

**APPROVAL BY RELEVANT REGULATORY
AUTHORITIES**

ON

**THE PROPOSAL OF
ALL TRANSMISSION SYSTEM OPERATORS
PERFORMING THE RESERVE REPLACEMENT
PROCESS**

FOR

**THE IMPLEMENTATION FRAMEWORK FOR THE
EXCHANGE OF BALANCING ENERGY FROM
REPLACEMENT RESERVES**

IN ACCORDANCE WITH

**ARTICLE 19 OF COMMISSION REGULATION (EU)
2017/2195 OF 23 NOVEMBER 2017 ESTABLISHING A
GUIDELINE ON ELECTRICITY BALANCING**

14 DECEMBER 2018

1. INTRODUCTION AND LEGAL CONTEXT

This document elaborates an agreement between all the relevant regulatory authorities (hereafter “NRAs”), agreed via electronic vote on 14 December 2018, on the proposal of all transmission system operators (TSOs) performing the reserve replacement process for the implementation framework for the exchange of balancing energy from replacement reserves (hereafter “RRIF”) in accordance with Article 19 of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (hereafter “EBGL”) which entered in force on 18 December 2017.

This agreement of the relevant Regulatory Authorities shall provide evidence that, at this stage, a decision on the RRIF does not need to be adopted by ACER pursuant to Article 6(2) of the EBGL. This agreement is intended to constitute the basis on which the relevant Regulatory Authorities will each subsequently adopt national decisions on the TSOs’ RRIF proposal.

The relevant Regulatory Authorities for the RRIF approval are the Regulatory Authorities from Czech Republic, France, Italy, Poland, Portugal, Romania, Spain and United Kingdom. The Swiss regulatory authority is not part of the approval process in accordance with the EBGL due to its non-EU status.

The legal provisions relevant to the submission and approval of the RRIF proposal can be found in Articles 3, 5, 6, and 19 of the EBGL.

Article 3 of Regulation (EU) 2017/2195

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 Union 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 European Union target for the penetration of renewable generation.*

2. When applying this Regulation, Member States, 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 5 of Regulation (EU) 2017/2195

1. *Each relevant regulatory authority in accordance with Article 37 of Directive 2009/72/EC shall approve the terms and conditions or methodologies developed by TSOs under paragraphs 2, 3 and 4.*
2. [...]
3. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:*
 - a. *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);*
4. [...]

Article 6 of Regulation (EU) 2017/2195

1. *Where one or several regulatory authorities in accordance with Article 37 of Directive 2009/72/EC require an amendment in order to approve the terms and conditions or methodologies submitted in accordance with paragraphs 2, 3 and 4 of Article 5, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the relevant regulatory authorities. The relevant regulatory authorities shall decide on the amended terms and conditions or methodologies within two 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 two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within six months, in accordance with Article 8(1) of Regulation (EC) No 713/2009. 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. *TSOs responsible for developing a proposal for terms and conditions or methodologies or regulatory authorities responsible for their adoption in accordance with paragraphs 2, 3 and 4 of Article 5 may request amendments of those terms and conditions or methodologies. 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 Article 4 and Article 5.*

Article 19 of Regulation (EU) 2017/2195

1. *By six months after entry into force of this Regulation, all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485 shall develop a proposal for the implementation framework for a European platform for the exchange of balancing energy from replacement reserves.*
2. *The European platform for the exchange of balancing energy from replacement reserves, operated by TSOs or by means of an entity the TSOs would create themselves, shall be based on common governance principles and business processes and shall consist of at least the activation optimisation function and the TSO-TSO settlement function. That European platform shall apply a multilateral TSO-TSO model with common merit order lists to exchange all balancing energy bids from all standard products for replacement reserves, except for unavailable bids pursuant to Article 29(14).*
3. *The proposal in paragraph 1 shall include at least:*
 - a) *the high level design of the European platform;*
 - b) *the roadmap and timelines for the implementation of the European platform;*
 - c) *the definition of the functions required to operate the European platform;*
 - d) *the proposed rules concerning the governance and operation of the European platform, based on the principle of non-discrimination and ensuring equitable treatment of all member TSOs and that no TSO benefits from unjustified economic advantages through the participation in the functions of the European platform;*

- e) *the proposed designation of the entity or entities that will perform the functions defined in the proposal. Where the TSOs propose to designate more than one entity, the proposal shall demonstrate and ensure:*
 - i. *a coherent allocation of the functions to the entities operating the European platform. The proposal shall take full account of the need to coordinate the different functions allocated to the entities operating the European platform;*
 - ii. *that the proposed setup of the European platform and allocation of functions ensures efficient and effective governance, operation and regulatory oversight of the European platform as well as, supports the objectives of this Regulation;*
 - iii. *an effective coordination and decision making process to resolve any conflicting positions between entities operating the European platform;*
 - f) *the framework for harmonisation of the terms and conditions related to balancing set up pursuant to Article 18;*
 - g) *the detailed principles for sharing the common costs, including the detailed categorisation of common costs, in accordance with Article 23;*
 - h) *the balancing energy gate closure time for all standard products for replacement reserves in accordance with Article 24;*
 - i) *the definition of standard products for balancing energy from replacement reserves in accordance with Article 25;*
 - j) *the TSO energy bid submission gate closure time in accordance with Article 29(13);*
 - k) *the common merit order lists to be organised by the common activation optimisation function pursuant to Article 31;*
 - l) *the description of the algorithm for the operation of the activation optimisation function for the balancing energy bids from all standard products for replacement reserves in accordance with Article 58. By six months after the approval of the proposal for the implementation framework for a European platform for the exchange of balancing energy from replacement reserves, all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485 shall designate the proposed entity or entities entrusted with operating the European platform pursuant to paragraph 3(e).*
5. *By one year after the approval of the proposal for the implementation framework for a European platform for the exchange of balancing energy from replacement reserves, all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485 and that have at least one interconnected neighbouring TSO performing the replacement reserves process shall implement and make operational the European platform for the exchange of balancing energy from replacement reserves. They shall use the European platform 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.*

