

Responses to Consultation on Draft Code on Balancing

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PROLOG

Basic principles for balancing.

We think the NC should be based on the following basic principles. These basic principles underlying our reaction.

- Balancing system should be as market based as possible.
- Role of TSO should be as small as possible.
- Causer pay principle should be applied to the utmost extent (introduce additional rules if needed to prevent cross-subsidization).
- Merit order should be binding; if available, TSOs should always buy in the within day market above balancing products.
- Network users should receive sufficient information allowing them to take their own balance responsibility.
- Network users should always have the opportunity to opt in or opt out, whenever a TSO is offering balancing services.

CHAPTER II. BALANCING SYSTEM

Question 1 – Do you concur that the implementation of a Virtual Trading Point via the inclusion of the Trade Notification and Allocation scheme in the Balancing Network Code will contribute to the delivery of a properly functioning market? If not, please propose an alternative and provide justification.

Response:

Yes.

However, the market - not regulators - decide which trading points develop liquidity, and which do not. Also some others market features are needed such as: unrestricted entry / exit balancing zone, virtual hub (thus not physical), ability for re-nomination, developed within-day market,...

Question 2 – in the context of the proposed Trade Notification and Allocation scheme, does the Draft Code provide sufficient harmonisation within? If not, what would be the preferred basis for any additional harmonisation?

Response:

Yes.

CHAPTER III. CROSS-BORDER COOPERATION

Question 3 - Do you agree that ENTSG should issue the review of the progress of harmonisation of balancing rules report at the latest two year after the implementation of the network code and then biannually thereafter? If not, please propose an alternative and provide justification to support your proposal (and /or counter Draft Code's approach).

Response:

Yes.

Question 4 – Do you agree with the proposed review process (including the issuing of a report (in the public domain)? If not, please propose an alternative and provide justification to support your proposal (and /or to counter Draft Code's approach).

Response:

Yes.

CHAPTER IV. OPERATIONAL BALANCING

Question 5 – Do you agree that TSOs should, under specific circumstances, be allowed to trade in adjacent markets? If so, please explain under what circumstances.

Response:

No, TSO's should in principle not trade at all, and TSO's trading in adjacent markets makes the market model even fuzzier. It is a shipper's responsibility to act in the markets that he

sees fit. We suggest deleting Article 10.8 rather than trying to define specific circumstances when cross-border TSO balancing should be allowed.

Question 6 – Do you agree that the use of the expression ‘economic and efficient’ is a suitable criterion assessing TSO Balancing Actions? If not, please provide an alternative and an associated rationale.

Response:

TSO Balancing actions should be effective (in re-establishing the balance) and efficient, meaning at minimal costs, while taking the binding merit order into account.

Whilst it may be tempting for TSOs to use previously procured Balancing Services instead of accepting higher priced offers on a balancing/trading platform, this will discourage network users to place bids/offers in future. Incentives on shippers to self balance and offer flexibility to the market will also be weakened. The criterion ‘economic’ raises questions: must the TSO make a profit on balancing? We think no.

Question 7 – Do you agree with the choices in the Draft Code: (1) to limit standardised products for trading flexible gas to short-term products; and (2) to have only a small number of short-term standardised products? If not, please explain why.

Response:

No.

To keep it simple, clear and transparent a limited set of products is desirable, but shippers should be free to discuss new products with involvement of TSO's. To the extent a TSO requires products over and above the defined Short Term Standardised Products to balance its system, Article 5.1 allows for these to be introduced on a national level.

Question 8 – Do you agree that the Balancing Network Code should not prescribe exchange-based trading for the TSO and to leave this to the discretion of the TSO and the TPO? Should the network code provide criteria and factors to consider for the TSO to use an exchange based trading?

Response:

Yes, we think the NC should require TSOs to operate on just one pre-defined Trading Platform (except to the extent a Balancing Platform is also necessary to ensure the TSO has access to the full range of Short Term Standardised Products).

