

ACER Decision on the methodology for classifying the activation purposes of balancing energy bids: Annex II

Evaluation of responses to the public consultation on the methodology for classifying the activation purposes of balancing energy bids

1 Introduction

On 18 December 2018, all TSOs submitted to all regulatory authorities an ‘all TSOs’ proposal for classification methodology for the activation purposes of balancing energy bids pursuant to Article 29(3) of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing¹. The last regulatory authority received the Proposal on 11 February 2019.

All regulatory authorities jointly agreed on 23 July 2019 to request an amendment to this activation purposes methodology and sent this request to all TSOs. The last regulatory authority issued the request for amendment nationally on 11 September 2019. The last TSO submitted the amended ‘All TSOs’ proposal for classification methodology for the activation purposes of balancing energy bids pursuant to Article 29(3) of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing² (hereafter referred to as the ‘Proposal’) on 14 November 2019.

¹ <https://www.acer.europa.eu/en/Electricity/MARKET-CODES/ELECTRICITY-BALANCING/08%20Activation%20purposes/Action%201%20-%20Activation%20purposes%20proposal.pdf>

² <https://www.acer.europa.eu/en/Electricity/MARKET-CODES/ELECTRICITY-BALANCING/08%20Activation%20purposes/Action%203%20-%20Activation%20purposes%20amended%20proposal.pdf>

In an email³ dated 16 January 2020 and received by ACER on the same day, the Chair of the Energy Regulators Forum⁴, on behalf of all regulatory authorities informed ACER that they were not able to reach an agreement within the two-month deadline. Therefore, the activation purposes methodology was referred to ACER, as of 14 January 2020.

In accordance with Article 14 (6) of the Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019, the Agency launched a public consultation on 9 March 2020 inviting all interested stakeholders, including ENTSO for Electricity, National Regulatory Authorities, and Transmission System Operators to provide any comments on the Proposal. The closing date for comments was 29 March 2020.

More specifically, the public consultation invited stakeholders to comment on the following aspects of the Proposal:

- (i) the scope of the methodology;
- (ii) the system constraint purposes; and
- (iii) other comments.

2 Responses

By the end of the consultation period, the Agency received responses from 20 respondents.

This evaluation paper includes all received comments by respondents and the Agency's views on them. The table below is organised according to the consultation questions and provides the respective views from the respondents, as well as a response from the Agency clarifying the extent to which their comments were taken into account.

³ <https://www.acer.europa.eu/en/Electricity/MARKET-CODES/ELECTRICITY-BALANCING/08%20Activation%20purposes/Action%204%20-%20Activation%20purposes%20referral%20to%20ACER%20letter.pdf>

⁴ The all regulatory authorities' platform to consult and cooperate for reaching a unanimous agreement on NEMO's and TSO's proposals.

Respondents' views	ACER views
<p>Question 1 Please share your views concerning the scope of the methodology for classifying the activation purposes of balancing energy bids. <i>(Pursuant to Article 29(3)(a) of the EB Regulation, the methodology for classifying the activation purposes of balancing energy bids should “describe all possible purposes for the activation of balancing energy bids”. Furthermore, Article 29(4) of the EB Regulation requires that the TSOs activating balancing energy bids from the common merit order lists should define the activation purpose based on the aforementioned methodology.</i> <i>The amended Proposal allows additional classification methodologies to be developed at national level for activations of balancing energy bids that are not included in the common merit order lists.</i> <i>The Agency understands that the requirement of Article 29(3)(a) of the EB Regulation refers to “all possible purposes for the activation of balancing energy bids”, hence does not share the view that new purposes for the activation of balancing energy bids can be defined at national level. However, the Agency considers that the usage of the methodology for defining the activation purpose of a balancing energy bid is only obligatory for the bids of the common merit order lists, as specified in Article 29(4) of the EB Regulation.)</i></p>	
<p>19 respondents provided an answer to this question.</p>	
<p>14 respondents (BDEW, CEZ a.s., Edison S.p.A., EFET, ENTSO-E, EPEX SPOT, Eurelectric, Fortum, illwerke vkw AG, Nord Pool, PGE Polska Grupa Energetyczna S.A., RWE Supply & Trading GmbH, Swedenergy, Total direct energie) agree with ACER’s position that no additional activation purposes or classification criteria should be defined at national level. The main arguments for that include (as stated by Total direct energie) that defining different purposes for the activation at a national level will introduce more complexity and less transparency, making the activation mechanism even harder to understand and analyse.</p>	<p>ACER amended the activation purposes methodology to not allow additional activation purposes or classification criteria to be defined at national level (deletion of paragraph 3 of Article 1 and amendments in the rest of the paragraphs of Article 1 of the activation purposes methodology), in line with its interpretation of the EB regulation as explained in the public consultation document.</p>
<p>Out of these 14 respondents, three respondents (BDEW, EFET, RWE Supply & Trading GmbH) consider that reference to national terms and conditions can be allowed only for specific products that are not handled by the balancing exchange platforms, with balancing energy bids that are not included in the</p>	<p>See response above.</p>

