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DIRECTORATE-GENERAL FOR ENERGY

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**CONSULTATION ON AMENDMENTS TO PROCEDURAL PROVISIONS IN ELECTRICITY
NETWORK CODES AND GUIDELINES**

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1. BACKGROUND OF THE PROPOSED AMENDMENTS

The proposal consulted upon for a limited and well-targeted amendment of the four Electricity Guidelines (“CACM”¹, “FCA”², “EB GL”³, “SO GL”⁴) addresses two **procedural issues** related to the joint adoption of terms, conditions and methodologies (“TCMs”).⁵

First, the way network codes/guidelines and TCMs are adopted has been slightly modified by Regulation 2019/942 (ACER-Regulation) and Regulation 2019/943

¹ Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management, OJ L 197, 25.7.2015, p. 24.

² Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation, OJ L 259, 27.9.2016.

³ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, OJ L 312, 28.11.2017, p. 6.

⁴ Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation, OJ L 220, 25.8.2017, p. 1.

⁵ It should be noted that the electricity network codes (grid connection of generators, demand, high voltage direct-current networks, and emergency&restoration network code) do not provide for the collective development of TCMs. No procedural changes are therefore necessary for these codes.

(Electricity Regulation). This concerns notably the way TCMs are adopted. Pursuant to Art. 5(2) ACER Regulation, **EU-wide TCMs are now directly adopted by ACER**⁶. This change has not yet been mirrored in the Electricity Guidelines. In order to avoid legal uncertainty from contradicting legal provisions, the text of the Electricity Guidelines should therefore be aligned to Art. 5(2) ACER Regulation⁷. The ACER Regulation and the Electricity Regulation have also clarified the right of national regulatory authorities (NRAs) and ACER to **revise and amend** the proposals for TCMs submitted by Transmission System Operators (TSOs) and Nominated Electricity Market Operators (NEMOs)⁸. The proposed text adaptations mirror these changes.

Second, the practice concerning **requests for amendment of TCM proposals** should be clarified in reaction to recent judgements of the General Court⁹. In the process of TCM development, NRAs often saw some deficits in the proposals submitted by TSOs or NEMOs and wanted to ask them to submit modified TCM proposals¹⁰. The question came up whether each single NRA can individually ask for such amendments (potentially leading to a sequence of multiple amendment requests) or whether one amendment request should be agreed in a **coordinated** manner. While, in practice, a coordinated approach was used for amendment requests in the past, the General Court found in its recent judgement that the current text of the Electricity Guidelines is not sufficiently clear to allow *only* the coordinated approach for amendment requests. However, having discussed the situation with NRAs, ACER and stakeholders, the Commission considers the current legal situation, which would allow sequential amendment requests of individual NRAs, as **highly impractical**. Uncoordinated individual amendment requests may not only lead to significant delays in the development of TCMs; they would also give rise to difficult legal questions¹¹, thereby creating legal uncertainty. In order to ensure a smooth adoption process of the TCMs, it is therefore proposed to align the

⁶ See Art. 5(2) ACER Regulation: “Where one of the following legal acts provides for the development of proposals for common terms and conditions or methodologies for the implementation of network codes and guidelines which require the approval of all regulatory authorities, those proposals for common terms and conditions or methodologies shall be submitted to ACER for revision and approval”

⁷ It follows already from the supremacy of secondary law over the Electricity Guidelines that Art. 5(2) of the ACER Regulation prevails and the outdated procedural text in the Electricity Guidelines does no longer apply. However, having to contradicting legal texts in place may create legal uncertainty.

⁸ See on the right to revise and amend TCMs where necessary for example Art. 5(6) ACER Regulation. See in this context also the term “proposal” used in Art. 5(2) ACER Regulation, as well as recital 18 ACER Regulation and recital 62 Electricity Directive (explaining the need for regulatory revision of network code proposals from TSOs or NEMOs).

⁹ Cases T—332/17 Energie-Control Austria vs ACER and T-333/17 APG vs ACER, judgments of the General Court of 24 October 2019.

¹⁰ See in this context e.g. Art. 9(12) Regulation 2015/1222 (CACM): “In the event that one or several regulatory authorities request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6, 7 and 8, the relevant TSOs or NEMOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the regulatory authorities.”

¹¹ For example, in case of multiple uncoordinated and contradictory amendment requests, TSOs and NEMOs might have to develop various different amendments, and the regulators would in any event need to coordinate their reaction.

procedure for requests for TCM amendments to the previous practice of coordinated amendment requests. The Court's legal interpretation of the current text concerning amendment requests of TCM proposals is not put into question by the present proposal.

The proposal for a targeted amendment of the four Electricity Guidelines also remains deliberately **limited** to the two urgent procedural issues outlined above. This limitation shall allow a timely adoption of the proposed changes, which is deemed necessary to avoid further procedural uncertainty. Other, more far-reaching changes of the substance of the four Electricity Guidelines may be proposed by the Commission at a later stage.

Where detailed comments have been added on individual changes proposed for CACM, these comments can be applied *mutatis mutandis* to the parallel proposed changes in FCA, EB GL or SO GL.

