

Accompanying Document

for the

Network Code

on Gas Balancing of

Transmission Networks

I. INTRODUCTION

1. Background

This document, entitled “Accompanying Document for the Network Code on Gas Balancing of Transmission Networks”, includes a Report on the Stakeholder Support Process (‘SSP’) and accompanies the Network Code on Gas Balancing of Transmission Networks (ref. BAL350-12) (‘Network Code’) submitted to Agency for Cooperation of Energy Regulators (ACER) on 26 October 2012.

The Network Code has been prepared by ENTSOG, an organisation currently comprising 39 transmission system operators from 23 European countries, in line with its duties under Article 6 of the Regulation¹ and following the receipt of the Invitation Letter dated 4 November 2011² sent by the European Commission (‘EC’) to draft a network code on Gas Balancing in Transmission Systems to be in line with the Framework Guidelines on Gas Balancing in Transmission Systems (‘FG’), issued by ACER on 18 October 2011³.

This document shall not be construed as part of the Network Code, nor should it be considered to give rise to any specific right or obligation whatsoever to ENTSOG or any of its members as to any stakeholders.

The purpose of this document is to set out the results of the SSP and clarify the chosen policy approaches, decided upon by ENTSOG, in relation to significant topics in the Network Code. It follows on from the Analysis of Decisions document released for the SSP which explained the refinements made to the initial draft Network Code further to the public consultation thereon held between 13 April and 12 June 2012 (ref. BAL241-12).

It should be noted that ACER issued informal recommendations to ENTSOG during the stakeholder feedback period, the “Preliminary Reasoned Opinion on the draft Network Code on Gas Balancing in Transmission Systems” (‘Draft Opinion’), dated 20 June 2012 and confidential to ACER and ENTSOG.⁴ The Draft Opinion was accompanied by a report of the Brattle Group⁵ (‘Brattle Report’), also confidential to ACER and ENTSOG⁶. These recommendations were duly considered by ENTSOG for the purpose of producing the Network Code implemented further to the Draft Opinion and the Brattle Report.

¹ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.

² European Commission, letter with subject “Invitation to draft a network code on Gas Balancing in Transmission Systems,” Ref. Ares (2011)1173099 - 04/11/2011, p.1.

³ ACER, “Framework Guidelines on Gas Balancing in Transmission Systems,” FGB-2011-G-002, 18 October 2011.

⁴ As was made known to the public by Konrad Keyserlingk, Ofgem/ACER, at the BAL NC Refinement Workshop held by ENTSOG on 26 July 2012.

⁵ The Brattle Group, “Analysis of ENTSOG’s draft network code on gas balancing,” report contracted by Ofgem for ACER, 12 June 2012.

⁶ See footnote 4.

2. Scope and structure of document

This document is structured as follows:

Part I: INTRODUCTION

Part II: HARMONISATION FOR ADVANCING THE BALANCING TARGET MODEL AND THE INTERNAL MARKET

ENTSOG has sought to develop a Network Code in line with the FG. Where the FG leave room for ENTSOG to exercise discretion, ENTSOG, as mandated by the EC, should endeavour to favour European harmonisation, rather than specific solutions on national and/or regional level. In this part, ENTSOG presents the rationale for its interpretation of certain topics within the FG in favour of European harmonisation.

Part III: STAKEHOLDER SUPPORT PROCESS REPORT

Part IV: EXPLANATION OF REFINED NETWORK CODE AND NETWORK CODE

In this part of the document, ENTSOG describes any revisions of the Network Code since the Stakeholder Support Process and the rationale for such changes.

3. Policy context for the Network Code

The optimal formulation of an EU-level balancing regime depends on the rules applying in a range of other areas. Therefore, in developing the Network Code, ENTSOG has had to make assumptions about the eventual text of these rules in the other areas in order that the code is sufficiently specific for immediate application upon its entry into force. Any change or deviation from such assumptions affecting provisions of the Network Code will, as a consequence, require adjustment to the extent necessary.

In light of the above, ENTSOG cannot guarantee that the eventually adopted Network Code will not require adjustment should any change render the framework set out in it no longer appropriate. In this case, the adopted Network Code will have to be amended through the appropriate processes accordingly.

In the subsections which follow, ENTSOG has already identified areas which may affect the Network Code in future.

Nominations elements of EC-planned network code on Interoperability

In the development of the initial draft Network Code, ENTSOG and stakeholders came to the view that its implementation would not be possible without nomination (respectively re-nomination) rules being adopted and implemented concurrently. In this context, ENTSOG requested clarification about the scope of nominations (respectively re-nominations) and received the consent of ACER that some elements of the foreseen EU-defined nomination (respectively re-nomination) rules be included in the Network Code [for more detail, see Part II, Chapter 5].

The nominations (respectively re-nominations) section of the planned network code on interoperability will complement the Network Code by addressing the operational processes and data exchange needed to underpin the nomination (respectively re-nomination) rules.

Interactions with the capacity allocation mechanism (CAM) network code and EC Decision on capacity management procedures (CMP)

With nominations (respectively re-nominations) being included in the Network Code and nominations (respectively re-nominations) being an element of the CAM draft Network Code⁷, interdependency has been created between the two network codes. In addition, the recent Commission Decision on CMP⁸, commonly referred to as the 'CMP Guidelines,' has implications and/or interactions with both network codes.

CAM draft Network Code

As regards the CAM draft Network Code, there are interactions between the timing of day ahead and within day capacity auctions, the impact of CMP and the schedule of initial nominations and re-nominations. The development of the draft Network Code has prompted detailed discussions within ENTSOG on the issue of nominations. These discussions highlighted a few areas within the CAM draft Network Code in which changes were seen to be necessary in order to ensure that the CAM draft Network Code is fully workable and compatible with other network codes.

On 6 March 2012, ENTSOG delivered the final draft CAM Network Code to ACER. On 5 June 2012, ACER provided ENTSOG with its reasoned opinion. Following a letter from the EC of 18 July 2012 establishing a re-submission deadline and a stakeholder engagement process⁹ held from 27 July through 10 August 2012 to inform some additional refinements, ENTSOG re-submitted the CAM draft Network Code to ACER on 17 September 2012.

CMP Guidelines

The CMP Guidelines have also been considered in the formulation of the draft Network Code. Specifically, the CMP Guidelines require an amount of unused day ahead capacity (if any) at Interconnection Points ('IPs') to be released in the day ahead capacity auction. Accordingly, having the necessary information from the nomination process is required before the day ahead capacity auction begins. The timings proposed for the day ahead nominations have been designed to be compatible with this process.

⁷ ENTSOG, "Network Code on Capacity Allocation Mechanisms - (Ref. CAP210-12).

⁸ Commission Decision of 24 August 2012 on amending Annex I to Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks [OJ L 231 p. 16, 28/08/2012].

⁹ ENTSOG, "Stakeholder Engagement Document: Potential Modifications to the CAM NC Following Receipt of ACER Opinion," (Ref. CAP267-12) 27 July 2012.

