

COMMENTS ON ARTICLE 9 OF THE DRAFT NETWORK CODE ON ELECTRICITY BALANCING (AND OTHER ARTICLES OF THAT CODE) -OCTOBER 2014

Structure of this Document

This document sets out comments on the draft of the "ENTSO-E Network Code on Electricity Balancing", Version 3.0, dated 06 August 2014. In this document, this is referenced as "EBNC".

I should note that this is not intended to be an exhaustive or final set of comments even on this draft of the EBNC, rather a current snapshot of thoughts.

The comments generally take the following form

0. Article Number (and paragraph number, where relevant)

- 0.1 Original Text – the original text of this as set out in the EBNC Article (and paragraph)
- 0.2 Comments – my thoughts and comments on the original drafting above
- 0.3 Proposed Redraft – my suggested redraft of the original text (shown as redlining mark-up)

As Article 9 is particularly important from ELEXON's perspective, I have brought this to the front. All other Articles are then considered in numerical order of the Article.

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DISCUSSION: WHY THE CURRENT DRAFT OF ARTICLE 9 IS PROBLEMATIC FOR ELEXON (AND PERHAPS FOR THE GB INDUSTRY TOO)

1. Article 9 (including all subparagraphs)

1.1 Original Text

1. Each TSO may delegate all or part of any function assigned to them under this Network Code to one or more third parties. The delegating TSO shall remain responsible for ensuring compliance with the obligations under this Network Code, including ensuring access to information necessary for monitoring by the NRA.
2. In all cases a third party shall have clearly demonstrated its ability to fulfil each of the obligations of this Network Code to the satisfaction of the delegating TSO, prior to delegation.
3. In the event that all or part of any function specified in this Network Code is delegated to a third party, the delegating TSO shall ensure that suitable confidentiality agreements have been put in place prior to delegation.
4. Member States or NRAs, if allowed to do so by the national legislation, may, at the request of the relevant TSO, assign the task of Imbalance Settlement to another party than the TSO pursuant to Article 60 and Article 62. In such

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a case the party to whom the task is assigned shall meet all the requirements that are applicable to the TSO according to this Network Code and shall work in close cooperation with a TSO when defining appropriate procedures.

5. Notwithstanding paragraph 4, if the rules of national law at the date of the entry into force of this Network Code assign to a different party and according to a different legal framework non-essential tasks which, according to this Network Code, are assigned to the TSO, then the national legislation prevails.

1.2 Comments

Delegation by TSOs

TSOs have the right to delegate all or any function to third parties under Article 9(1), but are not required to do so. If delegated, the TSO shall remain responsible for compliance with its obligations under the Network Code. Although the Code is not clear how this delegation occurs, ELEXON anticipates that the TSO would need to establish a contractual relationship with the third party (for example, in GB, BSCCo) to which the particular function is delegated. A change to the BSC may be the appropriate mechanism for achieving delegation, although we have not considered this in detail.

A TSO may have specific concerns regarding delegation given that the TSO retains responsibility for compliance with obligations under the Network Code.

The thought that there would be a contractual relationship is borne out by ENTSO-E's thinking too. On pages 140-141 of the ENTSO-E Supporting Document it states "It is expected that any delegation would have a contract with termination clauses as standard in case the third party fails in their tasks/responsibility". Clearly in GB terms, a contract with termination clauses between ELEXON and NGET, say, to enable ELEXON to continue to undertake its current BSCCo role would take time to negotiate and could have a significant impact on the independence of ELEXON, something that we think industry currently values.

So, relying on the TSO's power to delegate tasks under the Network Code would seem to change the relationship between NGET (assuming NGET is the delegating TSO) and ELEXON. For this reason, we have proposed changes to the assignment provisions to give NRAs and Member States (below) an increased power to assign tasks under the Network Code to third parties (e.g. BSCCo). The relevant third party would be responsible for compliance.

There is also uncertainty as to whether delegation (as contemplated by ENTSO-E) could be easily incorporated within the existing BSC provisions.

It is not clear what concern the requirement to have "suitable confidentiality arrangements" under Article 9(3) is intended to address. ELEXON considers that the existing arrangements in the GB market adequately address confidentiality concerns. However, if there is a specific concern that this paragraph intends to address, this should be made clear in the drafting.

Assignment by Member States or NRAs

Under Article 9(4), assignment by Member States or NRAs can only occur if it is permitted by national legislation and requested by the TSO (the latter restriction has been added following the circulation of the previous draft). Our concerns with this paragraph are:

- We are not comfortable to the reference to "if permitted by national legislation". We don't believe that relying on the Transmission Licence and the Balancing and Settlement Code would be sufficient to meet

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this requirement. This would mean that specific legislation would be required to assign the functions under the Network Code to BSCCo.

