

By email to: [NC-Electricity-Balancing@acer.europa.eu](mailto:NC-Electricity-Balancing@acer.europa.eu)

Response from:

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8 January 2015

## **ELEXON LTD'S RESPONSE TO ACER'S CALL FOR COMMENTS ON THE REVISED NETWORK CODE ON ELECTRICITY BALANCING**

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Dear Sir/Madam,

We welcome the opportunity to respond to this call for comments.

### **What is ELEXON Ltd's role?**

ELEXON Ltd delivers the centrally-mandated electricity settlement services that are critical to the successful operation of Great Britain's electricity trading arrangements under the national GB Balancing and Settlement Code (BSC). We manage processes and systems from electricity meter to bank, handling over £1.5 billion of transactions and interacting with over 250 companies in the British electricity industry. As part of this we administer the settlement of the GB Balancing Mechanism and GB imbalance settlement for generators and suppliers in respect of each half hour of each day. We are independent of any specific interests within the electricity sector.

### **What is our interest in the Network Code on Electricity Balancing?**

The Network Code on Electricity Balancing will impact our core business of the settlement of balancing trades and imbalance settlement.

### **Our comments**

Our comments are attached. Our main comment is on the drafting of Article 9, which we believe could require unnecessary and costly changes to transfer our existing functions to a TSO or to amend our existing functions with no obvious benefit to the electricity consumer or to the swift delivery of the single European energy market.

### **In conclusion**

We hope that our comments are helpful to the development of the Network Code on Electricity Balancing.

If you would like to discuss our response, please do not hesitate to contact me on +44 20 73 80 42 53, or by email at [steve.wilkin@elxon.co.uk](mailto:steve.wilkin@elxon.co.uk).

Yours faithfully



Steve Wilkin

European Coordination Manager for ELEXON

## OUR RESPONSE

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This document sets out comments on the draft of the "ENTSO-E Network Code on Electricity Balancing", Version 3.0, dated 06 August 2014. In this document, this is referenced as "EBNC".

The views expressed in this response are those of ELEXON Limited alone, and do not seek to represent those of the Parties to the GB Balancing and Settlement Code (BSC). And our response does not seek to favour any particular policy but rather to comment on the practical implementation of this Network Code.

### Structure of this Document

The structure of this response is as follows:

- Principal Comment – on Article 9
- Comments on other Articles

### Principal Comment - Delegation or Assignment of functions (Article 9)

We believe that the most important deliverable from the Network Codes is the single European energy market, and that this should be done in the most efficient manner at least cost to the end consumer.

We note that this will best be achieved by using existing market operators where possible. Indeed, the Commission Regulation on establishing a Guideline on Capacity Allocation and Congestion Management explicitly states (recital (14)):

*(14) For efficiency reasons and in order to implement single day-ahead and intraday market coupling as soon as possible, single day-ahead coupling and intraday coupling should make use of existing market operators and already implemented solutions where appropriate, without precluding competition from new operators.*

We believe a similar approach should be adopted for balancing settlement and imbalance settlement.

After all, the single European energy market is achieved by all parties following the same rules – who operates the markets is of less importance, so unnecessary and costly changes should not be made to change market operators unless this is demonstrated to bring value to the European consumer.

For that reason, we believe that changes are necessary to the drafting of Article 9 of the Network Code on Electricity Balancing to allow ELEXON to continue its current role of balancing settlement and imbalance settlement without costly and unnecessary changes. Even if the eventual implementation of the European single energy market, requires central Europe-wide settlement of balancing trades for Standard Products, it is important that the Network Code does not inadvertently require a short-term and costly change of balancing settlement administrator in the meantime; and that allowance should be made for the settlement of any Specific Products, if they exist.

### Delegation by TSOs

TSOs have the right to delegate all or any function to third parties under Article 9(1), but are not required to do so. If delegated, the TSO shall remain responsible for compliance with its obligations

under the Network Code. Although the Code is not clear how this delegation occurs, ELEXON anticipates that the TSO would need to establish a contractual relationship with the third party to which the functions are delegated.

