

## **REGULATION (EU) 312/2014 of 26 March 2014 establishing a network code on gas balancing of transmission networks**

Incorporated and adapted by Permanent High Level Group Decision 2019/01/PHLG-EnC of 12 December 2019.

*The adaptations made by Permanent High Level Group Decision 2019/01/PHLG-EnC are highlighted in **bold and blue***

### **CHAPTER I GENERAL PROVISIONS**

#### **Article 1**

##### **Subject matter**

This Regulation establishes a Network Code setting out gas balancing rules, including network-related rules on nomination procedures, imbalance charges, settlement processes associated with the daily imbalance charge and operational balancing between transmission system operators' networks.

#### **Article 2**

##### **Scope**

1. This Regulation shall apply to balancing zones within the borders of the **Energy Community Contracting Parties**.

**2. <...>**

3. This Regulation shall not apply to reconciliation that would be necessary between the allocations and actual consumption subsequently derived from final customer meter readings when obtained.

4. This Regulation shall not apply in emergency situations where the transmission system operator shall implement specific measures defined under the applicable national rules and on the basis of **the applicable Energy Community security of supply rules**, as appropriate.

5. The respective rights and obligations originating from this Regulation with regard to network users shall only apply to those network users which have concluded a legally binding agreement, being a transport contract or another contract, which enables them to submit trade notifications in accordance with Article 5.

#### **Article 3**

##### **Definitions**

For the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 715/2009, Article 3 Commission Regulation (EU) No **459/2017** establishing a Network Code on Capacity Allocation Mech-

anisms in Gas Transmission Systems and **repealing Regulation (EU) 984/2013** as well as Article 2 of Directive 2009/73/EC shall apply. In addition, the following definitions shall apply:

- (1) 'balancing zone' means an entry-exit system to which a specific balancing regime is applicable and which may include distribution systems or part of them;
- (2) 'balancing action' means an action undertaken by the transmission system operator to change the gas flows onto or off the transmission network, excluding those actions related to gas unaccounted for as off-taken from the system and gas used by the transmission system operator for the operation of the system;
- (3) 'neutrality charge for balancing' means a charge amounting to the difference between the amounts received or receivable and the amounts paid or payable by the transmission system operator due to performance of its balancing activities which is payable to or recoverable from the relevant network users;
- (4) 'trading platform' means an electronic platform provided and operated by a trading platform operator by means of which trading participants may post and accept, including the right to revise and withdraw, bids and offers for gas required to meet short term fluctuations in gas demand or supply, in accordance with the terms and conditions applicable on the trading platform and at which the transmission system operator trades for the purpose of undertaking balancing actions;
- (5) 'trading participant' means a network user or a transmission system operator holding a contract with the trading platform operator and satisfying the conditions necessary to transact on the trading platform.
- (6) 'balancing platform' means a trading platform where a transmission system operator is a trading participant to all trades;
- (7) 'balancing service' means a service provided to a transmission system operator via a contract for gas required to meet short term fluctuations in gas demand or supply, which is not a short term standardised product;
- (8) 'confirmed quantity' means the quantity of gas confirmed by a transmission system operator to be scheduled or re-scheduled to flow on gas day D;
- (9) 'daily imbalance charge' means the amount of money a network user pays or receives in respect of a daily imbalance quantity;
- (10) 'daily metered' means that the gas quantity is measured and collected once per gas day;
- (11) 'intraday metered' means that the gas quantity is measured and collected a minimum of two times within the gas day;
- (12) 'non daily metered' means that the gas quantity is measured and collected less frequently than once per gas day;
- (13) 'balancing portfolio' means a grouping of a network user's inputs and off-takes;
- (14) 'notification quantity' means the quantity of gas transferred between a transmission system operator and a network user or network users or balancing portfolios, as appropriate;
- (15) 'allocation' means the quantity of gas attributed to a network user by a transmission system operator as an input or an off-take expressed in kWh for the purpose of determining the daily imbalance quantity;
- (16) 're-nomination cycle' means the process carried out by the transmission system operator in order to provide a network user with the message regarding the confirmed quantities following the receipt of a re-nomination;
- (17) 'within day charge' means a charge levied or a payment made by a transmission system operator on

or to a network user as a result of a within day obligation;

(18) 'within day obligation' means a set of rules regarding network users' inputs and off-takes within the gas day imposed by a transmission system operator on network users;

(19) 'base case' means the model for information provision where the information on non- daily metered off-takes consists of a day ahead and within day forecasts;

(20) 'variant 1' means the model for information provision where the information on non- daily metered and daily metered off-takes is based on apportionment of measured flows during the gas day;

(21) 'variant 2' means the model for information provision where the information on non- daily metered off-takes is a day ahead forecast

## **CHAPTER II BALANCING SYSTEM**

### ***Article 4***

#### **General principles**

1. The network users shall be responsible to balance their balancing portfolios in order to minimise the need for transmission system operators to undertake balancing actions set out under this Regulation.
2. Balancing rules established in accordance with this Regulation shall reflect genuine system needs, taking into account the resources available to transmission system operators and shall provide incentives for network users to balance their balancing portfolios efficiently.
3. Network users shall have the possibility to enter into a legally binding agreement with a transmission system operator which enables them to submit trade notifications irrespective of whether they have contracted transport capacity or not.
4. In a balancing zone where more than one transmission system operator is active, this Regulation shall apply to all the transmission system operators within that balancing zone. In case the responsibility of keeping their transmission networks in balance has been transferred to an entity, this Regulation shall apply to that entity to the extent defined under the applicable national rules.

### ***Article 5***

#### **Trade notifications and allocations**

1. Gas transfer between two balancing portfolios within one balancing zone shall be made through disposing and acquiring trade notifications submitted to the transmission system operator in respect of the gas day.
2. The timing for submitting, withdrawing and amending trade notifications shall be defined by the transmission system operator in the transport contract or other legally binding agreement with network users taking into account the time, if any, for processing the trade notifications. The transmission system operator shall enable the network users to submit trade notifications close to the time when the trade notification becomes effective.

3. The transmission system operator shall minimise the time for processing trade notifications. The time for processing shall not take more than thirty minutes except where the time when the trade notification becomes effective permits to extend the time for processing up to two hours.

4. A trade notification shall provide at least the following information:

(a) the gas day for which gas is transferred;

(b) the identification of the balancing portfolios concerned;

(c) whether it is a disposing or an acquiring trade notification;

(d) the notification quantity expressed in kWh/d for daily notification quantity or in kWh/h for hourly notification quantity, as required by the transmission system operator.

5. If the transmission system operator receives a corresponding set of a disposing and an acquiring trade notifications and the notification quantities are equal then the transmission system operator shall allocate the notification quantity to the balancing portfolios concerned:

(a) as an off-take to the balancing portfolio of the network user making the disposing trade notification; and

(b) as an input to the balancing portfolio of the network user making the acquiring trade notification.

6. Where the notification quantities referred to in paragraph 5 are not equal, the transmission system operator shall either allocate the lower notification quantity specified in the relevant trade notification or shall reject both trade notifications. The applicable rule shall be defined by the transmission system operator in the applicable transport contract or other legally binding agreement.

7. A service provider shall not be prevented to act on behalf of a network user for the purpose of paragraph 5, subject to the prior approval of the transmission system operator.

8. A network user may make a trade notification on a gas day irrespective of whether any nomination was made by this network user for that gas day.

9. Paragraphs 1 to 8 shall apply, *mutatis mutandis*, to the transmission system operators trading in accordance with Article 6(3)(a).