II. HARMONISATION TO ADVANCE TO BALANCING TARGET MODEL AND INTERNAL MARKET

In the sections which follow, ENTSOG presents the rationale for its interpretation of certain topics within the FG in favour of European harmonisation– a key objective set forth under ‘Third Energy Package’¹⁰:

- > Trade notification;
- > Cross-border cooperation proposals;
- > Operational balancing;
- > Trading Platform and Trading Platform Operator roles;
- > Nomination (respectively re-nomination) rules;
- > Daily Imbalance Charge;
- > Within Day Obligations;
- > Neutrality arrangements;
- > Information provision;
- > Linepack Flexibility Service;
- > Interim measures.

1. Trade notification

A key characteristic of a market-based balancing regime is that Network Users can transfer gas between their Portfolios; this will provide Network Users the opportunity to balance their Portfolios by trading Flexible Gas. Each balancing regime should have a service that allows for such a transfer of gas; the initial draft Network Code establishes this service through the trade notification. Such a service is not specified in the FG. ENTSOG believes a service like this is necessary in all entry-exit systems. The transfer of gas has an equal and opposite effect on the Portfolios of the two Network Users. The service provides a common mechanism for the transfer of gas between two Portfolios and thereby facilitates trade of gas between Network Users. This enables market-based balancing rules and market-based procurement of flexible gas by the TSO. The Network Code has kept this service as simple as possible. It is not specific for prompt trading or trading forward or futures and therefore enables gas trading in all periods. In effect it serves to enable gas transfer between Network Users. The consequence of the trade notification is that it affects the imbalance position of the parties to the transaction. How trading is organised is beyond the scope of the Network Code and therefore not organised under the trade notification; this is left for the market to determine. The trade notification service also enables TSO to have market-based access to Flexible Gas. This is covered within operational balancing.

The trade notification service is based on services that already exist in several Balancing Zones (e.g., the Balancing Zone(s) of National Grid, Interconnector UK, GTS, Gaspool, NetConnect Germany, GRTgaz) and which have proven to be effective and integrate well without problems.

In a trade notification, there are two parties: the acquiring Network User and the disposing Network User (the buyer and the seller respectively). Each submits a trade notification and the information they submit has to be consistent. If the information in both trade notifications is not consistent then there must be a rule, a default rule, on how to handle this set of inconsistent trade notifications.

¹⁰ Package of two EU directives and three regulations (including Regulation 715/2009), adopted in July 2009, with the objective of creating a genuine internal market for energy.

Processing a trade notification refers to the administrative process; in effect a gas transfer takes place with no direct consequences on operational issues. Therefore, the time between receiving a trade notification and confirming it to the Network Users (either explicitly or implicitly) can be shorter than the time needed by the TSO to confirm a nomination on IPs; these lead times do not need to be the same and the lead time for trade notifications should be as short as reasonably possible. Linked to this is the latest time at which a trade notification can be submitted prior to the time at which it takes effect. In a Balancing Zone in which Network Users are incentivised to manage their within day positions a trade notification takes effect some time during the day. If trade notification lead times are as short as possible and Network Users can submit trade notifications on a continuous basis then the TSO can accept trade notifications as close as possible to this effective time, giving Network Users better opportunity to manage their within day position. In Balancing Zones in which there are no restrictions on Network Users' within day positions the trade notifications take effect at the end of the day. To balance their Portfolio(s) Network Users should be allowed to submit trade notifications until a time close to the end of the Gas Day.

2. Cross-border cooperation proposals

The FG mandate that the network code on gas balancing shall include proposals for TSOs to implement cross-border balancing projects in the European gas regions. At the third Stakeholders' Joint Working Session ('SJSW'), held on 9 February 2012, ENT SOG and stakeholders recognised that it would not be practical for a network code, as EU regulation to be adopted at a specific but yet unknown date, to include detailed project proposals. The technical and economic feasibility of any project proposal included in the network code may have changed significantly within the time period of finalising the network code and its eventual adoption. The Network Code therefore focuses on establishing processes with stakeholder involvement where necessary that can lead to the identification of new cross-border projects.

Article 9(8) lists a number of types of cross-border balancing projects that the TSOs can propose. ENT SOG recognises that giving examples is not common practise in EU legislation, but has maintained the list of examples to be in line with the FG.

This process [see Article 10] starts when two or more TSOs have identified an opportunity to further integrate their Balancing Zones. These TSOs will consult stakeholders on proposals for this further integration. The result of such consultation will be submitted to ENT SOG. ENT SOG then will consolidate the results of different consultations and inform the relevant national regulatory authority ('NRA') and ACER. TSOs will work within ENT SOG to consider comments made by the NRAs and ACER. Finally, the TSOs will complete the proposals and submit them to the competent NRAs for approval.

In the Network Code, the test "where technically feasible and economically reasonable" was moved at the beginning of Article 9 (General provisions) so that it applies to the three forms of TSO cooperation: merging entry and exist zones, creating cross-border Balancing Zones and other means such as market coupling. Any project to further integrate the European gas market should only be implemented if it is technically feasible and the investment in such a project shall only be made if it is economically reasonable. The technical feasibility and the cost benefit analysis shall be considered also taking account of other measures in the CMP Guidelines and the CAM draft Network Code.

3. Operational balancing

TSO needs access to Flexible Gas to keep the transmission network within operational limits and to manage its end-of-day position, to reflect forecast demand levels and/or to manage the exposure to

Daily Imbalance Charges. In a market-based balancing regime the TSO should use market-based mechanisms when it needs Flexible Gas and trade with Network Users. For this purpose, the draft Network Code introduces a small range of Short Term Standardised Products ('STSPs'). These STSPs, traded on a within day or day ahead basis, will provide the TSO access to Flexible Gas. If the Liquidity is well developed then the four products should be sufficient to manage the end-of-day position of the transmission network and, in combination with Within Day Obligations ('WDOs'), also manage the within day positions of the transmission network. Here not only the total Inputs and Off-takes are important, but also the distribution of gas over the transmission network; in an entry-exit system Network Users have a requirement to balance their Inputs and Off-takes but, in general, do not have obligations to have their Inputs and Off-takes at specific Entry and Exit Points; the distribution of gas over the transmission network may therefore need to be addressed by the TSO in its residual balancing role.

Some of the STSPs will require some parameters to be defined before they can be implemented. For the Locational Products, the TSO has to define how the relevant Entry and Exit Points have to be specified and what groups of Entry-Exit Points can be used in trading Locational Products. Also, when trading Locational Products it must be clear which of the Trading Participants have the obligation to make the associated flow change(s). Current practice is that Network Users initiate locational trades and the TSO accepts the best offer. The draft Network Code has made this the standard practice by including that the originating party has the obligation to make the re-nomination; it is clear that the TSO cannot make re-nominations at Entry-Exit Points. This mechanism is already in place in a number of balancing regimes, but stakeholders have asked to allow for alternative mechanisms where these might be more appropriate. Such alternative mechanisms shall ensure that it is clear in advance to both Trading Participants in the transaction which Trading Participant has to make the re-nomination and the mechanism shall prevent that the obligation will fall on the TSO.