The thought that there would be a contractual relationship is borne out by ENTSO-E's thinking too. On pages 140-141 of the ENTSO-E Supporting Document it states "It is expected that any delegation would have a contract with termination clauses as standard in case the third party fails in their tasks/responsibility". In GB terms, ELEXON role as administrator for balancing settlement and imbalance settlement (BSCCo) is established by a legal requirement on the TSO to establish such a body under a code which sets out the relationship between BSCCo and industry, including our TSO. A contract with termination clauses between ELEXON and our TSO, to enable ELEXON to continue to undertake its current BSCCo role would take time and cost to negotiate and could have a significant impact on the independence of BSCCo, something that we think industry currently values.

For this reason, we have proposed changes to the assignment provisions to give NRAs and Member States (below) an increased power to assign tasks under the Network Code to third parties.. The relevant third party would then be responsible for compliance.

It is not clear what concern the requirement to have "suitable confidentiality arrangements" under Article 9(3) is intended to address. If there is a specific concern that this paragraph intends to address, this should be made clear in the drafting.

### **Assignment by Member States or NRAs**

Under Article 9(4), assignment by Member States or NRAs can only occur if it is permitted by national legislation and requested by the TSO. Our comments on this paragraph are:

- The reference to "if permitted by national legislation" would, we believe, require specific new legislation in GB to be enacted simply to maintain the current assignment of functions under the Network Code to BSCCo. If this Article is redrafted as we suggest below, then this costly exercise can be avoided.
- The assignment has to be requested by the TSO. The proposed drafting has elevated TSOs to a position of power over Member States and NRAs.
- The reference to "the task of Imbalance Settlement.....pursuant to Article 60 and Article 62":
  - These two Articles do not address assignment. If the intention is to limit the functions that can be assigned to these Articles, this is not reflected in the drafting.
  - The scope of assignable tasks is too narrow to accommodate the existing role of ELEXON in its BSCCo role. For example BSCCo undertakes balancing settlement.
- A third party to whom a task is assigned is required to meet all the requirements applicable to the TSO under the Network Code. The obligation to comply with the requirements of the Network Code should only apply to those requirements that relate to the assigned tasks.
- Article 9(4) also requires the assignee to work in close cooperation in defining appropriate procedures. It is not entirely clear to us what this means.

### **Existing rules of national law/national legislation**

Article 9(5) seems to try to address the issue of different national arrangements in place at the time that the Network Code comes into force. However, we have the following comments:

- It only addresses rules of national law at the date that the Network Code comes into force. This does not cater for changes to rules of national law or the Network Code after the date on which the Network Code comes into force (presumably the assignment provisions would need to be relied on for future changes).
- The reference to “non-essential tasks” significantly limits the scope of this paragraph. As this not a defined term, what is a “non-essential task” would be subject to interpretation. Presumably without a precise definition of essential tasks, someone in future could argue that because imbalance settlement and balancing settlement are within the scope of the Network Code, they must be essential and therefore cannot be assigned in accordance with this paragraph. This significantly limits the ability for rules of national law to assign functions under the Network Code. If there is a desire to retain the concept of essential tasks that cannot be assigned, they should be identified by reference to specific Articles of the Network Code.
- There is a reference to national legislation (see our concerns above). If the national legislation prevails, then it is not clear what effect this has on the TSOs obligations under the Network Code. Is the TSO still responsible for compliance?

### **Article 9 comments in summary**

As you can see from our comments above, we think that the current GB arrangements would not be permitted under Article 9 of the Network Code without further action at a national level. In our view, the provisions regarding delegation by TSOs (Article 9 (1 to 3)), assignment by NRAs or Member States (Article 9(4)) and those regarding existing rules of national law (Article 9(5)) cannot be relied on as providing BSCCo with the right to undertake the activities allocated to TSOs under the Network Code due to the limitations in the current drafting of these provisions.

It can also be argued that the restrictions on activities that can be undertaken go further than is required. Under Article 8(7) of Regulation 714/2009 Member States have the right to establish network codes that do not affect cross-border trade. This is also recital (6) in this Balancing Network Code. Whoever undertakes settlement will be required to follow the European rules, no matter who they are. Therefore the identity of the person who undertakes Balancing Energy Settlement or Imbalance Settlement cannot affect cross border trade.