## **CHAPTER III OPERATIONAL BALANCING**

### **Article 6**

#### **General provisions**

1. The transmission system operator shall undertake balancing actions in order to:

(a) maintain the transmission network within its operational limits;

(b) achieve an end of day linepack position in the transmission network different from the one anticipated on the basis of expected inputs and off-takes for that gas day, consistent with economic and efficient operation of the transmission network.

2. While undertaking balancing actions the transmission system operator shall consider at least the following in respect of the balancing zone:

- (a) the transmission system operator's own estimates of demand of gas over and within the gas day for which the balancing action(s) is (are) considered;
  - (b) nomination and allocation information and measured gas flows;
  - (c) gas pressures throughout the transmission network(s).
3. The transmission system operator shall undertake balancing actions through:
- (a) purchase and sale of short term standardised products on a trading platform; and/or
  - (b) the use of balancing services.
4. While undertaking balancing actions the transmission system operator shall take into account the following principles:
- (a) the balancing actions shall be undertaken on a non-discriminatory basis;
  - (b) the balancing actions shall have regard to any obligation upon transmission system operators to operate an economic and efficient transmission network.

### **Article 7**

#### **Short term standardised products**

1. The short term standardised products shall be traded for delivery on a within day or day ahead basis seven days a week in accordance with the applicable rules of the trading platform as defined between the trading platform operator and the transmission system operator.
2. The originating trading participant is the trading participant that posts a bid or an offer to trade on the trading platform and the accepting trading participant is the trading participant that accepts it.
3. Where a title product is traded:
- (a) one trading participant makes an acquiring trade notification and the other makes a disposing trade notification;
  - (b) both trade notifications shall specify the gas quantity transferred from the trading participant who makes a disposing trade notification to the trading participant who makes an acquiring trade notification;
  - (c) where an hourly notification quantity is used, it shall be applied flat to all the remaining hours of the gas day from a specified start time and shall be equal to zero for all the hours before this start time.
4. Where a locational product is traded:
- (a) the transmission system operator shall determine the relevant entry and exit points or groups thereof that can be used;
  - (b) all the conditions specified in paragraph 3 shall be fulfilled;
  - (c) the originating trading participant shall modify the quantity of gas to be delivered to or off-taken from the transmission network at the specified entry or exit point by an amount equal to the notification quantity and provide evidence to the transmission system operator that the quantity was modified accordingly;
5. Where a temporal product is traded:
- (a) the conditions specified in paragraph 3(a) and (b) shall be fulfilled;
  - (b) an hourly notification quantity shall be applied to the hours of the gas day from a specified start time

up to a specified end time and shall be equal to zero for all the hours before the start time and zero for all the hours after the end time.

6. Where a temporal locational product is traded, the conditions specified in paragraph 4(a), and (c) and paragraph 5 shall be fulfilled.

7. When establishing the short term standardised products, the transmission system operators from adjacent balancing zones shall cooperate in order to determine the relevant products. Each transmission system operator shall inform the relevant trading platform operators of the result of such cooperation without undue delay.

## **Article 8**

### **Balancing services**

1. The transmission system operator is entitled to procure balancing services for those situations in which short- term standardised products will not or are not likely to provide the response necessary to keep the transmission network within its operational limits or in the absence of liquidity of trade in short term standardised products.

2. For the purpose of undertaking balancing actions through the use of balancing services, the transmission system operator when procuring these balancing services shall consider at least the following:

- (a) how balancing services will keep the transmission network within its operational limits;
- (b) the response time of the balancing services compared to the response times of any available short term standardised products;
- (c) the estimated cost of the procurement and use of balancing services compared to the estimated cost of use of any available short term standardised products;
- (d) the area at which the gas needs to be delivered;
- (e) the transmission system operator's gas quality requirements;
- (f) to what extent the procurement and use of balancing services may affect the liquidity of the short term wholesale gas market.

3. Balancing services shall be procured in a market-based manner, through a transparent and non-discriminatory public tender procedure in accordance with the applicable national rules, in particular:

- (a) prior to any commitment to contract for a balancing service, the transmission system operator shall publish a non-restrictive call for tender indicating the purpose, scope and related instructions to tenderers, to enable them to participate in the tender process;
- (b) the results shall be published without prejudice to the protection of commercially sensitive information and individual results shall be disclosed to each tenderer.

4. Under specific circumstances a transparent and non-discriminatory procedure other than a public tender may be approved by the national regulatory authority.

5. Unless a decision by the national regulatory authority allows for a longer duration of a balancing service, the duration of a balancing service shall not exceed one year and the starting date shall occur within a twelve month period from the related binding commitment of the contracting parties.

6. The transmission system operator shall review the use of its balancing services annually in order to assess whether available short term standardised products would better meet the transmission system operator's operational requirements and whether the use of balancing services could be reduced for the next year.

7. The transmission system operator shall publish annually the information with regard to the balancing services procured and the related costs incurred.

### **Article 9**

#### **Merit order**

1. Subject to the principles set out in Article 6(4), when deciding upon the appropriate balancing actions, the transmission system operator, shall:

(a) prioritise the use of title products where and to the extent appropriate over any other available short term standardised products.

(b) use the other short term standardised products when the following circumstances are met:

(1) locational products when, in order to keep the transmission network within its operational limits, gas flow changes are needed at specific entry and/or exit points and/or to start from a specific period of time within the gas day.

(2) temporal products when, in order to keep the transmission network within its operational limits, gas flow changes are needed within a specific period of time within the gas day. The transmission system operator shall only use a temporal product when it would be more economic and efficient than the purchase and sale of a combination of title products or locational products.

(3) temporal locational products when, in order to keep the transmission network within its operational limits, gas flow changes are needed at specific entry and/or exit points and within a specific period of time within the gas day. The transmission system operator shall only use a temporal locational product when it would be more economic and efficient than the purchase and sale of a combination of locational products.

(c) only use balancing services where short term standardised products will not or are not likely to provide, upon assessment of the transmission system operator concerned, the response necessary to keep the transmission network within its operational limits.

The transmission system operator shall take into account cost-efficiency within the respective levels of the merit order referred to under (a)-(c).

2. While trading in short- term standardised products, the transmission system operator shall prioritise the use of within day products over day ahead products where and to the extent appropriate.

3. The transmission system operator may seek approval from the national regulatory authority to trade within an adjacent balancing zone, and have the gas transported to and from this balancing zone, as an alternative to trading title products and/or locational products in its own balancing zone(s). When deciding on granting the approval, the national regulatory authority may consider alternative solutions to improve the functioning of the domestic market. The applicable terms and conditions shall be reconsidered on an annual basis by the transmission system operator and the national regulatory authority. The use of this balancing action shall not limit the access to and use by the network users of capacity at the intercon-

tion point concerned.

4. The transmission system operator shall publish on a yearly basis the information with regard to the costs, frequency and quantity of the balancing actions undertaken in accordance with each of the requirements set out in paragraph 1 and of the balancing actions undertaken in accordance with paragraph 3.

### **Article 10**

#### **Trading platform**

1. For the purpose of procurement of short-term standardised products, the transmission system operator shall trade on a trading platform that meets all of the following criteria:

- (a) provides sufficient support throughout the gas day to both the network users to trade in and the transmission system operators to undertake appropriate balancing actions through trade in the relevant short term standardised products;
- (b) provides transparent and non-discriminatory access;
- (c) provides services on an equal treatment basis;
- (d) ensures anonymous trading at least until a transaction is concluded;
- (e) provides a detailed overview of the current bids and offers to all trading participants;
- (f) ensures that all trades are duly notified to the transmission system operator.