2. THE RRIF PROPOSAL

The RRIF proposal was consulted by all RR TSOs through ENTSO-E from 21 February 2018 to 4 April 2018 in line with Article 10 of the EBGL. Along with RRIF proposal, all RR TSOs published an explanatory document.

In the public consultation, all RR TSOs were seeking input from stakeholders and market participants on the draft proposal. During this period, 22 market participants provided their feedbacks on the consultation.

All relevant NRAs closely observed, analysed and continuously provided feedback and guidance to all RR TSOs during various meetings and through a shadow opinion of all involved NRAs on 6 April 2018.

The all RR TSOs' proposal for the RRIF was sent to all relevant Regulatory Authorities on 18 June 2018. The document package sent by the TSOs consisted of the following documents:

- the RRIF proposal;
- an explanatory document which provides supporting information to the RRIF proposal;
- the RR TSOs' assessment of stakeholders' feedback provided during the public consultation.

According to Article 5 of the EBGL, all relevant NRAs shall approve or request amendments regarding terms and conditions or methodologies submitted by TSOs within 6 months after the receipt of the proposal. According to the national procedures in effect for each of the relevant NRAs, the RRIF proposal was received by the last regulatory authority on 27 June 2018. Therefore, the deadline for approving the RRIF or requesting amendments is on 27 December 2018.

In November 2018, the Hungarian TSO MAVIR, in accordance with the national Hungarian regulator HEA, as well as the Bulgarian TSO ESO, decided not to perform the replacement process. In order to take account of this change and modify the RRIF proposal accordingly, the RR TSOs submitted a corrected version of the RRIF dated 18 June 2018 to the relevant NRAs on 4 December 2018. This corrected version of the RRIF also introduces two other minor modifications - the addition of Article 6(5), and in Article 10, a clarification that one entity is assigned to operate the three functions of the RR platform. Alongside the corrected version of the RRIF, the RR TSOs submitted to the relevant NRAs a letter explaining the reasons for the corrected version as well as the legal background that permits this submission.

3. RELEVANT NRAS' POSITION

3.1 On the admissibility of the RR TSOs' proposal

The relevant Regulatory Authorities consider that the RR TSOs have fulfilled their obligations regarding the organisation of a public consultation provided by article 10 of the EBGL. In addition, they have also proposed minimum provisions pursuant to article 19(3) of the EBGL.

The relevant Regulatory Authorities have reached a common agreement on the corrected version of the RRIF that was submitted to the relevant NRAs on 4 December 2018.

3.2 On the content of the RRIF proposal

We have assessed the RRIF proposal against the requirements of Article 19 and we are satisfied that the proposal satisfies those requirements. We believe that the proposal is proportionate and will create a platform that will bring benefits to consumers through the exchange of RR and is in line with the objectives of EBGL.

The relevant NRAs welcome the RRIF proposal and acknowledge the efforts of the RR TSOs to propose a pragmatic compromise on the most sensitive market design elements raised in their informal shadow opinion. In particular, they consider that the provisions proposed for the balancing energy gate closure time and the allowance of counter-activations for twelve months address the TSOs concerns regarding the risk of commitment to an algorithmically non-feasible solution and, at the same time, provide visibility to the stakeholders and aim to meet their demands on the Balancing Energy Gate Closure Time (BEGCT).

4. CONCLUSION

All relevant Regulatory Authorities have assessed, consulted and closely cooperated to reach an agreement on the RRIF proposal. On 14 December all relevant Regulatory Authorities agreed that the RRIF proposal attached to the present paper meets the requirements of Regulation 2017/2195 and as such can be approved.

On the basis of this agreement each Regulatory Authorities will subsequently adopt a decision to approve the RRIF proposal by 27 December 2018.

Following national decisions by all relevant NRAs, all relevant TSOs will be required to publish the approved RRIF on their relevant company webpages in line with Article 7 of Regulation 2017/2195, and must meet the implementation deadlines required by Article 4 of the RRIF proposal.

The relevant Regulatory Authorities will continue to work with the RR TSOs within the framework of their Implementation Group. The relevant Regulatory Authorities also encourage all the market participants to take part in the testing phase as early as possible prior to the go-live date of the platform.

5. ANNEX

The proposal of all Transmission System Operators performing the reserve replacement process for the implementation framework for the exchange of balancing energy from Replacement Reserves in accordance with Article 19 of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing