

# **Draft Proposal for the exemption of the FCR Cooperation Parties from the obligation to allow balancing service providers to transfer their obligations to provide balancing capacity in accordance with Article 34 (1) of COMMISSION REGULATION (EU) 2017/2195 establishing a guideline on electricity balancing**

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## ***DISCLAIMER***

This document is released on behalf of TSOs from Austria, Belgium, Denmark, France, Germany, the Netherlands and Switzerland only for the purpose of the public consultation on the Draft Proposal for the exemption of the FCR Cooperation Parties from the obligation to allow balancing service providers to transfer their obligations to provide balancing capacity in accordance with Art. 34 (1) of the COMMISSION REGULATION (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing and does not in any case represent a firm, binding or definitive individual TSOs' position on the content.

FCR Procurement TSOs, taking into account the following,

## Whereas

- 1) This document is the proposal for the exemption of the FCR Cooperation Parties from the obligation to allow balancing service providers to transfer their obligations to provide balancing capacity within the geographical area of the FCR Cooperation.
- 2) As balancing capacity in this draft proposal it is meant the Frequency Containment Reserve ("FCR") currently procured by the Transmission System Operators of the involved countries Austria, Belgium, France, Germany, the Netherlands and Switzerland in accordance with the COMMISSION REGULATION (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing ("GLEB"). This is also compliant with the applicable law in Switzerland (Stromversorgungsgesetz). The presented Draft Proposal is hereinafter referred to as the "Draft Proposal" and is to result in a final proposal hereinafter referred to as the 'Proposal'.
- 3) Article 1 of the GLEB states, among others, that common principles for the procurement and the settlement of frequency containment reserves are laid down in the GLEB.
- 4) In accordance with the objectives of Article 3 GLEB, the FCR Cooperation aims at the integration of balancing markets in order to foster, but not limited to, effective competition, non-discrimination, transparency, new entrants and liquidity while preventing undue distortions. These objectives must be met in consideration of secure grid operation and security of supply. With the current market design above mentioned objectives have already been met and the planned market design changes will even improve them. Further development of the market design will facilitate the access for smaller market players, improve the investment signals and increase socio-economic benefits.
- 5) Article 5(3) of the GLEB under (d) provides that *"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)"* shall be subject to approval by all regulatory authorities in the concerned region.
- 6) Article 5(5) of the GLEB requires that *"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 twelve 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 on terms and conditions or methodologies subject to the approval by several or all regulatory authorities shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the relevant regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies."*
- 7) Article 10 of the GLEB stipulates under (1) that *"TSOs responsible for submitting proposals for terms and conditions or methodologies or their amendments in accordance with this Regulation shall consult stakeholders, including the relevant authorities of each Member State, on the draft proposals for terms and conditions or methodologies and other implementing measures for a period of not less than one month"*.
- 8) In article 10(6) of the GLEB it is provided that *"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".*

- 9) Article 12(3) of the GLEB requires that *"each TSO shall publish the following information as soon as it becomes available,... description of the requirements of any algorithm developed and amendments to it referred to in Article 58, at least one month before the application"*.
- 10) In Article 33 in (1) of the GLEB it is provided that *"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"* and in (2) it is provided that *"... the exchange of balancing capacity shall always be performed based on a TSO-TSO model..."*.
- 11) Article 34 of the GLEB stipulates under (1) that *"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 [...]. are strictly less than one week"*.
- 12) Article 34(5) of the GLEB provides that *"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"*.
- 13) Article 57(1) of the GLEB provides that *"All TSOs exchanging balancing capacity shall establish rules for the settlement of procured balancing capacity pursuant to Article 33 ..."* and under (2) that *"all TSOs exchanging balancing capacity shall jointly settle procured balancing capacity using the TSO-TSO settlement function pursuant to Article 33"*.
- 14) Article 65(2) of the GLEB stipulates that *"For Articles [ ] 34 [ ], this Regulation shall apply from one year after entry into force of this Regulation."*
- 15) In article 163(2) of the guideline on transmission system operation (SOGL) it is required that *"all TSOs involved in the exchange of FCR within a synchronous area shall respect the limits and requirements for the exchange of FCR within the synchronous area specified in Table 1 of Annex VI"*.