2. The transmission system operator shall endeavour to ensure that the criteria set out in paragraph 1 are met on at least one trading platform. Where the transmission system operator has been unable to ensure that these criteria are met on at least one trading platform it shall take the necessary measures towards the establishment of a balancing platform or a joint balancing platform as set out in Article 47.

3. After each trade is concluded, the trading platform operator shall make available to the trading participants sufficient details to confirm the trade.

4. The trading participant shall be responsible for submitting trade notification to the transmission system operator as defined in Article 5 unless the responsibility is assigned to the trading platform operator or a third party in accordance with the applicable rules of the trading platform.

5. The trading platform operator shall:

- (a) publish the evolution of the marginal buy price and the marginal sell price after each trade without undue delay; or
- (b) provide the transmission system operator with the information where the transmission system operator elects to publish the evolution of the marginal buy price and the marginal sell price. The transmission system operator shall publish this information without undue delay.

Where there is more than one trading platform operator in the same balancing zone point (b) shall apply.

6. The trading platform operator shall only allow network users to trade on its trading platform if they are entitled to make trade notifications.

7. The transmission system operator shall without undue delay inform the trading platform operator of network user's losing the right to make trade notifications pursuant to the applicable contractual arrangement in force which shall result in the suspension of the network user's right to trade on the trading plat-

form, without prejudice to the other remedies that could be available in such case to the trading platform operator under the applicable rules of the trading platform.

### **Article 11**

#### **Incentives**

1. With the view to foster the liquidity of the short term wholesale gas market, the national regulatory authority can incentivise the transmission system operator to undertake balancing actions efficiently or to maximise the undertaking of balancing actions through the trade in short term standardised products.
2. The transmission system operator may submit for approval to the national regulatory authority an incentive mechanism that shall be consistent with the general principles set out in this Regulation.
3. Prior to submitting the proposal referred to in paragraph 2, the transmission system operator may consult stakeholders upon the transmission system operator's own initiative or upon the national regulatory authority's request.
4. The incentive mechanism shall:
  - (a) be based on the transmission system operator's performance via capped payments to the transmission system operator for outperformance and by the transmission system operator for underperformance, that are measured against predetermined performance targets which may include, *inter alia*, costs targets;
  - (b) take into account the means available to the transmission system operator to control the performance;
  - (c) ensure that its application accurately reflects the allocation of responsibilities between the parties involved;
  - (d) be adapted to the state of development of the relevant gas market where it is to be implemented;
  - (e) be subject to a regular review by the national regulatory authority in close cooperation with the transmission system operator to evaluate where and to what extent changes thereto may be needed.

## **CHAPTER IV NOMINATIONS**

### **Article 12**

#### **General provisions**

1. The gas quantity to be specified in the nomination and re-nomination shall be expressed either in kWh/d for daily nominations and re-nominations or in kWh/h for hourly nominations and re-nominations.
2. The transmission system operator may require network users to provide further information on nominations and re-nominations in addition to the requirements set out in this Regulation, including, *inter alia*, an accurate, updated and sufficiently detailed forecast of the expected inputs and off-takes, this in accordance with the specific need(s) of the transmission system operator.
3. Articles 13 to 16 regarding nominations and re-nominations for unbundled capacity products shall apply

*mutatis mutandis* to single nominations and re-nominations for bundled capacity products. Transmission system operators shall cooperate for the purpose of implementing nomination and re-nomination rules for bundled capacity products at interconnection points.

4. Article 15(3) and Article 17(1) shall be without prejudice to the rule for minimum interruption lead times referred to in Article 33 of Commission Regulation (EU) No 459/2017 of 16 March 2017 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Regulation (EU) 984/2013.

### **Article 13**

#### **Information regarding nominations and re-nominations at interconnection points**

Nominations and re-nominations provided by network users to the transmission system operators with regard to interconnection points shall contain at least the following information:

- (1) interconnection point identification;
- (2) direction of the gas flow;
- (3) network user identification or, if applicable, its balancing portfolio identification;
- (4) network user's counterparty identification or, if applicable, its balancing portfolio identification;
- (5) start and end time of the gas flow for which the nomination or re-nomination is submitted;
- (6) gas day D;
- (7) the gas quantity requested to be transported.

### **Article 14**

#### **Nomination procedure at interconnection points**

1. A network user shall be entitled to submit to the transmission system operator a nomination for gas day D no later than the nomination deadline on gas day D-1. The nomination deadline shall be 13:00 UTC (winter time) or 12:00 UTC (daylight saving) on gas day D-1.

2. The last nomination received by the transmission system operator from a network user before the nomination deadline shall be taken into account by the transmission system operator.

3. The transmission system operator shall send the message regarding the confirmed quantities to the respective network users no later than the confirmation deadline on gas day D-1. The confirmation deadline shall be 15:00 UTC (winter time) or 14:00 UTC (daylight saving) on gas day D-1.

4. The transmission system operators at either side of the interconnection point may agree to offer a pre-nomination cycle within which:

- (a) network users are not obliged to submit nominations;
- (b) network users may submit to transmission system operators the nominations for gas day D no later than 12:00 UTC (winter time) or 11:00 UTC (daylight saving) on gas day D-1;
- (c) the transmission system operator shall send the message regarding the processed quantities to the re-

spective network users no later than 12:30 UTC (winter time) or 11:30 UTC (daylight saving) on gas day D-1.

5. In the absence of a valid nomination sent by the network user before the nomination deadline, the respective transmission system operators shall apply the default nomination rule agreed between these transmission system operators. The default nomination rule in force at an interconnection point shall be made available to the network users of the transmission system operators.

### **Article 15**

#### **Re-nomination procedure at interconnection points**

1. A network user shall be entitled to submit re-nominations within the re-nomination period which starts immediately after the confirmation deadline and ends no earlier than three hours before the end of gas day D. The transmission system operator shall start a re-nomination cycle at the start of every hour within the re-nomination period.
2. The last re-nomination received by the transmission system operator from a network user before the re-nomination cycle starts shall be taken into account by the transmission system operator in the re-nomination cycle.
3. The transmission system operator shall send the message regarding the confirmed quantities to the respective network users within two hours from the start of each re-nomination cycle. The start time of the effective gas flow change shall be two hours from the start of the re-nomination cycle, unless:
  - (a) a later time is requested by the network user; or
  - (b) an earlier time is allowed by the transmission system operator.
4. It shall be assumed that any change to the gas flow occurs at the start of each hour.

### **Article 16**

#### **Specific provisions at interconnection points**

1. Where daily and hourly nominations and re-nominations co-exist at an interconnection point, the transmission system operators or national regulatory authorities (as appropriate) may consult the stakeholders for the purpose of identifying whether harmonised nominations and re-nominations should be submitted at both sides of this interconnection point. This consultation shall consider at least the following:
  - (a) financial impact on transmission system operators and network users;
  - (b) impact on cross-border trade;
  - (c) impact on the daily balancing regime at the interconnection point(s).
2. Following this consultation, the proposed changes, if any, shall be approved by the national regulatory authorities. Once the proposed changes are approved the transmission system operators shall amend accordingly the existing interconnection agreements and the transport contracts or other legally binding agreements and publish those changes.