Respondents' views	ACER views
<p>common merit order lists. But, in this case, (EFET) the national terms should be as close as possible to the European ones and (BDEW) the respective publications should be accessible for all market participants.</p>	
<p>Out of these 14 respondents, one respondent (Nord Pool) states that it is beneficial to complement the framework by more specific reasons and, if possible, locational information related to the activation.</p>	<p>ACER amended the methodology with respect to the transparency requirements, in order to complement it with additional information on the reasons for the activation (Article 3(4) of the activation purposes methodology).</p> <p>Regarding locational information, this can be considered as requirement at national level, but it was not included in the publication requirements of the activation purposes methodology.</p>
<p>Out of these 14 respondents, one respondent (Edison S.p.A.) highlighted the fact that the current methodology should be aligned with ACER Decision 01/2020.</p>	<p>ACER amended the activation purposes methodology to align it with the ACER Decision 01/2020, by deleting Article 3(5) of the Proposal, which describes the two-run approach.</p>
<p>Out of these 14 respondents, one respondent (EPEX SPOT) commented on the need to distinguish between the balancing market and other markets providing flexibility that should be developed in the future. While it understands that in the short run some products might be traded on markets that have not been designed for these, such practice should remain temporary. The market design envisaged in the EU's target model has to ensure that congestion management and redispatch are handled on dedicated markets and platforms operated by independent and neutral third parties.</p>	<p>ACER agrees with the comment, regarding different markets serving different needs and notes that the definition of the system constraints activation purpose should not be understood as an approach to replace other ancillary services markets. On the contrary, it is a mean of increasing transparency of actions already taken by TSOs, the monitoring of which would also</p>

Respondents' views	ACER views
	allow to identify the potential for creating new markets.
<p>One respondent (EDF) argues that it is necessary to define activation purpose for specific products as well, and, in that case, it sees no objection to define additional purposes at national level, as long as these specific purposes are duly justified by the TSO and approved by the NRA. If so, these additional purposes should be monitored through the reports on the implementation of the EB regulation and, where appropriate, integrated to the common methodology defined in Article 29(3) at the time of its review.</p>	<p>ACER amended the methodology to have it including all possible activation purposes, independently of whether they are used for standard or specific products.</p>
<p>One respondent (Lausitz Energie Kraftwerke AG) underlined the need for transparency when balancing energy bids are activated for other (than solving imbalances) purposes, with transparency information being published at the common used web places like transparency and eex digital platforms. Four respondents (BDEW, EDF, Eurelectric, RWE Supply & Trading GmbH) argue that the timeline of the disclosure of the activation purpose information should be clarified in the Proposal. The activation purpose of a bid should ideally be disclosed simultaneously with the activation of the bid, particularly with specific product activations.</p>	<p>ACER amended the proposal with respect to the publication of additional information in case of activation for system constraints, with timeline in line with the transparency requirements set in Commission Regulation (EU) 543/2013.</p>
<p>Three respondents (Fortia energia SL, Slovenská elektrizačná prenosová sústava a. s., Slovenské elektrárne a.s.) commented on the use of system constraints activation purpose.</p>	<p>These comments are addressed in the context of the next question (i.e. Question 2).</p>
<p>Question 2 Is the level of transparency provided in the amended Proposal with respect to the system constraint purpose sufficient?</p> <p><i>(Article 3 of the amended Proposal defines two activation purposes for balancing energy bids: balancing and system constraints, considering that these are all the possible activation purposes as required by Article 29(3)(a) of the EB Regulation. Article 3(4) of the amended Proposal includes a list with the classification criteria for defining the activation purpose of a balancing energy bid as “system constraint”.</i></p> <p><i>The Agency understands that each of these classification criteria could be a separate activation purpose under the general category ‘system constraint’, hence leading to a new list of system constraint purposes. The Agency sees the transparency benefits such an approach might have, but is also concerned by the additional burden this might entail for the TSOs. Therefore, the Agency seeks the opinion of stakeholders to take an informed decision on this specific issue.)</i></p>	