SUBMIT THE FOLLOWING DRAFT PROPOSAL FOR THE EXEMPTION OF THE FCR COOPERATING PARTIES FROM THE OBLIGATION TO ALLOW BALANCING SERVICE PROVIDERS TO TRANSFER THEIR OBLIGATIONS TO PROVIDE BALANCING CAPACITY IN ACCORDANCE WITH Art. 34(1) of EB GL TO THE STAKEHOLDERS AND RELEVANT REGULATORY AUTHORITIES.

## **Article 1**

### **Subject matter and scope**

The Austrian, Belgian, Dutch, French, German and Swiss TSOs currently procure their Frequency Containment Reserve ("FCR") jointly in a FCR Procurement<sup>1</sup>.

Article 34 (1) of the COMMISSION REGULATION (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing<sup>2</sup> provides that 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.

## **Article 2**

### **Definitions and interpretations**

#### **1. Definitions**

For the purposes of the market design Draft Proposal, terms used in this document shall have the meaning of the definitions included in GLEB and SOGL. In addition, the following definitions shall apply:

- FCR Cooperation means all parties who have signed the FCR agreement
- FCR Procurement means all parties participating in the procurement

#### **2. Interpretation**

In this document, unless the context requires otherwise:

- the table of contents and headings are inserted for convenience only and do not affect the interpretation of this market design Draft Proposal; and
- any reference to legislation, regulations, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force.

## **Article 3**

### **Transfer of balancing capacity**

The FCR Cooperation TSOs propose that cross border transfer of awarded capacity obligations should remain prohibited in the FCR Procurement. Therefore, the FCR TSOs request an exemption of the Cross Border transfer of balancing capacity. This proposal is compliant with Article 34 (1) GLEB, because the contracting period is planned to be strictly less than one week and it is introduced within one year after entry into force of GLEB.

This proposal is compliant with Article 34 (1) GLEB subject to the approval of the NRAs of the proposed implementation roadmap of the daily auction.

<sup>1</sup> In Belgium and the Netherlands, a part of FCR balancing capacity is currently procured through a national tender.

<sup>2</sup> See COMMISSION REGULATION (EU) 2017/2195: <http://eur-lex.europa.eu/homepage.html>

## Justification

The FCR Cooperation TSOs propose not to allow cross border transfer of awarded capacity obligations for the following reasons:

- Since the FCR Cooperation TSOs are planning to implement daily procurement of FCR capacity, they consider that the risk for BSPs of not being able to meet their obligations is significantly lower than the case of weekly procurement. As a result, also the need for the BSPs to transfer their obligations in a cross border context is expected to be substantially lower.
- Linked to the limited needs to implement a cross border context, the FCR Cooperation TSOs consider that the task of implementing such a solution comes with the following, significant complexity:
  - The import and export limitation violations have to be reassessed each time a demand for cross border transfer of obligations is expressed.
  - The k factor (as defined in commission regulation EU 2017/1485 establishing a guideline on electricity transmission system operation) of each LFC Control Area needs to be readapted every time a cross border transfer of capacity takes place.
- The following conditions should be in place in order to have an efficient cross border transfer of obligations that does not induce market distortions. These conditions require a lot of time and effort by the FCR Cooperation TSOs.
  - Harmonisation of penalties in case of BSP failure of delivery among the FCR Cooperations countries
  - Design of a mechanism for the allocation of the relevant cross border capacity resulting from the respective import and export limitations should be developed.
  - Implementing the above mechanism in a central tool and in the LFC of each control area.

Considering the low benefit and high implementation effort the TSOs of the FCR Cooperation request this exemption.

## Article 4

### Language

The reference language for this Draft Proposal shall be English. For the avoidance of doubt, where TSOs need to translate this Draft Proposal into their national language(s), in the event of inconsistencies between the English version published by TSOs in accordance with Article 7 GLEB and any version in another language, the relevant TSOs shall, in accordance with national legislation, provide the relevant NRA(s) with an updated translation of the Draft Proposal.