### **Article 17**

#### **Rejection of nominations and re-nominations or amendment of the requested gas quantity at interconnection points**

1. The transmission system operator may reject:

(a) a nomination or re-nomination no later than two hours after the nomination deadline or the beginning of the re-nomination cycle in the following cases:

- (i) it does not comply with the requirements as to its content;
- (ii) it is submitted by an entity other than a network user;
- (iii) the acceptance of the daily nomination or re-nomination would result in a negative implied nomination flow rate;
- (iv) it exceeds the network user's allocated capacity;

(b) a re-nomination no later than two hours after the beginning of the re-nomination cycle in the following additional cases:

- (i) it exceeds the network user's allocated capacity for the remaining hours, unless this re-nomination is submitted in order to request interruptible capacity, where offered by the transmission system operator;
- (ii) the acceptance of the hourly re-nomination would result in an expected gas flow change before the end of the re-nomination cycle.

2. The transmission system operator shall not reject a network user's nomination and re-nomination on the sole ground that this network user's intended inputs are not equal to its intended off-takes.

3. In case a re-nomination is rejected, the transmission system operator shall use the network user's last confirmed quantity, if any.

4. Without prejudice to the specific terms and conditions applicable to interruptible capacity and capacity subject to congestion management rules, the transmission system operator may in principle only amend the gas quantity requested under a nomination and re-nomination in exceptional events, and emergency situations when there is an evident danger to system security and stability. Transmission system operators shall notify to the national regulatory authority any such action taken.

### **Article 18**

#### **Nomination and re-nomination procedure at points other than interconnection points**

1. The national regulatory authority shall, if not determined already, after consultation of the transmission system operator, determine at which points other than interconnection points nominations and re-nominations are required.

2. Where nominations and re-nominations are required at points other than interconnection points the following principles shall apply:

- (a) network users shall be entitled to submit re-nominations for the gas day;
- (b) the transmission system operator shall confirm or reject the submitted nominations and re-nominations considering the timelines referred to in Article 17.

## CHAPTER V

### DAILY IMBALANCE CHARGES

#### *Article 19*

##### **General provisions**

1. Network users shall be bound to pay or be entitled to receive (as appropriate) daily imbalance charges in relation to their daily imbalance quantity for each gas day.
2. Daily imbalance charges shall be identified separately on the transmission system operator's invoices to network users.
3. The daily imbalance charge shall be cost reflective and shall take account of the prices associated with transmission system operator's balancing actions, if any, and of the small adjustment referred to in Article 22(6).

#### *Article 20*

##### **Daily imbalance charge calculation methodology**

1. The transmission system operator shall submit the daily imbalance charge calculation methodology to be applied in its balancing zone to the national regulatory authority for approval.
2. Once approved, the daily imbalance charge calculation methodology shall be published on the relevant website. Any update thereof shall be published in a timely manner.
3. The daily imbalance charge calculation methodology shall define:
  - (a) the calculation of the daily imbalance quantity referred to in Article 21;
  - (b) the derivation of the applicable price referred to in Article 22; and
  - (c) any other necessary parameter.

#### *Article 21*

##### **Daily imbalance quantity calculation**

1. The transmission system operator shall calculate a daily imbalance quantity for each network user's balancing portfolio for each gas day in accordance with the following formula:  
daily imbalance quantity = inputs – off-takes
2. The daily imbalance quantity calculation shall be adapted accordingly where:
  - (a) a linepack flexibility service is offered; and/or
  - (b) any arrangement is in place whereby network users provide gas, including gas in kind, to cover:
    - (i) gas unaccounted for as off taken from the system, such as losses, metering errors; and/or
    - (ii) gas used by the transmission system operator for the operation of the system, such as fuel gas

3. Where the sum of a network user's inputs for the gas day is equal to the sum of its off-takes for this gas day, a network user is deemed balanced for this gas day.
4. Where the sum of a network user's inputs for the gas day is not equal to the sum of its off-takes for this gas day, a network user is deemed imbalanced for this gas day and daily imbalance charges shall be applied in accordance with Article 23.
5. The transmission system operator shall provide a network user with its initial and its final daily imbalance quantities in accordance with Article 37.
6. The daily imbalance charge shall be based on the final daily imbalance quantity.

## **Article 22**

### **Applicable price**

1. For the purpose of daily imbalance charge calculation as provided in Article 23 the applicable price shall be determined as follows:
  - (a) marginal sell price where the daily imbalance quantity is positive (i.e. the network user's inputs for that gas day exceed its off-takes for that gas day); or
  - (b) marginal buy price where the daily imbalance quantity is negative (i.e. the network user's off-takes for that gas day exceed its inputs for that gas day).
2. A marginal sell price and a marginal buy price shall be calculated for each gas day pursuant to the following:
  - (a) a marginal sell price is the lower of:
    - (i) the lowest price of any sales of title products in which the transmission system operator is involved in respect of the gas day; or
    - (ii) the weighted average price of gas in respect of that gas day, minus a small adjustment.
  - (b) a marginal buy price is the higher of:
    - (i) the highest price of any purchases of title products in which the transmission system operator is involved in respect of the gas day; or
    - (ii) the weighted average price of gas in respect of that gas day, plus a small adjustment.
3. For the purpose of determining the marginal sell price, the marginal buy price and the weighted average price, the related trades shall be made on trading platforms that are pre-identified by the transmission system operator and approved by the national regulatory authority. The weighted average price shall be the energy weighted average price of trades in title products carried out at the virtual trading point in respect of a gas day.
4. A default rule shall be defined in case paragraph 2(a) and (b) do not allow for the derivation of a marginal sell price and/or a marginal buy price.
5. Subject to the approval of the national regulatory authority, the price of locational products may be taken into account for the purpose of determining the marginal sell price, the marginal buy price and the weighted average price, where proposed by the transmission system operator with corresponding consideration of the extent of the transmission system operator's use of locational products.

6. The small adjustment shall:

- (a) incentivise network users to balance their inputs and off-takes;
- (b) be designed and applied in a non-discriminatory manner in order to:
  - (i) not deter market entry;
  - (ii) not impede the development of competitive markets;
- (c) not have a detrimental impact on cross-border trade;
- (d) not result in network users' excessive financial exposure to daily imbalance charges.

7. The value of the small adjustment may differ for determining the marginal buy price and the marginal sell price. The value of the small adjustment shall not exceed ten percent of the weighted average price unless the transmission system operator concerned can justify otherwise to the national regulatory authority and have it approved pursuant to Article 20.

### **Article 23**

#### **Daily imbalance charge**

1. To calculate daily imbalance charges for each network user, the transmission system operator shall multiply a network user's daily imbalance quantity by the applicable price determined in accordance with Article 22.

2. Daily imbalance charges shall be applied as follows:

- (a) if a network user's daily imbalance quantity for the gas day is positive then this network user shall be deemed to have sold gas to the transmission system operator equivalent to the daily imbalance quantity and therefore shall be entitled to receive a credit in respect of daily imbalance charges from the transmission system operator; and
- (b) if a network user's daily imbalance quantity for the gas day is negative then this network user shall be deemed to have purchased gas from the transmission system operator equivalent to the daily imbalance quantity and therefore shall be obliged to pay daily imbalance charges to the transmission system operator.

## **CHAPTER VI**

### **WITHIN DAY OBLIGATIONS**

#### **Article 24**

##### **General provisions**

1. A transmission system operator is only entitled to apply within day obligations in order to incentivise network users to manage their within day position in view of ensuring the system integrity of its transmission network and minimising its need to undertake balancing actions.

2. Where the transmission system operator is required to provide information to network users to enable them to manage their exposures associated with within day positions, it shall be provided to them regularly. Where applicable, this information shall be provided upon a request submitted by each network user once.

