
ENTSO-E Review of EP Amendment proposals: Electricity Regulation

Articles 14, 17, 4, 5, 2, 7, 18, 23, 24, 49-57

Article 14 - Capacity Calculation

Capacity-targets for interconnectors should not be set without a reference to what is technically feasible. Artificially high (technically infeasible) transfer capacities on interconnectors will make the market outcome infeasible with incorrect energy prices. In order to achieve such artificially high capacity targets, TSOs would have to heavily employ costly remedial measures, such as re-dispatching of power plants. The costs for these special measures are socialized and borne by the end-consumers. This would not enhance market integration, but actually distort market dynamics, forcing trading on lines that would, under normal market outcomes, not allow for it.

Costly remedial measures, such as re-dispatching, should be primarily reserved for securing safe operations in real time (or before). Using redispatch can help optimize capacities, but forcing TSOs to employ redispatch resources for maximizing capacities not only increases the costs for end-consumers, but may also endanger system operation based on insufficient or premature utilisation of the limited available redispatch resources. If existing generation capacity is used to perform redispatch to increase cross-zonal capacity, this capacity cannot be relied upon anymore when real-time additional measures are necessary to ensure security of supply and grid stability. This may lead to situations where it is impossible to create a N-1 secure situation in real time.

When capacity targets are set, they need to be regionally differentiated. Cross-zonal transfer capacities are influenced by the physical realities of the interconnected power system. In meshed grids, such as in continental Europe, loading of all lines, domestic ones or interconnectors, is influenced by both cross-zonal and domestic trade. For this reason, congestions on internal network elements with significant cross-border relevance should be considered in cross-border capacity calculation. Loop flows are an inherent physical feature of AC grids and should be recognized in the capacity calculation methodology. While loop flows should be considered as an externality of the zonal market design (i.e. ideal bidding zones should lead to lower loop flows), they cannot be ignored during capacity calculation.

When capacity targets are set, **TSOs must be allowed to derogate from such targets when the secure operation of the grid is at stake or when the economic welfare is overall negative.** The further a capacity target is away from the physical reality of the grid, the more expensive it will be to achieve the capacity target. TSOs should not be required to achieve capacity targets when the costs of doing so exceed the benefits for end-consumers.

For these reasons, the **wording of article 14 must be improved to allow for derogations from general principles in paragraph 14.7 depending on the specificities of the regional grid.** Duly justified derogations should be embedded in capacity calculation methodologies and **subject to regular scrutiny and review by NRAs.**

- ENTSO-E supports the following AMs which underline these principles: 702 (ECR), 703 (Zanonato), 704 (Kohlicek), 705 (Toia), 706 (Tosenovsky), 710 (Pilar), 711(Krasnodebski), 712 (Flavio), 713 (Toia), 717 (Zanonato), 718 (Toia).
- ENTSO-E does not support AMs 714 deleting the possibility for derogation if approved by the NRA, 716, 721 (art. 15).

Article 17 - Use of Congestion income

ENTSO-E supports the EC objective to invest in and maintain cross-border transmission capacity for the benefit of European welfare and the principle of allowing the option for using congestion income to flow back to energy consumers as a means of supporting public acceptance and enabling consumers to benefit from such projects. Today, cross-border investments are, in many cases, funded by national TSO tariffs, which provide financial leverage to foster investments, and therefore **the corresponding congestion income from interconnectors should be allowed to flow back to grid users through a reduction of grid tariffs**. In order to foster better use of existing interconnectors and new investments, a sufficiently wide range of options should be available, **including the use of congestion income for tariff reduction**, to allow NRAs to implement the solution that best suits their national context, as well as the specific situation of the TSO.

- ENTSO-E supports the following amendments which go into this direction: AMs 801, 807, 810, 811, 812, 814, 818, 819, 820, 821, 822, 823-824, 825, 826, 828, 829, 830, which support those principles and enable congestion income to be used for *“optimisation of the usage of existing interconnectors, network investments, in particular in new interconnectors,”* and allow *“the revenues to be used, subject to approval by the NRAs, as income to be taken into account when approving the methodology for calculating network tariffs and/or fixing network tariffs.”*
- ENTSO-E does not support AMs 802, 803, 806 as **those limitations would be disproportionate and impractical**. Maintaining or increasing interconnection capacity “up to the target value for transfer capacity at each border” (which is not clear who and how it would be determined) is only partly under TSOs’ control and it depends on the amount of congestion rent spent on cross-border interconnections.

Since public acceptance is the single biggest obstacle to the construction of new lines, the regulation should specify that congestion income may be used to cover *‘all costs for activities increasing active stakeholder participation and costs resulting from measures for public acceptance’*. ENTSO-E suggests such a reference into the compromise amendments.