Question 9 – Do you agree with the current level of services to be provided by a Trading Platform specified in the Draft Code? For example, the STSPs make no reference to a block size, meaning that this will be agreed on a local basis. If not, please explain where and why additional specification is needed.

Response:

Yes, successful Trading platforms cannot be prescribed in Codes. The NC should retain

flexible with respect to block sizes, minimum lot sizes to optimally reflect local lot sizes.

Question 10 – Do you agree with the current level of specification in the Draft Code on contractual structure and arrangements between the different parties? What changes (if any) would you advocate?

Response:

Yes. It is important for the code not to be too specific about the contractual structure and the role of the different parties (network users, TSOs and Trading Platform Operators) in relation to notification/nomination arrangements, so as to allow for maximum flexibility.

Energie-Nederland proposes to add a criterion to article 16.1 :

“g) only for residual balancing, not interfering with the market in flexibility products between shippers.”

The primary responsibility for balancing arrangements should lie at the shippers. TSO's should do residual balancing only.

Question 11 – Do you agree with the choices in the Draft Code to put the obligation to (re)nominate on the Originating Party? If not, what would your preferred alternative be and what benefits would this alternative have over the mechanism proposed in the Draft Code?

Response:

Yes. In general we think TSOs should only accept bids/offers rather than post them themselves. Therefore, the TSO should never be the Originating Party and so only shippers would be obliged to re-nominate.

Question 12 – Do you concur with the sequence of the tools in the merit order and the level of guidance it gives the TSO in choosing the most appropriate tool? If not, which changes, if any, would you advocate and why?

Response:

No, the NC should be more specific/explicit in its requirements. The text used to describe the merit order should be made less vague and more specific by; for example, replacing “shall seek to” with “shall” and deleting “consider”.

TSOs should be required to buy title market products (where available and appropriate) ahead of other Short Terms Standardised Products rather than merely consider these, and use Standardise Short Term Balancing Products ahead of Balancing Services.

The Merit order should also include an explicit obligation on TSOs to prioritize the use of Balancing Actions within-day.

Finally, TSOs should be required to publish information showing how they have performed against the merit order (at least annually) as it is important for network users to see the extent to which TSOs are complying with the merit order.

Question 13 – What is your view on: (1) the criteria to be considered by the TSO when procuring Balancing Services; and (2) the gradual reduction of the use of Balancing Services as the liquidity of the wholesale market increases? Please provide a reasoned response.

Response:

Unless an unexpected risk of physical intermittence is expected, TSO's should not procure Balancing Services in advance. So we support the reduction of the use of Balancing Services. However, the draft NC is not clear on this reduction and refers instead to the TSO reviewing its use of Balancing Services each year to assess whether Short Term Standardised Products would better meets its requirements for the next year (article 16.2). The Code should specifically reference the need for Balancing Services in relation to the risk of unexpected physical intermittence.

Along with details of the Balancing Services procured and the related costs incurred, TSOs should also publish their justification for the quantities of Balancing Services procured.

Question 14 – Do you agree with the proposal that the TSO shall be enabled to submit an incentive mechanism to the NRA for approval? If not, please explain why.

Response:

Yes, as long as the approval lies with the NRA. Further, the NRA itself, as well as other stakeholders shall also be able to submit such a proposal.

The TSO and NRA should keep in mind that there must be a trade-off between “fostering market liquidity” and “minimising the cost of balancing the system”.

Question 15 – Do you consider that the procedures set out in the Draft Code (excluding timing, which is covered below) for the submission of nominations and re-nominations, and the criteria for their rejection, are reasonable? If no, please present and justify your preferred alternative.

Response:

No.

TSOs should not be entitled to reject nominations/renominations on the grounds of physical constraints in general. Only physical constraints where the TSO has previously notified force majeure should be taken into account. In other words it is clearly inappropriate to enable the rejection of renominations within the booked capacities of a network user if the TSO cannot deliver on its contractual obligation, except where this is as a result of an emergency situation or an instance of force majeure.

Furthermore, the definition of the term Implied Flow Rate is unclear. It is not clear how a negative Implied Flow Rate could arise and lead to a daily renomination being rejected based on the current definition.