- The assignment has to be requested by the TSO. The proposed drafting has elevated TSOs to a position of power over Member States and NRAs.
- The reference to “the task of Imbalance Settlement.....pursuant to Article 60 and Article 62” is a problem in two respects:
 - These two Articles do not address assignment. If the intention is to limit the functions that can be assigned to these Articles, this is not reflected in the drafting.
 - The scope of assignable tasks is too narrow to accommodate the existing BSC. If the intention is to limit the functions that can be assigned to these two Articles, then the ability to assign will not cover all activities that BSCCo undertakes under the BSC. For example BSCCo undertakes settlement of Bid/Offer accepted in the Balancing Mechanism with BSC Parties and National Grid. There is a long paragraph in the supporting document which states that “TSO-BSP settlement is not delegated” with a number of reasons why this is the case. However, currently in GB, settlement of Balancing Mechanism Bid/Offer is not done by the TSO, and there have been no issues with this of which we are aware. A change to require that Balancing Mechanism settlement is done by the TSO would be an unnecessary and costly change but this is what this drafting would require, unless it was delegated rather than assigned, but as noted above delegation has its own drawbacks.
- A third party to whom a task is assigned is required to meet all the requirements applicable to the TSO under the Network Code. The obligation to comply with the requirements of the Network Code should only apply to those requirements that relate to the assigned tasks.
- Article 9(4) also requires the assignee to work in close cooperation in defining appropriate procedures. It is not entirely clear what this means, but we do not believe that it is correct to say that BSCCo works in close cooperation with NGET regarding BSC procedures under the current arrangements.

Existing rules of national law/national legislation

Article 9(5) seems to try to address the issue of different national arrangements in place at the time that the Network Code comes into force. However, the ability for this paragraph to accommodate the GB electricity market arrangements is limited for the following reasons:

- It only addresses rules of national law at the date that the Network Code comes into force. This does not cater for changes to rules of national law or the Network Code after the date on which the Network Code comes into force (presumably the assignment provisions would need to be relied on for future changes).
- The reference to “non-essential tasks” significantly limits the scope of this paragraph. As this not a defined term, what is a “non-essential task” would be subject to interpretation. Presumably without a precise definition of essential tasks, someone in future could argue that because imbalance settlement and balancing settlement are within the scope of the Network Code, they must be essential and therefore cannot be assigned in accordance with this paragraph. This significantly limits the ability for rules of national law to assign functions under the Network Code to BSCCo. If there is a desire to retain

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the concept of essential tasks that cannot be assigned, they must be identified by reference to specific Articles of the Network Code.

- There is a reference to national legislation (see our concerns above). If the national legislation prevails, then it is not clear what effect this has on the TSOs obligations under the Network Code. Is the TSO still responsible for compliance?

Summary

As you can see from our comments above, we think that the current GB BSC and BSCCo arrangements would not be permitted under Article 9 of the Network Code without further action at a national level. In our view, the provisions regarding delegation by TSOs (Article 9 (1 to 3)), assignment by NRAs or Member States (Article 9(4)) and those regarding existing rules of national law (Article 9(5)) cannot be relied on as providing BSCCo with the right to undertake the activities allocated to TSOs under the Network Code due to the limitations in the current drafting of these provisions.

It can also be argued that the restrictions on activities that can be undertaken go further than is required. Under Article 8(7) of Regulation 714/2009 Member States have the right to establish network codes that do not affect cross-border trade. This is also recital (6) in this Balancing Network Code. Whoever administers the BSC and undertakes settlement under the BSC is required to follow the same BSC rules, which will be aligned with European rules, no matter who they are. Therefore the identity of the person who undertakes Balancing Energy Settlement or Imbalance Settlement under the BSC cannot affect cross border trade.

In order to provide for the existing GB arrangements, the following amendments need to be made to Article 9:

- Assignment under Article 9(4) must not be limited to the tasks set out in Articles 60 and 61.
- Article 9(5) must not be limited to "non-essential tasks".
- References to national legislation should be removed.

We have included these changes, together with other drafting changes that address other issues identified in this document in a proposed revised Article 9 - below.

Depending on which of our recommended changes are made to Article 9, there may need to be some formal actions that NGET (or assigned TSO), Ofgem and/or DECC would need to undertake to ensure that the existing GB arrangements are permitted once the Electricity Balancing Network Code comes into force.

Finally we also note that a number of the functions under the BSC are performed by BSC Agents, who are contracted agents of BSCCo.

1.3 Proposed Redraft of Article 9

1. Each TSO may delegate all or part of any function assigned to them under this Network Code to one or more third parties. The delegating TSO shall remain responsible for ensuring compliance with the obligations under this Network Code, including ensuring access to information necessary for monitoring by the NRA.

2. In all cases a third party shall have clearly demonstrated its ability to fulfil each of the obligations of this Network Code to the satisfaction of the delegating TSO, prior to delegation.

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3. In the event that all or part of any function specified in this Network Code is delegated to a third party, the delegating TSO shall ensure that suitable confidentiality agreements have been put in place prior to delegation.