Article 4: Balancing responsibility

ENTSO-E supports strengthening the balancing responsibility of market participants by removing the EC’s proposed exemptions while giving flexibility to Member States to possibly provide for appropriate financial compensation to installations already benefitting from support schemes at the date of the entry into force. Flexibility from all market participants is required in order to keep the system balanced with increasing levels of intermittent generation. **Consistency with the requirements agreed in the Electricity Balancing Guideline (EBGL) should be ensured**. Introducing additional constraints that could negatively impact consumers or derogations from balancing responsibility should be avoided as those may lead to increasing costs to balance the system, ultimately borne by consumers.

- ENTSO-E supports AMs 320, 321, 322, 325, 332, 333, 334, 335, 339, 351, 356, **removing exemptions from balance responsibility as of 2025 and streamlining provisions with EBGL requirements**.
- Conversely, ENTSO-E does not support AMs 313, 314, 316, 318, 319, 324, 327, 328, 336, 337, 340, 341, 345, 347, 348, 349, 354, which provide for derogations from balance responsibility and raise thresholds for exemptions from balancing responsibility.

Article 5: Balancing

Article 5.1: Access to balancing markets should be open to all participants on an equal basis, but should nevertheless be **conditional on a positive prequalification process** (as per EBGL procedures) to ensure the necessary reliability of resources. ENTSO-E therefore supports AMs 360, AMs 363-365 which support those principles for prequalification.

On Article 5.3, ENTSO-E supports AMs 374, 375, allowing for an integrated process of procurement of balancing energy and capacity subject to approval by the NRA and when economically efficient, in line with the EBGL art. 27.1 for the integrated scheduling process, as in central-dispatch systems.

On Article 5.6: ENTSO-E supports AMs 381, 382 aligning provisions on imbalance settlement with EBGL provisions;

Article 5.7: The dimensioning of reserve capacity shall be done in compliance with articles 153, 157 and 160 of the System Operation Guideline. When sizing reserve capacities, TSOs take a decision on the risk of the imbalances – inextricably linked with the balancing philosophy applied in each country – that may not be compensated by balance responsible parties. ENTSO-E notices that several proposed amendments (AM 383, 384, 385, 386, 387) are supportive of the position of removing the requirement for sizing of reserves to be done at a system operation region scope by an entity different from the TSOs.

Article 5.8: The procurement of balancing capacity should be done in line with the SOGL and Balancing Guideline.

- ENTSO-E supports AM 27, 389, 390, 392, and 393, which propose that **the procurement of balancing capacity should be performed by the TSOs**, remove the requirement for a regional scope to procure balancing as well as for a regional entity to facilitate such procurement, and align those provisions with the System Operation and the Balancing Guidelines.

What is more, ENTSO-E strongly recommends to refrain from setting a general limit (of 5% or other values) to the allocation of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves and and refer instead to the EBGL. A limit of 5% in this regulation may result in loss of socio-economic welfare especially in smaller bidding zones where internal balancing resources are limited.

Even if the 5% limit is recognized in the EBGL, for one of the possible methodologies for capacity reservation, it is important to signal that the optimal amount of cross-zonal capacity which could be reserved to allow exchanging or sharing of balancing services cannot be predetermined with a one-size fits all figure for all European bidding zones. Instead, we propose to include a reference to the Electricity Balancing Guideline, whose provisions on capacity reservation already aim at maximizing market efficiency and social welfare while ensuring transparency and remain flexible for future developments.

On art. 5.9 ENTSO-E supports AMs 399, 400, 401, 402, 403, 408, 409, 410, 411, which ensure further consistency with EBGL provisions and in particular with regards to the procurement of balancing of capacity and with the publication of estimated imbalances and imbalance prices in due time. Conversely, ENTSO-E does not support AM 359, 367, 376, 391

It is worth highlighting that separate upward and downward capacity is not necessarily more efficient from an economic point of view, especially in the case of a must-run situation. The EBGL foresees exemptions for such cases (EBGL, Art 32.3), which should likewise be granted here.

Likewise, daily procurement is not necessarily more cost-efficient. For instance, a number of BSPs, like demand response or aggregators, request a longer procurement period to decrease their operational burden. In these cases, longer contracting periods, exceeding one day, should be allowed.

On Local Energy Communities (LECs) - Regarding the possibility for balancing rules to allow for simplified access for LECs, it should be ensured that for system security reasons, access to balancing markets should be subject to the prequalification requirements of the System Operation Guideline (SOGL) to avoid cases of unreliable providers. As LECs are given the possibility of cross-border participation, there should be a necessary condition for LECs to coordinate with the relevant TSOs to enable cross-border transmission.