Respondents' views	ACER views
<p>17 respondents provided an answer to this question.</p>	
<p>13 respondents (BDEW, CEZ a.s., EDF, Edison S.p.A., EFET, Eurelectric, Fortum, Lausitz Energie Kraftwerke AG, Nord Pool, PGE Polska Grupa Energetyczna S.A., RWE Supply & Trading GmbH, Swedenergy, Total direct energie) agree with ACER's position for increasing transparency in the definition of the activation purpose "system constraints", by defining each of its classification criteria as different activation purpose, and requiring its publication.</p> <p>The main arguments include (Eurelectric, Total direct energie) the fact that participants should have more specific information on the reason why they have been activated, (Nord Pool) which allows meaningful comparison of activation purposes across Europe and better information to the market that can be used for operational and strategic decisions, and that (RWE Supply & Trading GmbH) the term "system constraint" as an activation purpose would be far too vague for the methodology.</p>	<p>Taking into account the TSOs' input in the consultation process, mainly the aspects linked to the technical impossibility of mapping specific classification criteria to the activation of specific balancing energy bids, ACER did not adopt each of the proposed classification criteria for system constraints, as separate activation purpose. However, respecting the stakeholders' request and in line with ACER's position for additional transparency in the activation of balancing energy bid for system constraints purpose, ACER amended the proposal with respect to the publication of additional information in case of activation for system constraints, with timeline in line with the transparency requirements set in Commission Regulation (EU) 543/2013 (Article 3(4) of the methodology for activation purposes).</p>
<p>On the publication requirements, out of these 13 respondents, one respondent (CEZ a.s.) suggested that information on activation purpose should be published at latest 30 minutes after balancing energy GCT.</p>	<p>The requirement for the implementation of the activation purposes methodology, pursuant to Article 29(4) of the EB Regulation, is set upon the activation optimisation function of the respective</p>

Respondents' views	ACER views
	<p>European platforms and is handled in the respective implementation frameworks.</p> <p>However, for the case of the additional information to be published for the activations due to system constraints, in accordance with Article 3(4) of the activation purposes methodology, ACER has set as time limit one hour after the validity period of the balancing energy bid, in line with the requirements of Commission Regulation (EU) 543/2013.</p>
<p>Regarding the additional burden on the TSOs, these additional transparency requirements may impose, out of these 13 respondents, seven respondents (BDEW , EDF, EFET, Eurelectric, Fortum, RWE Supply & Trading GmbH, Swedenergy) note that the level of transparency should not be understood as an unreasonable additional burden for TSOs, as TSOs decide on actions to take in order to maintain system security and balance. Therefore, the reason for activation are known to the TSO and should be published easily after the activation of the respective balancing energy bid.</p>	<p>During the consultation with TSOs, they clarified that the actions they are taking with respect to activations for system constraints, do not necessarily link one classification criterion to one specific balancing energy bid activation, as their actions usually link multiple classification criteria with multiple assets. Therefore, they claimed that it is technically difficult to make this distinction and post-operation handling is required.</p> <p>ACER taking into account TSOs' explanations, did not impose the further sub-categorisation of system constraints activation purpose, but as explained above, included additional transparency requirements.</p>