The Network Code defines a merit order, giving guidance in choosing the tool – one of the STSPs or the use of a Balancing Service – to manage the position of the transmission network. The merit order promotes market-based balancing by prioritising the use of Title Products, which is likely to be used by Network Users as well to manage their positions, over Locational and Temporal Products, which are initially designed as a tool for the TSO, and over the use of Balancing Services. This is likely to minimise the need for the TSO to buy long term Balancing Services, which is considered to be keeping Flexible Gas away from the market.

The TSO should ensure that the Trading Platform(s) it uses to trade STSPs for balancing purposes meet a number of criteria, to ensure transparent and non-discriminatory trading. Because the prices established on such a Trading Platform will determine the applicable prices in the Daily Imbalance Charge, it is important that all transactions concluded at the Trading Platform are duly notified; both Trading Participants in the transaction shall ensure that the correct trade notifications are made, specifying the agreed amount and agreed delivery period.

When the TSO cannot ensure that the requirement on a Trading Platform are fulfilled, then the Network Code offers the option for the TSO to establish a Balancing Platform. This could for example be the case where the TSO only needs to undertake a Balancing Action on very rare occasions and there are only a small number of Network Users active in the transmission network.

When the TSO has access to a Balancing Service the marginal cost of using such a service can be lower than the marginal cost of trading in STSPs. The objective is a market-based balancing regime that reduces the access to Flexible Gas through long-term contracts and the use of the merit order contributes to this objective. However, the use of STSPs might not always be cost optimal; any

assessment of efficiency will have to take consideration of TSOs role in promoting Liquidity. It is important that this is taken into account by the TSO when it proposes an incentive mechanism and for the NRAs in approving such mechanism and when reviewing TSOs' performance. The Network Code allows the TSOs to use Balancing Services as an alternative, when trading STSPs will not provide the required response.

The effects of trading a STSP and the use of a Balancing Service should be the same: to achieve a change in flows onto and/or leaving the transmission network. The main reason the TSO cannot always and/or under all circumstances rely on trading STSPs is potential lack of Liquidity; in all markets the TSO cannot rely on the market to offer the right product at the right time, especially in Locational and Temporal Products. Other reasons include the response time of the market, it takes time to conclude a transaction and there is a lead time for the transaction to take effect; Balancing Services can have very short response times.

The Network Code recognises that there are situations in which the TSO can trade in an adjacent market. This can be the case when the prices in the adjacent market are generally more favourable than in the TSO's own market, taking account of the price for cross-border capacity between both Balancing Zones. If the TSO believes there is merit in trading in an adjacent market, it can ask the NRA for approval. In judging the request, the NRA can investigate the reasons for the significant price difference with the adjacent market and can consider alternative measures to reduce the price spread with the adjacent market.

If the TSO trades in an adjacent market, the use of this Balancing Action shall not limit the access and use by the Network Users of capacity at the IP concerned. The applicable terms and conditions shall be reconsidered on an annual basis by the TSO and the NRA. In NRA's approval, which is granted for a specific period and/or shall be reviewed on a regular basis, the NRA and TSO can agree on the circumstances under which the TSO can trade in adjacent markets. This can be a very general description. For example it may confer an opportunity to trade in the adjacent market at any time where the prices in the adjacent market have been frequently more favourable than alternative Locational Products in the local market. Both NRA and TSO should aim to improve Liquidity in their own market to the extent reasonable.

Most TSOs are regulated entities and thus subject to revenue or price control mechanisms which determine the major component of TSO income stream. However, under the Third Energy Package the role of a TSO extends far beyond that of asset owner and operator. Accordingly, additional incentive mechanisms may be desirable to encourage and reward the efforts of TSOs to support, stimulate and encourage proper market functioning.

As regards TSO procurement of Balancing Services under the Network Code, Article 16(4) allows for the possibility of the duration of a Balancing Service being more than one year subject to NRA approval. The FG do not foresee the possibility of allowing for the use of longer-term Balancing Services when the Network Code is fully in force, often referred to as the Balancing Target Model¹¹ ('BTM'). ENTSOG maintains, however, that the policy objective of minimising the TSOs balancing role – especially with the use of long-term products – has to be balanced against the objective of encouraging investment in the services required by the TSO. In some circumstances there may be merit in allowing long term arrangements.

¹¹ See the CEER Vision for a European Gas Target Model Conclusions Paper, C11-GWG-82-03, 1 December 2011, which establishes the concept of the Gas Target Model (GTM). The BTM, with reference to the GTM, is the liberalisation rules as they would apply to balancing in transmission systems.

As regard to the establishment of incentive mechanisms for operational balancing, to be aligned with the FG, the Network Code provides that a NRA may design incentive mechanisms in order to encourage TSOs' compliance with prioritising the trade in STSPs. ENTSOG notes, however, that it is to the Member State to decide whether the NRA only has the right to approve balancing rules or whether its powers extend beyond that and, if so, to what extent; the Network Code cannot give additional powers to any NRA.

The Network Code proposes [see Article 17(2)] that a TSO also can design incentive mechanisms, where being consistent with the general principles set out in this Network Code and when having conducted a related public consultation. Such TSO-designed mechanisms could be seen by ACER as going beyond the FG. ENTSOG, however, believes that a TSO itself is best-placed to design such mechanisms, as evidenced in the early balancing network code(s) in GB.

4. Trading Platform and Trading Platform Operator roles

To keep the transmission network within operational limits and to manage its end-of-day position, the TSO needs access to Flexible Gas.

In a market-based balancing regime, the TSO should use market-based mechanisms when it needs Flexible Gas; the TSO should trade with Network Users. Balancing is an operational activity where the need for Flexible Gas manifests itself within the day – or at best day ahead. This leaves the TSO little time to look for Flexible Gas. A Trading Platform will help to ensure transparent and non-discriminatory access to flexible gas on an equal footing with other Network Users. Trading will be better organised through standardised contracts and processes.

Whilst a Trading Platform is not mandated in each Balancing Zone it is anticipated that exceptions will be rare. Trading Platforms need not be operated by the TSO. The TSO would have an important role in defining the necessary services and support of the Trading Platform. The TSO will be using the Trading Platform for its market-based access to Flexible Gas. The cooperation between the TSO and the Trading Platform Operator ('TPO') is important notwithstanding their divergent interests. Without being too prescriptive on the TPO the Network Code seeks to provide sufficient guidance for the establishment of Trading Platforms.