2. PROPOSED AMENDMENTS TO CACM

Article 9 CACM is proposed to be amended as follows:

Article 9

Adoption of terms and conditions or methodologies

1. TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances outside the sphere of TSOs or NEMOs, the Agency, in procedures pursuant to paragraph 6, or jointly all competent regulatory authorities, in procedures pursuant to paragraph 7, or the competent regulatory authority in procedures pursuant to paragraph 8, may prolong the deadlines for terms and conditions or methodologies.

Commented [A1]: To reflect new direct ACER approval in Art. 5(2) ACER-Reg.

Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO or NEMO, the participating TSOs and NEMOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, and all NEMOs shall regularly inform the competent regulatory authorities and the Agency about the progress of developing these terms and conditions or methodologies.

Commented [A2]: The current provisions on the development for terms, conditions or methodologies do not provide for the possibility to prolong deadlines. In practice, however, practical problems made prolongations of deadlines necessary in some cases. The proposed prolongation possibility shall address this issue. An extension should still be an exceptional event.

2. TSOs or NEMOs deciding on proposals for terms and conditions or methodologies in accordance with Article 9(6) shall decide with qualified majority if no consensus could be reached among them. The qualified majority shall be reached within each of the respective voting classes of TSOs and NEMOs. A qualified majority for proposals in accordance with Article 9(6) shall require a majority of:

- (a) TSOs or NEMOs representing at least 55 % of the Member States; and
- (b) TSOs or NEMOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions in accordance with Article 9(6) must include TSOs or NEMOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

For TSO decisions under Article 9(6), one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

For NEMO decisions in accordance with Article 9(6), one vote shall be attributed per Member State. Each NEMO shall have a number of votes equal to the number of Member States where it is designated. If more than one NEMO is designated in the territory of a Member State, the Member State shall allocate the voting powers among the

NEMOs, taking into account their respective volume of transacted electricity in that particular Member State in the preceding financial year.

3. Except for Articles 43(1), 44, 56(1), 63 and 74(1) TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 9(7) shall decide with qualified majority if no consensus can be reached among them and where the regions concerned are composed of more than five Member States. The qualified majority shall be reached within each of the respective voting classes of TSOs and NEMOs. A qualified majority for proposals in accordance with Article 9(7), shall require a majority of:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions in accordance with Article 9(7) must include at least the minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 9(7) in relation to regions composed of five Member States or less shall decide based on consensus.

For TSO decisions under Article 9(7), one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

NEMOs deciding on proposals for terms and conditions or methodologies in accordance with Article 9(7) shall decide based on consensus.

4. If TSOs or NEMOs fail to submit or resubmit a proposal for terms and conditions or methodologies to the national regulatory authorities or the Agency in accordance with paragraphs 6 to 8 or 12 within the deadlines defined in this Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies, and explain what has prevented an agreement. ~~The Agency shall inform the Commission and shall, in cooperation with the competent regulatory authorities, at the Commission's request, investigate the reasons for the failure and inform the Commission thereof. The Commission shall take the appropriate steps to make possible the adoption of the required terms and conditions or methodologies within four months from the receipt of the Agency's information. The regulatory authorities, or, where competent, the Agency, shall revise and complete the drafts pursuant to paragraph 5, including where no drafts have been submitted, and approve them.~~

Commented [A3]: Pure clarification that this also applies to resubmission.

5. ~~Each~~ The Agency or each regulatory authority, as the case may be, shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6, 7 and 8. Before approving the terms, conditions and methodologies, the Agency or the competent

Commented [A4]: This part is no longer needed, as the Clean Energy Package (CEP) has clarified that the responsibility for the final text of network codes and network code terms, conditions and methodologies ("TCMs") is with NRAs/ACER. While TSOs and NEMOs submit *proposals* (see Art. 5(2) ACER Regulation) for TCMs, NRAs or ACER are competent to decide on the final text of the TCMs. The previous situation of a "standstill" pursuant to Art. 9(4) CACM can therefore not longer occur after the CEP reforms.

Commented [A5]: To reflect the clarification in the CEP clarified that it is for the NRAs and the Agency to revise and approve the final texts. TSOs and NEMOs submit *proposals* for network codes and TCMs. The decision on the final text is for NRAs/ACER.

Commented [A6]: To reflect new direct ACER approval in Art. 5(2) ACER-Reg.

regulatory authorities shall revise the drafts where necessary, after consulting the respective TSOs or NEMOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

Commented [A7]: Copy of Art. 5(6) ACER-Reg.

6. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the Agency:

Commented [A8]: Clarification that this applies also to amendments

Commented [A9]: To reflect Art. 5(2) ACER-Reg.

- (a) the plan on joint performance of MCO functions in accordance with Article 7(3);
- (b) the capacity calculation regions in accordance with Article 15(1);
- (c) the generation and load data provision methodology in accordance with Article 16(1);
- (d) the common grid model methodology in accordance with Article 17(1);
- (e) the proposal for a harmonised capacity calculation methodology in accordance with Article 21(4);
- (f) back-up methodology in accordance with Article 36(3);
- (g) the algorithm submitted by NEMOs in accordance with Article 37(5), including the TSOs' and NEMOs' sets of requirements for algorithm development in accordance with Article 37(1);
- (h) products that can be taken into account by NEMOs in the single day-ahead and intraday coupling process in accordance with Articles 40 and 53;
- (i) the maximum and minimum prices in accordance with Articles 41(1) and 54(2);
- (j) the intraday capacity pricing methodology to be developed in accordance with Article 55(1);
- (k) the intraday cross-zonal gate opening and intraday cross-zonal gate closure times in accordance with Article 59(1);
- (l) the day-ahead firmness deadline in accordance with Article 69;
- (m) the congestion income distribution methodology in accordance with Article 73(1);

7. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

Commented [A10]: Clarification that this applies also to amendments

- (a) the common capacity calculation methodology in accordance with Article 20(2);
- (b) decisions on the introduction and postponement of flow-based calculation in accordance with Article 20(2) to (6) and on exemptions in accordance with Article 20(7);
- (c) the methodology for coordinated redispatching and countertrading in accordance with Article 35(1);
- (d) the common methodologies for the calculation of scheduled exchanges in accordance with Articles 43(1) and 56(1);
- (e) the fallback procedures in accordance with Article 44;

- (f) complementary regional auctions in accordance with Article 63(1);
- (g) the conditions for the provision of explicit allocation in accordance with Article 64(2);
- (h) the redispatching or countertrading cost sharing methodology in accordance with Article 74(1).

8. The following terms and conditions or methodologies and any amendments thereof shall be subject to individual approval by each regulatory authority or other competent authority of the Member States concerned:

Commented [A11]: Clarification that this applies also to amendments

- (a) where applicable, NEMO designation and revocation or suspension of designation in accordance with Article 4(2), 4(8) and 4(9);
- (b) if applicable, the fees or the methodologies used to calculate the fees of NEMOs relating to trading in the day-ahead and intraday markets in accordance with Article 5(1);
- (c) proposals of individual TSOs for a review of the bidding zone configuration in accordance with Article 32(1)(d);
- (d) where applicable, the proposal for cross-zonal capacity allocation and other arrangements in accordance with Articles 45 and 57;
- (e) capacity allocation and congestion management costs in accordance with Articles 75 to 79;
- (f) if applicable, cost sharing of regional costs of single day-ahead and intraday coupling in accordance with Article 80(4).

9. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by one or several or all regulatory authorities according to paragraphs 7 or 8 shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.

Commented [A12]: Proposal to inform ACER also on proposals for TCMs to be approved at national level. No information on "all NRA" proposals as these go directly to ACER, Art. 5(2) ACER-Reg.

10. Where the approval of the terms and conditions or methodologies according to paragraph 7 or the amendment according to paragraph 12 requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities and the Agency shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, within six months following the receipt of the terms and conditions or methodologies by the Agency or the regulatory authority or, where applicable, by the last regulatory authority concerned.

Commented [A13]: Clarification - reference to list of « regional » TCMs.

Commented [A14]: Clarification that this applies also to amendments.

Commented [A15]: Clarification that 6 months deadline also applies to "all NRA" decisions to be taken by ACER (see Art 5(2), 2nd sentence ACER Regulation).

Commented [A16]: See comment above.

11. Where the regulatory authorities have not been able to reach agreement within the period referred to in paragraph 10, or upon their joint request, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within six months, in accordance with Article ~~8(4)~~5(3) and 6(10), second subparagraph of Regulation (ECEU) No ~~713/2009~~ ~~942/2019~~.

Commented [A17]: Simple update to CEP

12. In the event that ~~on the Agency, or several~~all competent regulatory authorities jointly, or the competent regulatory authority request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6, 7 and 8 respectively, the relevant TSOs or NEMOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the Agency or the regulatory authorities. The Agency or the competent regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraphs ~~(6) and (7)~~, within the two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within six months, in accordance with Article ~~8(4)~~Articles 5(3) and 6(10), second subparagraph of Regulation (ECEU) No ~~713/2009~~ ~~2019/942~~. If the relevant TSOs or NEMOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 of this Article shall apply.

Commented [A18]: 1. The previous version omitted the possibility that regulatory authorities can also ask for amendment of proposals for *national* methods (paragraph 8). [NB this is to address Jan's comment - I did not find an elegant way to distinguish all three cases without major changes. I must admit that I could also live with not mentioning the national methods...]
2. This is to reflect the current regulatory practice (i.e. joint / coordinated request for amendments, in order to avoid sequential and uncoordinated national requests).

Commented [A19]: Update - Art. 5(2) ACER-Reg.

Commented [A20]: All-NRA TCMs now directly with ACER

Commented [A21]: Update to new ACER-Reg.

13. ~~TSOs or NEMOs responsible for developing a proposal for terms and conditions or methodologies~~. The Agency or the regulatory authorities responsible for their adoption in accordance with paragraphs 6, 7 and 8, may request proposals for amendments of these terms and conditions or methodologies and determine a deadline for the submission of these proposals. TSOs or NEMOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and ACER.

Commented [A22]: This is to bring the new text in line with the clarification in the Clean Energy Package on the responsibility of regulators / ACER for the texts for which TSOs/NEMOs shall submit proposals (see already above, paragraph 4). The previous wording was a bit misleading in this respect, as it did not distinguish between NRAs ACER (who can ask for amendments, triggering a legally binding obligation on TSOs/NEMOs), and TSOs, NEMOs who can propose amendments, not triggering a legal obligation.

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 12 and approved in accordance with the procedure set out in this Article.