In order to provide for the existing GB market operator to continue (to change the market operator would incur unnecessary costs, be of no benefit to the consumer and would not enhance the swift introduction of the single European energy market), the following amendments need to be made to Article 9:

- Assignment under Article 9(4) must not be limited to the tasks set out in Articles 60 and 61.
- Article 9(5) must not be limited to “non-essential tasks”.
- References to national legislation should be removed.

We have included these changes, together with other drafting changes that address other issues identified in this document in a proposed revised Article 9 - below.

## Proposed Redraft of Article 9

1. Each TSO may delegate all or part of any function assigned to them under this Network Code to one or more third parties. The delegating TSO shall remain responsible for ensuring compliance with the obligations under this Network Code, including ensuring access to information necessary for monitoring by the NRA.
2. In all cases a third party shall have clearly demonstrated its ability to fulfil each of the obligations of this Network Code to the satisfaction of the delegating TSO, prior to delegation.
3. In the event that all or part of any function specified in this Network Code is delegated to a third party, the delegating TSO shall ensure that suitable confidentiality agreements have been put in place prior to delegation.
4. Member States or NRAs ~~, if allowed to do so by the national legislation, may~~, at the request of the relevant TSO, assign the tasks performed by the TSO under this Network Code ~~task of Imbalance Settlement to another~~ to a third party ~~than the TSO pursuant to Article 60 and Article 62~~. In such a case the third party to whom the task is assigned shall meet all the requirements relating to the assigned tasks that are applicable to the TSO according this Network Code ~~and shall work in close cooperation with a TSO when defining appropriate procedures~~.
5. Notwithstanding paragraph 4, if a the rules of national legal framework law at the date of the entry into force of this Network Code assigns to a different~~third~~ party ~~and according to a different legal framework non-essential~~ tasks which, according to this Network Code, are assigned to the TSO, then the national legal framework legislation prevails. In such case, the third party to whom the task is assigned shall meet all the requirements relating to the assigned task that are applicable to the TSO according to this Network Code.

## Comments on Other Articles

### 1. Article 1(2)

#### 1.1 Comments

The original wording does not allow for third parties to whom responsibilities have been assigned.

#### 1.2 Proposed Redraft

The requirements set forth by this Network Code shall apply in particular to TSOs, NRAs, the Agency, DSOs, third parties to whom responsibilities have been delegated or assigned pursuant to Article 9, where applicable, and Market Participants.

### 2. Article 1(4)

#### 2.1 Comments

Does the current wording cut across the right under Article 9 to assign to third parties who are not TSOs in Member States where there is more than one TSO? If so, we propose the following redraft.

#### 2.2 Proposed Redraft

In Member States where more than one TSO exists, this Network Code shall apply to all TSOs within that Member State. Where a TSO does not have a function relevant to one or some obligations under this Network Code, Member States may under the national regulatory regime provide that the responsibility to comply with one or some obligations under this Network Code is assigned to one or more different TSOs. In case of such assignment, the Network Code shall apply accordingly to the TSOs to which responsibilities have been assigned. For the avoidance of doubt this Article is without prejudice to Article 9 regarding delegation or assignment to third parties.

### 3. Article 2 (definition of "Position")

#### 3.1 Original Text

**Position** means an energy volume representing the sum of scheduled commercial transactions of a Balance Responsible Party, on organised electricity markets or between Balance Responsible Parties, for the calculation of the Imbalance, or, where appropriate, means an energy volume representing scheduled injections, scheduled withdrawals or the sum of scheduled injections and withdrawals of a Balance Responsible Party, for the calculation of the Imbalance of that Balance Responsible Party.

#### 3.2 Comments

This definition allows two different types of imbalance across Europe and one of these interpretations is, in our view, not consistent with the Framework Guidelines.

And the different options in the definition in Position means that it is possible to interpret some of the other Articles in different ways according to which definition is chosen – see comments below on Articles 25(6) and 27(7)(d).