Also, the exemption concerning a network user's ability to over nominate to obtain interruptible capacity within day could be made more clear

CHAPTER V. NOMINATIONS

Question 16 – Do you agree with the schedule for initial day-ahead nominations set out in the Draft Code? If not, please give a reasoned alternative schedule.

Response:

Yes, we agree with the schedule, although the timing of the NC Balancing and NC CAM should be more in line with each other.

Question 17 – Do you agree with the schedule for re-nominations set out in the Draft Code? If not, please give a reasoned alternative schedule.

Response:

Yes, the lead time of 2 hours is as a maximum lead time sufficiently short to enable flexible responses to most operations today. However, with gas fired power stations increasingly providing back up for intermittent renewable energy sources shorter lead times will be necessary to support the objectives of the EU energy roadmap 2050.

Question 18 – What are your initial views on these specific features on nominations (respectively re-nominations) for transition, system integrity and daily-hourly regimes of the

network code? Please provide a reasoned response.

Response:

They are reasonable. Currently in the EU different balancing regimes are used, both daily and hourly. (Re-)Nomination in those cases is not a problem and difficulties in the future are not to be expected. Potential (re-) nominations issues can be solved by IT and will not change the characteristics of a national grid. It is these characteristics that should determine which balancing regime is most cost effective for a specific country.

CHAPTER VI. DAILY IMBALANCE CHARGES

Question 19 - Do you support the Daily Imbalance Quantity determination proposed in the Draft Code? If not, please indicate your preferred approach and supply further rationale and evidence of the benefits of Daily Imbalance Quantities being derived on information based during the Gas Day?

Response:

Yes.

Question 20 – Do you have alternative views as to whether Locational and/or Temporal Market Products should feed into the derivation of the Weighted Average Price? If so what is your rationale for a different approach and what do you see as the benefits?

Response:

No, we do not think Locational or Temporal Products should feed into the derivation of Weighted Average Price in the same way as they do not feed into the Marginal Sell/Buy Price. Locational Market Products and Temporal Locational Market Products should be used only to resolve localised transportation constraints.

Question 21 – Do you agree that day-ahead trades should feed into the determination of the Weighted Average Price, Marginal Buy Price and Marginal Sell Price? If so, then under what circumstances should they be used? Is there merit in allowing local discretion as to whether day-ahead trades influence the setting of the prices?

Response:

No, day-ahead trades are made for procurement and partly for balancing purposes.

The Weighted Average Price should be derived from within-day title trades because balancing is also a within-day activity. Within-day prices reflect the value of balancing actions and needed flexibility.

The Marginal Price shall incentivise network users to balance their inputs and offtakes. As network user balancing actions can by definition only be undertaken within-day, only prices derived within-day should contribute to the Marginal Price.

Question 22 – Do you agree that the source of trades should be left to local discretion? What criteria should apply? Should there be an aspiration that the source of trades should be a single platform and if so why and how should the platform be determined? Please provide a rationale for your preferences.

Response:

TSO should be obliged to use single exchange and/or balancing platform (where necessary) for balancing actions in order to ensure anonymity, equal access for market participants, transparency, financial security and reliable and auditable cash out prices. TSOs should not trade OTC.

Question 23 – What should the effect of the small adjustment be: to encourage trading or to be sufficiently large to reflect a value for physical flexibility?

Response:

In market based balancing regime the imbalance charges should constitute a sufficient incentive for shippers to balance their portfolio. The market sets the price, which will also reflect the value of the physical flexibility. Hence, we believe that the adjustment should be set at zero by default, such as for example under the Entry/Exit model in the Netherlands. Only when grid stability is threatened, the tariff of the adjustment may increase. However, it should be kept as low as possible since it is markets, not adjustments that should balance portfolios. The details of the small adjustments shall be left to national discretion.

Question 24 – Do you agree with the addition of cross border trade as a criterion to the derivation of the Small Adjustment? Are the criteria sufficient? If not, what else should be added? Please justify any proposals.