Commented [A23]: See above, 9(12): As ACER is now competent to approve EU-wide TCMs, a clarification is inserted that not only NRAs, but also ACER can ask TSOs/NEMOs to amend their proposals. While NRAs/ACER can always write the final texts themselves, it may be more appropriate to involve TSOs/NEMOs, in particular in cases of very technical methods where TSOs/NEMOs may be better placed to draft technical texts than NRAs/ACER.

14. TSOs and NEMOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the Agency or the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 13.

Commented [A24]: So far there is no deadline for amendment requests for terms, conditions or methodologies. It is proposed to fill this gap, leaving flexibility for regulators/ACER to set an appropriate deadline in each individual case (a rigid "standard" deadline of 2 months may not fit to complex methodologies, and copying the initial deadline may also not be appropriate as the amendment may require much less efforts than initial development).

Commented [A25]: Adaptation to Art. 5(2) ACER-Reg.

3. PROPOSED AMENDMENTS TO FCA

Article 4 FCA is proposed to be amended as follows:

Article 4

Adoption of terms and conditions or methodologies

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances outside the sphere of TSOs, the Agency or, where competent, jointly all competent regulatory authorities, may prolong the deadlines for terms and conditions or methodologies. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of these terms and conditions or methodologies.

2. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 4(6) shall decide with qualified majority if no consensus could be reached among them. A qualified majority for proposals in accordance with Article 4(6) shall require a majority of:

(a) TSOs representing at least 55 % of the Member States; and

(b) TSOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions in accordance with Article 4(6) must include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

For TSO decisions under Article 4(6), one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

3. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 4(7) shall decide with qualified majority if no consensus can be reached amongst them and where the regions concerned are composed of more than five Member States. A qualified majority for proposals in accordance with Article 4(7) shall require a majority of:

(a) TSOs representing at least 72 % of the Member States concerned; and

(b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions in accordance with Article 4(7) must include at least the minimum number of TSOs representing more than 35 % of the population of the

participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 4(7) in relation to regions composed of five Member States or less shall decide based on consensus.

For TSO decisions under Article 4(7), one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member States shall allocate the voting powers among the TSOs.

4. If TSOs fail to submit or resubmit a proposal for terms and conditions or methodologies to the national regulatory authorities or the Agency in accordance with paragraphs 6 and 7 or 12 within the deadlines defined in this Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies, and explain what has prevented an agreement. ~~The Agency shall inform the Commission and shall, in cooperation with the competent regulatory authorities, at the Commission's request, investigate the reasons for the failure and inform the Commission thereof. The Commission shall take the appropriate steps to make possible the adoption of the required terms and conditions or methodologies within four months from the receipt of the Agency's information. The regulatory authorities, or, where competent, the Agency, shall revise and complete the drafts pursuant to paragraph 5, including where no draft has been submitted, and approve them.~~

5. ~~Each~~The Agency or each regulatory authority, as the case may be, shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7. Before approving the terms, conditions and methodologies, the Agency or the competent regulatory authorities shall revise the drafts where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

6. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency:

- (a) the generation and load data provision methodology pursuant to Article 17;
- (b) the common grid model methodology pursuant to Article 18;
- (c) the requirements for the single allocation platform pursuant to Article 49;
- (d) the harmonised allocation rules pursuant to Article 51;
- (e) the congestion income distribution methodology pursuant to Article 57;
- (f) the methodology for sharing costs of establishing, developing and operating the single allocation platform pursuant to Article 59;
- (g) the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights pursuant to Article 61.

7. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- (a) the capacity calculation methodology pursuant to Article 10;
- (b) the methodology for splitting cross-zonal capacity pursuant to Article 16;
- (c) the regional design of long-term transmission rights pursuant to Article 31;
- (d) the establishment of fallback procedures in accordance with Article 42;
- (e) the regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55.

8. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by several ~~or all~~ regulatory authorities according to paragraph 7 shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.

9. Where the approval of the terms and conditions or methodologies according to paragraph 7 or the amendment according to paragraph 11 requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. ~~The Agency and R~~regulatory authorities shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6 and 7, within six months following the receipt of the terms and conditions or methodologies by the Agency or the regulatory authority or, where applicable, by the last regulatory authority concerned.

10. Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 9, or upon their joint request, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within six months, in accordance with Article ~~8(1)5(3) and 6(10)~~, second subparagraph of Regulation (~~ECEU~~) No ~~713/2009~~942/2019.

11. In the event that ~~on the Agency~~, or ~~several~~jointly all competent regulatory authorities request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6 and 7, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the Agency or the regulatory authorities. The Agency or the competent regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to ~~paragraphs 6 and paragraph~~ paragraph 7 within the two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the

amended terms and conditions or methodologies within six months, in accordance with ~~Article 8(1)~~Articles 5(3) and 6(10), second subparagraph of Regulation (~~ECEU~~) No ~~713/2009~~2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 shall apply.

12. ~~TSOs responsible for developing a proposal for terms and conditions or methodologies.~~The Agency or regulatory authorities responsible for their adoption in accordance with paragraphs 6 and 7, may request amendments of these terms and conditions or methodologies, and determine a deadline for the submission of these proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and ACER.

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 6 and approved in accordance with the procedure set out in this Article.

13. TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the Agency or the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 7.