Where a Trading Platform meeting the requirements of the Network Code cannot be (or is not likely to be) established, the TSO can opt to introduce and operate a Balancing Platform directly. In this way the TSO has an alternative if it cannot reach an agreement with TPO(s) to meet the requirements of a Trading Platform as specified in the Network Code. If a Trading Platform exists but offers only a subset of the STSPs which are relevant for the TSO, then this Balancing Platform can supplement the product set of the Trading Platform and co-exist with it. The reason for this is that operating a Trading Platform is not a primary task for TSOs, and the additional complexity of meeting all the requirements of operating a Trading Platform does not warrant the Network Code to place such an obligation on the TSO.

The minimum requirements that a Trading Platform, on which the TSO undertakes Balancing Actions by trading STSPs, has to meet are specified in Article 14(2).

The Network Code refers to the "relevant" products in a Balancing Zone; all four STSPs may not be relevant in all Balancing Zones. For example, the Temporal Products should not be relevant in Balancing Zones where there are no System-wide WDOs or Portfolio WDOs.

The TPO can provide more support to the TSO and Network Users in relation to trades done on its Trading Platform. One addition would be to extend the Trading Platform to an exchange, with

cleared services. There may be value for the TSO and the market as a whole in using exchange-based trading for the purpose of undertaking Balancing Actions.

The trades on the Trading Platform will feed into the Marginal Buy Price and the Marginal Sell Price and determine the Daily Imbalance Charge, the main balancing related cost for Network Users. To be able to manage its exposure to this Daily Imbalance Charge and to give a Network User incentives to manage its end-of-day position, it is important that Network Users know how the Marginal Buy and Sell Price evolve during the day and what would the prices be if no additional relevant transactions are concluded. The Network Code requires that either the TPO publishes this price evolution or provides the TSO with sufficient information to publish it. It is important that all Network Users have access to this price progression information, not only the those Trading Participants who are customers of the Trading Platform. It is also important that this information is updated frequently to mitigate the risk of having to trade later in the day when prices will have changed.

Because prices established on the Trading Platform feed into the Marginal Buy and Sell Price and because the TSO needs to be sure that transactions concluded at the Trading Platform are firm, to minimise its need to undertake Balancing Actions, it is important that all trades at the Trading Platform are properly notified to the TSO; the possibility to have a transaction registered at the Trading Platform that is not duly notified to the TSO will decrease the confidence in the Marginal Buy and Sell Prices and potentially undermine the proper functioning of the balancing regime. This is the objective of Article 14(2)(f). One aspect in this context is that all Trading Participants on the Trading Platform can make trade notifications. This is explicitly covered in Article 14(8) and (9). For each new Trading Participant the TPO will have to check with the TSO if this Trading Participant is allowed to make trade notifications. The TSO and TPO will have to agree on a mechanism that the Trading Participant cannot trade on the Trading Platform anymore if it has lost its right to make trade notifications.

The Trading Platform provides the main access to Flexible Gas for the TSO, therefore it is important that the Trading Platform is open seven days per week and 24 hours per day. If there is no Trading Platform which can provide sufficient opening hours then the TSO either has to establish its own Balancing Platform or to use Balancing Services outside opening hours of the Trading Platform. Both options are not the preferred solution but must be considered as fall back when TPOs cannot provide the necessary support.

The Network Code is not explicit on whether or not TSO should trade on exchanges. Differences between exchange-based trading and over-the-counter trading on a Trading Platform are not expected to pose undue barriers to cross-border trade or to entry into the market; the choice is left as a matter to be determined taking account of local circumstances.

A TPO could offer more support to the market than specified in the Network Code without directly moving towards an exchange. The implementation of such additional support depends on local circumstances. A higher level of support will benefit the functioning of the market, but variance in forms of platforms and product types is not seen to impose undue barriers to cross-border trade. At the time of drafting of the Network Code, different platforms are operated in the EU and operated by different operators; each platform offers similar but slightly different services. These differences were not raised as issues during the development of the initial draft Network Code. Accordingly, the Network Code specifies sufficient, but not overly burdensome levels of harmonisation and leaves decisions on additional services to the local level.

Depending on the services the TPO offers, an agreement between the TPO and the TSO has to be reached on how these services are provided. In addition, this will also require changes in the

contractual arrangements between the TSO and Network Users and between TPO and Trading Participants. In response to feedback in the SJWS process, the Network Code does not specify what these contractual arrangements should cover and how they are to be reached (e.g. the STSPs make no reference to a block size so it is acceptable that this will be agreed on a local basis) while paying due regard to cross-border cooperation.

5. Nomination (respectively re-nomination) rules

The FG provide that the network code “sets out criteria for nomination and renomination procedures to be harmonised” at IPs. The EU-rules for nominations (respectively re-nominations) were foreseen by the EC to be a part of the planned network code on interoperability for which ACER’s formulation of the framework guideline¹² has since been completed.

In the SJWS sessions, stakeholders expressed a clear view that the implementation of the eventual Network Code would not be possible without nomination (respectively re-nomination) rules at IPs being implemented concurrently. In this context, ENTSOG explored the possibility of such an approach with ACER.

In a written exchange with ENTSOG and the EC on 2 February 2012¹³, ACER invited ENTSOG to include nomination rules in the Network Code. “This should take into account,” ACER said, “stakeholder input, analysis of what the issues are (particularly in relation to the Balancing FG objectives and cross-border trade) and any other relevant interactions, including with capacity auctions (CAM), as well as the requirements of the balancing regime (including Network Users’ requirements). We would expect this to result in a proposal for harmonised renomination and nomination rules and lead times.”

In light of this guidance from ACER, which was implicitly supported by the EC¹⁴, ENTSOG increased the scope of the Network Code to include nomination rules at IPs. ENTSOG assumes that doing so will not be considered as a deviation from the FG by ACER or the EC but a necessary complement.

ENTSOG began and continues to work with the project team for the expected network code on interoperability (and relevant kernel groups in the Interoperability Working Group) on nomination (respectively re-nomination) rules. This is expected to ensure consistency between the nomination (respectively re-nomination) rules in this Network Code and the eventual draft network code on interoperability.

The Network Code foresees the co-existence of daily and hourly nominations at the borders of some Balancing Zones. The FG state, “If not covered by other legal obligations, the network code on gas balancing shall set out criteria for nomination and re-nomination procedures to be harmonised at both sides of the border at interconnection points and consistently across Europe”. There has been no demonstrable evidence (including from NRAs) that this presents a barrier to cross-border trade, although there are some points where specific issues have arisen and warrant further consideration. The Network Code [see Article 22] provides for a public consultation process with the purpose of identifying whether harmonised nominations (respectively re-nominations) should be submitted at both sides of this IP. This consultation shall consider at least: financial impact on TSOs and Network

¹² ACER, “Framework Guidelines on Interoperability and Data Exchange Rules for European Gas Transmission Networks,” FG-2012-G-007, 26 July 2012.

¹³ Extract from e-mail message from Konrad Keyserlink, co-chairperson of ACER’s Gas Balancing project team, to Nigel Sisman, ENTSOG, 2 February 2012; policy officers of the European Commission (Directorate-General for Energy, Unit B.2) were put in copy.