Response:

Yes.

CHAPTER VII. WITHIN-DAY OBLIGATIONS

Question 25 – In your view, are the elaborations of the criteria in the Draft Code sufficient? If not, please indicate which ones and how.

Response:

The Draft code should include more specific criteria on steering information. The information provided to individual shippers about their balancing position should be timely enough to take balancing actions if necessary.

Question 26 – Do you believe that additional criteria for assessing WDOs are warranted? If yes, please specify which and why.

Response:

No.

Question 27 – Do you find the respective roles of a TSO and relevant NRA(s) appropriate in the approval of any WDOs? If not, please explain why and how you would re-define the roles.

Response:

Yes.

Question 28 – Do you agree that a six-month period is appropriate for a TSO to make a proposal for approval of an existing WDO, including a recommendation document? If not, please propose an alternative and provide justification.

Response:

Yes.

Question 29 – Do you agree that a six-month period is appropriate for the NRA to conduct its assessment and approval process? If not, please propose an alternative and provide justification.

Response:

Yes, given that this should include a stakeholder consultation.

CHAPTER VIII. NEUTRALITY ARRANGEMENTS

Question 30 – In your view, is the scope of the currently proposed neutrality section of the Draft Code appropriate? If not, please explain why.

Response:

Yes.

Question 31 – Do you find appropriate the proposed scope of the transparency elements of neutrality? If not, please explain your reasons why.

Response:

Yes.

Question 32 – Please indicate the level of granularity you would expect in the context of the breakdown of net Balancing Neutrality Charges cash-flows from both a temporal (e.g. daily, monthly, annual) and cost/revenue element split.

Response: -

Question 33 – Do you agree that there would be potential benefits of attributing Balancing Neutrality Charges to different pots and of recovering them over different classes of network users? If yes, please explain why.

Response:

Yes. Such targeted attribution might reduce cross subsidies and incentivise network users to balance their inputs and offtakes: “causer pays”-principle.

Question 34 – If you support multiple neutrality pots, how would these be defined? How could such different attribution processes be applied in practice?

Response:

By end-customers. Then the neutrality charge for each shipper will reflect its end-customers portfolio.

Question 35 – Is the level of specification in the Draft Code for cash-flow management appropriate? If not, how do you propose it be amended?

Response:

Yes

Question 36 – An alternative to creating additional costs for invoicing systems and processes is to address neutrality sums via adjustment to transmission charges. Do you agree with such an alternative? If not, please explain why.

Response:

No, because there will be a lack of transparency: neutrality charge represents, in a certain way, the accuracy of the information provision and so, should be monitored. Furthermore, there is a risk of cross-subsidies with an adjustment to transmission charges.

CHAPTER IX. INFORMATION PROVISION OBLIGATIONS

Question 37 – Do you agree with the information provision models for offtakes proposed in the Draft Code fulfil the requirements of the FGs? If not, please explain.

Response:

No, they are not sufficient in systems with within day obligations, The more information network users are provided with, both of their own portfolio positions and of the system as a whole, the more readily they will be able to balance themselves in response to within day incentives. Also, it will be easier to follow the “causer-pays” principle, which becomes increasingly important where balancing neutrality costs are substantial. Only with sufficient information, the role of TSOs balancing the system could be minimised to that of residual balancer. Trading will also increase as network users are able to use the within day market to balance their positions and offer any surplus flexibility to TSOs and other network users. Where TSOs are already providing a large amount of information on individual portfolio

positions and system state (more frequently than two times per day) they should obviously continue to do so. Furthermore, wherever balancing neutrality costs are high one should develop towards a high level of within-day information with respect to individual portfolio positions and system state, to facilitate market-based (efficient) balancing in an optimal way.

Question 38 – Do you agree that prospective implementations of Variant 2 should be approved only after a consultation process? If not, please explain.