## **Article 25**

### **Types of within day obligations**

There are three types of within day obligations, each incentivising the network user for a specific objective as set out in this Article:

(1) System-wide within day obligation

shall be designed to provide incentives for network users to keep the transmission network within its operational limits and shall set out the following:

- (a) the operational limits of the transmission network within which it has to remain;
- (b) the actions the network users can undertake to keep the transmission network within the operational limits;
- (c) the consequential balancing actions of the transmission system operator when the operational limits of the transmission network are approached or reached;
- (d) the attribution of costs and/or revenues to the network users and/or consequences on the within day position of these network users resulting from balancing actions undertaken by the transmission system operator;
- (e) the related charge which shall be based on the individual within day position of the network user.

(2) Balancing portfolio within day obligation

shall be designed to incentivise network users to keep their individual position during the gas day within a pre-defined range and shall set out the following:

- (a) for each balancing portfolio the range within which this balancing portfolio has to stay;
- (b) how the range referred to above is determined;
- (c) the consequences for network users not staying within the defined range and, where appropriate, details of how any corresponding charge is derived;
- (d) the related charge which shall be based on the individual within day position of the network user.

(3) Entry-exit point within day obligation

shall be designed to provide incentives for network users to limit the gas flow or the gas flow variation under specific conditions at specific entry-exit points and shall set out the following:

- (a) the limits in the gas flow and/or the gas flow variation;
- (b) the entry and/or exit point or groups of entry and/or exit points to which such limits apply;
- (c) the conditions under which such limits shall apply;
- (d) the consequences of not complying with such limits.

This obligation is additional to any other agreements with final costumers containing, amongst other things, localised specific restrictions and obligations regarding the physical gas flow.

## **Article 26**

### **Requirements for within day obligations**

1. The transmission system operator may propose to the national regulatory authority a within day obligation or an amendment thereof. It may combine features of the different types described in Article 25 provided the proposal meets the criteria set out in paragraph 2. The transmission system operator's right of proposal is without prejudice to the right of the national regulatory authority to take a decision on its own initiative.

2. Any within day obligation shall meet the following criteria:

(a) a within day obligation and related within day charge, if any, shall not pose any undue barriers on cross-border trade and new network users entering the relevant market;

(b) a within day obligation shall only be applied where the network users are provided with adequate information before a potential within day charge is applied regarding their inputs and/or off-takes and have reasonable means to respond to manage their exposure;

(c) the main costs to be incurred by the network users in relation to their balancing obligations shall relate to their position at the end of the gas day;

(d) to the extent possible, within day charges shall be reflective of the costs of the transmission system operator for the undertaking of any associated balancing actions;

(e) a within day obligation will not result in network users being financially settled to a position of zero during the gas day;

(f) the benefits of introducing a within day obligation in terms of economic and efficient operation of the transmission network outweigh any potential negative impacts thereof, including on liquidity of trades at the virtual trading point.

3. The transmission system operator may propose different within day obligations for distinct categories of entry or exit points with the aim to provide better incentives for different categories of network users in order to avoid cross subsidies. The transmission system operator's right of proposal is without prejudice to the right of the national regulatory authority to take a decision on its own initiative.

4. The transmission system operator shall consult stakeholders, including the national regulatory authorities, the affected distribution system operators and transmission system operators in adjacent balancing zones, on any within day obligation it intends to introduce, including the methodology and assumptions used in arriving at the conclusion that it meets the criteria set out in paragraph 2.

5. Following the consultation process, the transmission system operator shall produce a recommendation document which shall include the finalised proposal and an analysis of:

(a) the necessity of the within day obligation, taking into account the transmission network's characteristics and the flexibility available to the transmission system operator through purchase and sale of short term standardised products or use of balancing services in accordance with Chapter III;

(b) the information available to enable network users to manage in a timely manner their within day positions;

(c) the expected financial impact on network users;

(d) the effect on new network users entering the relevant market, including any undue negative impact thereon;

- (e) the effect on cross-border trade, including the potential impact on balancing in adjacent balancing zones;
- (f) the impact on the short term wholesale gas market, including the liquidity thereof;
- (g) the non-discriminatory nature of the within day obligation.

6. The transmission system operator shall submit the recommendation document to the national regulatory authority for the approval of the proposal in accordance with the procedure set out in Article 27. In parallel, the transmission system operator shall publish this recommendation document, subject to any confidentiality obligations that it may be bound by <...>.

### **Article 27**

#### **National regulatory authority decision making**

1. The national regulatory authority shall take and publish a motivated decision within six months following the receipt of the complete recommendation document. In deciding whether to approve the proposed within day obligation, the national regulatory authority shall assess whether this within day obligation meets the criteria set out in Article 26(2).
2. Before taking the motivated decision the national regulatory authority shall consult with the national regulatory authorities of adjacent **Energy Community Contracting Parties and adjacent EU** Member States and take account of their opinions. The adjacent national regulatory authority(-ies) may **consult** the **Energy Community Regulatory Board <...>** on the decision referred to in paragraph 1.

### **Article 28**

#### **Existing within day obligations**

Where the transmission system operator has within day obligation(s) at the date of **expiry of the deadline for transposition** of this Regulation, within six months from such date this transmission system operator shall follow the process set out in Article 26(5) to (7) and shall submit the within day obligation(s) to the national regulatory authority for approval in accordance with Article 27 to continue its (their) use.

## **CHAPTER VII NEUTRALITY ARRANGEMENTS**

### **Article 29**

#### **Principles of neutrality**

1. The transmission system operator shall not gain or lose by the payment and receipt of daily imbalance charges, within day charges, balancing actions charges and other charges related to its balancing activities, which shall be considered as all the activities undertaken by the transmission system operator to fulfil the obligations set out in this Regulation.

2. The transmission system operator shall pass to network users:
  - (a) any costs and revenues arising from daily imbalance charges and within day charges;
  - (b) any costs and revenues arising from the balancing actions undertaken pursuant to Article 9, unless the national regulatory authority considers those costs and revenues as incurred inefficiently in accordance with the applicable national rules. This consideration shall be based upon an assessment which:
    - (i) shall demonstrate to what extent the transmission system operator could have reasonably mitigated the costs incurred when undertaking the balancing action; and
    - (ii) shall be made with regard to the information, the time and the tools available to the transmission system operator at the moment it decided to undertake the balancing action;
  - (c) any other costs and revenues related to the balancing activities undertaken by the transmission system operator, unless the national regulatory authority considers these costs and revenues as incurred inefficiently in accordance with the applicable national rules.
3. Where an incentive to promote efficient undertaking of balancing actions is implemented, the aggregate financial loss shall be limited to the transmission system operator's inefficiently incurred costs and revenues.
4. Transmission system operators shall publish the relevant data regarding the aggregate charges referred to in paragraph 1 and the aggregate neutrality charges for balancing, at least at the same frequency as the respective charges are invoiced to network users, but no less than once per month.
5. Notwithstanding paragraphs 1 and 2, the transmission system operator in its balancing role may be subject to an incentive mechanism as referred to in Article 11.