¹⁴ *Ibid.*

Users; impact on cross-border trade; impact on the daily balancing regime at the IP. Given that a relevant TSO or NRA may consult with relevant stakeholders on the need for harmonisation, this will ensure that the rules are designed to address the specific local circumstances of such hourly/daily Balancing Zone interfaces.

Another matter in this chapter of the Network Code that could be viewed as an elaboration on the FG is the proposed 3-year transition process for the implementation of the above mentioned rules for nominations (respectively re-nominations). The implementation of these rules will require considerable systems and operations development for both TSOs and their Network Users in terms of adaptation of regulatory and market arrangements and agreements. The Network Code thus allows for the gradual implementation of the target processes by affected parties. The transitional measures will be in line with the timescales for development of other EU legislative requirements (e.g., CAM, Interoperability network codes and CMP Guidelines) and can be applied for a maximum period of three years (i.e., two additional years beyond the one year provided as a minimum period for implementation).

6. Daily Imbalance Charge

The FG require the network code to establish a Daily Imbalance Charge mechanism which incentivises Network Users to balance their Inputs and Off-takes over a Gas Day. The FG specify many but not all elements of the desired mechanism. ENTISOG was thus tasked with making the policy choice for a number of parameters needed to define the Daily Imbalance Charge and its two critical elements: the calculation of Daily Imbalance Quantities; and the derivation of the Marginal Buy Price and Marginal Sell Price.

The FG prescribe that locational and temporal transactions should be excluded from the marginal price setting process. The Network Code, however, allows TSOs to include Locational Product trades in the marginal prices in cases where it is carrying out a significant amount of Locational Product trades, subject to NRA approval. With increasing Balancing Zone size, the TSO's need for Locational Product trades is likely to increase. In certain circumstances, without due account of the locational pricing, this could mean the prices of TSO's Balancing Actions become separated from the marginal price setting and may result in an inadequate balancing signal being sent to Network Users and delivery incentives of those having accepted locational bids and offers.

7. Within Day Obligations

In the course of the SJWS process and in bilateral exchanges between ACER and ENTISOG¹⁵ during the Network Code development process, it was suggested that there would be value in ENTISOG considering any additional criteria deemed to be lacking in the list included in the FG. ENTISOG accepted this invitation, positing the criterion "analysis of the effect on cross-border trade includes the potential impact on adjacent Balancing Zone" in the initial draft Network Code – and now the Network Code [see Article 32(8)e]. The use of WDOs can have an impact on an adjacent Balancing Zones, for example if the price of Flexible Gas, either explicitly in the market or implicitly through Within Day Charges, differs in both Balancing Zones. Before making a proposal to introduce WDO it is important to have a good view of the potential impacts on adjacent Balancing Zones to prevent to the extent possible any adverse effects.

¹⁵ E-mail message from Konrad Keyserlink, co-chairperson of ACER's Gas Balancing project team, to Nigel Sisman, ENTISOG, 2 February 2012; policy officers of the European Commission (Directorate-General for Energy, Unit B.2) were put in copy.

In its Draft Opinion, ACER observed that ENTSOG's initial draft Network Code "does not reflect the principle in the framework guideline, relating to when WDOs may be introduced and what they should look like. The network code would benefit from a better definition of WDOs". In response, ENTSOG undertook to address this "when" by including this in the Network Code [see Article 31(1) and (2)] by establishing the explicit condition, as required in the FG that WDOs can only be introduced if it is necessary to incentivise Network Users to manage their within day position in order to minimise the role of the TSO and to keep the transmission network within its operational limits. To further define WDOs and prescribe their characteristics, the Network Code establishes three types of WDOs. And, of course, any such TSO-proposed WDOs will be subject to public consultation and NRA approval.

Identifying WDO types

In an entry-exit system, there are a number of requirements that have to be met by the Inputs and Off-takes for a safe and secure operation of the transmission network, such as:

- > the position of the transmission network must be within the operational limits at all times during the Gas Day, the difference between the total Off-take and the total Input must be within the operational limits of the transmission network;
- > the position of a sub-system must be within the operational limits of that sub-system at all times during the Gas Day;
- > it must be possible to move the gas through the transmission network, from where Network Users make it available to the TSO to where customers take it off the transmission network;
- > the quality of the entry gas has to be made to match the quality of the exit gas, for example, a Network User delivering high calorific gas into the transmission network that supplies an end consumer using low calorific gas.

The first requirement cited above can be met by the transmission network itself, for example, if the cumulative difference between total flows onto and off the transmission network is less than the linepack available in the system. This is important especially where the TSO can be confident of a specific entry profile, for example, (reasonably) flat over the day; it then can manage this requirement without any additional provisions. In an entry-exit system where the operational limits are too tight to cover all potential flow scenarios, the first requirement can be ensured by incentivising Network Users to manage their Inputs and Off-takes within day to help keep the transmission network within its operational limits.

Meeting the second and third requirements cited above is typically the role of the TSO. A possible exception is where large and/or sudden changes on an Entry/Exit Point can cause locational problems in the network. In such cases, the TSO can put specific obligations on either the Network User or the adjacent operator/end consumer that limit the flow changes on that Entry/Exit Point.

Where necessary different TSOs have different models for meeting the quality requirement. In some systems, separate Balancing Zones are defined for different markets; in other systems, the TSO may have a role to convert gas from one quality to another.

The pre-requisites for applying WDOs and the criteria that WDOs have to meet, as specified by the FG, are already very tight. To further define WDOs and harmonise their design the Network Code limits WDOs to one of three types.

8. Neutrality arrangements

In the unbundled world of structurally separated TSOs established by the Third Energy Package and with key policy decisions being made at the level of an ACER-formulated framework guidelines, the role of a TSO changes significantly. Essentially, the role of a TSO within balancing becomes primarily one of market facilitation. Commodity exposures under such a policy regime could be large, therefore requiring new approaches to cash-flow treatment and credit risk management - hence neutrality. That being said, it is important that the TSO faces appropriate incentives to be efficient in its facilitation role.

The FG propose for TSOs to be cost neutral in their Balancing Activities and allows NRAs to foster TSO efficiency in their balancing role by instituting incentive mechanisms. An objective of the FG is that a TSO shall neither gain nor lose from its Balancing Activities and therefore that the TSO shall pass to Network Users any costs or revenues arising from these activities. However, the FG provide little guidance as to how the concept should be developed.

Taken in conjunction with requirements in the Regulation, it is clear that balancing regime charges are to be levied and identified separately from other transmission charges and that the imbalance charges shall be levied on the Network Users that were out of balance at the end of the Gas Day. The FG also require that the TSO shall only recover from all Network Users, any costs incurred from undertaking Balancing Activities that are not directly attributable to a Network User.

