Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003[(1)] and in particular Articles 18(3)(b), 18(3)(d) and 18(5) thereof,

Whereas:

(1) A fully functioning and interconnected internal energy market is crucial for maintaining security of energy supply, increasing competitiveness and ensuring that all consumers can purchase energy at affordable prices.

(2) A well-functioning internal market in electricity should provide producers with appropriate incentives for investing in new power generation, including in electricity from renewable energy sources, paying special attention to the most isolated Member States and regions in the Union's energy market. A well-functioning market should also provide consumers with adequate measures to promote more efficient use of energy, which presupposes a secure supply of energy.

(3) Regulation (EC) No 714/2009 sets out non-discriminatory rules on conditions for access to the network for cross-border exchanges in electricity and, in particular, rules on capacity allocation for interconnections and transmission systems affecting cross-border electricity flows. In order to move towards a genuinely integrated electricity market and to ensure operational security, efficient balancing rules should be developed in order to provide incentives for market participants to contribute to solving the system scarcities for which they are responsible. In particular, it is necessary to set up rules related to the technical and operational aspects of system balancing and to energy trading. Such rules should include system-related power reserve rules.

(4) Commission Regulation (EU) 2017/1485[(2)] sets out harmonised rules on system operation applicable to transmission system operators (‘TSOs’), regional security coordinators, distribution system operators (‘DSOs’) and significant grid users. It identifies different critical system states (normal state, alert state, emergency state, blackout state and restoration state). It also sets out requirements and principles to maintain operational security throughout the Union and aims to promote the

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coordination of requirements and principles for Union-wide load-frequency-control and reserves.

(5) This Regulation establishes an EU-wide set of technical, operational and market rules to govern the functioning of electricity balancing markets. It sets out rules for the procurement of balancing capacity, the activation of balancing energy and the financial settlement of balance responsible parties. It also requires the development of harmonised methodologies for the allocation of cross-zonal transmission capacity for balancing purposes. Such rules will increase the liquidity of short-term markets by allowing for more cross-border trade and for a more efficient use of the existing grid for the purposes of balancing energy. As balancing energy bids will compete on EU-wide balancing platforms, it will also have positive effects on competition.

(6) This Regulation pursues the objective of ensuring the optimal management and coordinated operation of the European electricity transmission system, while supporting the achievement of the Union's targets for penetration of renewable generation, as well as providing benefits for customers. TSOs, working with DSOs where relevant, should be responsible for organising European balancing markets and should strive for their integration, keeping the system in balance in the most efficient manner. To do so, TSOs should work in close cooperation with one another and with DSOs, coordinating their activities as much as possible to deliver an efficient electricity system, across all regions and voltage levels, without prejudice to competition law.

(7) TSOs should be able to delegate all or part of any tasks under this Regulation to a third party. The delegating TSO should remain responsible for ensuring compliance with the obligations in this Regulation. Likewise Member States should be able to assign tasks and obligations under this Regulation to a third party. Such assignment should be limited to tasks and obligations executed at national level (such as imbalance settlement). The limitations to the assignment should not lead to unnecessary changes to the existing national arrangements. However TSOs should remain responsible for the tasks entrusted to them pursuant to Directive 2009/72/EC of the European Parliament and of the Council[(3)] for the development of European-wide methodologies, as well as the implementation and operation of the European-wide balancing platforms. Where, in a Member State, the expertise and experience of operating imbalance settlement lies with a third party, the TSO of the Member State may request the other TSOs and ENTSO-E to enable such third party to assist in the development of the proposal. However, the responsibility for developing the proposal remains with the TSO of the Member State in conjunction with all other TSOs and such responsibility cannot be transferred to a third party.

(8) The rules defining the role of balancing service providers and the role of balance responsible parties ensure a fair, transparent and non-discriminatory approach. Moreover, the rules concerning the terms and conditions related to balancing set out the principles and roles by which the balancing activities governed by this Regulation will take place, and ensure adequate competition based on a level-playing field between market participants, including demand-response aggregators and assets located at the distribution level.

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(9) Each balancing service provider intending to provide balancing energy or balancing capacity should successfully pass a qualification process defined by the TSOs in close cooperation with DSOs where necessary.

(10) The integration of balancing energy markets should be facilitated with the establishment of common European platforms for operating the imbalance netting process and enabling the exchange of balancing energy from frequency restoration reserves and replacement reserves. Cooperation between TSOs should be strictly limited to what is necessary for the efficient and secure design, implementation and operation of those European platforms.

(11) The platforms for the exchange of balancing energy from frequency restoration reserves and replacement reserves should apply a model with merit order lists in order to ensure cost-efficient activation of bids. Only where a cost benefit analysis performed by all TSOs shows that the model for the platform for the exchange of balancing energy from frequency restoration reserves with automatic activation should be modified, it should be possible for TSOs to implement and make operational the platform based on another model.