Art 2 - Definition of Strategic Reserves

We are strongly concerned about the definition of strategic reserves and in particular the restrictive constraints imposed on their dispatching. These would make such reserves ineffective for solving temporary scarcity risks. The proposal to allow the dispatch of strategic reserves, if TSOs have exhausted all their balancing resources, would lead to a major issue as a minimum level of reserves has to be kept available for any possible unforeseen event (e.g. plant outages) in real time to guarantee grid stability and prevent black-outs. We support proposals to clarify that strategic reserves are held outside the market and indeed they should not distort the functioning of wholesale electricity markets and should be used only as a last resort measure; however, in our view further text amendments are needed.

- We suggest at least to integrate the wording proposals of amendment 240 and 241 as follows:
art. 2 v) 'strategic reserve' means a capacity mechanism in which resources **are held outside the electricity market and** are only dispatched in case day-ahead and intraday markets have failed to clear **or** transmission system operators have exhausted their balancing resources to establish an equilibrium between demand and supply, and imbalances in the market during periods where the reserves were dispatched are settled **at least at technical price limits or at** the value of lost load.“

Amendment	ENTSO-E proposal
(v) 'strategic reserve' means a capacity mechanism in which resources are held outside the electricity market and are only dispatched in case day-ahead and intraday markets have failed to clear, transmission system operators have exhausted their balancing resources to establish an equilibrium between demand and supply, and imbalances in the market during periods where the reserves were dispatched are settled at least at technical price limits or at the value of lost load;	v) 'strategic reserve' means a capacity mechanism in which resources are held outside the electricity market and are only dispatched in case day-ahead and intraday markets have failed to clear or transmission system operators have exhausted their balancing resources to establish an equilibrium between demand and supply, and imbalances in the market during periods where the reserves were dispatched are settled at least at technical price limits or at the value of lost load;

Article 7 - Intra-Day Gate-Closure Times and Imbalance settlement period

Some amendments on Article 7(1) propose to move to a gate-closure time of 15 minutes before real-time across all bidding zones. ENTSO-E are very concerned about this proposal and recommend the Commission's original text, as also supported by the Council, which refers back to article 59 of the CACM Regulation. This article already aims to set cross-zonal gate closure times as close as possible to real time to maximise market participants' opportunities for adjusting their balances, **while also providing TSOs**

and market participants with sufficient time for their scheduling and balancing processes in relation to network and operational security. As the market structure and system topology varies quite significantly across Europe's five synchronous areas, setting the intraday cross-zonal gate opening and gate closure times is a complex task and TSOs are presently implementing these requirements of the CACM Regulation in consultation with market stakeholders and in close cooperation with National Regulators.

Setting a pan-European gate closure time of 15 minutes would disregard the ongoing market integration initiatives and potentially disrupt the implementation process. The detrimental effects on the significant developments of balancing market that are being implemented to comply with the Guideline on Electricity Balancing have also to be considered before moving the intraday cross-zonal gate closure times closer to real-time.

- As a consequence, ENTSO-E does not support AMs 28, 427, 428.

A number of amendments on Art. 7(4) propose to set the imbalance settlement period (ISP) to 15 minutes by 2021 (a further shortening compared to the rapporteur proposal of 2022), instead of 2025 as originally proposed by the European Commission. ENTSO-E favours the EC's original proposal as it is more realistic with regards to harmonising the ISP across all control areas. Step-wise implementation is necessary to ensure a smooth and efficient transition to new processes and IT systems supporting such an important market design change for certain countries. The initial EC proposal is also consistent with the possibility for derogation set forth in the Guideline on Electricity Balancing.

- ENTSO-E supports amendment 429 (for Art 7(3)) and amendments 435, 436, 438, 444 (for Art. 7(4))
- ENTSO-E does not support AMs 30, 437, 441, 442.

Article 18 - Resource Adequacy

ENTSO-E supports the proposals of publishing an implementation plan to eliminate regulatory distortions. However, the strict conditionality between the implementation of measures listed under 18.3 (a) to (h) and the introduction of capacity mechanisms, as suggested by the rapporteur, is impracticable.

In some instances, this may be out of Member States' control (the implementation plan may for instance depend on grid development in a neighbouring Member State). What is more, Member States may indeed need to rely on a capacity mechanism while they are still implementing measures to enhance system adequacy. In this respect, the need for an additional EC approval of the plan and the binding EC decision on whether the reforms have been sufficiently implemented appear redundant: In the framework of competition law and the State Aid Guidelines, the EC already requires Member States, before introducing capacity mechanisms, to prove that they are necessary, proportionate, non-distortive, and accompanied by other market design measures to address adequacy problems.

ENTSO-E would rather promote the implementation of [Regional Energy Forums](#), where such regional cross-border issues with political and regulatory implications could be discussed and resolved.

- For this reason, we suggest to revert to the EC's text proposal or at least to incorporate elements of amendments 834, 835, 836, 837, 838, 842, 852, 859, 860, 861, 862, 863, 864.