4. Member States or NRAs ~~, if allowed to do so by the national legislation, may,~~ at the request of the relevant TSO, assign the tasks performed by the TSO under this Network Code ~~task of Imbalance Settlement to another~~ to a third party ~~than the TSO pursuant to Article 60 and Article 62.~~ In such a case the third party to whom the task is assigned shall meet all the requirements relating to the assigned tasks that are applicable to the TSO according this Network Code ~~and shall work in close cooperation with a TSO when defining appropriate procedures.~~

5. Notwithstanding paragraph 4, if ~~a~~ the rules of national legal framework law at the date of the entry into force of this Network Code assigns to a ~~different~~third party ~~and according to a different legal framework non-essential~~ tasks which, according to this Network Code, are assigned to the TSO, then the national legal framework legislation prevails. In such case, the third party to whom the task is assigned shall meet all the requirements relating to the assigned task that are applicable to the TSO according to this Network Code.

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OTHER ARTICLES

2. Article 1(2)

2.1 Original Text

The requirements set forth by this Network Code shall apply in particular to TSOs, NRAs, the Agency, DSOs, third parties to whom responsibilities have been delegated, where applicable, and Market Participants.

2.2 Comments

The original wording does not allow for third parties to whom responsibilities have been assigned.

2.3 Proposed Redraft

The requirements set forth by this Network Code shall apply in particular to TSOs, NRAs, the Agency, DSOs, third parties to whom responsibilities have been delegated or assigned pursuant to Article 9, where applicable, and Market Participants.

3. Article 1(4)

3.1 Original Text

In Member States where more than one TSO exists, this Network Code shall apply to all TSOs within that Member State. Where a TSO does not have a function relevant to one or some obligations under this Network Code, Member States may under the national regulatory regime provide that the responsibility to comply with one or some obligations under this Network Code is assigned to one or more different TSOs. In case of such assignment, the Network Code shall apply accordingly to the TSOs to which responsibilities have been assigned.

3.2 Comments

Does this wording cut across the right under Article 9 to assign to third parties who are not TSOs in Member States where there is more than one TSO? If so, we propose the following redraft.

3.3 Proposed Redraft

In Member States where more than one TSO exists, this Network Code shall apply to all TSOs within that Member State. Where a TSO does not have a function relevant to one or some obligations under this Network Code, Member States may under the national regulatory regime provide that the responsibility to comply with one or some obligations under this Network Code is assigned to one or more different TSOs. In case of such assignment, the Network Code shall apply accordingly to the TSOs to which responsibilities have been assigned. For the avoidance of doubt this Article is without prejudice to Article 9 regarding delegation or assignment to third parties.

4. Article 2 (definition of "Position")

4.1 Original Text

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Position means an energy volume representing the sum of scheduled commercial transactions of a Balance Responsible Party, on organised electricity markets or between Balance Responsible Parties, for the calculation of the Imbalance, or, where appropriate, means an energy volume representing scheduled injections, scheduled withdrawals or the sum of scheduled injections and withdrawals of a Balance Responsible Party, for the calculation of the Imbalance of that Balance Responsible Party.

4.2 Comments

This definition still allows two different types of imbalance across Europe and one of these interpretations is, in my view, not consistent with the Framework Guidelines.

And the ambiguity in the definition in Position means that it is possible to interpret some of the other Articles in different ways according to which definition is chosen – see comments below on Articles 25(6) and 27(7)(d).

4.3 Proposed Redraft

Position means an energy volume representing the sum of scheduled commercial transactions of a Balance Responsible Party, on organised electricity markets or between Balance Responsible Parties, for the calculation of the Imbalance, ~~or, where appropriate, means an energy volume representing scheduled injections, scheduled withdrawals or the sum of scheduled injections and withdrawals of a Balance Responsible Party, for the calculation of the Imbalance~~ of that Balance Responsible Party.

5. Article 5

5.1 Comment

While there appear to be mandated consultations at European level and at Member State level, there are none at Coordinated Balancing Area (CoBA) level. For example Article 32 requires a harmonised Gate Closure Time at CoBA level but there is no mandated consultation before it goes for regulatory approval.

6. Article 8(4)

6.1 Original Text

Each TSO shall publish the following information on Specific Products and Balancing Services offered by TSO themselves:

- a) the procured volumes of Specific Products no later than one hour after the procurement process ends;
- b) the activated volumes of Specific Products no later than one hour after the ending time of the Validity Period; and
- c) the activated volumes of Balancing Services offered by TSO themselves no later than one hour after the operating period.

6.2 Comment

In GB, the Specific Product volumes activated are published on the BMRS. If the TSO is also required to publish Specific Product information, this is unnecessary and will incur a cost for no clear benefit.

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7. Article 11(5)

7.1 Comment

The CoBA proposal developed pursuant to Article 11(5) subparagraph (b)(c)(d) and possibly (n) will potentially require consequential changes to the BSC. The CoBA proposal must be approved by the relevant NRAs pursuant to Article 6(4), but it is not apparent that there is any requirement to have a public (or otherwise) consultation with affected stakeholders.

8. Article 21(1)

8.1 Original Text

1. No later than three years after the entry into force of this Network Code, all TSOs shall harmonise:

- (a) the main features for Imbalance calculation pursuant to Article 60; and
- (b) the main features to calculate the Imbalance Price pursuant to Article 61.

