

ACER Decision on the amendment of the pricing methodology: Annex I

**First amendment of Methodology Amendment
to the methodology for pricing balancing energy
 and cross-zonal capacity used for the exchange
 of balancing energy or operating the imbalance
 netting process**

in accordance with
 Article 30(1) of Commission Regulation (EU) 2017/2195 ~~of 23 November~~
~~2017~~
 establishing a guideline on electricity balancing

25 August 2021

Purpose:	<input type="checkbox"/> methodology draft	<input type="checkbox"/> for public consultation
	<input checked="" type="checkbox"/> for ACER approval	<input type="checkbox"/> for final publication
Status:	<input type="checkbox"/> draft	<input checked="" type="checkbox"/> final
TSO approval:	<input checked="" type="checkbox"/> for approval	<input type="checkbox"/> approved

All TSOs, taking into account the following:

25 February 2022

Whereas

- (1) This document provides an amendment to the ~~Methodology~~methodology for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process in accordance with Article 30(1) of Commission Regulation (EU) 2017/2195 of 23 November 2017 –establishing a guideline on electricity balancing (“EB Regulation”) ~~following the Regulation~~’ approved by ACER decision 01-/2020 of 24 January 2020 (‘pricing methodology’). This amendment is hereafter referred to as the ‘amendment to the pricing methodology’.
- (2) ~~European TSOs strongly support the European target model for integrated balancing energy markets, especially the implementation and Go-live of the platforms for the exchange of balancing energy, and see significant advantages resulting from it. However, due to developments and observations on balancing energy markets across Europe, all TSOs identified that technical price limits are needed for the efficient functioning of the market. Therefore, all TSOs consider it necessary to introduce the proposed amendment of the Pricing Methodology, namely an adjustment of the technical price limits and thus the maximum and minimum balancing energy prices.~~
- (3) ~~The amended Pricing Methodology contributes to the objective of an efficient functioning of the market set out in Article 30(2) of the EB Regulation and to the objectives set out in Article 3 EB Regulation. In particular, by~~
 - (a) ~~fostering effective competition, non-discrimination and transparency in balancing markets (Article 3(1)(a) EB Regulation) as an appropriate reduction of the maximum balancing energy price and an appropriate increase of the minimum balancing energy price do not have a negative effect on participation of Balancing service providers and thus competition and liquidity of the market. The establishment of integrated balancing energy markets across borders on the one hand promotes competition and on the other hand bears the risk of cross-border spill over of exaggerated high balancing energy prices. Introducing appropriately adjusted maximum and minimum balancing energy prices limits the identified fundamental risks of integrated balancing energy markets to a reasonable level while the benefits remain. Balancing energy auctions as foreseen by EB Regulation do not necessarily provide an incentive for truthful bidding. Applying marginal pricing may therefore result in exaggerated balancing energy bids leading at least to inefficiencies in the balancing energy market causing distorted imbalance settlement prices.~~
 - (b) ~~enhancing efficiency of balancing as well as efficiency of European and national balancing markets (Article 3(1)(b) EB Regulation) by setting maximum and minimum balancing energy prices according to technical and economic assessments and evaluations (as high as necessary and as low as possible). Additionally, appropriate maximum and minimum balancing energy prices can prevent that price spikes uncorrelated with the real-time situation (price spike not caused by a natural, but by an artificial scarcity situation) generate distortive and exaggerated imbalance settlement prices that may induce financial risks for the balancing responsible parties, which they cannot escape even by best planning and forecasting to minimize their imbalances.~~
 - (c) ~~integrating balancing markets and promoting the possibilities for exchanges of balancing services while contributing to operational security (Article 3(1)(c) EB~~

Regulation) as appropriate maximum and minimum balancing energy prices reduce the financial risks for balancing responsible parties resulting from the cross-border activation of balancing energy bids to a suitable level and does not limit free price formation.

- (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 (Article 3(1)(d) EB Regulation) as adjusted maximum and minimum balancing energy prices reduce the financial risks of balancing responsible parties resulting from the cross-border activation of balancing energy bids under the given conditions to a suitable level. These financial risks of balancing responsible parties mainly result from inefficiencies that are associated with the integrated balancing energy market not being mature from the beginning as many TSOs opted for a derogation delaying their accession to the FRR balancing energy platforms. Additionally, the simultaneous national implementation of the EB Regulation target market design, which is necessary to connect to the balancing platforms, results in significant changes of the existing local market designs. This leads to transitory effects significantly increasing the probability for materialisation of high price spikes uncorrelated with the real-time situation (artificial scarcity situations). This would result in distortive incentives as frequent exaggerated high imbalance settlement prices may lead to increasing market entry and investment barriers and thus prevent the foreseen development of the electricity transmission system and electricity sector in the Union.