(12) The integration of balancing energy markets should facilitate the efficient functioning of the intraday market in order to provide the possibility for market participants to balance themselves as close as possible to real time. Only the imbalances remaining after the end of the intraday market should be balanced by TSOs with the balancing market. The harmonisation of the imbalance settlement period to 15 minutes in Europe should support intraday trading and foster the development of a number of trading products with same delivery windows.

(13) In order to allow an exchange of balancing services, the creation of common merit order lists and adequate liquidity in the balancing market, it is necessary to regulate the standardisation of balancing products. This Regulation lists the minimum set of standard characteristics and additional characteristics defining standard products.

(14) The pricing method for standard products for balancing energy should create positive incentives for market participants in keeping and/or helping to restore the system balance of their imbalance price area, reduce system imbalances and costs for society. Such pricing approach should strive for an economically efficient use of demand response and other balancing resources subject to operational security limits. The pricing method used in the procurement of balancing capacity should strive for an economically efficient use of demand response and other balancing resources subject to operational security limits.

(15) In order to enable TSOs to procure and use balancing capacity in an efficient, economic and market-based manner, there is a need to foster market integration. In this regard, this Regulation establishes three methodologies through which TSOs may allocate cross-zonal capacity for the exchange of balancing capacity and sharing of reserves, when supported on the basis of a cost-benefit analysis: the co-optimisation process, the market-based allocation process and the allocation based on an economic efficiency analysis. The co-optimisationallocation process should be performed on a day-ahead

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basis whereas the market-based allocation process could be performed where the contracting is done not more than one week in advance of the provision of the balancing capacity and the allocation based on an economic efficiency analysis where the contracting is done more than one week in advance of the provision of the balancing capacity on the conditions that the volumes allocated are limited and that an assessment is done every year.

(16) Once a methodology for the allocation process of cross-zonal capacity is approved by the relevant regulatory authorities, early application of the methodology by two or more TSOs could take place to gain experience and allow for a smooth application by more TSOs in the future. The application of such a methodology, where existing, should nevertheless be harmonised by all TSOs in order to foster market integration.

(17) The general objective of imbalance settlement is to ensure that balance responsible parties support the system's balance in an efficient way and to incentivise market participants in keeping and/or helping to restore the system balance. This Regulation defines rules on imbalance settlement, ensuring that it is made in a non-discriminatory, fair, objective and transparent basis. To make balancing markets and the overall energy system fit for the integration of increasing shares of variable renewables, imbalance prices should reflect the real-time value of energy.

(18) A process for provisionally derogating TSOs from the application of certain rules should be set out in this Regulation to take into account circumstances where exceptionally, for example, compliance with those rules could lead to risks concerning operational security or lead to premature replacement of smart grid infrastructure.

(19) In accordance with Article 8 of Regulation (EC) No 713/2009 of the European Parliament and of the Council[(4)], the Agency for the Cooperation of Energy Regulators ('the Agency') should take a decision where the relevant regulatory authorities are not able to reach an agreement on common terms and conditions or methodologies.

(20) This Regulation has been developed in close cooperation with the Agency, the ENTSO for Electricity ('ENTSO-E') and stakeholders, in order to adopt effective, balanced and proportionate rules in a transparent and participative manner. In accordance with Article 18(3) of Regulation (EC) No 714/2009, the Commission will consult the Agency, ENTSO-E and other relevant stakeholders before proposing any amendment to this Regulation.

(21) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 23(1) of Regulation (EC) No 714/2009,

HAS ADOPTED THIS REGULATION:

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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 Agency'), 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 Union except the transmission systems on islands that are not connected with other transmission systems via interconnections.

4 Where more than one TSO exists in a Member State, this Regulation shall apply to all TSOs in a Member State. Where a TSO does not have a function relevant to one or more obligations under this Regulation, Member States 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 The European platforms for the exchange of standard products for balancing energy may be opened to TSOs operating in Switzerland on the condition that its national law implements the main provisions of Union electricity market legislation and that there is an intergovernmental agreement on electricity cooperation between the Union and Switzerland, or if the exclusion of Switzerland may lead to unscheduled physical power flows via Switzerland endangering the system security of the region.

7 Subject to the conditions of paragraph 6, the participation of Switzerland in the European platforms for the exchange of standard products for balancing energy shall be decided by the Commission based on an opinion given by the Agency and all TSOs in accordance with the procedures set out in paragraph 3 of Article 4. The rights and responsibilities of Swiss TSOs shall be consistent with the rights and responsibilities of TSOs operating in the Union, allowing for a smooth functioning of balancing market at Union level and a level-playing field for all stakeholders.

8 This Regulation shall apply to all system states defined in Article 18 of Regulation (EU) 2017/1485.