Response:

Yes and furthermore Variant 2 should not be implemented because it is against the balancing target model. Indeed, the imbalance position is set based on the day-ahead forecast: shippers' imbalance position will be small or zero whereas all the balancing actions taken by the TSO to cope with the difference between the day-ahead forecast and the real gas flow during the day will be charged to the shippers via the Neutrality charge. This will not develop a within day market and, furthermore, most of the balancing cost will still be socialised within the Neutrality charge.

Question 39 – Do you support the additional proposal that the cost-benefit analysis (CBA) should also examine the time taken to provide information to Network Users? Are there any other features that would strengthen the CBA process and why? If so, please explain why.

Response:

Yes.

Building in a requirement for TSOs to undertake regular analysis of the costs and benefits of greater information provision is important. In cases where countries are required to set up a forecasting system, they should be obliged to invest whether it is more efficient to invest in a system that provides sufficient information to network users to stay in balance instead. Setting up forecasting systems increases TSOs balancing tasks/actions, while we believe the role of the TSOs should be as small as possible (residual balancing only).

Question 40 – Do you agree that the Balancing Network Code has to provide guidance on timing of information flows? If yes, do you agree with the proposals set out? If you do not agree with the Draft Code proposals what could the alternatives be and what would be the justification?

Response:

Yes.

We broadly agree with the timings, but we find it unacceptable that TSOs could take up to 4 hours to process and provide network users with the first update of their Intraday Metered Offtake within day flow. These sites will, in all cases, have telemetry fitted and TSOs/DSOs will be getting updated flow information from this telemetry considerably more frequently than two times per day. We appreciate that this data will need to be sense checked to correct any data errors or inconsistencies, but these are likely to be the exception rather than the rule. TSOs should therefore be required to provide this information within a shorter period than 4 hours (we suggest two hours maximum) once the code becomes effective.

Question 41 – Do you consider that Transparency Guidelines requirements are sufficient to deal with system information? If not what should be included and what is the justification?

Response:

Yes, the Transparency Guidelines should be in line with and/or give guidance to regulation 715/2009 (conditions for access to the natural gas transmission networks) 1775/2005 (conditions for access to the natural gas transmission networks) and 1227/2011 (REMIT).

Question 42 – Do you agree that the proposal is in line with input information requirements set out in the FGs?

Response:

Yes, a network user is interested in his total balancing position.

CHAPTER X. LINEPACK FLEXIBILITY SERVICE

Question 43 – Do the proposed additional criteria that a Linepack Flexibility Service has to meet complement those in the FGs to make a sufficient set of criteria? Or are additional criteria required? Please provide a reasoned response.

Response:

Yes.

CHAPTER XI. IMPLEMENTATION, INTERIM MEASURES AND ENTRY INTO FORCE

Question 44 – How should the short-term balancing market be defined? What account of temporal and physical flow considerations needs to be made? What measures should be used to assess liquidity in the short-term balancing markets?

Response:

n.a.

Question 45 – What other measures might be contemplated to enable wider access to short term gas flexibility? Are any of these approaches appropriate for inclusion in the Balancing Network Code?

Response:

Other measures clearly exist, such as flexible gas release programmes, market making obligations and virtual storage provision, but we do not think these should be included within the scope of the NC as they fall within the realm of national jurisdiction.

Question 46 – In your view, what would justify including LNG in the Balancing Zone in “small markets” and in short term transitional arrangements? Do you see any conflict with these reasons and the BTM to be established by the eventual Balancing Network Code?

Response:

Trade, be it LNG or piped gas, should in principle not be done by TSO's. TSO's should not be the judge of (in)sufficient market liquidity. So we do not see a justification for TSO's to include LNG in a Balancing Zone. A LNG terminal is one source of flexible gas that is already used by shippers in a balancing zone.

Question 47 – Do you agree that the tolerance used should be a price based tolerance? If not please explain your rationale and provide your preferred approach.

Response:

Inability of a network user to enter a short-term wholesale gas market should firstly be solved by that user, and secondly by removing entrance barriers. ‘Solving’ it by giving tolerance hampers healthy competition between shippers.