The FG propose no specific formulation of the detail of the neutrality mechanisms. However, at a minimum, a number of key principles need to be established in the Network Code to define the charges and revenues which will be included in neutrality. By definition, the net effect of the cash flows will be either credited (if the net financial consequence is cash generative) or recovered (if the net financial consequence is a cost) from Network Users. Therefore, the resulting Balancing Neutrality Charges (or credits) could be considered a tax. This consideration raises the challenging issue of over which tax base should charges (or credits) be levied or credited and how the most appropriate apportionment might be defined.

The Network Code foresees a methodology for Balancing Neutrality Charges calculation and apportionment that will be subject to approval by the NRA.

However given the neutrality principle TSOs have an important responsibility to be efficient when performing their market facilitation role. Given the complex interactions within the balancing regime any assessment of TSOs performance must have due regard to at least information and time available to the TSO and prevailing circumstances when deciding on Balancing Actions. Therefore, as an alternative to either highly determined prescriptive rules based balancing approaches or inefficiency assessments (as defined above), focussed incentives could be considered to ensure TSO attention on objective and measurable performance measures that will align TSOs interest with that of consumers. The Network Code therefore enables this.

9. Information provision

The Network Code is closely aligned with the FG in terms of information provision, albeit in a much more detailed manner. ENTSG would draw stakeholders attention to the requirement set out in the FG that "Until such an assessment has been completed and any changes implemented, Network Users may be subject to less onerous balancing obligations if transitional arrangements are agreed by the relevant NRA". An interpretation of this clause was included in Article 42(4) of the initial draft Network Code, which meant "a less onerous balancing obligation" was a tolerance for a WDO. Many stakeholders responded on this Item seeking for its removal as it raises confusion between the

Information Provision Chapter and the Within Day Obligations Chapter. In the Network Code, this item is no longer included.

10. Linepack Flexibility Service

The FG state that the Network Code should not prevent TSOs from allocating linepack to Network Users, if approved by the relevant NRA subject to certain conditions. The FG also specify that the decision by the relevant NRA to approve the allocation of linepack should be based on objective criteria, including the physical characteristics of the transmission network, whether the provision is consistent with Section 4 of the FG (i.e., Balancing Period and nominations (respectively re-nominations) procedures) and whether offering a linepack product would facilitate a more efficient use of the transmission network.

During the SJWS process considerable confusion became apparent among stakeholders about what is meant by linepack. A definition of linepack was established by the 'Directive'¹⁶ – namely, “the storage of gas by compression in gas transmission and distribution systems, but not including facilities reserved for transmission system operators carrying out their functions.” It was questioned, however, whether linepack was an amount of gas in the network or whether it was about the difference in maximum and minimum levels of gas which are acceptable in the system, that could be called 'linepack flexibility'. Based on SJWS discussion, the term “Linepack Flexibility Service” was coined for an end-of-day service that Network Users could use for their own daily balancing. The Network Code allows for this Linepack Flexibility Service provided it meets specific criteria to be assessed by the NRA.

11. Interim measures

In outlining the permissible interim measures during the transition to the BTM, the FG include the exemption: “For smaller markets, the network code shall allow TSOs to request from the relevant NRA to include flexible gas in LNG facilities as part of the Balancing Zone.” Whilst this provision has not been explicitly written into Network Code ENTSG understands that the requirement was to enable small new entrants using LNG to have daily balancing tolerances that might reasonably address their risk exposures. Subject to the NRAs approval this could be achieved using the tolerance provisions defined in the code during an interim period.

A matter in this chapter of the Network Code that could be viewed as an elaboration on the FG is the proposed process [see Article 48] for a TSO to submit its annual report, justifying the need for interim measures, with the actual roadmap. To ENTSG, this appeared to be a gap in the process outlined in the FG which needed to be filled.

Another matter which could be viewed as an elaboration on the FG is the proposal [see Article 49(i)] where an interim measure can be introduced due to insufficient Liquidity. The Network Code is aimed to foster Liquidity in the Short Term Wholesale Gas Market. This Liquidity in general will develop over time. However, circumstances might evolve that will decrease the Liquidity in one or more of the STSPs, in particular for Locational Products and Temporal Products. The TSO may then find itself in a position in which it will need to introduce a Balancing Platform for trading in these products. Evidence has shown that introducing a Balancing Platform takes some time so the TSO would need to prepare for such a step should this become necessary well in advance.

¹⁶ Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

III. STAKEHOLDER SUPPORT PROCESS REPORT

Please note: **The opinions expressed in this Chapter are those of respondents to the stakeholder support process on the draft Network Code on Balancing and not those of ENTSOG**

1. Summary

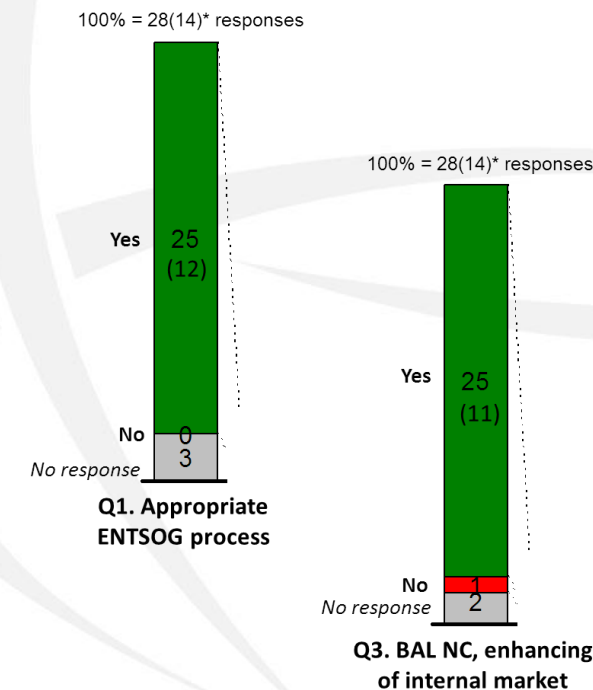
Stakeholders were asked during the Stakeholder Support Process (SSP) whether they were able to support the draft Network Code on Gas Balancing of Transmission Networks (the 'draft Network Code') as published by ENTSOG on 13 September 2012 and the process used to develop it.