4. PROPOSED AMENDMENTS TO EB GL

Articles 4 to 7 EB GL are proposed to be amended as follows:

Article 4

Terms and conditions or methodologies of TSOs

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency in accordance with Article 5(2), or the relevant regulatory authorities in accordance with Article ~~37 of Directive 2009/72/EC~~5(3) within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances outside the sphere of TSOs, the Agency, in procedures pursuant to paragraph Article 5(2), or jointly all competent regulatory authorities, in procedures pursuant to Article 5(3), or the competent regulatory authority in procedures pursuant to Article 5(4), may prolong the deadlines for terms and conditions or methodologies.

2. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of ENTSO-E, shall regularly inform the relevant regulatory authorities and the Agency about the progress of developing these terms and conditions or methodologies.

3. Where no consensus is reached among TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 5(2), they shall decide by qualified majority. A qualified majority for proposals in accordance with Article 5(2) shall require a majority of:

- (a) TSOs representing at least 55 % of the Member States; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions in accordance with Article 5(2) must include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

4. Where the regions concerned are composed of more than five Member States and no consensus is reached among TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 5(3), they shall decide by qualified majority. A qualified majority for proposals in accordance with Article 5(3) shall require a majority of:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned area.

Commented [A26]: The current provisions on the development for terms, conditions or methodologies do not provide for the possibility to prolong deadlines. In practice, however, practical problems made prolongations of deadlines necessary in some cases. The proposed prolongation possibility shall address this issue. An extension should still be an exceptional event.

A blocking minority for decisions in accordance with Article 5(3) must include at least a minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

5. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 5(3) in relation to regions composed of five Member States or less shall decide based on consensus.

6.—For TSO decisions under paragraphs 3 and 4, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

7. Where TSOs fail to submit or resubmit a proposal for terms and conditions or methodologies to the relevant regulatory authorities or the Agency in accordance with Articles 5 and 6 within the deadlines defined in this Regulation, they shall provide the relevant regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies and explain why an agreement has not been reached. The regulatory authorities, or, where competent, the Agency, shall revise and complete the drafts pursuant to article 5, including where no drafts have been submitted, and approve them.

~~The Agency shall inform the Commission and shall, in cooperation with the relevant regulatory authorities, at the Commission's request, investigate the reasons for the failure and inform the Commission thereof. The Commission shall take the appropriate steps to make possible the adoption of the required terms and conditions or methodologies within four months from the receipt of the Agency's information.~~

Article 5

Approval of terms and conditions or methodologies of TSOs

1. ~~Each~~The Agency or each relevant regulatory authority ~~in accordance with Article 37 of Directive 2009/72/EC, as the case may be,~~ shall approve the terms and conditions or methodologies developed by TSOs under paragraphs 2, 3 and 4. Before approving the terms, conditions and methodologies, the Agency or the competent regulatory authorities shall revise the drafts where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation.

2. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by ~~all regulatory authorities~~the Agency:

(a) the frameworks for the establishment of the European platforms pursuant to Articles 20(1), 21(1) and 22(1);

(b) the modifications of the frameworks for the establishment of the European platforms pursuant to Articles 20(5) and 21(5);

- (c) the standard products for balancing capacity pursuant to Article 25(2);
- (d) the classification methodology for the activation purposes of balancing energy bids pursuant to Article 29(3);
- (e) the assessment on the possible increase of the minimum volume of balancing energy bids that shall be forwarded to the European platforms pursuant to Article 29(11);
- (f) the methodologies for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process pursuant to Article 30(1) and (5);
- (g) the harmonisation of the methodology for the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38(3);
- (h) the methodology for a co-optimised allocation process of cross-zonal capacity pursuant to Article 40(1);
- (i) the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(1);
- (j) the harmonisation of the main features of imbalance settlement pursuant to Article 52(2);

on which a Member State may provide an opinion to the concerned regulatory authority.

3. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- (a) the framework, for the geographical area concerning all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485, for the establishment of the European platform for replacement reserves pursuant to Article 19(1);
- (b) for the geographical area concerning two or more TSOs exchanging or mutually willing to exchange balancing capacity, the establishment of common and harmonised rules and process for the exchange and procurement of balancing capacity pursuant to Article 33(1);
- (c) for the geographical area covering TSOs exchanging balancing capacity, the methodology for calculating the probability of available cross-zonal capacity after intraday cross-zonal gate closure time pursuant to Article 33(6);
- (d) the exemption, for the geographical area in which the procurement of balancing capacity has taken place, for not allowing balancing service providers to transfer their obligations to provide balancing capacity pursuant to Article 34(1);
- (e) the application of a TSO-BSP model, in a geographical area comprising two or more TSOs, pursuant to Article 35(1);
- (f) the cross-zonal capacity calculation methodology for each capacity calculation region

pursuant to Article 37(3);

- (g) in a geographical area comprising two or more TSOs, the application of the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38(1) ;
- (h) for each capacity calculation region, the methodology for a market-based allocation process of cross-zonal capacity pursuant to Article 41(1);
- (i) for each capacity calculation region, the methodology for an allocation process of cross-zonal capacity based on an economic efficiency analysis and the list of each individual allocation of cross-zonal capacity based on an economic efficiency analysis pursuant to paragraphs 1 and 5 of Article 42;
- (j) for the geographical area comprising all TSOs intentionally exchanging energy within a synchronous area, the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(3);
- (k) for the geographical area comprising all asynchronously connected TSOs intentionally exchanging energy, the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(4);
- (l) for each synchronous area, the TSO-TSO settlement rules for the unintended exchange of energy pursuant to Article 51(1);
- (m) for the geographical area comprising all asynchronously connected TSOs, the TSO-TSO settlement rules for the unintended exchange of energy pursuant to Article 51(2);
- (n) the exemption, at synchronous area level, to the harmonisation of the imbalance settlement periods pursuant to Article 53(2);
- (o) for the geographical area comprising two or more TSOs exchanging balancing capacity, the principles for balancing algorithms pursuant to Article 58(3);

on which a Member State may provide an opinion to the concerned regulatory authority.

4. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by each regulatory authority of each concerned Member State on a case-by-case basis:

- (a) the exemption to publish information on offered prices of balancing energy or balancing capacity bids due to market abuse concerns pursuant to Article 12(4);
- (b) where appropriate, the methodology for allocating costs resulting from actions taken by DSOs, pursuant to Article 15(3);
- (c) the terms and conditions related to balancing pursuant to Article 18;
- (d) the definition and the use of specific products pursuant to Article 26(1);
- (e) the limitation on the amount of bids that is forwarded to the European platforms pursuant to Article 29(10);

- (f) the exemption to separate procurement of upward and downward balancing capacity pursuant to Article 32(3);
- (g) where appropriate, the additional settlement mechanism separate from the imbalance settlement, to settle the procurement costs of balancing capacity, administrative costs and other costs related to balancing with balance responsible parties pursuant to Article 44(3);
- (h) the derogations to one or more provisions of this Regulation pursuant to Article 62(2);
- (i) the costs relating to the obligations imposed on system operators or assigned third entities in accordance with this Regulation pursuant to Article 8(1);

on which a Member State may provide an opinion to the concerned regulatory authority.

5. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. The implementation timescale shall not be longer than 12 months after the approval by the relevant regulatory authorities, except where all relevant regulatory authorities agree to extend the implementation timescale or where different timescales are stipulated in this Regulation. Proposals on terms and conditions or methodologies subject to the approval by one or several ~~or all~~ regulatory authorities according to paragraphs 3 and 4 shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the relevant regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.

6. Where the approval of the terms and conditions or methodologies according to paragraph 3 or the amendment according to Article 6 requires a decision by more than one regulatory authority, the relevant regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where the Agency issues an opinion, the relevant regulatory authorities shall take that opinion into account. Regulatory authorities and the Agency shall decide on the terms and conditions or methodologies submitted in accordance with paragraphs 2, 3 and ~~34~~, within six months following the receipt of the terms and conditions or methodologies by the Agency or the relevant regulatory authority or, where applicable, by the last relevant regulatory authority concerned.

7. Where the relevant regulatory authorities have not been able to reach agreement within the period referred to in paragraph 6, or upon their joint request, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within six months from the day of referral, in accordance with Article ~~8(1)5(3) and 6(10)~~, second subparagraph of Regulation (E~~C~~EU) No ~~713/2009~~942/2019.

8. Any party may complain against a relevant system operator or TSO in relation to that system operator's or TSO's obligations or decisions under this Regulation and may refer the complaint to the relevant regulatory authority which, acting as dispute settlement authority, shall issue a decision within two months after receipt of the complaint. That period may be extended by a further two months where additional information is sought

by the relevant regulatory authority. That extended period may be further extended with the agreement of the complainant. The relevant regulatory authority's decision shall be binding unless and until overruled on appeal.

Article 6

Amendments to terms and conditions or methodologies of TSOs

1. Where ~~one the Agency, or or several~~ all competent regulatory authorities jointly, ~~or the competent regulatory authority in accordance with Article 37 of Directive 2009/72/EC~~ require an amendment in order to approve the terms and conditions or methodologies submitted in accordance with paragraphs 2, 3 and 4 of Article 5 respectively, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the Agency or the relevant regulatory authorities. The Agency or the relevant regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission.

2. Where the relevant regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies within the two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within six months, in accordance with ~~Article 8(1)~~ Articles 5(3) and 6(10), second subparagraph of Regulation (~~ECEU~~) No ~~713/2009~~ 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in Article 4 shall apply.

3. ~~TSOs responsible for developing a proposal for terms and conditions or methodologies, t~~ The Agency or the regulatory authorities responsible for their adoption in accordance with paragraphs 2, 3 and 4 of Article 5 may request amendments of those terms and conditions or methodologies and determine a deadline for the submission of these proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and ACER. The proposals for amendments to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 10 and approved in accordance with the procedure set out in Article 4 and Article 5.

Article 7

Publication of terms and conditions or methodologies on the internet

TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet following approval by the Agency or the relevant regulatory authorities or, where no such approval is required, following their establishment, except where such information is considered as confidential in accordance with Article 11.

5. PROPOSED AMENDMENTS TO SO GL

Articles 5 to 8 SO GL are proposed to be amended as follows:

Article 5

Terms and conditions or methodologies of TSOs

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency in accordance with Article 6(2), to the competent regulatory authorities in accordance with Article ~~6(2)~~ and (3) or for approval to the entity designated by the Member State in accordance with Article ~~6(4) and (5)~~ within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances outside the sphere of TSOs, the Agency, in procedures pursuant to Article 6(2), or jointly all competent regulatory authorities, in procedures pursuant to Article 6(3), or the competent regulatory authority in procedures pursuant to Article 6(4) and (5), may prolong the deadlines for terms and conditions or methodologies.

2. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, shall regularly inform the regulatory authorities and the Agency about the progress of developing those terms and conditions or methodologies.

3. Where no consensus is reached among TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 6(2), they shall decide by qualified majority. The qualified majority for proposals in accordance with Article 6(2) shall require a majority of:

(a) TSOs representing at least 55 % of the Member States; and

(b) TSOs representing Member States comprising at least 65 % of the population of the Union.

4. A blocking minority for decisions in accordance with Article 6(2) must include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

5. Where the regions concerned are composed of more than five Member States and no consensus is reached among TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 6(3) they shall decide by qualified majority. A qualified majority for proposals in accordance with Article 6(3) shall require a majority of:

(a) TSOs representing at least 72 % of the Member States concerned; and

(b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

Commented [A27]: The current provisions on the development for terms, conditions or methodologies do not provide for the possibility to prolong deadlines. In practice, however, practical problems made prolongations of deadlines necessary in some cases. The proposed prolongation possibility shall address this issue. An extension should still be an exceptional event.

6. A blocking minority for decisions in accordance with Article 6(3) must include at least a minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

7. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 6(3) in relation to regions composed of five Member States or less shall decide on the basis of a consensus.

8. For TSO decisions under paragraphs 3 and 4, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

9. Where TSOs fail to submit or resubmit a proposal for terms and conditions or methodologies to the Agency in accordance with Article 6(2), to the regulatory authorities in accordance with Article ~~6(2) and~~ (3) or to the entities designated by the Member States in accordance with Article 6(4) within the deadlines defined in this Regulation, they shall provide the designated entity, competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies, and explain why an agreement has not been reached. ~~The Agency shall inform the Commission and shall, in cooperation with the competent regulatory authorities, at the Commission's request, investigate the reasons for the failure and inform the Commission thereof. The Commission shall take the appropriate steps to make possible the adoption of the required terms and conditions or methodologies within 4 months from the receipt of the Agency's information.~~The regulatory authorities, the designated entities, or, where competent, the Agency, shall revise and complete the drafts pursuant to Article 6, including where no drafts have been submitted, and approve them.

Article 6

Approval of terms and conditions or methodologies of TSOs

1. Each regulatory authority, or, where applicable, the Agency, shall approve the terms and conditions or methodologies developed by TSOs under paragraphs 2 and 3. The entity designated by the Member State shall approve the terms and conditions or methodologies developed by TSOs under paragraph 4. The designated entity shall be the regulatory authority unless otherwise provided by the Member State. Before approving the terms, conditions or methodologies, the regulatory authority, the Agency or the designated entity shall revise the drafts where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

2. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by ~~all regulatory authorities of the Union~~Agency, on which a Member State may provide an opinion to the ~~concerned regulatory authority~~Agency:

- (a) key organizational requirements, roles and responsibilities in relation to data exchange related to operational security in accordance with Article 40(6);
- (b) methodology for building the common grid models in accordance with Article 67(1) and Article 70;
- (c) methodology for coordinating operational security analysis in accordance with Article 75.

3. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region, on which a Member State may provide an opinion to the concerned regulatory authority:

- (a) methodology for each synchronous area for the definition of minimum inertia in accordance with Article 39(3)(b);
- (b) common provisions for each capacity calculation region for regional operational security coordination in accordance with Article 76;
- (c) methodology, at least per synchronous area, for assessing the relevance of assets for outage coordination in accordance with Article 84;
- (d) methodologies, conditions and values included in the synchronous area operational agreements in Article 118 concerning:
 - (i) the frequency quality defining parameters and the frequency quality target parameter in accordance with Article 127;
 - (ii) the dimensioning rules for FCR in accordance with Article 153;
 - (iii) the additional properties of the FCR in accordance with Article 154(2);
 - (iv) for the GB and IE/Ni synchronous areas, the measures to ensure the recovery of energy reservoirs in accordance with Article 156(6)(b);
 - (v) for the CE and Nordic synchronous areas, the minimum activation period to be ensured by FCR providers in accordance with Article 156(10);
 - (vi) for the CE and Nordic synchronous areas, the assumptions and methodology for a cost-benefit analysis in accordance with Article 156(11);
 - (vii) for synchronous areas other than CE and if applicable, the limits for the exchange of FCR between TSOs in accordance with Article 163(2);
 - (viii) for the GB and IE/Ni synchronous areas, the methodology to determine the minimum provision of reserve capacity on FCR between synchronous areas, defined in accordance with Article 174(2)(b);
 - (ix) limits on the amount of exchange of FRR between synchronous areas defined in accordance with Article 176(1) and limits on the amount of sharing of FRR

between synchronous areas defined in accordance with Article 177(1);

- (x) limits on the amount of exchange of RR between synchronous areas defined in accordance with Article 178(1) and limits on the amount of sharing of RR between synchronous areas defined in accordance with Article 179(1);
- (e) methodologies and conditions included in the LFC block operational agreements in Article 119, concerning:
 - (i) ramping restrictions for active power output in accordance with Article 137(3) and (4);
 - (ii) coordination actions aiming to reduce FRCE as defined in Article 152(14);
 - (iii) measures to reduce FRCE by requiring changes in the active power production or consumption of power generating modules and demand units in accordance with Article 152(16);
 - (iv) the FRR dimensioning rules in accordance with Article 157(1);
- (f) mitigation measures per synchronous area or LFC block in accordance with Article 138;
- (g) common proposal per synchronous area for the determination of LFC blocks in accordance with Article 141(2).