Furthermore, all TSOs consider that the proposed level of maximum and minimum balancing energy prices does not limit the efficient and consistent functioning of the balancing markets as energy bids above the proposed maximum balancing energy price hardly ever occurred in the current local balancing energy markets. Taking additionally into account that the price level of balancing energy bids under a pay-as-cleared scheme is in theory below the price level of balancing energy bids under a pay-as-bid scheme, all TSOs consider that the proposed maximum balancing energy price does not interfere with the balancing energy market.

- (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 (Article 3(1)(e) EB Regulation). Price spikes uncorrelated with the real-time situation may result from transitory effects and an immature market. The probability of materialisation of these is even higher in the beginning of the balancing energy platforms as already elaborated in (3)(d). This may result in artificial scarcity situations becoming apparent in price spikes uncorrelated with the real-time situation. In consequence, balancing responsible parties will be charged with unusual and exaggerated high imbalance settlement prices. The internal market in electricity must be prevented from these undue distortions. Therefore, all TSOs consider adjusting the maximum and minimum balancing energy prices as a suitable measure that accordingly can reduce the aforementioned risks. This ensures a fair, objective, transparent and market-based procurement of balancing services and avoids undue barriers for the market entry of balancing responsible parties and investments into renewables and thus fosters the competition

on the wholesale energy markets. Additionally, appropriate maximum and minimum balancing energy prices do not negatively impact liquidity on the balancing market.

(f) facilitating the participation of renewable energy sources and support the achievement of the European Union target for the penetration of renewable generation (Article 3(1)(g) EB Regulation) as adjusted maximum and minimum balancing energy prices reduce the exposure of balancing responsible parties to high imbalance settlement prices that may threaten their existence, which would lower the willingness to invest into renewables, as they are very prone to imbalances because of the given forecasting inaccuracies of renewables.

(4) The following changes additionally fulfil the principles regarding the operation of electricity markets listed in Article 3 REGULATION (EU) 2019/943 of the European Parliament and of the council of 5 June 2019 on the internal market for electricity (“Electricity Regulation”). In particular,

(a)(2) the proposed level of maximum and minimum balancing energy prices does not limit that prices are formed on the basis of demand and supply. In general, a free price formation is possible at the integrated balancing energy market. However, this may be limited by a price inelastic demand side (majority of TSOs are price takers as they will not submit a price sensitive demand to the FRR balancing energy platforms) and an oligopolistic supply side (limited and small number of balancing service providers per member state). In addition, the balancing service providers shall be enabled to rationally calculate their balancing energy bids based on their true operational costs. All TSOs consider this condition to be met with the proposed level of maximum and minimum balancing energy prices. Additionally, allows all TSOs to jointly propose to introduce the technical price limits in case TSOs identify that technical price limits are needed for efficient functioning of the market. In such a case, these technical price limits shall take into account the maximum and minimum clearing price for day-ahead and intraday timeframes pursuant to Regulation (EU) 2012/2015/1222 serve as a limit that shall at least be met by the proposed harmonised maximum and minimum balancing energy prices.

(b) the proposed level of maximum and minimum balancing energy prices limits the risk for balancing responsible parties to be faced with exaggerated high imbalance settlement prices. This facilitates the investment into renewables (sustainable low carbon generation) and fosters their market entry as they are by nature very prone to imbalances and are unprotected against them despite the best possible forecast. Thus, they are very risk sensitive with regard to the threat of exaggerated high balancing energy prices.

(c) introducing the proposed level of maximum and minimum balancing energy prices facilitates fair competition thus ensuring security of supply by limiting potential market abuse. This is because in a situation where a balancing service provider with market power is able to exercise it via establishing exaggerated high balancing energy prices the proposed level of maximum and minimum balancing energy prices would effectively limit the abusive impact to the market by limiting the imbalance settlement price accordingly. This effect is strengthened by the largely inflexible demand side in the balancing energy market which, together with the oligopolistic supply side, may lead to distorted market results.