Articles 23 and 24: Capacity Mechanisms and links with the resource adequacy assessment

A number of amendments generally favour strategic reserves over capacity markets as setting a framework for Member States to first aim to implement a strategic reserve to address adequacy concerns and then

implement a different type of capacity mechanism if needed. Each form of capacity mechanisms is designed to respond to different needs and resource adequacy specificities. The legislator should therefore not, in general terms, favour one mechanism over another.

Another element of concern is the introduction in several amendments of a temporary limit of 5 years (Art 18a.6), which is too short to ensure that capacity mechanisms stimulate the necessary investments. Such temporary limits would hamper the functioning of existing or planned capacity mechanisms. It should be kept in mind that, in the framework of competition law and the State Aid Guidelines, the EC approves capacity mechanisms for a predefined period, that is established taking into account the specific context of each application.

ENTSO-E's European Resource adequacy assessment is complementary to national assessments. The European assessment has larger scope, but less granularity. The European assessment should challenge national assessments, but not replace them... The ENTSO-E assessments thus cannot be the sole basis for decision making. Furthermore, once a capacity mechanism is implemented, its implementation lasts de facto over several years, and, hence, several assessment periods, and for the sake of non-distortion, it cannot flash in or out depending on the results of the yearly European assessments.

- For this reason, we suggest to revert to the EC's more balanced text proposal or at least to incorporate elements of amendments 1091, 1092, 1093, 1094 to support the principles outlined above.

EU DSO entity tasks - Art. 49-51, 54-56

ENTSO-E welcomes the creation of the EU DSO entity and as a way to enhance EU-level TSO-DSO cooperation, based on the achievements of the current TSO-DSO platform. However, the topics listed in the regulation should not be the sole responsibility of the EU DSO entity. The EU DSO entity can be mandated to draft network codes if the subject matter is only related to the distribution system and is not relevant for the transmission system. A system perspective should be maintained to avoid a split between wholesale and retail, transmission and distribution.

ENTSO-E strongly recommends **a process of collaboration for the network codes, where the DSO entity might be leading but will closely cooperate with ENTSO-E** and vice-versa where applicable, rather than working in isolation as the current text might suggest.

As the ultimate objective is a complete internal energy market and an efficient interconnected pan-European power system, allowing customers to be active in all markets, there are very few pure DSO matters, and no justification for DSOs to develop a code in isolation. **Collaboration between the EU DSO entity and ENTSO-E on the drafting of new network codes that are currently allocated to the 'EU DSO entity', coupled with an efficient consultation of stakeholders**, will ensure that the network codes serve a pan-European integrated vision of the system and market.

Given the new mandate and role of the DSO entity in the creation and well-functioning of the IEM, the legislative proposals should ensure neutrality of the DSO entity, especially in areas like data management and development of demand response.

As regards other tasks of the EU DSOs that may include the exchange of views and best practices, ENTSO-E recommends that the topics listed in the regulation (art. 51), should not be the sole responsibility of the EU DSO entity, since those tasks are typically overarching and related to the power system at large. While the increasing and important role of the DSOs in the power system is appropriately acknowledged through the establishment of the DSO body, it has to interact closely with ENTSO-E to link effectively wholesale and retail, and must consult with all relevant stakeholders. Among others, the TSO-DSO platform as established by the EC should be used as an important cooperation setting. As for data management and the development of demand response, DSOs should be neutral facilitators, like TSOs.

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- ENTSO-E supports AMs 1346, 1368, 1372, 1389, 1391, 1400, 1401, 1402, 1409, 1413, 1423, 1424; 1426, 1427, 1435, 1448,
 - ENTSO-E would not support Amendments suggesting to scrap the EU DSO Entity, like AMs 1360, 1361, 1403, 1404, etc

Articles 54-57: Drafting and amendments of network codes and guidelines

The original text proposes that the drafting of codes directly related to the operation of the distribution system is led by the EU DSO entity. This setup lacks the design of adequate structures to ensure TSO-DSO coordination. The institutional design has to ensure a balanced approach of all players. There is a risk of creating local markets, and losing sight of the system and its needs. ENTSO-E recommends a co-creation process, which would be especially crucial to allow customers to participate in all markets, and to unleash welfare gains at European level for citizens.

What is more, for all those network codes that were drafted or co-drafted by ENTSO-E, the amendment process should ensure that ENTSO-E can equally contribute to it. As with the drafting of the codes, ENTSO-E should play a role at an early stage of the amendment process, given the expertise that was provided at the drafting stage of the codes.

- Therefore Art 54 should be amended accordingly to be aligned with art. 55 (NC drafting) and article 56 (NC amendment) and the Article 51 on the tasks of the EU DSO entity.
 - ENTSO-E supports AMs: 1485-1486, 1506,
 - ENTSO-E would not support AMs: 1451, 1458, 1502, 1503, 1510,
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