### **Article 30**

#### **Balancing neutrality cash flows**

1. The neutrality charge for balancing shall be paid by or to the network user concerned.
2. The national regulatory authority shall set or approve and publish the methodology for the calculation of the neutrality charges for balancing, including their apportionment amongst network users and credit risk management rules.
3. The neutrality charge for balancing shall be proportionate to the extent the network user makes use of the relevant entry or exit points concerned or the transmission network.
4. The neutrality charge for balancing shall be identified separately when invoiced to network users and the invoice shall be accompanied by sufficient supporting information defined in the methodology referred to in paragraph 2.
5. Where the information model variant 2 is applied and thus the neutrality charge for balancing may be based on forecasted costs and revenues, the transmission system operator's methodology for the calculation of neutrality charge for balancing shall provide rules for a separate neutrality charge for balancing in respect of non- daily metered off-takes.
6. Where relevant, the transmission system operator's methodology for the calculation of the neutrality charge for balancing may provide rules for the division of the neutrality charge for balancing components and the subsequent apportionment of the corresponding sums amongst the network users in order to reduce cross subsidies.

### **Article 31**

#### **Credit risk management arrangements**

1. The transmission system operator shall be entitled to take necessary measures and impose relevant contractual requirements, including financial security safeguards, on network users to mitigate their default in payment regarding any payment due for the charges referred to in Article 29 and 30.
2. The contractual requirements shall be on a transparent and equal treatment basis, proportionate to the purpose and defined in the methodology referred to in Article 30(2).
3. In case of a default attributable to a network user, the transmission system operator shall not be liable to bear any loss incurred provided the measures and requirements referred to paragraphs 1 and 2 were duly implemented and such loss shall be recovered in accordance with the methodology referred to in Article 30(2).

## **CHAPTER VIII**

### **INFORMATION PROVISION**

#### **Article 32**

##### **Information obligations of transmission system operators towards the network users**

The information provided to network users by the transmission system operator shall refer to:

- (1) the overall status of the transmission network in accordance with point 3.4(5) of Annex I to Regulation (EC) No 715/2009;
- (2) the transmission system operator's balancing actions referred to in Chapter III;
- (3) the network user's inputs and off-takes for the gas day referred to in Articles 33 to 42.

#### **Article 33**

##### **General provisions**

1. If not already provided by the transmission system operator according to point 3.1.2 of Annex I to Regulation (EC) No 715/2009, the transmission system operator shall provide all information referred to under Article 32 in the following manner:

- (a) on the transmission system operator's website or other system providing the information in electronic format;
- (b) accessible to network users free of charge;
- (c) in a user-friendly manner;
- (d) clear, quantifiable and easily accessible;
- (e) on a non-discriminatory basis;
- (f) in consistent units either in kWh or kWh/d and kWh/h;

(g) in the official language(s) of the **Contracting Party** and in English.

2. Where a measured quantity cannot be obtained from a meter, a replacement value may be used. This replacement value shall be used as an alternative reference without any further warranty from the transmission system operator.

3. Providing access to the information shall not be construed as giving any specific warranty other than the availability of this information in a defined format and via a defined tool such as a website or web address and the related access of the network users to this information under normal conditions of use. In no circumstances shall the transmission system operators be liable to provide any further warranty, in particular as to the IT system of the network users.

4. The national regulatory authority shall decide on one information model per balancing zone. For information provision on intraday metered inputs and off-takes, the same rules shall apply to all models.

5. For balancing zones where the information model variant 2 is sought to be applied after the **expiry of the deadline for transposition** of this Regulation, a prior market consultation shall be conducted by the transmission system operator or the national regulatory authority as relevant.

### **Article 34**

#### **Intraday metered inputs and off-takes**

1. For intraday metered inputs to and off-takes from the balancing zone, where a network user's allocation equals its confirmed quantity, the transmission system operator shall not be obliged to provide information other than the confirmed quantity.

2. For intraday metered inputs to and off-takes from the balancing zone, where a network user's allocation does not equal its confirmed quantity, on gas day D the transmission system operator shall provide network users with a minimum of two updates of their measured flows for at least the aggregate intraday metered inputs and off-takes according to either of the following two options, as decided by the transmission system operator:

(a) each update covers gas flows from the beginning of this gas day D; or

(b) each update covers incremental gas flows after that reported in the previous update.

3. The first updates shall cover at least four hours of gas flow within gas day D. These updates shall be provided without undue delay and within four hours after the gas flow and no later than 17:00 UTC (winter time) or 16:00 UTC (daylight saving).

4. The time of the second update provision shall be defined upon approval by the national regulatory authority and published by the transmission system operator.

5. The transmission system operator may request the network users to indicate which of the information referred to in paragraph 2 they have access to. Based on the response received, this transmission system operator shall provide the network user with the part of information it does not have access to, in accordance with paragraphs 2 to 4.

6. Where the transmission system operator is not responsible for apportioning the gas quantities between network users as part of the allocation process, as an exception to paragraph 2, it shall provide at least information on aggregate inputs and off-takes at a minimum of two times per gas day D on that gas day D.

### **Article 35**

#### **Daily metered off-takes**

1. Where the information model variant 1 is applied, on gas day D the transmission system operator shall provide network users with a minimum of two updates of their apportionment of measured flows for at least the aggregate daily metered off-takes according to either of the following two options, as decided by the transmission system operator:
  - (a) each update covers gas flows from the beginning of this gas day D; or
  - (b) each update covers incremental gas flows after that reported in the previous update.
2. Each update shall be provided within two hours from the end of the final hour of gas flows.

### **Article 36**

#### **Non- daily metered off-takes**

1. Where the information model base case is applied:
  - (a) on gas day D-1, the transmission system operator shall provide network users with a forecast of their non-daily metered off-takes for gas day D no later than 12:00 UTC (winter time) or 11:00 UTC (daylight saving);
  - (b) on gas day D, the transmission system operator shall provide network users with a minimum of two updates of the forecast of their non- daily metered off-takes.
2. The first update shall be provided no later than 13:00 UTC (winter time) or 12:00 UTC (daylight saving).
3. The time of the second update provision shall be defined upon approval by the national regulatory authority and published by the transmission system operator. This shall take into consideration the following:
  - (a) access to short term standardised products on a trading platform;
  - (b) accuracy of the forecast of a network users non- daily off-takes as compared to the time of its provision;
  - (c) time when the re-nomination period ends, as provided in Article 15(1);
  - (d) time of the first update of the forecast for a network user's non- daily metered off-takes.
4. Where the information model variant 1 is applied, on gas day D, the transmission system operator shall provide network users with a minimum of two updates of their apportionment of measured flows for at least the aggregate non- daily metered off-takes as referred to in Article 35.
5. Where the information model variant 2 is applied, on gas day D-1, the transmission system operator shall provide network users with a forecast of their non- daily metered off-takes for gas day D as referred to in paragraph 1(a).

### **Article 37**

#### **Inputs and off-takes after the gas day**

1. No later than the end of gas day D+1, the transmission system operator shall provide each network user with an initial allocation for its inputs and off-takes on day D and an initial daily imbalance quantity.

- (a) For the information models base case and variant 1, all gas delivered to the distribution system shall be allocated;
- (b) For the information model variant 2, the non- daily metered off-takes shall equal the forecast of a network user's non- daily metered off-takes provided day ahead;
- (c) For the information model variant 1, an initial allocation and an initial daily imbalance quantity shall be considered as the final allocation and the final daily imbalance quantity.
2. Where an interim measure referred to in Articles 47 to 51 applies, an initial allocation and an initial daily imbalance quantity can be provided within three gas days after gas day D in case it would not be technically or operationally feasible to comply with paragraph 1.
3. The transmission system operator shall provide each network user with the final allocation for its inputs and off-takes and the final daily imbalance quantity within a period of time defined under the applicable national rules.

### **Article 38**

#### **Cost benefit analysis**

1. Within two years as from the **expiry of the deadline for transposition** of this Regulation, the transmission system operators shall assess the costs and benefits of:
- (a) increasing the frequency of information provision to network users;
- (b) reducing the related timelines of information provision;
- (c) improving the accuracy of the information provided.