8.2 Comments

The requirement in Article 21(1) to harmonise the main features for Imbalance calculation and Imbalance Price falls on TSOs. It is not currently within the gift of any individual BSC Party, such as a TSO, to deliver this for GB as the BSC Modification process does not allow any individual BSC Party to impose a change to the BSC, nor BSCCo to deliver a change without an approved BSC Modification or change proposal enabling and requiring it to do so. We could redraft this Article so that the obligation is on the TSOs to develop a proposal and the NRAs to consider and, if agreed, approve it. The proposed redraft below will also fit if Imbalance Settlement has been assigned, e.g. to BSCCo, pursuant to Article 9. The time limit of three years might need to be amended as a consequence if the intent of this Article was to implement changes within three years rather than propose them. (This is without prejudice to any comment that ELEXON might make on the practicalities of any timing proposed in future as this will clearly depend on the extent of the changes that must be implemented.)

Given that the Network Code will be superior to the BSC, if no change is made to the drafting of this Article, does this effectively mean that the role of TSOs and Ofgem, in relation to approving Modifications to the BSC, is significantly altered?

8.3 Proposed Redraft

1. No later than three years after the entry into force of this Network Code, all TSOs shall develop a proposal to harmonise:

- (a) the main features for Imbalance calculation pursuant to Article 60; and
- (b) the main features to calculate the Imbalance Price pursuant to Article 61.

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9. Article 23(3)

9.1 Original Text

3. Upon request of the TSO, each DSO shall provide, in due time, all necessary information to perform the Imbalance Settlement to the Connecting TSO in accordance with the terms and conditions related to Balancing pursuant to Article 27.

9.2 Comment

The requirement in Article 23(3) that the TSO has to request information before Imbalance Settlement can be performed will be inefficient when the a third party, such as BSCCo, is undertaking Imbalance pursuant to Article 9. It adds an unnecessary level of complexity and cost.

9.3 Proposed Redraft

3. ~~Upon request of the TSO, e~~Each DSO shall provide, in due time, all necessary information to perform the Imbalance Settlement to the Connecting TSO or, where appropriate, to the third party appointed pursuant to Article 9, in accordance with the terms and conditions related to Balancing pursuant to Article 27.

10. Article 25(2)

10.1 Original Text

2. Each Balance Responsible Party shall be financially responsible for the Imbalance to be settled with the Connecting TSO.

10.2 Comment

Under the BSC, imbalances are not settled with the Connecting TSO, they are settled with ELEXON Clear, which is not a TSO. In order to avoid changing the BSC payment arrangements for no clear benefit, Article 25(2) should be re-worded.

10.3 Proposed Redraft

2. Each Balance Responsible Party shall be financially responsible for the Imbalance to be settled with either the Connecting TSO or, where appropriate, the third party appointed pursuant to Article 9.

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11. Article 25(6)

11.1 Original Text

6. The Balance Responsible Party shall submit any change of the Position to the Connecting TSO pursuant to the terms and conditions related to Balancing pursuant to Article 27.

11.2 Comments

As the definition of "Position" is ambiguously defined (see comments above), then if Position means the contracted Position "energy volume representing the sum of scheduled commercial transactions", to require the change of Position to be submitted to the Connecting TSO as opposed to (under the GB BSC) the Energy Contract Volume Aggregation Agent (ECVAA), then this is an unnecessary change to the BSC arrangements.

11.3 Proposed Redraft

6. The Balance Responsible Party shall submit any change of the Position to the Connecting TSO, or where relevant, the third party appointed pursuant to Article 9, pursuant to the terms and conditions related to Balancing pursuant to Article 27.

12. Article 27(1)(b)

12.1 Original Text

Each TSO shall develop for its Responsibility Area or Scheduling Area when appropriate a proposal for

- (a) the terms and conditions for Balancing Service Providers; and
- (b) the terms and conditions for Balance Responsible Parties.

12.2 Comment (Observation)

This Article in GB terms effectively requires that the assigned TSO shall propose the terms and conditions for BSC Parties. We note that the terms and conditions developed pursuant to detailed parts of Article 27 may require, depending on what is proposed, changes to the BSC, including but not an exhaustive list, subparagraphs: 4(c); 5(c), (e), (f), (h),(l),(m),(n); 6(a),(b),(c),(d),(e),(f),(g); 7(b),(d),(e); and Article 10.

What is clear is that there will need to be a consultation in GB under Article 5(6) whether or not the BSC is changed; and a decision by Ofgem as to whether or not to approve the BSC (changed or not) under Article 6(6).

13. Article 27(5)(f)

13.1 Original Text

(f) the data and information required by the Connecting TSO and where relevant the Reserve Connecting DSO to evaluate the provision of Balancing Services and to calculate Imbalance pursuant to *[Article 44(1) and Article 44(8) FCR Technical Minimum Requirements]* for Frequency Containment Reserves, *[Article 47(1)(e) and Article 47(8) FRR Technical Minimum Requirements]* for Frequency Restoration Reserves and *[Article 49(1)(f) and Article 49(8) RR*

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Technical Minimum Requirements] for Replacement Reserves of Network Code on Load-Frequency Control and Reserves

13.2 Comments

This paragraph does not make an allowance for when a third party, such as BSCCo, is determining Imbalance and would require an unnecessary and significant change to the BSC if not amended to recognise the potential third party role.