Respondents' views	ACER views
<p>Out of these 13 respondents, one respondent (EFET) suggests that the possibility of flagging a bid with more than one activation purpose among those listed in article 3(4) should be foreseen.</p>	<p>ACER notes that under the current framework, a balancing energy bid that serves more than one activation purposes can be flagged with all of these activation purposes.</p>
<p>Out of these 13 respondents, two respondents (CEZ a.s., Eurelectric) note that the list elaborated in Article 3(4) of the Proposal include non-frequency ancillary services and claim that including these services under balancing would de facto kill emerging flexibility markets.</p>	<p>ACER notes that the fact that balancing energy bids can be activated for purposes other than balancing (which is foreseen by the EB Regulation) should not be understood as an approach to replace other ancillary services markets. On the contrary, it is a mean of increasing transparency of actions already taken by TSOs, the monitoring of which would also allow to identify the potential for creating new markets.</p>
<p>Out of these 13 respondents, three respondents (CEZ a.s., EDF, Eurelectric) note that any activation for system constraints purposes that do not respect the merit order, may affect the balancing energy price, and thus the imbalance price. All BRPs in the uncongested area would pay the balancing price, which was affected by grid constraints on one specific border, not within the whole area. This leads to distorted signals for market participants and thus inefficient functioning of the market.</p> <p>Two respondents (Slovenská elektrizačná prenosová sústava a. s., Slovenské elektrárne a.s.) express their concern regarding the impact the activation of balancing energy bids for system constraints can have on cross border marginal prices and consequently also on the imbalance price and they note that in Article 13(2) of the Regulation 2019/943 (CEP) it is stated that: “Balancing energy bids used for redispatching shall not set the balancing energy price”.</p>	<p>ACER agrees with the comment made by the stakeholders and took it into account in the pricing methodology developed pursuant to Article 30(1) of the EB Regulation; indeed activations outside the common merit order list should not set the balancing energy price. Therefore, ACER amended the activation purposes methodology to be in line with the ACER Decision 01/2020, as explained above.</p>
<p>One respondent (ENTSO-E) notes that all TSOs believe the level of transparency is sufficient, given that it allows to define the activation purpose and classification of balancing energy bids for each possible</p>	<p>ACER, taking into account TSOs' explanations, did not impose the further</p>

Respondents' views	ACER views
<p>criterion allowed by the SO Regulation. Moreover, additional publication requirements set in the Commission Regulation (EU) 543/2013 and in national terms and conditions shall be respected by each TSO. TSOs note that the information on the detailed classification criteria for balancing energy bids activated for system constraint purposes cannot be published in an automated way and would therefore be an additional and very high operational burden for the TSOs' operators to constantly categorise all bid activations.</p>	<p>sub-categorisation of system constraints activation purpose, but as explained above, included additional transparency requirements, based on the requirements set in the Commission Regulation (EU) 543/2013.</p>
<p>One respondent (IFIEC Europe) remains concerned with respect to the use of balancing energy bids for system constraints, as it has no problems with balancing energy bids being used for balancing purposes, but is not convinced that it is in the interest of consumers if TSOs would start using balancing bids for other purposes (e.g. congestion management and redispatching, reactive energy management) as this could undermine the availability of balancing bids for balancing needs. If, as according to EBGL, balancing energy bids could be used for system constraints, these should be very clearly defined and limited in scope. Especially as such use of balancing energy bids could lead to an increase in the cost for consumers, directly through an increase in balancing reserves, paid for by consumers through their grid tariffs, as well as indirectly through higher balancing activation costs, if through the activation of balancing bids for constraint purposes the balancing of the grid will need to be done with balancing bids higher in the merit order and thus more expensive, a cost that indirectly will be attributed also to consumers. Last but not least, IFIEC Europe is concerned that by using balancing energy bids for non-balancing purposes, costs might not get attributed to the correct regulatory accounts and lead to cross-subsidisation, both within a control area but also between control areas through shared balancing platforms.</p>	<p>ACER understands that in the context of the European platforms for the exchange of balancing energy, the TSOs may declare as unavailable balancing energy bids, when they intend to use the respective bid volumes for system constraints. In this case, even if these balancing energy bids are not activated in the European platform(s), their activation purpose should still be defined. Therefore, ACER considers that the requirements of this methodology increase the transparency on TSOs' actions that are anyway allowed by the European legislation (SO and EB Regulation). It is not in the scope of this methodology to specify when to activate balancing energy bids, but rather to define the purpose, when such activation takes place.</p> <p>On the pricing implications, as explained above, ACER addressed them in the pricing methodology pursuant to Article 30(1) of the EB Regulation.</p>

