

(refined) Draft Network Code on Balancing – stakeholder support process

SSP Response Sheet

Please complete the fields below and send via email using the subject title, “Response to the BAL NC SSP” to info@entsog.eu by 28 September 2012.

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How would you describe your organisation?

<input type="checkbox"/>	Association	(please specify type)
<input type="checkbox"/>	End user	
<input checked="" type="checkbox"/>	Network user	
<input checked="" type="checkbox"/>	Trader	
<input type="checkbox"/>	Other	(please specify)

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.

Yes: <input checked="" type="checkbox"/>	No
<p>Comments:</p> <p>ENTSOG have done an excellent job in facilitating stakeholder engagement and ensuring relevant issues were raised and debated constructively. Whilst we appreciate that the timescale for Code development is tight, we believe the process could be improved by setting aside a short amount of time where ENTSOG could work alongside prime movers in making refinements to the legal text, following the main consultation. We have been encouraged by the extent to which ENTSOG have adapted the Code to take account of stakeholder feedback and the length to which they have tried to explain this in supporting documents. However, Codes are complicated and inter related documents which will create binding obligations on both TSOs and stakeholders. Allowing prime movers the opportunity to comment on specific re-drafts of the legal text should help to ensure that stakeholder concerns are correctly interpreted and addressed and help to improve clarity and efficiency of the Code, to the benefit of all parties.</p>	

Question 2: Please complete the table below, indicating whether you support the relevant sections of the 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.

Chapter	I: General Provisions	II: Balancing System	III: Cross-border Cooperation	IV: Operational Balancing
Support	X	X	X	X
Do not support				

Chapter	V: Nominations	VI: Daily Imbalance Charge	VII: Within-day Obligations	VIII: Neutrality Arrangements
Support	X	X	X	X
Do not support				

Chapter	IX: Linepack Flexibility Service	X: Information Provision	XI: Implementation, Interim Steps
Support	X	X	X
Do not support			

Please provide brief reasoning for your responses, if you wish.

We have indicated our support for all of the relevant sections of the Code above. The process carried out by ENTSG was open and transparent and has produced a Code which we believe is workable and which adequately reflects the views expressed by network users during the development process.

Nevertheless, we believe there are a number of areas where the Code could be improved and we would respectfully ask ENTSG to consider these carefully before submitting the final version to ACER. The points below are ones we have made previously in our response to the consultation. We do not believe they are contentious, or unduly disadvantageous to TSOs. As such we hope you will be able to accommodate them even at this late stage.

- 1) We are concerned about the number of important areas remaining in the Code where stakeholder consultation is not specifically provided for. Whilst it may be reasonable to expect that TSOs and NRAs will consult anyhow, these areas are crucial to the efficient workings of the balancing regime and so consultation should be specifically mandated in the same way it is for other important areas, such as cross-border cooperation, market integration and incentives.

The key areas where reference to stakeholder consultation appears to be missing are:

- the Balancing Neutrality Charge methodology (including credit risk management rules)
- the Daily Imbalance Charge Calculation Methodology
- a TSO's provision of a Linepack Flexibility Service
- a TSO's proposal to trade in an adjacent Balancing Zone under Article 13.3

We suspect that the absence of any requirement for stakeholder consultation on these issues is the result of an oversight by ENTSG, as we cannot think of any obvious reason why consultation would be inappropriate.

- 2) We fully accept that the TSO should be allowed to reject or amend nominations which endanger system integrity. However, Article 23.4 remains very subjective and now removes the reference to such actions only being permitted when the TSO is not able to prevent this by taking a Balancing Action. Amendment and rejection of nominations is currently used by a number of TSOs in Europe as a means of balancing their systems, in preference to establishing proper market based balancing regimes and taking within day balancing actions. We are concerned that current drafting of this clause could be seen to legitimise such behaviour and impede the development of the balancing target model.
- 3) Whilst we welcome ENTSG's decision to describe three types of within day obligations within the Network Code we are concerned that the inclusion of Article 31.3 allows TSOs to mix-and-match aspects of them to create further hybrid within day obligations. In order to minimise the likelihood of there being a proliferation of different within day obligations across Europe and the potential impediment to efficient cross border flows that may result, we suggest deleting this clause. We would also encourage ENTSG and/or ACER to publish guidance on the pre-requisites that should apply to within day obligations in due course.
- 4) The Network Code still seems to leave it to TSOs' discretion as to whether they include credit risk management arrangements on network users to mitigate defaults that may arise in payment of imbalance and neutrality charges. Proportionate credit risk management arrangements should be mandatory, not optional, as the recent example of the €284m of default imbalance charges incurred in Italy between December 2011 and May 2012 clearly demonstrates. In the absence of proportionate credit risk arrangements, it is not unreasonable for network users to expect TSOs to shoulder some of the costs associated with such defaults.
- 5) Article 40(ii) 1 continues to refer to TSOs providing network users with updates of their Intraday Metered Inputs and Offtakes "at least in aggregate". We are concerned that those TSOs who are not currently providing any intraday actual physical flow data at any relevant point, as defined under Chapter 3.3.1 of Annex I of the Gas Regulation, will now interpret Article 40(ii) 1 as meaning they can effectively meet this obligation by providing aggregate Intraday Metered Input and Offtake data two times per day, instead of disaggregating data by relevant points on a near real time basis. This is of particular concern in relation to Inputs.

We would suggest therefore suggest the Code makes reference to the fact that Article 40 (ii) is without prejudice to the obligations contained in Chapter 3.3.1 of Annex I of the Gas Regulation, to avoid any possibility for misinterpretation.

Question 3: Do you believe that the eventual implementation of the refined draft Network Code will

enhance the functioning of the internal gas market?

Yes **X**

No

Comments: Implementing harmonised arrangements for market based balancing in all EU gas markets is one of the most crucial elements for promoting competition, flexibility and liquidity throughout Europe. This in turn will facilitate greater price convergence and correlation and helps to facilitate development of pan European market areas.

Markets will be most competitive and efficient where balancing zones incorporate both transmission and transit pipelines within a Member State and when they extend down to all end consumer exit points. Creating separate balancing zones for transmission and distribution¹ will result in competition and efficiency benefits that are lower than if a single balancing zone were to apply, particularly if network users are unable to net off imbalances across the two balancing zones.

¹ As is currently happening in Austria