~~(d) the proposed level of maximum and minimum balancing energy prices limits the risk for balancing responsible parties to be faced with exaggerated high balancing energy prices unexpectedly. The cross-border marginal price may be set by cross-border activation of balancing energy originating from a demand for balancing energy in another bidding zone. Even if the national balancing energy market would be mature, the exchange of balancing energy brings the risk of being exposed to unforeseen foreign market effects that cannot be influenced and predicted. Mitigating this risk may give more comfort for being exposed to prices resulting from the integrated market for balancing energy and thus ensures effective regional cooperation.~~

~~Furthermore, the proposed level of maximum and minimum balancing energy prices allows balancing responsible parties to be protected against non-sustainable price volatility risks and thus ensure efficient functioning of the balancing energy market. In particular, the proposed level of maximum and minimum balancing energy prices protects balancing responsible parties from slipping into insolvency through no fault of their own and limits the uncertainty on future returns on investments into renewables.~~

~~(3) Article 10(1) second sentence of Regulation (EU) 2019/943 allows for The technical price limits which may be applied in the balancing timeframe. Therefore, all TSOs understand that Regulation (EU) 2019/943 does not restrict the possibility, provided by the pursuant to Article 30(2) of the EB Regulation, of introducing have already been set in the pricing methodology at the level of 99,999€/MWh and -99,999€/MWh for both positive and negative balancing energy. These price limits are not lower than the limits imposed within the day-ahead and intraday timeframes and therefore do not restrict price formation.~~

~~(5)(4) This amendment introduces transitional price limits in addition to the technical price limits in the balancing timeframe, which are lower than the technical price limits, for a limited period of time. The purpose of these transitional price limits is to alleviate any concerns linked to the transitory period during the first years of the operation of the European balancing platforms with the participation of all the TSOs, in accordance with Article 19 to Article 22 of the EB Regulation. As such, introducing these temporary lower price limits aims to facilitate the integration of the balancing markets, in line with the objective set out in Article 3(1)(c) of the EB Regulation.~~

~~(5) For the purposes of this first This amendment to the Pricing Methodology, the terms used shall have the meaning given to them pricing methodology has no negative impact on the other objectives listed in Article 2 of the Electricity Regulation, Article 23 of the EB Regulation and, since the technical price limits remain unchanged.~~

Article 3 of the SO Regulation_1
Definitions and interpretations

1. Article 2 – Definitions and the interpretations – shall be amended as follows:

a) New definitions set out in Article 2 of Annex I of shall be included and read accordingly:

(g) ‘maximum technical price limit’ means the maximum price for all balancing energy product bids and the maximum value of the cross-border marginal price;

~~(6)~~ (j) ‘minimum technical price limit’ means the minimum price for all balancing energy product bids and the Decision No 01/2020 minimum value of the Agency for the Cooperation of the Energy Regulators of 24 January 2020 on the Pricing Methodology cross-border marginal price;’

~~SUBMIT THE FOLLOWING PROPOSAL FOR AMENDMENT TO ACER~~

Article 12
General Principles

1. Article 3 – General Principles - ~~All TSOs propose to amend Article 3 shall be amended~~ as follows:

a) Paragraph 3 shall be amended and be read accordingly:

~~«3. The maximum technical price for all balancing energy product bids and the maximum value of the CBMP limit shall be 15 00099,999 €/MWh. The minimum technical price for all balancing energy product bids and the minimum value of the CBMP limit shall be -15 00099,999 €/MWh. »~~

Article 3
Implementation Timeline

1. Article 9 – Implementation timeline - shall be amended as follows:

b) a) A new paragraph ~~8~~3 shall be included and be read accordingly:

~~«8. No later than 18 months after the participation of all respective TSOs in the respective FRR balancing energy platform is mandatory, including the expiration of all respective derogations according to Article 62(2)(b) EB Regulation, all TSOs shall prepare a report and invite stakeholders to submit comments. The report shall justify whether the maximum and minimum balancing energy prices defined in Paragraph 3 of this Article for the respective balancing energy products should be maintained or amended. The final report shall be submitted to ACER no later than 2 years after the participation of all respective TSOs in the respective FRR balancing energy platform is mandatory, including the expiration of all respective derogations according to Article 62(2)(b) EB Regulation. »~~

e) ~~A new paragraph 9 shall be included and be read accordingly:~~

~~«9. In addition to the report foreseen in Paragraph 8 of this Article, all TSOs shall include in the European report on integration of balancing markets to be published in accordance with Article 59 EB Regulation an analysis of the impact of the maximum and minimum balancing energy price defined in Paragraph 3 of this Article on the functioning of the market. All TSOs shall therefore set up, in consultation with ACER, relevant performance indicators to this analysis. If TSOs identify in their analysis that the~~