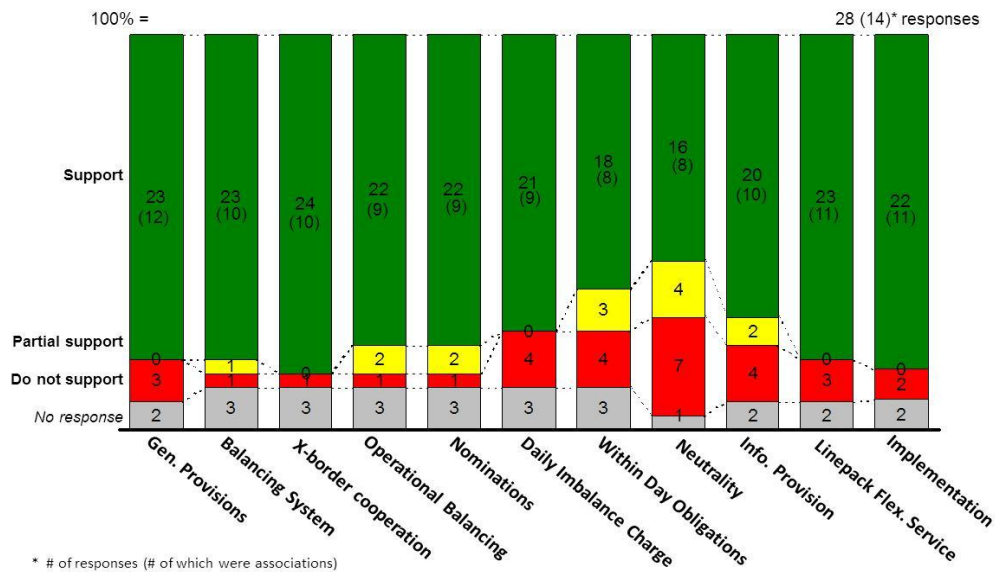
ENTSOG received 28 SSP responses, 14 of which came from national or European trade associations.

ENTSOG was recognised for running an open and responsive process and for the very high degree of stakeholder engagement which took place throughout the draft Network Code development [see figure below].

Overall, the responses indicate that the draft Network Code is well supported by the market. Some stakeholders, however, have remaining concerns about specific aspects of the draft Network Code and explained why they could not support it in full or in part [see figure on next page].

There was near unanimous support for the view that the harmonised balancing regimes to be instituted by draft Network Code will enhance the functioning of the internal gas market [see figure below].





2. Context

On 14 September 2012, ENTSOG published its draft Network Code and supporting documentation and launched the SSP in which users were asked whether they were able to support the proposed draft Network Code and the process used to develop it. The SSP closed on 28 September 2012.

This report summarises the responses received to the SSP, and is intended to inform the ENTSOG General Assembly's decision on the approval of the draft Network Code. No responses were marked as confidential; therefore, the full responses themselves are available on the ENTSOG website.

Respondents' views are set out as they were provided to ENTSOG. This report does not offer ENTSOG's view on the merits of these arguments.

3. Detailed views of respondents

Key: # of respondents (# of which are associations)

Question 1: Do you consider that the network code development process carried out by ENTSOG was appropriate, given the boundaries of the framework guideline? In particular, was the level of stakeholder engagement appropriate? If there is room for improvement, please inform us about possible suggestions for improvement.

25(12)	Support
0	Do not support
3(2)	No response

All respondents held the view that the network code development process that ENTSOG conducted was appropriate. Stakeholders commended ENTSOG for conducting the process to a high standard, ensuring a high level of transparency and stakeholder engagement. In particular, ENTSOG's cooperation with distribution system operators (DSOs) was seen as constructive. The web-streaming

of stakeholder workshops was greatly appreciated by stakeholders who were unable to travel. ENTSOG's outreach to stakeholders in the Central and Eastern Europe was also noted.

Question 2: Please complete the table below, indicating whether you support the relevant sections of the refined draft Network Code on Balancing, having regard to the process carried out and ENTSOG's aim to reflect the views of the majority of users during the development process.

Note: Respondents were asked to indicate whether or not they supported the NC and development process. No "Partial support" option was given. Nevertheless, some respondents took the opportunity to express partial support and these responses are noted here.

	I: General Provisions	II: Balancing System	III: Cross-border Cooperation	IV: Operational Balancing
Support	23(12)	23(10)	24(10)	22(9)
Partial support	0	1(0)	0	2(1)
Do not support	3(1)	1(1)	1(1)	1(1)
No response	2(1)	3(3)	3(3)	3(3)

	V: Nominations	VI: Daily Imbalance Charge	VII: Within-day Obligations	VIII: Neutrality Arrangements
Support	22(9)	21(9)	18(8)	16(8)
Partial support	2(1)	0	3(1)	4(1)
Do not support	1(1)	4(2)	4(2)	7(4)
No response	3(3)	3(3)	3(3)	1(1)

	IX: Information Provision	X: Linepack Flexibility Service	XI: Implementation, Interim Steps
Support	20(10)	23(11)	22(11)
Partial support	2(0)	0	1(0)
Do not support	4(2)	3(1)	2(1)
No response	2(2)	2(2)	3(2)

Question 3: Do you believe that the eventual implementation of the refined draft Network Code will enhance the functioning of the internal gas market?

25(11)	Yes
1(1)	No
2(2)	No response

There was a general consensus among stakeholders that harmonised balancing regimes will contribute to further market integration and that the implementation of market-based mechanisms instituted by the Network Code could play an important role in the development of liquidity in the European market(s).

IV. EXPLANATION OF REFINED NETWORK CODE AND NETWORK CODE

On 14 September 2012 ENTSOG launched the SSP using the refined draft Network Code which had **been** amended following detailed stakeholder feedback via a consultation process. This process was intended to establish stakeholder support for the refined draft Network Code.

On 2 October 2012, ENTSOG received a letter from ACER which, without prejudice to the final opinion to be provided by ACER, drawing attention to issues of concern, which will be of key importance in forming the ACER's opinion on this Network Code" ('Letter').

ENTSOG has made some specific amendments to the refined draft Network Code released for the SSP. In this section, we set out what these changes are and the rationale for their use. ENTSOG is of the opinion that these changes will enhance stakeholder support for the Network Code and minimise the extent of changes sought from ACER (if any) in their formal opinion on the Network Code.

1. Definition of Distribution System Operator

The Eurogas Distribution Committee highlighted to ENTSOG that in certain cases some roles of a DSO under this Network Code may be delegated to a distribution area manager or another agent.

In light of this a similar approach has now been taken for the definition of a DSO to that of a TSO which has been amended to: 'DSO' means a distribution system operator as defined in Article 2(6) of the Directive, or the entity responsible for keeping the Distribution System in balance, other than a TSO in accordance with and to the extent defined under the applicable National Rules.

This change is for clarity only and the information requirements from Distribution Systems will not change because of this amendment.

2. Confirmed Quantity for evidence of trade

In bilateral exchanges during the SSP process, both the EC and ACER commented on the use of Locational Products on Entry/Exit points at which there is no obligation to nominate. The logic is, that if there is no nomination, then there is no Confirmed Quantity and the Network User couldn't provide evidence of changed gas flows. This would restrict Locational Products to Entry/Exit Points at which there is an obligation to nominate and prevent the TSO and Network User to design other mechanisms to demonstrate the required flow changes. To remedy this restriction, ENTSOG has deleted the requirement that the flow changes has to be demonstrated through Confirmed Quantities. The Confirmed Quantity is still an appropriate mechanism to demonstrate flow changes; however, the Network Code should not preclude other mechanisms.