#### 3.3 Proposed Redraft

**Position** means an energy volume representing the sum of scheduled commercial transactions of a Balance Responsible Party, on organised electricity markets or between Balance Responsible Parties, for the calculation of the Imbalance, ~~or, where appropriate, means an energy volume representing~~

~~scheduled injections, scheduled withdrawals or the sum of scheduled injections and withdrawals of a Balance Responsible Party, for the calculation of the Imbalance~~ of that Balance Responsible Party.

## 4. Article 5

### 4.1 Comment

While there appear to be mandated consultations at European level and at Member State level, there are none at Coordinated Balancing Area (CoBA) level. For example Article 32 requires a harmonised Gate Closure Time at CoBA level but there is no mandated consultation before it goes for regulatory approval.

## 5. Article 8(4)

### 5.1 Comment

In GB, the Specific Product volumes activated are published on a platform administered by ELEXON in its role as BSCCo. If the TSO is also required to publish Specific Product information, this is unnecessary and will incur a cost for no clear benefit.

## 6. Article 11(5)

### 6.1 Comment

The CoBA proposal must be approved by the relevant NRAs pursuant to Article 6(4), but it is not apparent that there is any requirement to have a public (or otherwise) consultation with affected stakeholders.

## 7. Article 21(1)

### 7.1 Comments

The requirement in Article 21(1) to harmonise the main features for Imbalance calculation and Imbalance Price falls on TSOs. We suggest that this Article is redrafted so that the obligation is on the TSOs to develop a proposal. New drafting should then be included to provide for NRAs to consider the proposal and, if agreed, approve it.

### 7.2 Proposed Redraft

1. No later than three years after the entry into force of this Network Code, all TSOs shall develop a proposal to harmonise:

- (a) the main features for Imbalance calculation pursuant to Article 60; and
- (b) the main features to calculate the Imbalance Price pursuant to Article 61.



## 8. Article 23(3)

### 8.1 Comment

The requirement in Article 23(3) that the TSO has to request information before Imbalance Settlement can be performed will be inefficient when a third party, such as BSCCo, is undertaking Imbalance Settlement pursuant to Article 9. It adds an unnecessary level of complexity and cost.

### 8.2 Proposed Redraft

3. ~~Upon request of the TSO, e~~Each DSO shall provide, in due time, all necessary information to perform the Imbalance Settlement to the Connecting TSO or, where appropriate, to the third party appointed pursuant to Article 9, in accordance with the terms and conditions related to Balancing pursuant to Article 27.

## 9. Article 25(2)

### 9.1 Comment

Under our current GB arrangements, imbalances are not settled with the Connecting TSO, they are settled with ELEXON Clear, which is not a TSO. In order to avoid changing the GB payment arrangements for no clear benefit for the end consumer or industry, Article 25(2) should be reworded.

### 9.2 Proposed Redraft

2. Each Balance Responsible Party shall be financially responsible for the Imbalance to be settled with ~~either~~ the Connecting TSO or, where appropriate, the third party appointed pursuant to Article 9.

## 10. Article 25(6)

### 10.1 Comments

As the definition of "Position" is defined to allow for two different interpretations (see comments above), then if Position means the contracted Position "energy volume representing the sum of scheduled commercial transactions", to require the change of Position to be submitted to the Connecting TSO as opposed to a third party as in GB, then this is an unnecessary change to the GB arrangements.

### 10.2 Proposed Redraft

6. The Balance Responsible Party shall submit any change of the Position to the Connecting TSO, or where relevant, the third party appointed pursuant to Article 9, pursuant to the terms and conditions related to Balancing pursuant to Article 27.

## 11. Article 27(5)(f)

### 11.1 Comments

This paragraph does not make an allowance for when a third party, such as BSCCo, is determining Imbalance and would require an unnecessary and significant change to the GB arrangements if not amended to recognise the potential third party role.

