - (e) analyse the opportunities for the exchange of balancing capacity and sharing of reserves;
  - (f) provide an explanation and a justification for the procurement of balancing capacity without the exchange of balancing capacity or sharing of reserves;
  - (g) analyse the efficiency of the activation optimisation functions for the balancing energy from frequency restoration reserves and, if applicable, for the balancing energy from replacement reserves.
3. The report on balancing shall either be in English or at least contain an executive summary in English.
4. Based on previously published reports, the relevant regulatory authority in accordance with Article 59 of Directive (EU) **2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** shall be entitled to require changes to the structure and content of the next TSO report on balancing.

**TITLE VIII****COST-BENEFIT ANALYSIS****Article 61****Cost-benefit analysis**

1. When TSOs are required to carry out a cost-benefit analysis pursuant to this Regulation, they shall establish the criteria and methodology for the cost-benefit analysis and submit them to the relevant regulatory authorities in accordance with Article 59 of Directive (EU) **2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** by six months before the start of the cost-benefit analysis. The relevant regulatory authorities shall be entitled to jointly require amendments to the criteria and methodology.
2. The cost-benefit analysis shall at least take into account:

- (a) the technical feasibility;
  - (b) the economic efficiency;
  - (c) the impact on competition and integration of balancing markets;
  - (d) the costs and benefits of implementation;
  - (e) the impact on European and national balancing costs;
  - (f) the potential impact on European electricity market prices;
  - (g) the ability of TSOs and balancing responsible parties to fulfil their obligations;
  - (h) the impact on market parties in terms of additional technical or IT requirements assessed in cooperation with the affected stakeholders.
3. All concerned TSOs shall provide the results of the cost-benefit analysis to all relevant regulatory authorities, together with a justified proposal on how to address possible issues identified by the cost-benefit analysis.

## TITLE IX DEROGATIONS AND MONITORING

### *Article 62* Derogations

1. A regulatory authority in accordance with Article **59** of Directive (EU) **2019/944 as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC** may, at the request of a TSO or at its own initiative, grant the relevant TSOs a derogation from one or more provisions of this Regulation in accordance with paragraphs 2 to 12.
2. A TSO may request a derogation from the following requirements:
  - (a) the deadlines by which a TSO shall use the European platforms pursuant to Articles 19(5), 20(6), 21(6) and 22(5);
  - (b) the definition of the integrated scheduling process gate closure time in a central dispatching model pursuant to Article 24(5) and the possibility to change the integrated scheduling process bids pursuant to Article 24(6);
  - (c) the maximum volume of cross-zonal capacity allocated on a market-based process pursuant to Article 41(2) or a process based on an economic efficiency analysis pursuant to Article 42(2) **of Regulation (EU) 2017/2195**;
  - (d) the harmonisation of the imbalance settlement period in Article 53(1);
  - (e) the implementation of the requirements pursuant to Articles 45, 46, 47, 48, 49, 50, 51, 54, 55, 56 and 57.
3. The derogation process shall be transparent, non-discriminatory, non-biased, well documented and based on a reasoned request.
4. TSOs shall file a written request for derogation to the relevant regulatory authority at the latest six

months prior to the day of application of the provisions from which the derogation is requested.

5. The request for derogation shall include the following information:

- (a) the provisions from which a derogation is requested;
- (b) the requested derogation period;
- (c) a detailed plan and timeline specifying how to address and ensure the implementation of the concerned provisions of this Regulation after expiration of the derogation period;
- (d) an assessment of the consequences of requested derogation on adjacent markets;
- (e) an assessment of the possible risks for the integration of balancing markets across Europe caused by the requested derogation.

6. The relevant regulatory authority shall adopt a decision concerning any request for derogation within six months from the day after it receives the request. That time limit may be extended by three months before its expiry where the relevant regulatory authority requires further information from the TSO requesting the derogation. The additional period shall begin when the complete information has been received.

7. The TSO requesting the derogation shall submit any additional information requested by the relevant regulatory authority within two months of such request. If the TSO does not supply the requested information within that time limit, the request for a derogation shall be deemed withdrawn unless, before its expiry, alternatively:

- (a) the relevant regulatory authority decides to provide an extension;
- (b) the TSO informs the relevant regulatory authority by means of a reasoned submission that the request for a derogation is complete.

8. When assessing the request for derogation or before granting a derogation at its own initiative, the relevant regulatory authority shall consider the following aspects:

- (a) the difficulties related to the implementation of the concerned provision or provisions;
- (b) the risks and the implications of the concerned provision or provisions, in terms of operational security;
- (c) the actions taken to facilitate the implementation of the concerned provision or provisions;
- (d) the impacts of non-implementation of the concerned provision or provisions, in terms of non-discrimination and competition with other European market participants, in particular as regards demand response and renewable energy sources;
- (e) the impacts on overall economic efficiency and smart grid infrastructure;
- (f) the impacts on other scheduling areas and overall consequences on the European market integration process.

9. The relevant regulatory authority shall issue a reasoned decision concerning a request for a derogation or a derogation granted at its own initiative. Where the relevant regulatory authority grants a derogation, it shall specify its duration. The derogation may be granted only once and for a maximum period of two years, except for the derogations in paragraphs 2(c) and 2(d) which may be granted until 1 January 2030.

10. The relevant regulatory authority shall notify its decision to the TSO, **the Energy Community Regulatory Board** and the **Energy Community Secretariat**. The decision shall also be published on its website.

11. The relevant regulatory authorities shall maintain a register of all derogations they have granted or

refused and shall provide **the Energy Community Regulatory Board** with an updated and consolidated register at least once every six months, a copy of which shall be given to ENTSO- E.

12. The register shall contain, in particular:

- (a) the provisions from which the derogation is granted or refused;
- (b) the content of the derogation;
- (c) the reasons for granting or refusing the derogation;
- (d) the consequences resulting from granting the derogation.

### **Article 63** **Monitoring**

1. **The Secretariat** shall monitor the implementation of this Regulation **by the Contracting Parties**.

2. <...>

3. <...>

4. <...> TSOs **of the Contracting Parties** shall submit to **the Secretariat** the information required to perform the tasks in accordance with paragraph 1 <...>.

5. Market participants and other relevant organisations for the integration of electricity balancing markets **by the Contracting Parties** shall <...> submit to **the Secretariat** the information required for monitoring in accordance with paragraphs 1 <...>, except for information already obtained by the relevant regulatory authorities in accordance with Article 59 of Directive (EU) 2019/994, **as adapted and adopted by Ministerial Council Decision 2021/13/MC-EnC, the Energy Community Regulatory Board, the Agency for the Cooperation of Energy Regulators**.

## **TITLE X** **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 64**

#### **Transitional provisions for Ireland and Northern Ireland**

<...>

### **Article 65**

#### **Entry into force**

**This Decision D/2022/03/MC-EnC enters into force upon its adoption and is addressed to the Parties and institutions of the Energy Community.<sup>2</sup>**

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<sup>2</sup> The text displayed here corresponds to Article 13 of Decision 2022/03/MC-EnC.



***Article 2 of Decision D/2022/03/MC-EnC***

**Each Contracting Party shall bring into force the laws, regulations and administrative provisions necessary to comply with Regulation (EU) 2019/942 <...> by 31 December 2023.**

**Each Contracting Party shall notify the Energy Community Secretariat of completed transposition by sending the text of the provisions of national law which they adopt in the field covered by this Decision and of any subsequent changes within two weeks following the adoption of such measures.**