

Public Consultation on the Amendments to the Common Regulations for the Natural Gas Balancing of Transmission System

Summary of the public consultation

The purpose of this consultation document, developed by the Latvian gas transmission system operator AS “Conexus Baltic Grid” and Estonian gas transmission system operator Elering AS (hereinafter separately TSO or jointly – TSOs), is to inform and ascertain the opinion of public regarding the proposed draft changes in the “Common Regulations for the Natural Gas Balancing of Transmission System”, as coordinated by and between the Public Utilities Commission of Latvia (Decision of the Board No. 164, dated October 28, 2019), and Estonian Competition Authority (Decision No. 7-10/2019-007 30.09.2019) (hereinafter – draft Amendments).

The draft Amendments are intended to enter into force 30 days after coordinated approval by the Public Utilities Commission of Latvia and Estonian Competition Authority. Until the date of entry into force of the draft Amendments, the Decision No. 164 of the Board of the Public Utilities Commission of Latvia 28 October 2019 and the Decision No. 7-10/2019-007 of the Estonian Competition Authority shall apply.

Please submit your proposals and comments on the draft Amendments (in English) till 09.07.2021 by sending them (electronically) to the TSOs e-mail addresses: AS “Conexus Baltic Grid” (Marcis.Varpa@conexus.lv) or Elering AS (Kaisa.Sarekanno@elering.ee).

Should you have any further questions please contact the respective representatives listed above.

The proposed draft Amendments and justification for the development of draft Amendments

Changes to the marginal buy price and the marginal sell price incentive factors

Article 22(7) of Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (hereinafter – the BAL NC) stipulates that 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. TSOs of the Estonian – Latvian common balancing zone have carried out the common balancing zone imbalance situation analysis of the first year of operation of common balancing zone. The analysis shows that the common balancing zone total yearly imbalance was 330.7GWh, having highest monthly number of 111GWh. This triggered balancing process and forced transmission system operator to carry out frequent transmission system balancing actions. During the first year of operation, TSOs have had to carry out 641 balancing activities. High number of concluded balancing activities is directly linked to the overall imbalance situation. Results of imbalance situation analysis show that due to the limited range currently foreseen in the balancing rules applied marginal sell price and applied marginal buy price incentive factors cannot be set according to the actual

market situation. In TSOs view, it would be beneficial to change the defined incentive factor ranges. This change should further incentivize the market to fulfil the balance responsibility by more effectively balancing the inputs and offtakes and improve the overall common balancing zone imbalance situation. If the overall common balancing zone imbalance situation is improved, the need for TSOs frequent involvement in transmission system balancing would be reduced, allowing TSO to carry out its primary function of natural gas transmission more efficiently. This change would also help to reduce the costs of market participants that are more effectively balancing their activity by transferring the cost from neutrality component to imbalance component.

Sub-paragraph 8.10 shall be modified and expressed as follows:

“8.10. The MBP incentive factor and the MSP incentive factor shall be set as follows:

8.10.1. the MSP incentive factor may range between a value of 0.8 and 1.0;

8.10.2. the MBP incentive factor may range between a value of 1.0 and 1.2;”

Imbalance price publication

The regulation for imbalance price publication for gas day, which falls within non-business day, must be elaborated. Namely, the imbalance price for gas day, which falls within non-business day, shall be made public no later than the following business day.

Sub-paragraph 8.11 shall be modified and expressed as follows:

“8.11 The TSO shall publish on its website the marginal sell price and the marginal buy price of gas day D no later than the end of gas day D+3. If the gas day D+3 falls within non-business day, the marginal sell price and the marginal buy price of gas day D shall be published the next business day.”

Deadlines for the reports

Establishment of Estonian – Latvian common balancing zone has introduced changes and additional components in the process of coordinating, processing and confirming allocations. The current operational experience of TSOs indicate that due to the allocation timeframes and the processed amount of data, the deadlines for determination of neutrality charge, provisional monthly imbalance settlement and final monthly imbalance settlement shall be extended from 10th calendar day to 12th calendar day of the respective month.

Replace the number “10” with the number “12” in the sub-paragraphs 8.14, 9.2, 9.6.