### 11.2 Proposed Redraft

(f) the data and information required by the Connecting TSO or, where relevant, the third party appointed pursuant to Article 9, and where relevant the Reserve Connecting DSO to evaluate the provision of Balancing Services and to calculate Imbalance pursuant to *[Article 44(1) and Article 44(8) FCR Technical Minimum Requirements]* for Frequency Containment Reserves, *[Article 47(1)(e) and Article 47(8) FRR Technical Minimum Requirements]* for Frequency Restoration Reserves and *[Article 49(1)(f) and Article 49(8) RR Technical Minimum Requirements]* for Replacement Reserves of Network Code on Load-Frequency Control and Reserves

## 12. Article 27(7)(d)

### 12.1 Comments

As the definition of "Position" is defined to allow for two different interpretations (see comments above), then if Position means the contracted Position "energy volume representing the sum of scheduled commercial transactions", to require the change of Position to be submitted to the Connecting TSO as opposed to a third party as in GB, then this is an unnecessary change to the GB arrangements.

### 12.2 Proposed Redraft

(e) an obligation for Balance Responsible Parties to submit any modification of the Position to the Connecting TSO or, where relevant, the third party appointed pursuant to Article 9; and

## 13. Article 40(7)

### 13.1 Comment

This paragraph does not make an allowance for when a third party is settling balancing energy and would require an unnecessary and significant change to the GB arrangements if not amended to recognise the potential third party role.

### 13.2 Proposed Redraft

The activation request of a Balancing Energy bid from the Activation Optimisation Function of a Coordinated Balancing Area shall oblige the Requesting TSO to accept the firmness of the activated Balancing Energy bid. Each Connecting TSO of a Coordinated Balancing Area shall ensure the activation of the firm Balancing Energy bid selected by the Activation Optimisation Function. The Balancing Energy shall be settled between the Requesting TSO and the Connecting TSO pursuant to Article 58 and between the Connecting TSO or where relevant, the third party appointed pursuant to Article 9, and the Balancing Service Provider pursuant to CHAPTER 5 SECTION 2.

## 14. Article 40(3)

### 14.1 Comment

There appears to be no requirement on TSOs to consult publicly on the list of activation purposes before all NRAs consider the list for approval because Article 40(3) is not mentioned in Article 5(3). This could be important because, for example, the imbalance price formulation could depend on the reasons for activation, e.g. activations taken for constraint management purposes might be excluded. Therefore the list of activation purposes is of wider industry interest.

## 15. Article 40(4)

### 15.1 Comments

The activation purpose should be visible to all BRPs and BSPs and third parties appointed pursuant to Article 9. This is because the imbalance price could depend on the activation purpose. It may also be appropriate to be open and transparent on why actions have been taken – see, for example, the breakdown of imbalance prices on the GB BMRS platform ([www.bmreports.com](http://www.bmreports.com)).

### 15.2 Proposed Redraft

The activation purpose for every activated Balancing Energy bid shall be submitted to the Activation Optimisation Function and shall be visible to at least for all participating TSOs, Balancing Service Providers, Balance Responsible Parties and, where relevant, third parties appointed pursuant to Article 9.

## 16. Article 52(4)

### 16.1 Comment

It is unclear how the costs of transmission constraints are recovered.

## 17. Article 53

### 17.1 Comment

This Article does not make an allowance for when a third party is settling balancing energy. If these tasks are not delegated by the TSO, which has its own drawbacks – see comments on Article 9 above, then in GB this would cause unnecessary change to the GB arrangements for no obvious benefit to the consumer or implementation of the European single energy market.

### 17.2 Proposed Redraft

1. Each TSO or where relevant, the third party appointed pursuant to Article 9, shall establish for the settlement of Balancing Energy with Balancing Service Providers, for at least the Frequency Restoration Process and Reserve Replacement Process, a procedure for:

(a) calculation of activated volume of Balancing Energy based on requested or metered activation; and

(b) claiming recalculation of activated volume of Balancing Energy.

2. Each TSOs or where relevant, the third party appointed pursuant to Article 9, shall calculate the activated volume of Balancing Energy according to the procedure pursuant to paragraph 1(a) at least:

(a) for each Imbalance Settlement Period;

(b) for each Imbalance Area; and

(c) for each direction, with a negative sign indicating relative withdrawal by the Balancing Service Provider, and a positive sign indicating relative injection by the Balancing Service Provider.