This cost benefit analysis shall specify the breakdown of costs and benefits among the categories of affected parties.

2. The transmission system operator shall consult the stakeholders on this assessment, in cooperation with the distribution system operators where they are affected.
3. On the basis of the consultation results, the national regulatory authority shall decide on any relevant changes of information provision.

### **Article 39**

#### **Information obligations of distribution system operator(s) and forecasting party(-ies) towards the transmission system operator**

1. Each distribution system operator associated to a balancing zone and each forecasting party shall provide the transmission system operator in the respective balancing zone with the information necessary for information provision to the network users under this Regulation. This shall include inputs and off-takes on the distribution system regardless whether that system is a part of the balancing zone or not.
2. The information, its format and the procedure for its provision shall be defined in cooperation between the transmission system operator, the distribution system operator and the forecasting party, as relevant, to ensure the due provision of information by the transmission system operator to the network users under

this Chapter and in particular the criteria set out in Article 33(1).

3. This information shall be provided to the transmission system operator in the same format as defined under the applicable national rules and shall be consistent with the format used by the transmission system operator to provide the information to the network users.

4. The national regulatory authority may ask the transmission system operator, the distribution system operator and the forecasting party, to propose an incentive mechanism regarding the provision of an accurate forecast for a network user's non-daily metered off-takes which shall meet the criteria set out for the transmission system operator in Article 11(4).

5. The national regulatory authority shall designate the forecasting party in a balancing zone after prior consultation with the transmission system operators and distribution system operators concerned. The forecasting party shall be responsible for forecasting a network user's non-daily metered off-takes and where appropriate its subsequent allocation. It may be a transmission system operator, distribution system operator or a third party.

#### **Article 40**

##### **Information obligations of the distribution system operator(s) towards the transmission system operator**

The distribution system operator shall provide the transmission system operator with information on the intraday and daily metered inputs and off-takes on the distribution system consistent with the information requirements set out in Articles 34(2) to (6), 35 and 37. This information shall be provided to the transmission system operator within the time sufficient for the transmission system operator to provide the information to network users.

#### **Article 41**

##### **Information obligations of the distribution system operator(s) towards the forecasting party**

1. Distribution system operators are responsible for providing the forecasting party with sufficient and updated information for the purpose of the methodology for the forecast of a network user's non-daily metered off-takes application as set out in Article 42(2). This information shall be provided in a timely manner in accordance with the timelines defined by the forecasting party to be consistent with its needs.

2. Paragraph 1 shall apply, *mutatis mutandis*, to variant 1.

#### **Article 42**

##### **Information obligations of the forecasting party towards the transmission system operator**

1. The forecasting party shall provide the transmission system operator with forecasts of network user's non-daily metered off-takes and subsequent allocations consistent with the information requirements set

out in Articles 36 and 37. This information shall be provided to the transmission system operator within the time sufficient for the transmission system operator to provide the information to network users and for day ahead and within day forecasts of a network user's non daily metered off-takes no later than one hour before the deadlines referred to in Article 36(1)(a) and (b), unless a later time sufficient for the transmission system operator to provide this information to the network users is agreed by the transmission system operator and the forecasting party.

2. The methodology for the forecast of a network user's non-daily metered off-takes shall be based on a statistical demand model, with each non- daily metered off-take assigned with a load profile, consisting of a formula of the variation in gas demand versus variables such as temperature, day of week, customer type and holiday seasons. The methodology shall be subject to consultation before its adoption.

3. A report on the accuracy of the forecast of a network user's non-daily metered off-takes shall be published by the forecasting party at least every two years.

4. Where relevant, transmission system operators shall provide the data regarding gas flows within the time sufficient for the forecasting party to comply with its obligations under this Article.

5. Paragraphs 2 to 4 shall, *mutatis mutandis*, apply to variant 1.

## **CHAPTER IX LINEPACK FLEXIBILITY SERVICE**

### **Article 43**

#### **General provisions**

1. A transmission system operator may offer the provision of a linepack flexibility service to network users after the approval of the related terms and conditions by the national regulatory authority.

2. The terms and conditions applicable to a linepack flexibility service shall be consistent with the responsibility of a network user to balance its inputs and off-takes over the gas day.

3. The linepack flexibility service shall be limited to the level of linepack flexibility available in the transmission network and deemed not required for carrying out its function of transmission according to the concerned transmission system operator's evaluation.

4. Gas delivered to and off-taken from the transmission network by network users under this service shall be taken into account for the purpose of calculation of their daily imbalance quantity.

5. The neutrality mechanism set out in Chapter VII shall not apply to the linepack flexibility service unless otherwise decided by the national regulatory authority.

6. Network users shall notify the transmission system operator concerned of the use of the linepack flexibility service by submitting nominations and re-nominations.

7. The transmission system operator may refrain from requiring the network users to submit nominations and re-nominations referred to in paragraph 6, where the absence of such a notification does not undermine the development of the short term wholesale gas market and the transmission system operator has sufficient information to provide an accurate allocation of the use of a linepack flexibility service the following gas day.

### **Article 44**

#### **Conditions for provision of linepack flexibility service**

1. Linepack flexibility service can only be provided once all the following criteria are met:
  - (a) the transmission system operator shall not need to enter into any contracts with any other infrastructure provider, such as storage system operator or LNG system operator, for the purpose of provision of a linepack flexibility service;
  - (b) the revenues generated by the transmission system operator from the provision of a linepack flexibility service shall at least be equal to the costs incurred or to be incurred in providing this service;
  - (c) the linepack flexibility service shall be offered on a transparent and non-discriminatory basis and can be offered using competitive mechanisms;
  - (d) the transmission system operator shall not charge, either directly or indirectly, a network user for any costs incurred by the provision of a linepack flexibility service, should this network user not contract for it; and
  - (e) the provision of a linepack flexibility service shall not have a detrimental impact on cross-border trade.
2. The transmission system operator shall prioritise the reduction of within day obligations over the provision of a linepack flexibility service.

## **CHAPTER X INTERIM MEASURES**

### **Article 45**

#### **Interim measures: general provisions**

1. In the absence of sufficient liquidity of the short-term wholesale gas market, suitable interim measures referred to in Articles 47 to 50 shall be implemented by the transmission system operators. Balancing actions undertaken by the transmission system operator in case of interim measures shall foster the liquidity of the short-term wholesale gas market to the extent possible.
2. The resort to an interim measure is without prejudice to the implementation of any other interim measure(s) as an alternative or additionally, provided that such measures aim at promoting competition and liquidity of the short-term wholesale gas market and are consistent with the general principles set out in this Regulation.
3. The interim measures referred to in paragraph 1 and 2 shall be developed and implemented by each transmission system operator, in accordance with the report, referred to in Article 46(1), approved by the national regulatory authority in accordance with the procedure set out in Article 46.
4. The report shall foresee the termination of the interim measures no later than five years as from the **expiry of the deadline for transposition** of this Regulation.