TSO neutrality principle – recovery of losses

According to Article 29(1) of BAL NC, the TSO shall not gain or lose by the payment and receipt of daily imbalance charges, within day charges, balancing action charges and other charges related to its balancing activities. This means that any costs or revenues arising from balancing activities shall be passed by TSO to network users and especially in case of a defaulting network user (Article 31(3) of BAL NC), which in certain occasions can also be classified as balancing misconduct. Therefore, the emphasis should be added to the neutrality charge calculation methodology provisions in the balancing rules.

Supplement the sub-paragraph 8.15.4. after the words “undertaken by the TSO” with the brackets and words “(including TSO costs arising from network user non-payment default provided the credit management and collateral measures and requirements, as foreseen in section 4 of this Regulation, were duly implemented)”

Neutrality charge publication time

Proposal for harmonization of the times when neutrality charge determination is done and how the information about neutrality charge is published.

Replace in sub-paragraph 8.18 number “8” with the number “12”

Final monthly settlement

The final monthly settlement shall also be the final moment to correct any calculation or other data errors, for example if there has been an error in the calculation of imbalance gas price.

Sub-paragraph 9.6. shall be modified and expressed as follows:

“9.6. No later than 12 calendar days after the beginning of the third month after delivery, the TSO shall carry out the final monthly settlement. During final monthly settlement, the network user shall receive an update of the information provided under provisional monthly settlement, based on any corrections in the data used in the provisional monthly settlement and based on the final allocation of inputs and off-takes, which have been made available to the TSO no later than two calendar days before the deadline for final monthly settlement.”

Establishment of TSO self-billing procedure

Request for the self-billing provision, where TSO issues invoices on behalf of the network user, inclusion in the balancing rules has been questioned by market participants. For the TSO self-billing in relation to the settlement of imbalance charges and neutrality charge to be applied, a separate agreement between the network user and the TSO recognizing TSO self-billing procedure shall be concluded. Therefore, an additional clause in the balancing rules shall be introduced, which foresees that a separate agreement between the TSO and the network user is necessary in order to mutually recognize the TSO self-billing procedure.

New sub-paragraph shall be added to paragraph 11 and expressed as follows:

“11.11. Provided that a separate self-billing agreement is concluded between the TSO and the network user, the former, as the self-biller, may issue invoices on behalf of the latter.”

Confidentiality obligations

Sub-paragraph 18.1. shall be modified and expressed as follows:

“18.1. Information about the **balance status** of the network user, **its operations on the common IT platform of the common balancing zone and imbalance settlement between the TSO and the network**

user, as well as other information, which parties have designated as commercial secret, regardless of how this information was created or processed, including regardless of the format of information (for example, written, text, audio, vocal or pictorial), shall be considered commercial information (commercial secret). Information set out in this sub-paragraph is protected and may not be disclosed to a third party without securing prior written approval by the other party, except information, which is being disclosed pursuant to Regulation or other legal acts.

Sub-paragraph 18.2. shall be modified and expressed as follows:

“18.2. The parties use commercial information (commercial secret) solely for the performance of the balancing agreement. The TSO is also entitled to use information received from the network user pursuant to the balancing agreement for the purpose of fulfilling its functions set out in applicable legal acts for the duration of the balancing agreement and also after termination of the balancing agreement.”

Sub-paragraph 18.4. shall be modified and expressed as follows:

“18.4. The duty of the parties regarding non-disclosure of commercial information (commercial secret) set out in sub-paragraph 18.1. of this Regulation, shall survive the termination of the balancing agreement for a period of 10 years.”

Personal data protection

Supplement the common regulations with section 19 as follows:

“19. Processing of personal data

19.1. The parties are entitled to process personal data of natural persons received from the other party solely for the purpose of enabling performance of the balancing agreement, subject to requirements of legal acts applicable to processing and protection of personal data of natural persons.

19.2. The party which discloses to the other party personal data of natural persons, shall ensure that personal data is acquired under lawful grounds set out in applicable legal acts. By signing the balancing agreement, the parties agree, that personal data of natural persons is processed in order to safeguard a legitimate interest of the TSO and network user – enable performance of the balancing agreement.