3. Each TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall settle the activated volume of Balancing Energy, calculated pursuant paragraph 2, with the Balancing Service Provider.

## 18. Article 54

Comment

A similar point to the one above regarding Article 53.

Proposed Redraft

1. Each Connecting TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall have the right to calculate and to settle the activated volume of Balancing Energy for the Frequency Containment Process with Balancing Service Providers pursuant to Article 53(2).

2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for the Frequency Containment Process shall be defined for each direction, and is to be received by the Balancing Service Provider from the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a positive sign, and is to be paid by the Balancing Service Provider to the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a negative sign.

## 19. Article 55

19.1 Comment

A similar point to the one above regarding Article 53.

19.2 Proposed Redraft

1. Each Connecting TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate and settle the activated volume of Balancing Energy for the Frequency Restoration Process with Balancing Service Providers pursuant to Article 53(1) and Article 53(2).

2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for the Frequency Restoration Process shall be defined for each direction pursuant to Article 39 and is to be received by the Balancing Service Provider from the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a positive sign, and is to be paid by the Balancing Service Provider to the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a negative sign.

## 20. Article 56

20.1 Comment

A similar point to the one above regarding Article 53.

20.2 Proposed Redraft

Each Connecting TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate and settle the activated volume of Balancing Energy for the Reserve Replacement Process with Balancing Service Providers pursuant to Article 53(1) and Article 53(2).

2. The price, positive, 0 or negative, of the activated volume of Balancing Energy for Reserve Replacement Process shall be defined for each direction pursuant to Article 39 and is to be received by the Balancing Service Provider from the TSO [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a positive sign, and is to be paid by the Balancing Service Provider to the TSO, [or where relevant, the third party appointed pursuant to Article 9](#), in case of Balancing Energy with a negative sign.

## 21. Article 60

### 21.1 Comment

This Article does not make an allowance for when a third party is undertaking Imbalance Settlement pursuant to Article 9.

And we suggest that Article 60(2) is redrafted so that the obligation is on the TSOs to develop a proposal and the NRAs to consider and, if agreed, approve it (a process for NRA approval should be added to the proposed redraft that we have included below). Article 60(2) as currently drafted can be read as it being the TSO alone who defines the procedures. So, we have suggested a change to the drafting, so that the TSO is may propose if it wishes, but this does not stop any other party also proposing if it wishes either, nor does the TSO definition automatically get adopted as might be implied by the original drafting.

### 21.2 Proposed Redraft

1. Each TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate the Imbalance for each Balance Responsible Party from the final Position, the Allocated Volume and the Imbalance Adjustment.
2. Each TSO ~~shall define~~ [may propose](#) procedures for:
  - (a) the calculation of the final Position from the External Commercial Trade Schedules and Internal Commercial Trade Schedules per Bidding Zone, or where appropriate one or more final Positions from the final Generation Schedules and final load schedules for each Imbalance Area;
  - (b) the determination of the Allocated Volume of all injections and withdrawals;
  - (c) the determination of the Imbalance Adjustment pursuant to Article 57 and in case of any curtailment or any activation for other purposes than Balancing;
  - (d) the calculation of the Imbalance; and
  - (e) claim for recalculation of the Imbalance by a Balance Responsible Party.
3. Allocated Volume shall not be calculated for a Balance Responsible Party which does not cover injections or withdrawals.
4. Each TSO [or where relevant, the third party appointed pursuant to Article 9](#), shall calculate the final Position, the Allocated Volume, the Imbalance Adjustment and the Imbalance:
  - (a) for each Imbalance Settlement Period; and
  - (b) for each Imbalance Area.
5. An Imbalance shall have a size and a direction, indicating the direction of the settlement transaction between Balance Responsible Party and TSO [or where relevant, the third party appointed pursuant to Article 9](#), with negative indicating Balance Responsible Party's shortage, and positive indicating Balance Responsible Party surplus.

## 22. Article 61

### 22.1 Comment and Observations

Similar points to the ones made above regarding Article 60. In addition, a process for NRA approval should be added to the proposed redraft that we have included below.

