
Energinet and Svenska kraftnät's proposal for an exemption to the obligation to allow transfer of FCR balancing capacity in accordance with Article 34(1) of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing

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Whereas

1. This document provides an exemption from the requirement to allow balancing service providers to transfer their obligation to provide Frequency Containment Reserve (hereinafter referred to as “FCR”) capacity pursuant to Article 34(1) of Commission Regulation (EU) 2017/2195 of 23 November establishing a guideline on electricity balancing (hereafter referred to as the “EB Regulation”). This document is hereinafter referred to as the “Exemption”. The Exemption covers transfer of obligations between the following bidding zones:
 - SE1↔DK2
 - SE2↔DK2
 - SE3↔DK2
 - SE4↔DK2
2. This Exemption applies to the Transmission System Operators (TSO) of Denmark and Sweden. The TSOs of Denmark and Sweden are considered the TSOs allowing balancing service providers to transfer their obligations to provide balancing capacity pursuant to Article 34(1) of the EB Regulation.
3. This Exemption takes into account the general principles and goals set out in the EB Regulation as well as Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (hereafter referred to as the "SO Regulation"), Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (hereafter referred to as the “CACM Regulation”) and Regulation (EU) 2019/943 of the European Parliament and of the Council on the internal market for electricity (hereafter referred to as the “Electricity Regulation”).
4. This Exemption is based on the possibility for TSOs to request an exemption from the requirements of Article 34 of the EB Regulation regarding the transfer of balancing service providers' obligations to provide balancing capacity across bidding zones borders within the same geographical area in which the procurement of FCR capacity takes place. TSOs can request an exemption from the requirement to allow balancing service providers to transfer balancing capacity bids when the contracting period is strictly less than one week. The contracting period for the common FCR Capacity Market shall only be one day, and this is expected to generally reduce the need for such flexibility among balancing service providers relative to a longer contracting period.
5. Article 5(5) of the EB Regulation requires that the expected impact of the Exemption on the objectives of the EB Regulation is described. The expected impact is presented below.
 - a. This Exemption maintains effective competition, non-discrimination and transparency in balancing markets (Article 3(1)(a) of the EB Regulation). Specifically, it still allows the transfer of balancing capacity obligations within each Control Area, thereby ensuring operational security. The ability to transfer obligations within a Control Area gives potential balancing service providers greater flexibility in managing the risks of being unable to deliver and may encourage greater participation in the market by balancing service providers with limited alternative options for managing this risk within their own portfolio. This greater participation should foster competition in the balancing capacity market. It should also ensure that there is no competitive advantage for balancing service providers having a portfolio across different bidding zones within a Control Area, which might be able to manage the risk of non-delivery by more efficiently transferring capacity obligations within their portfolio.
 - b. The Proposal contributes to the objective of integrating balancing markets and promoting the possibilities for exchanges of balancing services while ensuring operational security (Article

3(1)(c) of the EB Regulation). The FCR capacity activations between bidding zones and cross-border within the Nordic synchronous area are ensured using the Transmission Reliability Margin (Article 22, CACM Regulation) and the geographical distribution is ensured in SO Regulation (Article 119, 163 in the SO Regulation. If cross-border transfers of bid obligations would be allowed the FCR activation cross-border might result in a situation in which these activations could not be fulfilled without violating operational security constraints, thus jeopardising system stability and security.

SUBMIT THE FOLLOWING PROPOSAL FOR THE EXEMPTION OF THE TSOs OF DENMARK AND SWEDEN FROM THE OBLIGATION TO ALLOW BALANCING SERVICE PROVIDERS TO TRANSFER THEIR OBLIGATIONS TO PROVIDE BALANCING CAPACITY IN ACCORDANCE WITH Art. 34(1) of THE EB REGULATION TO RELEVANT REGULATORY AUTHORITIES WITHIN DENMARK AND SWEDEN:

TITLE 1

General provisions

Article 1

Subject matter and scope

1. This document establishes the exemption for the TSOs in Denmark and Sweden from the requirement to allow balancing service providers to transfer their obligations to provide FCR balancing capacity in accordance with Article 34(1) of the EB Regulation, while respecting the requirements of Article 32 of the EB Regulation.
2. The Exemption applies to the transfer of bid obligations between all bidding zones outside of DK2 in the common FCR Capacity Market of the geographic area defined in the common rules and processes in accordance with Article 33(1) of the EB Regulation. The bidding zone borders are:
 - SE1↔DK2
 - SE2↔DK2
 - SE3↔DK2
 - SE4↔DK2

Article 2

Definitions and interpretation

1. For the purposes of this Exemption, terms used in this document shall have the meaning of the definitions included in Article 2 of the EB Regulation, Article 3 of the SO Regulation and Article 2 CACM Regulation, the Electricity Regulation, Commission Regulation (EU) No 543/2013 of 14 June 2013 on the submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council (hereafter referred to as "Transparency Regulation") and Directive (EU) 2019/944.
2. In the Exemption, unless the context requires otherwise:
 - a) the singular indicates the plural and vice versa;
 - b) the table of contents and headings are inserted for convenience only and do not affect the interpretation of this exemption;
 - c) any reference to legislation, regulations, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force; and
 - d) any reference to an Article without an indication of the document shall mean a reference to this methodology.

TITLE 2 Exemption

Article 3

Exemption to transfer FCR capacity obligations between DK2 and other bidding zones

1. A balancing service provider's obligation to provide FCR balancing capacity, results from the selection of a FCR capacity bid in the procurement of FCR balancing capacity pursuant to Article 33(1) of the EB Regulation.
2. A balancing service provider shall not be allowed to transfer the obligation pursuant to paragraph 1 across bidding zone borders: SE1-DK2, SE2-DK2, SE3-DK2, SE4-DK2.

TITLE 3 Final provisions

Article 4

Publication and implementation of the Proposal

1. The TSOs shall publish the Exemption without undue delay after a decision has been made by the Danish and Swedish regulatory authorities in accordance with Article 5(3) of the EB Regulation.
2. The Exemption shall be applied at latest at the same time as the common and harmonised rules and processes for the exchange of FCR balancing capacity in accordance with Article 33(1) of the EB Regulation are implemented by the TSOs of Denmark and Sweden.

Article 5 Language

The reference language for this Exemption shall be English. For the avoidance of doubt, where TSOs need to translate the Exemption into their national language(s), in the event of inconsistencies between the English version published by TSOs in accordance with Article 7 of the EB Regulation and any version in another language, the relevant TSOs shall, in accordance with national legislation, provide the relevant national regulatory authorities with an updated translation of this Exemption.