~~maximum and minimum price levels under Paragraph (3) hinder the efficient functioning of the market, they shall trigger the assessment under Paragraph (8) with undue delay.»~~

~~d) A new paragraph 10 shall be included and be read accordingly:~~

~~«10.~~

~~‘3. Once the European balancing platforms are implemented in a Member State, and for a transitional period of up to 48 months from the implementation deadline pursuant to paragraph (1):~~

~~(a) The transitional upper price limit shall be 15,000 €/MWh and the transitional lower price limit shall be - 15,000 €/MWh;~~

~~(b) If the harmonised maximum clearing price for the single intraday coupling in accordance with Article 54(1) of Commission Regulation (EU) 2015/1222 is increased by a certain amount increases above 9,999 €/MWh, the maximum balancing energy transitional upper price defined limit in Paragraph 3 of this Article accordance with subparagraph (a) shall be automatically increased increase by this the same amount.~~

~~If in this case, the harmonised minimum clearing transitional lower price for single intraday coupling in accordance with Article 54(1) of Commission Regulation (EU) 2015/1222 is limit shall be decreased by a certain amount below 9,999 €/MWh, the minimum balancing energy to the same absolute value.’~~

~~Points (a) and (b) shall apply for the TSOs participating in the RR-Platform from 1st July 2022.~~

~~Following the transitional period, the technical price defined in Paragraph limits from Article 3(3 of this Article shall be automatically decreased by this same amount.») shall apply.~~

Article 2 Implementation Timeline

~~b) A new paragraph 4 shall be included and be read accordingly:~~

~~‘4. All TSOs shall implement this amendment of Pricing Methodology within 15 days after the publication report to ACER and to regulatory authorities on quarterly basis on the following aspects of the decision by balancing energy price formation during the Agency transitional period referred to in paragraph (3):~~

~~(a) monthly average values of used and available cross-zonal capacity for the Cooperation exchange of Energy Regulators balancing energy per each bidding zone border and direction;~~

~~(b) average percentage of both submitted and activated standard balancing energy bids per product and per direction with prices higher (and lower) than 50%, 75%, 90%, 95% and 99% of the upper (and lower) transitional price limit; and~~

~~(c) volume weighted average price of the last (most expensive) 5% of~~

the volume of submitted standard balancing energy bids for each European balancing platform per direction and per participating TSO;'

c) A new paragraph 5 shall be included and be read accordingly:

'5. If the cross-border marginal price during the transitional period pursuant to paragraph (3) reaches at least 50% of the upper or lower transitional price limit, all TSOs shall prepare a joint report and submit it to ACER and all the regulatory authorities within a month following this event. This report shall include an analysis of the event and the indicators of the balancing energy market concentration level including at least Residual Supply Index (RSI), Herfindahl - Hirschman Index (HHI) and the market shares of 5 largest BSPs from the BSPs for which the participating TSOs have forwarded balancing energy bids.'

d) A new paragraph 6 shall be included and be read accordingly:

'6. All TSOs shall perform an assessment of the functioning of the balancing market 36 months after the implementation deadline of the European balancing platforms pursuant to paragraph (1) in order to investigate whether different technical price limits are needed for efficient functioning of the market.'

Article 34

Publication of the Amendment

All TSOs shall publish ~~the~~this amendment ~~of Pricing Methodology~~to the pricing methodology without undue delay pursuant to Article 7 of ~~the~~ EB Regulation after a decision has been ~~taken~~adopted by ~~the Agency for the Cooperation of Energy Regulators~~ACER in accordance with ~~Articles~~Article 5(7), 6(1) and 6(2) of ~~the~~ EB Regulation (EU) 2019/942.

Article 45

Language

1. The reference language for this amendment ~~of~~to the pricing methodology shall be English.
2. For the avoidance of doubt, where TSOs need to translate this amendment ~~of~~to the pricing methodology into their national language(s), in the event of inconsistencies between the English version published by TSOs in accordance with Article 7 of the EB Regulation and any version in another language, the relevant TSOs shall be obliged to dispel any inconsistencies by providing a revised translation of this pricing methodology to their relevant national regulatory authorities.