3. Requirement for a Trading Platform

ACER indicated to ENTSOG that Article 14(1) was not included in the FG and some held the view that this provision may not be appropriate. ENTSOG has considered this carefully and note that the requirement of Article 14(1) was too limiting, as it precludes a trading platform that supports trade in two or more Balancing Zones. Also, Article 14(1) was partly duplicated in Article 14(2) and (3), with these two items being more specific without the requirement to have a dedicated Trading Platform for each Balancing Zone. Article 14(1) puts the obligation on the TSO to take necessary measures towards the establishment of a Balancing Platform where the requirements on a Trading Platform cannot be met. Therefore, the deletion of Article 14(1) would not have any detrimental effect and provide greater clarity on roles and responsibilities.

4. Undertaking of Balancing Actions

In the Letter, ACER expressed a query with regard to the circumstances under which Article 12(1)(b) on when the TSO shall take Balancing Actions would be used. In order to add sufficient clarity on this matter, ENTSOG has added the following text “consistent with the economic and efficient operation of the transmission network”. This is an appropriate qualification that is anticipated to meet both the requirements of TSOs and ACER.

5. Information regarding Within Day Obligations

In the Letter, ACER asked ENTSOG to consider any specific stakeholder feedback on the requirement for information provision for WDOs. ENTSOG have consequently amended the specific criteria on this matter from information “Network Users have access to” to “Network Users are provided with”. This is believed to address the specific concern with regard to consistency with the FG.

6. Additional criterion for WDO

Following ACER request to include hub liquidity as a specific criteria in Article 32, ENTSOG has incorporated it. It should be noted that this is a further step beyond the FG which do not prescribe hub liquidity as a criteria, but as contributing analysis.

7. Consolidation of criteria for WDO

In the refined draft Network Code, ENTSOG set out a detailed list of criteria a WDO must meet in Article 32(2), for assessment by the NRA. Article 33(3) then sets out the criteria that the NRA must assess that the WDO meets, which includes an additional criterion that: “whether the benefits of introducing this Within Day Obligation in terms of economic and efficient operation of the transmission network outweigh any potential negative impacts thereof.”

Several stakeholders, including the EC and ACER, have indicated their preference for one single list of criteria for assessing WDO. Following due consideration, ENTSOG has moved the criterion referred to above into the list of the criteria within Article 32. Clearly, this places an extra onus on the TSO to satisfy that its proposal meets this criterion, rather than leaving it solely for NRA consideration.

8. Amendment of gas quantity requested

Article 23 in Chapter V on Nominations contains a clause setting out the circumstances where a TSO may amend the gas quantity requested under a nomination (respectively re-nomination). The first circumstance is in the case the gas quantity to be transported is likely to endanger the system integrity of the transmission network. The second circumstance for such an action is in the case the TSO has already taken actions for that Gas Day to manage the availability of capacity at that IP, with specific examples included in the refined draft Network Code. As per the Letter, ACER considers that this granted too wide a range of opportunity for TSOs to partially accept nominations (respectively re-nomination) requests. In consideration of this view, ENTSOG has replaced the text with the following: “The TSO may amend the gas quantity requested under a nomination (respectively re-nomination) in accordance with National Rules or legally binding agreements between the TSO and Network User.” Therefore, the Network Code does not confer any new rights on the TSO in relation to this topic. It is also clear that capacity management issues are beyond the scope of balancing.

9. Recovery of costs and revenues

The EC and ACER expressed concerns with Article 35 in respect of TSO recovery of any costs specifically indicating that inefficient costs should not necessarily be recovered..

Whilst ENTSOG supports that inefficiencies arising from imprudently incurred costs should not be rewarded the fundamental nature of the new balancing arrangements makes a precise determination of inefficient costs extremely difficult.

Within the new balancing arrangements the TSO has a critical role to enable a properly functioning market. The BAL NC prescribes many of the TSO activities and actions particularly via the definition of the TSO's residual role and the application of the merit order. A TSO does not have the same level of discretion and commercial freedom as other players in the market. The exposures a TSO faces must therefore be proportionate and aligned to promote proper market functioning. A full commodity price/volume exposure to TSOs would not be credible and could undermine the financial viability of TSOs.

The interactions inherent in the balancing regime imply that careful consideration of what might constitute "costs" is necessary. Neutrality, by definition, means that costs within the regime as seen from one actor's perspective may well be a revenue to another actor; a definition of which costs to consider may therefore be elusive.

Incentives can be introduced that focus TSO attention on delivering performance that is aligned with the proper functioning of the market. Any assessment of performance should be made based upon quantifiable performance measures rather than arbitrary assessments as described in ENTSOG's Analysis of Decision document (Reference). Such incentives should be based upon objective measures of performance against a target performance level with TSOs having risk/reward defined for worse/better performance than target. This would provide ex-ante performance incentives designed to meet market requirements and satisfactorily align the interests of TSOs and market players. Such incentives have been demonstrated to encourage management attention and need not necessarily involve high levels of risk/reward but need to be proportionate and to clearly signal the preferred behaviours to be exhibited by the TSO.

A proven approach to engender favourable TSO behaviours in respect of its Balancing Actions is to formulate, and evolve, targeted incentive measures.

Until this is done some alternative approach may be necessary and hence ENTSOG recognises, and respects, ACER's view that inefficient costs should not be automatically passed through to network users.

TSO Balancing Actions may impact cash-out price exposures and will influence neutrality cashflows. Therefore it is reasonable that care should be taken that inappropriate costs are not levied on network users via neutrality.

To address this legitimate concern ENTSOG has introduced refinements into the Balancing Network Code. These changes introduce the idea that TSOs have some (albeit limited) influence over its Balancing Actions and therefore some exposure to the costs of revenues of these actions might be considered. However the TSO is in a disadvantaged position relative to other market players insofar it will have to act to deliver its residual role and that any decisions it makes must be considered in the context of the circumstances leading up to, and at the point of decision, including such matters as information and forecasts available to the TSO, the timing and the Balancing Actions available to the TSO. Crucially ENTSOG considers that any assessment must be made from a perspective of an expert understanding of the decision particularly with regard to the operational circumstances at the time. Given the complex temporal and locational interactions within the operational environment there will rarely be a unique determination of a single action to be taken and therefore any alleged inefficient action will need to be assessed as to whether it could be considered an efficient action.

Extensive monitoring and compliance checking aimed at identifying inefficiency of TSO's Balancing Actions, in itself, is likely to be resource consuming, intrusive and inefficient. This is why the BAL NC already features, and promotes, enhanced transparency about balancing regime operation.

Given the strength of opinion from ACER the BAL NC text affords the opportunity to disallow inefficiently incurred TSO Balancing Action costs and revenues as requested by ACER. This could occur at any time where an NRA suspects an inefficiency has occurred but only subject to the assessment criteria defined in the BAL NC text.

However well focussed incentives afford the prospect to align TSO and market interests rather than to create win/lose situations that would impose unreasonable exposures to TSOs and which may frustrate the development of the market. Therefore ENTSG advocates NRAs, TSOs and market players to work together to formulate appropriately structured incentives that align TSO interests with behaviours consistent with the proper functioning of the market.