13.3 Proposed Redraft

(f) the data and information required by the Connecting TSO or, where relevant, the third party appointed pursuant to Article 9, and where relevant the Reserve Connecting DSO to evaluate the provision of Balancing Services and to calculate Imbalance pursuant to *[Article 44(1) and Article 44(8) FCR Technical Minimum Requirements]* for Frequency Containment Reserves, *[Article 47(1)(e) and Article 47(8) FRR Technical Minimum Requirements]* for Frequency Restoration Reserves and *[Article 49(1)(f) and Article 49(8) RR Technical Minimum Requirements]* for Replacement Reserves of Network Code on Load-Frequency Control and Reserves

14. Article 27(7)(d)

14.1 Original Text

(e) an obligation for Balance Responsible Parties to submit any modification of the Position to the Connecting TSO; and

14.2 Comments

As the definition of "Position" is ambiguously defined (see comments above), then if Position means the contracted Position "energy volume representing the sum of scheduled commercial transactions", to require the change of Position to be submitted to the Connecting TSO as opposed to (under the GB BSC) the ECVA, then this is an unnecessary change to the BSC arrangements.

14.3 Proposed Redraft

(e) an obligation for Balance Responsible Parties to submit any modification of the Position to the Connecting TSO or where relevant, the third party appointed pursuant to Article 9; and

15. Article 38

15.1 Comment (Observation)

We note that application of Article 38 into GB, i.e. where a non GB TSO contracts with a GB BSP for energy would require changes to the BSC, and possibly wider changes to licences. In particular Article 38(6)(b) requires that the two TSOs agree on settlement, but changes to the BSC would also be required to accommodate this.

16. Article 40(7)

16.1 Original Text

The activation request of a Balancing Energy bid from the Activation Optimisation Function of a Coordinated Balancing Area shall oblige the Requesting TSO to accept the firmness of the activated Balancing Energy bid. Each Connecting TSO of a Coordinated Balancing Area shall ensure the activation of the firm Balancing Energy bid selected by the Activation Optimisation Function. The Balancing Energy shall be settled between the Requesting TSO

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and the Connecting TSO pursuant to Article 58 and between the Connecting TSO and the Balancing Service Provider pursuant to CHAPTER 5 SECTION 2.

16.2 Comment

This paragraph does not make an allowance for when a third party, such as BSCCo, is settling balancing energy and would require an unnecessary and significant change to the BSC if not amended to recognise the potential third party role.

16.3 Proposed Redraft

The activation request of a Balancing Energy bid from the Activation Optimisation Function of a Coordinated Balancing Area shall oblige the Requesting TSO to accept the firmness of the activated Balancing Energy bid. Each Connecting TSO of a Coordinated Balancing Area shall ensure the activation of the firm Balancing Energy bid selected by the Activation Optimisation Function. The Balancing Energy shall be settled between the Requesting TSO and the Connecting TSO pursuant to Article 58 and between the Connecting TSO and the Balancing Service Provider or where relevant, the third party appointed pursuant to Article 9, pursuant to CHAPTER 5 SECTION 2.

17. Article 40(3)

17.1 Comment

There appears to be no requirement on TSOs to consult publicly on the list of activation purposes before all NRAs consider the list for approval because Article 40(3) is not mentioned in Article 5(3). This could be important because, for example, the imbalance price formulation could depend on the reasons for activation, e.g. activations taken for constraint management purposes might be excluded. Therefore the list of activation purposes is of wider industry interest.

18. Article 40(4)

18.1 Original Text

The activation purpose for every activated Balancing Energy bid shall be submitted to the Activation Optimisation Function and shall be visible for all participating TSOs.

18.2 Comments

The activation purpose should be visible to all BRPs and BSPs and third parties appointed pursuant to Article 9. This is because the imbalance price could depend on the activation purpose and at a minimum, in GB, BSCCo will need to know this in order to calculate the imbalance prices. Also, in GB, we have traditionally been very open on why actions have been taken – see the breakdown of imbalance prices on the BMRS.

18.3 Proposed Redraft

The activation purpose for every activated Balancing Energy bid shall be submitted to the Activation Optimisation Function and shall be visible to at least for all participating TSOs, BSPs, BRPs and, where relevant, third parties appointed pursuant to Article 9.

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19. Article 52(4)

19.1 Original Text

TSOs shall not be allowed to use the financial outcome as a result of the settlement pursuant to SECTION 2, SECTION 3 and SECTION 4 of this Chapter to cover the cost of any congestion.

19.2 Comment

It is unclear how the costs of constraints are recovered.

20. Article 53

20.1 Original Text

1. Each TSO shall establish for the settlement of Balancing Energy with Balancing Service Providers, for at least the Frequency Restoration Process and Reserve Replacement Process, a procedure for:

- (a) calculation of activated volume of Balancing Energy based on requested or metered activation; and
- (b) claiming recalculation of activated volume of Balancing Energy.

