

OPINION No 12/2019
OF THE AGENCY FOR THE COOPERATION OF
ENERGY REGULATORS

of 20 May 2019

ON THE ENTSO-E MONITORING PLAN IN ACCORDANCE WITH ARTICLE 63(2) OF
COMMISSION REGULATION (EU) 2017/2195 OF 23 NOVEMBER 2017 ESTABLISHING
A GUIDELINE ON ELECTRICITY BALANCING

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing¹ ('EB Regulation') and, in particular, Article 63(2) thereof,

Whereas:

- (1) On 6 June 2018, the European Network of Transmission System Operators for Electricity ('ENTSO-E') submitted its plan for the monitoring of the implementation of electricity balancing in accordance with Article 63(2) of the EB Regulation ('ENTSO-E Monitoring Plan') to the Agency for its opinion.
- (2) For its assessment of the ENTSO-E Monitoring Plan, the Agency took into account the scope and purpose of ENTSO-E's monitoring duties regarding network codes and guidelines under Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003², as well as the matters that the monitoring plan must cover pursuant to Article 63(1) of the EB Regulation,

HAS ADOPTED THIS OPINION:

The Agency acknowledges ENTSO-E's efforts to coordinate with the Agency on an informal basis before the official submission of the ENTSO-E Monitoring Plan and to address the Agency's concerns raised during this informal process.

¹ OJ L 312, 28.11.2017, p. 6.

² OJ L 211, 14.8.2009, p. 15.

Given that the deadline for the submission of the ENTSO-E Monitoring Plan is well in advance of the actual start of the monitoring activities, the Agency understands that the ENTSO-E Monitoring Plan aims to provide a high-level overview of the monitoring obligations and deliverables, whereas a detailed monitoring plan including the detailed description of the scope of reporting may be developed in the near future when the actual monitoring activities start. For this reason, this Opinion focuses on general aspects related to the ENTSO-E Monitoring Plan and does not evaluate the appropriateness of the scope and action plans for the reports listed in the ENTSO-E Monitoring Plan. In the Agency's view, such evaluation will be appropriate when more clarity and detail on these reports are available.

At this stage, the Agency expresses three concerns with regard to the ENTSO-E Monitoring Plan.

The first concern is related to the submission to the Agency of the proposal for a draft European report on the integration of balancing markets pursuant to Article 59(5) of the EB Regulation.

According to this provision, ENTSO-E has to *'prepare a proposal for a draft report'* ('draft report proposal') and deliver it to the Agency, *'which shall be entitled to require amendments within two months after the submission'*. In order to provide ENTSO-E with sufficient time to accommodate the possible Agency's amendments in terms of both structure and content, the Agency strongly recommends that the draft report proposal is submitted early enough and exclusively focuses, as required by Article 59(5) of the EB Regulation, on the structure, basic description of the content of each chapter and the indicators that ENSTO-E intends to use.

Moreover, ENTSO-E suggests to merge the two reports required by Article 63(1) of the EB Regulation, i.e. (a) the European report on the integration of balancing markets ('European Report'), and (b) the report on the monitoring of the implementation of the EB Regulation, including the effect on the harmonisation of applicable rules aimed at facilitating market integration ('Monitoring Report'). The Agency agrees with this approach of a 'merged' report, since specific elements required, pursuant to Article 59(3) of the EB Regulation, for the European Report fall also under the scope of the Monitoring Report. However, in case this approach is followed, the draft report proposal submitted to the Agency for its review should cover the whole 'merged' report, and not just a part of it, as suggested in the ENTSO-E Monitoring Plan (see 'Action plan' section of paragraph 3.2.2).

The second concern is related to the data collection process envisaged for the first European Report and more specifically to the following 'disclaimer' noted (as a footnote) in the ENTSO-E Monitoring Plan:

"There is no legal obligation that TSOs shall publish the data/information to calculate performance indicators before 18 December 2019. Thus, data which shall be used for the preparation of the first report might not be complete."

The Agency would like to stress that the calculation of the performance indicators should be based on all relevant data and is not limited to published data. In particular, there is no connection between, on the one hand, the obligation of TSOs to publish certain information pursuant to Article 12(5) of

the EB Regulation and, on the other hand, the data collection process for the calculation of the performance indicators, which falls under the provision of Article 63(4) of the EB Regulation: *'All TSOs shall submit to ENTSO-E the information required to perform the tasks in accordance with paragraphs 1 and 3'*. Therefore, the ENTSO-E Monitoring Plan should provide also for a collection process of all the data required for the calculation of the performance indicators, pursuant to Article 59(4) of the EB Regulation, even if the data is not published.

Regarding the preparation of the first European Report and the timely collection of all the required elements, the Agency would also like to draw ENTSO-E's attention to the requirement contained in Article 59(6) of the EB Regulation for collecting the executive summaries of each TSO's national report on balancing, as described in the 'Action plan' section of paragraph 3.1.2 of the ENTSO-E Monitoring Plan. Since the timeline for issuing both national reports and the European Report is very close, it is important to include in the ENTSO-E Monitoring Plan a clear process to ensure that no elements are missing and the complete European Report is issued on time.

The third concern is related to the proposed scope of the Monitoring Report.

The Agency appreciates ENTSO-E's effort extensively to describe the scope of the report with respect to the development and harmonisation of the methodologies required by the EB Regulation. However, the Agency is of the opinion that additional items should be included in order to cover all the requirements of the EB Regulation. In particular, the Agency underlines that the provisions that directly apply to TSOs, such as the requirements under Article 18 on national terms and conditions related to balancing, the definitions of specific products pursuant to Article 26, additional settlement mechanisms pursuant to Article 44, shall also be covered in the Monitoring Report. Moreover, the Monitoring Report should also include a description of the problems emerged during the implementation, such as delays, or unexpected issues, proposing also ways for improving the processes followed by the TSOs for the development and submission of the required proposals, and for the implementation of the approved methodologies, as well as for improving the relevant provisions of the EB Regulation.

Apart from the above-mentioned general concerns, the Agency broadly supports the proposed high-level overview of the reports in the ENTSO-E Monitoring Plan. This includes:

- a) the proposed scoping of these reports, which the Agency considers as preliminary and which will need to be updated in coordination with the Agency in the future version(s) of the ENTSO-E Monitoring Plan;
- b) the proposed timelines for the first report and the periodicity of the subsequent reports; and
- c) the proposed interaction with the Agency, stakeholders and third parties, which may also be subject to updates when the overall monitoring processes are further developed.

Given the above considerations, the Agency invites ENTSO-E to address the above concerns and to revise the ENTSO-E Monitoring Plan within the timeline established in cooperation with the Agency, but no later than 1 October 2019. During this period, ENTSO-E is invited to coordinate closely with the Agency on the revisions of the ENTSO-E Monitoring Plan in order to establish efficient

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monitoring procedures to fulfil all the monitoring requirements of the EB Regulation. The Agency considers well established monitoring procedures as essential to fulfil the objectives of the EB Regulation and of Regulation (EC) No 714/2009.

Done at Ljubljana on 20 May 2019.


For the Agency
Director ad interim
Alberto POTOTSCHNIG