Question 48 – In your view, should the reduced exposure involve the application of an average price? If not, please explain your rationale and provide your preferred approach.

Response:

See response to Q47.

Question 49 – Do you support the Draft Code including provisions for the accuracy of forecast information provision to ensure timely phase-out of tolerances? If yes, explain how this can be best established.

Response:

See response to Q47.

Question 50 – Does the Draft Code provide an appropriate mitigation of risk involved in servicing NDM demand? If not, please indicate an alternative approach and its rationale.

Response:

This should be left to national determination.

Question 51 – Do you agree that the Draft Code provides an adequate basis to support the release of surplus TSO flexibility as a stimulus to the market? If not, please explain why.

Response:

Yes, the measures and level of consultation are adequate.

Question 52 – Do you agree that there is merit in including a reference to Balancing Platform trades in the interim imbalance cash-out price determination part, as suggested in the Draft Code? If yes, how should the approach be formulated and what merits would it have?

Response:

Yes, it may be more effective and beneficial for liquidity if trades on the balancing platform are used to set imbalance prices in the transition period, rather than relying on an administered or proxy imbalance prices.

Question 53 – Are there any other interim steps that should be considered beyond those envisaged in the table above?

Response:

No.

Question 54 – Are there any specific ENTSG monitoring and reporting activities that should be explicitly captured in the Balancing Network Code. If so, please identify them and their rationale.

Response:

No.

GENERAL ISSUES

Question 55 – Do you consider that the level of detail in the Draft Code, as it has been tailored according to the topics treated, is appropriate for EU legislation? If not, please explain why with reference to specific topic chapters (articles, paragraphs, etc.).

In number of areas the drafting is still quite imprecise and not entirely clear. Whilst it is generally prescriptive about the role of network users it seems less prescriptive about the role of TSOs. With this in mind, ENTSG should review the drafting to remove uncertainty.

In the appendix we have suggested some amendments to the draft NC (see **appendix**, below).

CHAPTER I. GENERAL PROVISIONS

CHAPTER II. BALANCING SYSTEM

**CHAPTER III. CROSS-BORDER
COOPERATION**

**CHAPTER IV. OPERATIONAL
BALANCING**

CHAPTER V. NOMINATIONS

**CHAPTER VI. DAILY IMBALANCE
CHARGES**

**CHAPTER VII. WITHIN-DAY
OBLIGATIONS**

**CHAPTER VIII. NEUTRALITY
ARRANGEMENTS**

**CHAPTER IX. INFORMATION
PROVISION OBLIGATIONS**

**CHAPTER X. LINEPACK FLEXIBILITY
SERVICE**

**CHAPTER XI. IMPLEMENTATION,
INTERIM MEASURES AND ENTRY
INTO FORCE**

Question 56 – After reviewing and/or replying to Chapter 5 which follow, do you find that there are other material issues that ENTSG should consider as it develops the Balancing Network Code?

Response:

N.a.

Question 57 – Do you find that this supporting document for the public consultation was ‘respondent-friendly’ in terms of its readability, style, etc.? Please explain how we can improve future consultations.

Response:

The supporting document was extremely helpful to understand ENTSG’s motivation.

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Appendix: Suggested Amendments to the NC

