

By email to: ER-NE@acer.europa.eu

Response from:

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ELEXON LTD'S RESPONSE TO ACER'S CALL FOR COMMENTS ON THE NETWORK CODE ON EMERGENCY AND RESTORATION

Dear Sir/Madam,

We welcome the opportunity to respond to your call for comments. Our response below is structured as follows:

- Description of ELEXON's role and its interests in the Network Code on Emergency and Restoration (NC ER)
- Our general comments on the NC ER
- Our comments on specific Articles of the NC ER

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 (GB) 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 (equivalent to €2 billion) of transactions and interacting with over 250 companies in the GB 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 Emergency and Restoration?

The GB BSC, which ELEXON administers, contains the current rules for the suspension and restoration of Balancing Mechanism and imbalance settlement processes in GB. These apply where there is a total shutdown of the GB transmission system or where there is a partial shutdown above a certain pre-defined threshold. As well as notifying Balancing Service Providers (BSPs) operating in the Balancing Mechanism and Balance Responsible Parties (BRPs - including generators, suppliers, non-physical traders etc.) of the shutdown and restoration, these provisions include calculating and applying a single imbalance price which all generators are paid (and all suppliers pay) during the shutdown. This protects the BRPs from adverse imbalance exposure as a result of system events (and/or restoration instructions from the TSO) that are outside their control. The pre-defined GB BSC threshold for invoking these rules during a partial shutdown is designed to represent the point at which continuing normal market arrangements may cause greater disruption to BRPs' imbalance charges than suspending them.

Therefore we are interested in how the Chapter 4 of the NC ER (Market Interactions) may impact our responsibilities and obligations.

Our comments on your consultation

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 BSC¹.

General comments

Governance

With the addition of Chapter 4 on market interactions to the NC ER, this is now a hybrid operational/market Network Code. Because of this the governance arrangements for a "pure" operational code will not be appropriate.

Ideally Chapter 4 should be moved into the respective parts of the market codes depending on which market is being suspended and restored. For example, the Network Code on Electricity Balancing should cover the suspension and restoration of balancing markets, and the CACM Guideline should cover the suspension and restoration of single day-ahead coupling, etc. But given that the CACM Guidelines are complete, we suggest that Chapter 4 alone should fall under the governance of a special stakeholder group with market expertise.

Discretion given to TSOs in suspending and restoring markets

Article 33(1) of Chapter 4 appears to give considerable discretion to TSOs as to when markets are suspended as it entitles TSOs to suspend markets, but does not require it. Our experience, though admittedly from our experience in GB alone, is that BSPs and BRPs prefer to have advance certainty about when markets will be suspended and therefore in our (GB) imbalance settlement for example, imbalance settlement is automatically suspended and replaced by a pre-defined set of rules when certain triggers are met. No discretion is permitted on when imbalance settlement shall be suspended and this gives certainty to the markets.

The Supporting Document for the NC ER (Section 5.4.2) confirms this apparent discretion. It states: "each TSO must be able to decide whether or not to suspend market activities".

However, we presume that the rules and conditions to be developed by each TSO for the suspension and restoration of market activities pursuant to Article 34 will allow an individual TSO to develop rules and conditions that require markets to be suspended and restored with no discretion on its part if the relevant NRA approves that approach.

¹ As an aside, we note you are encouraging stakeholders to coordinate their responses and possibly to use a European trade association to respond on their behalf. While we understand this request, we would note that the importance of individual stakeholder responses to public consultations should also be encouraged. Trade associations do an extremely valuable job and we recognise that they make the tasks of ACER and ENTSO-E easier when these bodies are developing the Network Codes, through bringing together many common views under one banner. On the other hand, public consultations may be the only opportunity for individual stakeholders to make their views heard, particularly if they do not have the resources, desire or eligibility to join a European trade association.

We do though suggest that the list of parameters in Article 34(4), which the TSO shall consider when defining the rules and conditions for suspension of market activities, should (in addition to the physical system considerations already listed) include the disruption to BRPs' imbalance charges. As the emergency actions taken by the TSO to restore the physical system will presumably be the same regardless, the decision to suspend the market arrangements should be based on the point that Parties cannot continue trading as normal without incurring significant adverse imbalance exposure.

Coming into force

If the NC ER comes into force after any of the "market" Network Codes, for example the Network Code on Electricity Balancing, there could be problems if any TSO wishes to suspend market activities governed by a "market" Network Code. Will it be able to do so before the NC ER comes into force?

Article 53 of the NC ER implies that market suspension provisions of Chapter 4 will come into force two years after the entry into force of the NC ER. It seems likely that the Network Code on Electricity Balancing (NC EB), for example, will come into force earlier than this.

Linkage with the Network Code on Electricity Balancing

We concentrated particularly on Chapter 4 of the NC ER given our interests in any suspension and restoration of balancing and imbalance settlements in GB. We note that there are cross-references from the NC ER to the NC EB but some of these do not appear to reference the correct Articles in the NC EB. We recognise that this is also difficult because both Network Codes are currently in draft form and undergoing changes.