19.3. The parties undertake not to disclose to third parties personal data of natural persons received from the other party, except when it is necessary to enable performance of the balancing agreement, or if applicable acts require such disclosure. If pursuant to applicable legal acts the party may be

required to disclose personal data of natural persons acquired from the other party, prior to such disclosure the party informs the other party, provided informing the other party is not forbidden by applicable legal acts.

19.4. The parties undertake to destroy personal data of natural persons received from the other party, if the need to process said data is no longer necessary to enable performance of the balancing agreement.

19.5. The parties are obliged to apply appropriate technological measures, which prevent unauthorized access to personal data of natural persons received from the other party. The party which acquired the data and transferred it to the other party shall be responsible for extent of data processing, purpose of data processing and lawfulness of data processing.”

Replace in paragraph 1 of the Annex “Rules for the credit management and collaterals” the number “3.1.7” with the number “3.1.5”

Clarification of credit rating provisions

N.B.! Elering considers relevant to harmonize and align the rules for credit management, creditworthiness and collaterals in the common balancing zone and plans to initiate the necessary amendment process to the Estonian national regulations.

Paragraph 4 of the Annex “Rules for the credit management and collaterals” shall be modified and expressed as follows:

“4. Credit rating of the network user shall be deemed appropriate if it complies with at least one of the following criteria:

- 4.1. a long-term rating of BBB- or higher under Standard & Poor's;
- 4.2. a long-term rating of BBB- or higher under Fitch;
- 4.3. a long-term rating of Baa3 or higher under Moody's.

Monitoring of network user’s balancing positions and fulfilment of liabilities

Article 31 of BAL NC establishes that the TSO can impose relevant contractual requirements, including financial security safeguards, on network users to mitigate their default in payment due for daily imbalance charges, within-day charges, balancing actions charges and other charges related to balancing activities. The Common Regulations for the Natural Gas Balancing of Transmission System currently provides a general framework for the network user balance monitoring. The TSO has instruments to regularly analyse the credit limit amounts in comparison to network user’s balancing position. However, there could arise a situation where during a short time period, e.g. balancing period, the network user increases its imbalance, which has the potential to trigger the system integrity. The current proposal is to specify that the substantial network user imbalance can also be the ground, provided that other criteria are fulfilled, for the interruption or discontinuation of balancing provision

by means of e.g. nomination restriction, which would qualify as contractual safeguard for the TSO. In the draft Amendments it is foreseen that prior the service is interrupted or discontinued, the TSO gives time to the network user for regularisation of its state of credit limits and balancing position. This means, that the network user is also given the opportunity to mitigate its exposure prior any further action is taken by the TSO.

Paragraph 9 of the Annex “Rules for the credit management and collaterals” shall be modified and expressed as follows:

“9. A security for the fulfilment of liabilities must be in force during the operation of the balancing agreement, if the TSO has requested such security for the fulfilment of liabilities. If the TSO has requested the security for the fulfilment of liabilities and estimated amount of network user’s aggregated daily imbalance charges for the past gas days of the current delivery month exceed the amount of network user’s submitted security for the fulfilment of liabilities, the TSO shall have the right to completely discontinue or partly interrupt the balancing provision as set in the Regulation, provided that the following cumulative conditions are met:

9.1. estimated payment to TSO by the network user for its negative imbalance amount exceeds the amount of security for fulfilment of liabilities in the amount provided in paragraph 10 of this Annex;

9.2. TSO has sent a notification to the network user regarding the discontinuation or interruption of balancing provision;

9.3. the network user has not restored the security for fulfilment of liabilities in the amount not less than estimated payment amount within the time period, which shall not be less than three business days, specified in the TSO notification as foreseen in sub-paragraph 9.2. of this Annex.”

Paragraph 10 of the Annex “Rules for the credit management and collaterals” shall be modified and expressed as follows:

“10. The TSO shall lay down an amount of the security for fulfilment of liabilities under the balancing agreement in the amount of two highest monthly payments by the network user for negative imbalance over the last 12 months. If the period of use of the balancing is shorter than 12 months, this period shall be used as the grounds for the determination of an amount for the fulfilment of liabilities, but amount of the security for the fulfilment of liabilities shall not be less than EUR 25 000.”