## Article 46

### Interim measures: annual report

1. Where the transmission system operator foresees implementing or continuing to implement interim measures, it shall prepare a report which shall specify:
  - (a) a description of the state of development and the liquidity of the short term wholesale gas market at the time of preparing the report, including, where available to the transmission system operator, *inter alia*:
    - (i) the number of transactions concluded at the virtual trading point and the number of transactions in general;
    - (ii) the bid/offer spreads and the volumes of bids and offers;
    - (iii) the number of participants having access to the short term wholesale gas market;
    - (iv) the number of participants having been active on the short term wholesale gas market during a given period of time;
  - (b) the interim measures to be applied
  - (c) the reasons for the application of the interim measures:
    - (i) an explanation why they are needed due to the state of development of the short term wholesale gas market referred to in point (b);
    - (ii) an assessment of how they will increase the liquidity of the short term wholesale gas market.
  - (d) an identification of the steps that will be taken to remove the interim measures, including the criteria for making these steps and an assessment of the related timing.
2. The transmission system operator shall consult stakeholders on the proposed report.
3. Following the consultation process, the transmission system operator shall submit the report to the national regulatory authority for the approval. The first report shall be submitted within six months as from the **expiry of the deadline for transposition** of this Regulation and the subsequent reports updating it <...> shall be submitted annually.
4. The national regulatory authority shall take and publish a motivated decision within six months following the receipt of the complete report. Such a decision shall be notified, without delay, to the **Energy Community Regulatory Board and the Energy Community Secretariat**. In deciding whether to approve the report, the national regulatory authority shall assess its effect on balancing regimes' harmonisation, facilitation of market integration, ensuring non-discrimination, effective competition and the efficient functioning of the gas market.
5. The procedure as set out in Article 27(2) applies.

## Article 47

### Balancing platform

1. Where the short term wholesale gas market has or is anticipated to have insufficient liquidity or where temporal products and locational products required by the transmission system operator cannot reason-

ably be procured on this market, a balancing platform shall be established for the purpose of transmission system operator balancing.

2. The transmission system operators shall consider whether a joint balancing platform may be implemented for adjacent balancing zones in the framework of cooperation between the transmission system operators or where there is sufficient interconnection capacity and such joint balancing platform is deemed efficient to be implemented. If a joint balancing platform is established, it shall be operated by the transmission system operators concerned.

3. In case the situation described under paragraph 1 has not fundamentally changed after five years the national regulatory authority may, without prejudice to Article 45(4) and after submitting the appropriate amendment of the report, decide to continue the operation of the balancing platform for another period of no more than five years.

### ***Article 48***

#### **Alternative to a balancing platform**

Where the transmission system operator can demonstrate that as a result of insufficient interconnection capacity between balancing zones a balancing platform cannot increase the liquidity of the short term wholesale gas market and cannot enable the transmission system operator to undertake efficient balancing actions, it may use an alternative, such as balancing services, subject to the approval by the national regulatory authority. Where such an alternative is used, the terms and conditions of the subsequent contractual arrangements as well as the applicable prices and duration shall be specified

### ***Article 49***

#### **Interim imbalance charge**

1. Where interim measures referred to in Article 45 are necessary, the price derivation may be calculated in accordance with the report referred to in Article 46 which shall substitute the daily imbalance charge calculation methodology.

2. In that case, the price derivation may be based upon an administered price, a proxy for a market price or a price derived from balancing platform trades.

3. The proxy for a market price shall seek to satisfy the conditions provided for in Article 22(6). The design of this proxy shall consider the potential risk for market manipulation.

### ***Article 50***

#### **Tolerance**

1. Tolerances may only be applied in case network users do not have access:

- (a) to a short term wholesale gas market that has sufficient liquidity;
- (b) to gas required to meet short term fluctuations in gas demand or supply; or

(c) to sufficient information regarding their inputs and off-takes.

2. Tolerances shall be applied:

(a) with regard to network users' daily imbalance quantity;

(b) on a transparent and non-discriminatory basis;

(c) only to the extent necessary and for the minimum duration required.

3. The application of tolerances may reduce a network user's financial exposure to the marginal sell price or the marginal buy price in respect of a part of or the network user's entire daily imbalance quantity for the gas day.

4. The tolerance level shall be the maximum quantity of gas to be bought or sold by each network user at a weighted average price. If there is a remaining quantity of gas that constitutes each network user's daily imbalance quantity which exceeds the tolerance level, it shall be sold or bought at marginal sell price or marginal buy price.

5. The design of the tolerance level shall:

(a) reflect the transmission network's flexibility and network user's needs;

(b) reflect the level of risk to the network user in managing the balance of its inputs and off-takes;

(c) not undermine the development of the short term wholesale gas market;

(d) not result in an unduly excessive increase of the transmission system operator's balancing actions' costs.

6. The tolerance level shall be calculated on the basis of each network user's inputs and off-takes, excluding trades at the virtual trading point, for each gas day. The subcategories shall be defined under the applicable national rules.

7. The tolerance level applicable for a non- daily metered off-take defined under the applicable national rules shall be based upon the difference between the relevant forecast of a network user's non- daily metered off-takes and the allocation for non- daily metered off-take.

8. The tolerance level may include a component calculated taking into account the application of the deviation of the forecast of a network user's non- daily metered off-takes which is the amount by which the relevant forecast:

(a) exceeds the allocation for non- daily metered off-take in case the daily imbalance quantity is positive;

(b) is less than the allocation for non- daily metered off-take in case the daily imbalance quantity is negative.

## CHAPTER XI FINAL AND TRANSITIONAL PROVISIONS

### *Article 51*

#### **Release of surplus transmission system operator's flexibility**

1. Where long- term contracts for the procurement of flexibility in force at the date of **expiry of the deadline for transposition** of this Regulation provide the transmission system operator with a right to off-take or input specified volumes of gas, the transmission system operator shall aim to reduce these amounts of flexibility.

2. While determining the amount of surplus flexibility available for input or off-take under a long- term contract in force, the transmission system operator shall take into account the use of the short- term standardised products.
3. The surplus flexibility may be released either:
  - (a) pursuant to the terms and conditions of the existing contract where it contains provisions permitting to reduce the gas quantity committed and/or to terminate the existing contract; or
  - (b) as follows in the absence of such contractual rights:
    - (i) the contract remains in force until its termination pursuant to the applicable terms and conditions;
    - (ii) the contracting parties shall consider additional arrangements in order to release back to the market any surplus gas not required for balancing purposes to give access to the other network users to greater amounts of flexibility.
4. Where the contract in force provides for reducing the flexibility by amounts consistent with the surplus availability, the transmission system operator shall reduce such flexibility as soon as reasonably possible as from the **expiry of the deadline for transposition** of this Regulation or as soon as the existence of the surplus can be established.
5. The transmission system operator shall consult stakeholders on specific proposals to be implemented as interim measures for release of any surplus flexibility under a long- term contract in force.
6. The transmission system operator shall publish information on its balancing actions undertaken pursuant to the long- term contract in force.
7. The national regulatory authority may set targets for the proportion by which the long- term contracts should be reduced in order to increase the liquidity of the short term wholesale gas market.

## **Article 52**

### **Transitional provisions**

1. The national regulatory authority may allow the transmission system operator, based on its justified request, to comply with the provisions of this Regulation within a twenty four-month period as from **12 December 2020**, provided no interim measure referred to in Chapter X is implemented by the transmission system operator. In case the national regulatory authority makes use of this possibility, this Regulation shall not apply in the balancing zone of that transmission system operator to the extent and for the duration of the transitional period laid down in the decision of the national regulatory authority.
2. The national regulatory authority shall take and publish a motivated decision in accordance with paragraph 1 within three months following the receipt of such a request. Such a decision shall be notified, without delay, to the **Energy Community Regulatory Board and the Energy Community Secretariat**.

**Article 53**

**Entry into force**

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<sup>1</sup> Replaced by deadlines set by PHLG Decision 2019/01/PHLG-EnC.