Article	Suggested Amendment	Justification
13.1	<p>13.1. Subject to the principles set forth in Item 4 Article 12, while deciding on the appropriate Balancing Actions to undertake, the TSO shall:</p> <p>a. use Title Market Products where available and to the extent appropriate over any other available Short Term Standardised Products;</p> <p>b. consider the use of Locational Market Products when, in order to keep the Transmission System within its operational limits, gas flow changes are needed at specific Entry and/or Exit Points;</p> <p>c. consider the use of Temporal Market Products and Temporal Locational Market Products when, in order to keep the Transmission System within its operational limits, gas flow changes are needed within a specific period of time within the Gas Day. The TSO shall only use a Temporal Market Product or a Temporal Locational Market Product when in its discretion under defined circumstances it would be more efficient and economic than buying or selling a combination of Title Market Products or Locational Market Products;</p> <p>d.. use Short Term Standardised Products where available and to the extent appropriate over</p>	<p>13.1. – the phrase “at least consider the following” weakens the strength of the merit order.</p> <p>13.1.a – Similarly the phrase “seek to prioritise” weakens the strength of the merit order and is unnecessary if the phrase “where available and to the extent appropriate” is also used in this sentence. Clearly, where title market products are not available or if a particular circumstance exists where a TSO considers it appropriate to use locational or temporal products instead, they can still do so under our revised wording.</p> <p>13.1.b - The words “and/or to start from a specific period of time within the Gas Day” are superfluous as locational market products can be for a full gas day or start from a specified period of time within the gas day and run to the end of the gas day (not to be confused with temporal locational market products which are for specific time periods within the gas day).</p> <p>13.1.c - “Temporal Locational Market Products” also need to be included here.¹</p> <p>13.1.d - The merit order should require TSOs to use STSPs over balancing services where available and to the extent appropriate. Article 16 is irrelevant here as this refers to a TSO’s procurement of balancing services not its use of balancing services previously procured.</p>

¹ ENTSOG should consider amending the definition of “Temporal Market Product” to read “Temporal Title Market Product” and then using “Temporal Market Product” to collectively describe both “Temporal Title Market Product” and “Temporal Locational Market Product”.

	Balancing Services; e. seek to prioritize the use of Balancing Actions within-day.	13.1.e - As stated throughout the SJWS process, and in our previous response to ENTSOG's draft business rules, we think it is essential for the merit order to drive TSOs behaviour towards taking balancing actions within-day, rather than day ahead (or weekend). Without such an obligation TSOs may be able to balance the system day ahead whilst still complying with the merit order, which would be inefficient and which would fail to encourage within day liquidity and self balancing by shippers. We accept that TSOs will not know until the day in question whether within day products are available or not, and so this obligation can be looser than others in the merit order. Hence, we think it would be appropriate to use the phrase "seek to prioritize" in this instance (having deleted it elsewhere) and to widen the scope of the TSOs obligation to use balancing actions (rather than STSPs).
13.2	TSOs shall annually review the extent to which they have complied with the merit order and publish this on their websites	This information is necessary so that network users can readily see the extent to which TSOs are complying with the merit order, It is also relevant to the TSOs review on procurement of balancing services and their use under Article 16.
16.3	The TSO shall review the use of its Balancing Services each year in order to assess whether available Short Term Standardised Products would better meet the TSO's operational requirements for the next year, thereby reducing the need to procure Balancing Services.	There should be a link between STSPs better meeting the TSO's operational requirements with a reduction in balancing services procured the following year.
16.4	The TSO shall publish on a yearly basis on their websites details of the cost and amount of Balancing Services procured and the related	The code should be specific about what information should be provided. This will enable shippers to better evaluate whether the TSO is fulfilling its

	cost incurred through their use.	obligation to balance the system in an economic and efficient manner.
23.1.i.d	The TSO shall take into account any physical constraint arising from a force majeure event it has previously notified Network Users of.	This point should be made more specific. To the extent a nomination (re-nomination) passes the other criteria in 23.1.1 a) – c), rejection or partial should only be allowed for physical constraints resulting from pre-notified force majeure events. TSOs can use locational and temporal products, and balancing services if they have them, to resolve constraints and without our proposed amendments there is a risk that these products will not be used and firm capacity rights will be undermined. To the extent a constraint not caused by force majeure cannot be resolved using balancing actions, this should be covered in the forthcoming ENTSO network code on emergency arrangements.
39.2	The information flows provided under Chapter IX aim to support the daily balancing regime. To the extent any Within Day Obligations apply, TSOs will need to provide information over and above that provided for in Chapter IX in accordance with Article 33.1b).	Information flows in accordance with Chapter IX are sufficient to support a daily balancing regime. However, we think it is important for the code to reinforce the fact that information over an above that described in Chapter IX will be necessary should any within day obligations apply.

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