These are the cross-references to the Network Code on Electricity Balancing that appeared to us to be problematic, (we did not check every cross-reference in Chapter 4):

- Reference to Article 23 of the NC EB from Article 33(2)(b) of the NC ER
- Reference to Article 25(4) of the NC EB from Article 33(2)(c) of the NC ER (specifically the reference to change of Position).

Specific Comments

Article 1(1)

"Market Participant" is a defined term in the REMIT regulation², but is not separately defined in the NC ER. Assuming that the NC ER definition of "Market Participant" is the same as the definition in REMIT, we believe this definition could be too narrow. For example, we are aware of BRPs who are not Market Participants (some employ Market Participants rather than trade as a Market Participant themselves; and this could apply to consumers who employ demand side aggregators too). So, in Article 1(1), we suggest replacing the phrase: "Market Participants and" by the phrase: "Balancing Service Providers, Balance Responsible Parties and"

Article 33(2)(b)

It is not clear how the suspension by BSPs of bids will work as far as the balancing and imbalance settlements are concerned. The obligations in the NC EB to calculate and settle imbalances and to

² Regulation (EU) No. 1227/2011 on wholesale energy market integrity and transparency

calculate imbalance prices are not suspended by this Article – only the input data to enable such obligations to be met. It appears that the obligations still exist but cannot be met if bidding is suspended. Therefore it will be important that TSOs exercise their rights in Article 37 to ensure that the relevant obligations in the NC EB are also suspended or modified at the same time. If a third party, such as ELEXON, is assigned or delegated the role of imbalance and balancing settlement for GB, ELEXON would not wish to be held accountable for obligations in the NC EB that can no longer be met when the Chapter 4 NC ER market suspension rules apply.

Article 33(5)(d)

In the NC EB, functions may be delegated or assigned to third parties. Also “and” should be “or”. Therefore Article 33(5)(d) should be amended to read:

“Entities assigned or delegated to execute market functions according to [GL CACM] or [NC EB]; and”.

Article 33(6)

Third parties assigned or delegated to execute market functions should be added to the list of parties with which TSOs are required to coordinate.

Article 34(4)(e)

We note that the Supporting Document for the NC ER (Section 5.4.3) suggests that it is not practicable for TSOs to monitor the percentage of BSPs and/or BRPs that are able to execute their market activities and that the TSO would need to rely on the NRA(s) informing it of a market suspension for that reason.

We agree that it would not be possible for a TSO to monitor which BSPs and BRPs are affected in real time, so this should not be used directly as a condition for a market suspension or restoration. In GB, for example, BRPs are not confined to a given geographical area - a supplier BRP can have millions of customers all over the country; others may have a single site. However, we are not convinced that NRAs have this ability either, and because market suspension could be required at any time of day or night, working or non-working days, this will need to be monitored on a 24/7 basis.

We agree that when developing the rules and conditions for the suspension and restoration of market activities, the percentage of affected BSPs and BRPs should be considered, but it is essential that this should be converted into conditions which can be monitored in real time by the TSO, NEMO or third party as appropriate. The drafting does permit this, but we suggest adding this explicitly, so that the NC ER requires that the conditions must be practical such that they can be monitored in real time by the TSO, NEMO or third party as appropriate.

Article 34(6)

We suggest that “rules and” is deleted, as only the conditions in real time should be assessed, not the rules.

Article 35(1)

Third parties assigned or delegated to execute market functions should be added to the list of parties with which TSOs are required to coordinate.

Article 35(2)

It is unclear why the words “or before” are required in this Article. It could be problematic if the markets were restored without the entities referenced in Article 35(1)(b) having been informed. For example if some BSPs knew the markets had been restored but others did not, could those that knew have an unfair competitive advantage? In fact, could restoration of markets be classed as REMIT

inside information in such circumstances? It would seem best if markets were not restored until all the entities had been sent a notice of restoration in advance of that restoration.

Article 36(2)(d)

We have two comments on this Article.

Firstly, the requirement that all entities inform their customers is not necessary. For BSPs and BRPs and DSOs to inform their domestic customers, for example, could be unnecessary. However, it would be appropriate for third parties executing market functions, such as ELEXON if assigned or delegated to this role, to notify their customers, e.g. to notify BRPs and BSPs of market suspension.

Secondly, the requirement should extend to market restoration as well as suspension.

Therefore, we suggest that Article 36(2)(d) is amended to read:

"notification by the entities referred to in Article 33(5)(c) and Article 33(5)(d) which are affected to their customers of any suspension and any restoration of market activities announced by the TSO and/or NEMO;"

In conclusion

I hope that these comments are helpful. If you would like to discuss this further, please do not hesitate to contact me on +44 20 73 80 42 53, or by email at steve.wilkin@elexon.co.uk.

Yours faithfully



Steve Wilkin

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