2. Each TSOs shall calculate the activated volume of Balancing Energy according to the procedure pursuant to paragraph 1(a) at least:

- (a) for each Imbalance Settlement Period;
- (b) for each Imbalance Area; and
- (c) for 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 TSO shall settle the activated volume of Balancing Energy, calculated pursuant paragraph 2, with the Balancing Service Provider.

20.2 Comment

This Article does not make an allowance for when a third party, such as when BSCCo is settling balancing energy in the form of Bid-Offer Acceptances (which it currently undertakes). If these tasks are not delegated by the TSO, which has its own drawbacks – see comments on Article 9 above, then in GB this would cause unnecessary change to the BSC arrangements for no obvious benefit.

20.3 Proposed Redraft

1. Each TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall establish for the settlement of Balancing Energy with Balancing Service Providers, for at least the Frequency Restoration Process and Reserve Replacement Process, a procedure for:

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- (a) calculation of activated volume of Balancing Energy based on requested or metered activation; and
- (b) claiming recalculation of activated volume of Balancing Energy.

2. Each TSOs [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate the activated volume of Balancing Energy according to the procedure pursuant to paragraph 1(a) at least:

- (a) for each Imbalance Settlement Period;
- (b) for each Imbalance Area; and
- (c) for 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 TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall settle the activated volume of Balancing Energy, calculated pursuant paragraph 2, with the Balancing Service Provider.

21. Article 54

21.1 Original Text

1. Each Connecting TSO shall have the right to calculate and to settle the activated volume of Balancing Energy for the Frequency Containment Process with Balancing Service Providers pursuant to Article 53(2).

2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for the Frequency Containment Process shall be defined for each direction, and is to be received by the Balancing Service Provider from the TSO, in case of Balancing Energy with a positive sign, and is to be paid by the Balancing Service Provider to the TSO, in case of Balancing Energy with a negative sign.

21.2 Comment

A similar point to the one above regarding Article 53.

21.3 Proposed Redraft

1. Each Connecting TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall have the right to calculate and to settle the activated volume of Balancing Energy for the Frequency Containment Process with Balancing Service Providers pursuant to Article 53(2).

2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for the Frequency Containment Process shall be defined for each direction, and is to be received by the Balancing Service Provider from the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a positive sign,

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and is to be paid by the Balancing Service Provider to the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a negative sign.

22. Article 55

22.1 Original Text

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 Article 53(1) and Article 53(2).
2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for the Frequency Restoration Process shall be defined for each direction pursuant to Article 39 and is to be received by the Balancing Service Provider from the TSO, in case of Balancing Energy with a positive sign, and is to be paid by the Balancing Service Provider to the TSO, in case of Balancing Energy with a negative sign.

22.2 Comment

A similar point to the one above regarding Article 53.

22.3 Proposed Redraft

1. Each Connecting TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate and settle the activated volume of Balancing Energy for the Frequency Restoration Process with Balancing Service Providers pursuant to Article 53(1) and Article 53(2).
2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for the Frequency Restoration Process shall be defined for each direction pursuant to Article 39 and is to be received by the Balancing Service Provider from the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a positive sign, and is to be paid by the Balancing Service Provider to the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a negative sign.

23. Article 56

23.1 Original Text

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 Article 53(1) and Article 53(2).
2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for Reserve Replacement Process shall be defined for each direction pursuant to Article 39 and is to be received by the Balancing Service Provider from the TSO, in case of Balancing Energy with a positive sign, and is to be paid by the Balancing Service Provider to the TSO, in case of Balancing Energy with a negative sign.

23.2 Comment

A similar point to the one above regarding Article 53.

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23.3 Proposed Redraft

Each Connecting TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate and settle the activated volume of Balancing Energy for the Reserve Replacement Process with Balancing Service Providers pursuant to Article 53(1) and Article 53(2).

2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for Reserve Replacement Process shall be defined for each direction pursuant to Article 39 and is to be received by the Balancing Service Provider from the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a positive sign, and is to be paid by the Balancing Service Provider to the TSO, [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a negative sign.

24. Article 60

24.1 Original Text

1. Each TSO shall calculate the Imbalance for each Balance Responsible Party from the final Position, the Allocated Volume and the Imbalance Adjustment.

2. Each TSO shall define procedures for:

(a) the calculation of the final Position from the External Commercial Trade Schedules and Internal Commercial Trade Schedules per Bidding Zone, or where appropriate one or more final Positions from the final Generation Schedules and final load schedules for each Imbalance Area;

(b) the determination of the Allocated Volume of all injections and withdrawals;

(c) the determination of the Imbalance Adjustment pursuant to Article 57 and in case of any curtailment or any activation for other purposes than Balancing;

(d) the calculation of the Imbalance; and

(e) claim for recalculation of the Imbalance by a Balance Responsible Party.

3. Allocated Volume shall not be calculated for a Balance Responsible Party which does not cover injections or withdrawals.