4. Unless determined otherwise by the Member State, the following terms and conditions or methodologies and any amendments thereof shall be subject to individual approval by the entity designated in accordance with paragraph 1 by the Member State:

- (a) for the GB and IE/NI synchronous areas, the proposal of each TSO specifying the level of demand loss at which the transmission system shall be in the blackout state;
- (b) scope of data exchange with DSOs and significant grid users in accordance with Article 40(5);
- (c) additional requirements for FCR providing groups in accordance with Article 154(3);
- (d) exclusion of FCR providing groups from the provision of FCR in accordance with Article 154(4);
- (e) for the CE and Nordic synchronous areas, the proposal concerning the interim minimum activation period to be ensured by FCR providers as proposed by the TSO in accordance with Article 156(9);
- (f) FRR technical requirements defined by the TSO in accordance with Article 158(3);
- (g) rejection of FRR providing groups from the provision of FRR in accordance with Article 159(7);
- (h) technical requirements for the connection of RR providing units and RR providing

groups defined by the TSO in accordance with Article 161(3); and

(i) rejection of RR providing groups from the provision of RR in accordance with Article 162(6).

5. Where an individual relevant system operator or TSO is required or permitted under this Regulation to specify or agree on requirements that are not subject to paragraph 4, Member States may require prior approval by the competent regulatory authority of these requirements and any amendments thereof.

6. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by one or several~~or all~~ regulatory authorities shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

7. Where the approval of the terms and conditions or methodologies according to paragraph 3 or the amendment according to Article 7 requires a decision by more than one regulatory authority pursuant to paragraph 3, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where the Agency issues an opinion, the competent regulatory authorities shall take that opinion into account. The Agency and the rRegulatory authorities shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 2, 3 and 4, within 6 months following the receipt of the terms and conditions or methodologies by the Agency or the regulatory authority or, where applicable, by the last regulatory authority concerned.

8. Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 7 or upon their joint request, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months, in accordance with Article 8(1)5(3) and 6(10), second subparagraph of Regulation ~~(EEU)~~ No 743/2009942/2019.

9. Where the approval of the terms and conditions or methodologies requires a decision by a single designated entity in accordance with paragraph~~paragraphs~~ 4 or 5, the designated entity shall reach a decision within 6 months following the receipt of the terms and conditions or methodologies.

10. Any party can complain against a relevant system operator or TSO in relation to that relevant system operator's or TSO's obligations or decisions under this Regulation and may refer the complaint to the regulatory authority which, acting as dispute settlement authority, shall issue a decision within 2 months after receipt of the complaint. That period may be extended by a further 2 months where additional information is sought by the regulatory authority. That extended period may be further extended with the agreement of the complainant. The regulatory authority's decision shall be binding unless and until overruled on appeal.

Article 7

Amendments to the terms and conditions or methodologies of TSOs

1. Where ~~one~~the Agency or ~~or several~~jointly all competent regulatory authorities require an amendment in order to approve the terms and conditions or methodologies submitted in accordance with paragraphs 2, ~~and~~ 3 of Article 6 respectively, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the requirement from the Agency or the regulatory authorities. The Agency or the competent regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission.

2. Where a designated entity requires an amendment in order to approve the terms and conditions or methodologies submitted in accordance with Article 6(4), the relevant TSO shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the requirement from the designated entity. The designated entity shall decide on the amended terms and conditions or methodologies within 2 months following their submission.

3. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraphs 2 and 3 of Article 6 within the two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance ~~with Article 8(1)~~with Articles 5(3) and 6(10), second subparagraph of Regulation (ECEF) No ~~713/2009~~2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in Article 5(7) shall apply.

4. ~~TSOs responsible for developing a proposal for terms and conditions or methodologies, (The Agency~~ or regulatory authorities or designated entities responsible for their adoption in accordance with paragraphs 2, 3 and 4 of Article 6 may request amendments of those terms and conditions or methodologies and determine a deadline for the submission of these proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and ACER. Proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation if applicable in accordance with the procedure set out in Article 11 and approved in accordance with the procedure set out in Articles 5 and 6.

Article 8

Publication on internet

1. TSOs responsible for specifying the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet following approval by the Agency or the competent regulatory authorities or, where no such approval is required, following their specification, except where such information is considered confidential in accordance with Article 12.

2. The publication shall also concern:

- (a) enhancements of network operation tools in accordance with Article 55(1)(e);
- (b) FRCE target parameters in accordance with Article 128;
- (c) ramping restrictions on synchronous area level in accordance with Article 137(1);
- (d) ramping restrictions on LFC block level in accordance with Article 137(3);
- (e) measures taken in the alert state due to there being insufficient active power reserves in accordance with Article 152(11); and
- (f) request of the reserve connecting TSO to an FCR provider to make the information available in real time in accordance with Article 154(11).