### 22.2 Proposed Redraft

1. Each TSO ~~shall define~~may propose rules to calculate the Imbalance Price, positive, 0 or negative, to be paid by the Balance Responsible Party to the TSO or where relevant, to the third party appointed pursuant to Article 9, in case of an Imbalance with a negative sign, or received by the Balance Responsible Party from the TSO or where relevant, from the third party appointed pursuant to Article 9, in case of an Imbalance with a positive sign. The rules shall include a definition of the value of avoided activation of Balancing Energy from Frequency Restoration Reserves or Replacement Reserves.
2. Each TSO or where relevant, the third party appointed pursuant to Article 9, shall determine the Imbalance Price:
  - (a) for each Imbalance Settlement Period;
  - (b) for each Imbalance Price Area; and
  - (c) for each Imbalance direction.

## 23. Article 62

### 23.1 Comment

This Article does not make an allowance for when a third party is undertaking Imbalance Settlement pursuant to Article 9.

### 23.2 Proposed Redraft

Each TSO or where relevant, the third party appointed pursuant to Article 9, shall settle with each Balance Responsible Party all calculated Imbalances pursuant to Article 60 for each Imbalance Settlement Period pursuant to Article 21 against the appropriate Imbalance Price pursuant to Article 61.

## 24. Article 65

### 24.1 Comment

We understand from the drafting that this Article is restricted to TSO-TSO settlements pursuant to Articles 58 and 59. In this case we would have no comment.

However, the Supporting Document's description of Article 65 seems different and potentially broader in scope. If Article 65 were to extend beyond TSO-TSO settlements into, for example, Imbalance Settlement, then perhaps developments made by TSOs should be subject to public consultation and NRA approvals.

## 25. Articles 66 and 67

### 25.1 Comment

We note that Article 67(3) states that if all TSOs in a CoBA agree to a proposed amendment, that amendment is implemented. Such an amendment may be applied to the Activation Optimisation Function algorithm developed pursuant to Article 66(6) but we have already noted in our comment on Article 40(4) that the Activation Optimisation Function is of interest to all BRPs and BSPs and third parties appointed pursuant to Article 9. For example, because the imbalance price could depend on that Activation Optimisation Function. This suggests that any proposed amendments to that algorithm should perhaps be open to public consultation and NRA approval.

## 26. Article 70

### 26.1 Comment

It is not completely clear to us whether the GB balancing and settlement arrangements are covered by the transition period as the GB Code covering this is a multi-party agreement between various parties, some of which cannot be described as a TSO or “concerned grid user”, e.g. ELEXON itself and non-physical traders. It is also unclear whether the joining or departure of parties from the scope of the Code during the Transition Period, if it applies, can be regarded as a new agreement for the purposes of Article 70.

This can be clarified by the removal of the reference to particular parties to the agreement as shown in the redraft below.

If, however, Article 70(3) does not apply to the GB Code, then Article 70(2) will apply to parts of the GB Code but not all, given that Article 70(2) states that the transition period covers Articles 34 to 37 and Chapter 5 (Articles 52 to 65).

For example Article 8(4) – see comments on this Article above - comes into effect immediately so unless delegated or assigned pursuant to Article 9 there is no 2 year transition for the publication of Specific Products away from the current [GB BMRS platform](#).

There are a number of other Articles outside the scope of the transition period on which we have commented above and which would require an immediate appointment of BSCCo pursuant to Article 9 to maintain the status quo if desired, at least over the 2 year Transition Period.

### 26.2 Proposed Redraft

1. The duration of the transition period shall be two years starting on the day of entry into force of this Network Code.
2. The transition period covers the application of Article 34 to Article 37 and CHAPTER 5. During the transition period these provisions shall not apply.
3. During the transition period the requirements of this Network Code shall not apply to agreements related to Electricity Balancing ~~between TSOs or between a TSO and a concerned grid user~~ being in force at the date of the entry into force of this Network Code. After the transition period the requirements of this Network Code shall also apply to agreements related to Electricity Balancing ~~between TSOs or between a TSO and a concerned grid user~~ being in force at the date of the entry into force of this Network Code as well as those concluded during the transition period.

END