4. Each TSO shall calculate the final Position, the Allocated Volume, the Imbalance Adjustment and the Imbalance:

(a) for each Imbalance Settlement Period; and

(b) for each Imbalance Area.

5. An Imbalance shall have a size and a direction, indicating the direction of the settlement transaction between Balance Responsible Party and TSO, with negative indicating Balance Responsible Party's shortage, and positive indicating Balance Responsible Party surplus.

24.2 Comment

This Article does not make an allowance for when a third party, such as BSCCo, is undertaking Imbalance Settlement pursuant to Article 9.

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And Article 60(2) as drafted would appear to cut across the GB BSC procedures for modifying the BSC, as it is currently BSC Parties who propose changes to the procedures for the calculation of imbalances and Ofgem, the NRA, who approves them. Article 60(2) can be read as it being the TSO alone who defines the procedures. So, if Ofgem wishes to retain the current arrangements whereby any BSC Party can define and propose a Modification, we have suggested a change to the drafting, so that the TSO is may propose if it wishes, but this does not stop any other BSC Party also proposing if it wishes either, nor does the TSO definition automatically get adopted as might be implied by the original drafting.

24.3 Proposed Redraft

1. Each TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate the Imbalance for each Balance Responsible Party from the final Position, the Allocated Volume and the Imbalance Adjustment.
2. Each TSO ~~shall define~~ [may propose](#) procedures for:
 - (a) the calculation of the final Position from the External Commercial Trade Schedules and Internal Commercial Trade Schedules per Bidding Zone, or where appropriate one or more final Positions from the final Generation Schedules and final load schedules for each Imbalance Area;
 - (b) the determination of the Allocated Volume of all injections and withdrawals;
 - (c) the determination of the Imbalance Adjustment pursuant to Article 57 and in case of any curtailment or any activation for other purposes than Balancing;
 - (d) the calculation of the Imbalance; and
 - (e) claim for recalculation of the Imbalance by a Balance Responsible Party.
3. Allocated Volume shall not be calculated for a Balance Responsible Party which does not cover injections or withdrawals.
4. Each TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate the final Position, the Allocated Volume, the Imbalance Adjustment and the Imbalance:
 - (a) for each Imbalance Settlement Period; and
 - (b) for each Imbalance Area.
5. An Imbalance shall have a size and a direction, indicating the direction of the settlement transaction between Balance Responsible Party and TSO [or where relevant, the third party appointed pursuant to Article 9](#), with negative indicating Balance Responsible Party's shortage, and positive indicating Balance Responsible Party surplus.

25. Article 61

25.1 Original Text

1. Each TSO shall define rules to calculate the Imbalance Price, positive, 0 or negative, to be paid by the Balance Responsible Party to the TSO, in case of an Imbalance with a negative sign, or received by the Balance Responsible Party from the TSO, in case of an Imbalance with a positive sign. The rules shall include a definition of the value of avoided activation of Balancing Energy from Frequency Restoration Reserves or Replacement Reserves.
2. Each TSO shall determine the Imbalance Price:

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(a) for each Imbalance Settlement Period;

(b) for each Imbalance Price Area; and

(c) for each Imbalance direction.

3. The Imbalance Price for shortage shall not be less than:

(a) the weighted average price for activated positive Balancing Energy for Frequency Restoration Reserves and Replacement Reserves; or

(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 for Frequency Restoration Reserves or Replacement Reserves.

4. The Imbalance Price for surplus shall not be greater than:

(a) the weighted average price for activated negative Balancing Energy for Frequency Restoration Reserves and Replacement Reserves; or

(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 for Frequency Restoration Reserves or Replacement Reserves.

5. Imbalance Settlement Price, in the event that both positive and negative Balancing Energy for Frequency Restoration Reserves or Replacement Reserves have been activated during the same Imbalance Settlement Period, shall be determined for shortage and surplus based on at least one of the principles pursuant to paragraphs 3 and 4.

25.2 Comment and Observations

Similar points to the ones made above regarding Article 60.

Also, we note that the requirements in Articles 60(3) and 60(4) are likely to require tests to be inserted in the BSC imbalance price calculations to ensure that these conditions are met in each Settlement Period. When Net Imbalance Volume (NIV) in the BSC is zero, these conditions and 60(5) will constrain what data can be used to calculate the imbalance price. This is an observation, not a comment on whether this is preferable or not.

25.3 Proposed Redraft

1. Each TSO ~~shall define~~may propose rules to calculate the Imbalance Price, positive, 0 or negative, to be paid by the Balance Responsible Party to the TSO or where relevant, to the third party appointed pursuant to Article 9, in case of an Imbalance with a negative sign, or received by the Balance Responsible Party from the TSO or where relevant, from the third party appointed pursuant to Article 9, in case of an Imbalance with a positive sign. The

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rules shall include a definition of the value of avoided activation of Balancing Energy from Frequency Restoration Reserves or Replacement Reserves.