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<p>One respondent (Fortia energia SL) notes that it does not see the advantage of mixing bids for balancing with bids for solving system constraints under the same platform, since the nature of the problems they face are different and consequently so are the tools required, and that TSOs should inform on the degree of competition of available bids.</p>	<p>ACER took the comment of the stakeholder into account, when aligning the activation purposes methodology with the implementation frameworks for the European platforms and the balancing energy pricing methodology.</p>
<p>Question 3 If you would like to comment on other topics please indicate clearly the related Article, paragraph of the proposal and add a sufficient explanation.</p>	
<p>6 respondents provided an answer to this question.</p>	
<p>Four respondents (CEZ a.s., EDF, EFET, Eurelectric) note, with respect to Article 3(5) of the Proposal, that coherence should be ensured, with the fact that the mFRR and RR platforms will not do two optimization runs for separating the activation of balancing energy bids for system constraints and for balancing purposes.</p>	<p>ACER amended the activation purposes methodology to be in line with the ACER Decision 01/2020, as explained above.</p>
<p>Two respondents (EFET, Eurelectric) note the following regarding their understanding from the workshop organised on 18 March 2020 by ACER:</p> <ul style="list-style-type: none"> • Balancing energy bids activated through the European balancing platforms will only be considered as activated for balancing purpose. We regret that, as we lose transparency on the evolution of cross-zonal capacity close to real time (plus the fact that congestion management will directly impact imbalance prices via the ISH proposal). • Balancing energy bids activated outside of the European balancing platforms (hence activated locally by the connecting TSO) can get both purposes: balancing and system constraint. This means eventually that only Specific Products (the ones not shared on the European Balancing platforms) will have the possibility to be given both purposes. We therefore request full transparency on the activation of those bids for system constraints (cf. our answer to question 1) as we lose it for all bids activated on the European Balancing platforms, which will affect the balancing energy and the imbalance price. 	<p>ACER notes the following with respect to the stakeholders' comments:</p> <p>All balancing energy bids activated through the European balancing platforms are activated for balancing purpose; in case there are balancing energy bids that serve also other purposes with their activation, these cannot be identified, as explained in ACER Decision 01/2020.</p> <p>Balancing energy bids activated outside the European balancing platforms, are not only the ones corresponding to specific products; they can also be standard product balancing energy bids set as</p>

Respondents' views	ACER views
<p>Generally, a clear distinction should be made between:</p> <ul style="list-style-type: none"> • Balancing energy bids that are set as unavailable to the European balancing platforms by the connecting TSOs for system constraints, hence not activated; • Balancing energy bids that are activated for system constraint. <p>The same level of transparency as described in the article 3.4 of the amended proposal should apply to those bids set as unavailable.</p>	<p>unavailable in the common merit order list, which are activated locally by the respective TSO.</p> <p>ACER amended Article 1(2) of the activation purposes methodology (and recital 4), to clarify that this latter category of balancing energy bids falls under the scope of the methodology and should also be classified, although they are activated locally.</p>
<p>One respondent (Lausitz Energie Kraftwerke AG) notes the balancing energy bids are used for other constraints, the announced needed volumes of balancing energy should be adjusted too.</p>	<p>ACER understands that indeed the activation of balancing energy bids for system constraints should not affect the calculation of the balancing energy demand. This definition and interaction, however, are covered in the methodologies for the implementation frameworks for the European platforms for the exchange of balancing energy.</p>
<p>One respondent (Fortum) suggests, with respect to Article 4 of the Proposal, that TSOs should start applying the activation purposes classification already before joining the European platforms. Currently Article 4 is written in a way that indicates that it would be possible only after joining the platforms.</p>	<p>ACER considers that, since the implementation of the activation purposes methodology is mandatory for balancing energy bids from common merit order lists, pursuant to Article 29(4) of the EB Regulation, the obligation for the implementation timeline of this methodology should be linked to the creation of the merit order lists, which start</p>

Respondents' views	ACER views
	to exist only within the context of the European platforms.

3 List of respondents

Organisation	Type
BDEW	Association
CEZ a.s.	Energy Company
EDF	Energy Company
Edison S.p.A.	Energy Company
EFET - European Federation of Energy Traders	Association
ENTSO-E	Association
EPEX SPOT	NEMO
Eurelectric	Association
Fortia energia SL	Energy Company
Fortum	Energy Company
IFIEC Europe	Association
illwerke vkw AG	Energy Company
Lausitz Energie Kraftwerke AG	Energy Company
Nord Pool	NEMO
PGE Polska Grupa Energetyczna S.A.	Energy Company
RWE Supply & Trading GmbH	Energy Company
Slovenská elektrizačná prenosová sústava a.s.	TSO
Slovenské elektrárne a.s.	Energy Company

Organisation	Type
Swedenergy	Association
Total direct energie	Energy Company