2. Each TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall determine the Imbalance Price:

(a) for each Imbalance Settlement Period;

(b) for each Imbalance Price Area; and

(c) for each Imbalance direction.

3. The Imbalance Price for shortage shall not be less than:

(a) the weighted average price for activated positive Balancing Energy for Frequency Restoration Reserves and Replacement Reserves; or

(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 for Frequency Restoration Reserves or Replacement Reserves.

4. The Imbalance Price for surplus shall not be greater than:

(a) the weighted average price for activated negative Balancing Energy for Frequency Restoration Reserves and Replacement Reserves; or

(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 for Frequency Restoration Reserves or Replacement Reserves.

5. Imbalance Settlement Price, in the event that both positive and negative Balancing Energy for Frequency Restoration Reserves or Replacement Reserves have been activated during the same Imbalance Settlement Period, shall be determined for shortage and surplus based on at least one of the principles pursuant to paragraphs 3 and 4.

26. Article 62

26.1 Original Text

Each TSO shall settle with each Balance Responsible Party all calculated Imbalances pursuant to Article 60 for each Imbalance Settlement Period pursuant to Article 21 against the appropriate Imbalance Price pursuant to Article 61.

26.2 Comment

This Article does not make an allowance for when a third party, such as BSCCo, is undertaking Imbalance Settlement pursuant to Article 9.

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26.3 Proposed Redraft

Each TSO or where relevant, the third party appointed pursuant to Article 9, shall settle with each Balance Responsible Party all calculated Imbalances pursuant to Article 60 for each Imbalance Settlement Period pursuant to Article 21 against the appropriate Imbalance Price pursuant to Article 61.

27. Article 65

27.1 Comment

We understand from the drafting that this Article is restricted to TSO-TSO settlements pursuant to Articles 58 and 59. In this case we would have no comment.

However, the Supporting Document's description of Article 65 seems different and potentially broader in scope. If Article 65 were to extend beyond TSO-TSO settlements into, for example, Imbalance Settlement, then perhaps developments made by TSOs should be subject to public consultation and NRA approvals because any broader scope amendments process is likely to impact the BSC Modifications process.

28. Articles 66 and 67

28.1 Comment

We note that Article 67(3) states that if all TSOs in a CoBA agree to a proposed amendment, that amendment is implemented. Such an amendment may be applied to the Activation Optimisation Function algorithm developed pursuant to Article 66(6) but we have already noted in our comment on Article 40(4) that the Activation Optimisation Function is of interest to all BRPs and BSPs and third parties appointed pursuant to Article 9. For example, because the imbalance price could depend on that Activation Optimisation Function. This suggests that any proposed amendments to that algorithm should perhaps be open to public consultation and NRA approval.

29. Article 70

29.1 Original Text

1. The duration of the transition period shall be two years starting on the day of entry into force of this Network Code.
2. The transition period covers the application of Article 34 to Article 37 and CHAPTER 5. During the transition period these provisions shall not apply.
3. During the transition period the requirements of this Network Code shall not apply to agreements related to Electricity Balancing between TSOs or between a TSO and a concerned grid user being in force at the date of the entry into force of this Network Code. After the transition period the requirements of this Network Code shall also apply to agreements related to Electricity Balancing between TSOs or between a TSO and a concerned grid user being in force at the date of the entry into force of this Network Code as well as those concluded during the transition period.

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29.2 Comment

It is not completely clear to us whether the BSC is covered by the transition period as the BSC Framework Agreement is a multi-party agreement between various BSC Parties, some of which cannot be described as a TSO or "concerned grid user", e.g. ELEXON itself and non-physical traders. It is also unclear whether the joining or departure of BSC Parties from the Framework Agreement during the Transition Period, if it applies, can be regarded as a new agreement for the purposes of Article 70.

This can be clarified by the removal of the reference to particular parties to the agreement as shown in the redraft below.

If, however, Article 70(3) does not apply to the BSC, then Article 70(2) will apply to parts of the BSC but not all, given that Article 70(2) states that the transition period covers Articles 34 to 37 and Chapter 5 (Articles 52 to 65).

For example Article 8(4) – see comments on this Article above - comes into effect immediately so unless delegated or assigned pursuant to Article 9 there is no 2 year transition for the publication of Specific Products away from BMRS. There are a number of other Articles outside the scope of the transition period on which we have commented above and which would require an immediate appointment of BSCCo pursuant to Article 9 to maintain the status quo if desired, at least over the 2 year Transition Period.

29.3 Proposed Redraft

1. The duration of the transition period shall be two years starting on the day of entry into force of this Network Code.

2. The transition period covers the application of Article 34 to Article 37 and CHAPTER 5. During the transition period these provisions shall not apply.

3. During the transition period the requirements of this Network Code shall not apply to agreements related to Electricity Balancing ~~between TSOs or between a TSO and a concerned grid user~~ being in force at the date of the entry into force of this Network Code. After the transition period the requirements of this Network Code shall also apply to agreements related to Electricity Balancing ~~between TSOs or between a TSO and a concerned grid user~~ being in force at the date of the entry into force of this Network Code as well as those concluded during the transition period.

END