

9 February 2022

*To:*  
*Fingrid Oy*  
*Att: Ms. Ritva Hirvonen*

*Energinet Myndighedsenheden*  
*Att. Ms. Anja Rye*

*Svenska kraftnät*  
*Att: Ms. Rebecca Roupe*

*CC:*  
*Statnett*  
*Att: Mr. Finn Erik Ljåstad Pettersen*

*ACER*  
*Att: Ms. Athina Tellidou*

*By email only*

## **Information on a procedure to ensure the adoption of terms and conditions required by ACER Decision 22/2020**

Dear Ritva,

Following the letter of 9 December 2021 on enforcement procedures vis-à-vis the CCR Nordic transmission system operators (the CCR Nordic TSOs) for lack of compliance with ACER Decision 22/2020 from the Regulatory Authorities of CCR Nordic (the CCR Nordic NRAs), all CCR Nordic NRAs have stated to vis-à-vis each of “their TSOs” that the TSOs did not fulfil the requirement of the ACER Decision 22/2020 on a market based allocation of transmission capacity for the use of balancing reserve capacity. The requirement was to update the mark-up to the TSO-forecasts of the day-ahead price. The TSOs submitted a methodology with no legal content as described in more detail in the letter of 9 December 2021.

As a result of the submission of a methodology with no legal content, the NRAs find that the situation at hand is to be considered as described by Article 4(7) of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing as amended by Commission Implementing Regulation (EU) 2021/280 of 22 February 2021 amending Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 in order to align them with Regulation (EU) 2019/943 (EB Regulation).

Article 4(7) of the EB Regulation reads:

*7. Where TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the relevant regulatory authorities or the Agency in accordance with Articles 5*

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*and 6 within the deadlines set out in this Regulation, they shall provide the relevant regulatory authorities and the Agency with the relevant drafts of the proposals for terms and conditions or methodologies and explain why an agreement has not been reached. The Agency, all relevant regulatory authorities jointly, or the relevant regulatory authority shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with Article 5, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.*

As a result of the above, it is the task of the CCR Nordic NRAs to take appropriate steps for the adoption of the required terms and conditions.

The above also implies that there are no specific deadlines, as the paragraph contains no such, and the procedure covers situations where the deadlines in article 5 and 6 of the EB Regulation have not been met. In the situation at hand, the regulators are not setting further deadlines either. Everything should happen with the shortest delay possible.

At the meeting in the NRA/TSO NBM Coordination Group on 11 February 2022, the CCR Nordic NRAs expect to explain what the NRAs request from the CCR Nordic TSOs to ensure that the required terms and conditions can be adopted.

The CCR Nordic NRAs will send minutes from the meeting on 11 February 2022 to the TSOs reflecting the explanation given by the CCR Nordic NRAs to the CCR Nordic TSOs.

The CCR Nordic NRAs will coordinate closely in the process described by Article 4(7) of the EB Regulation, involving NVE-RME informally in the process.

Similarly the CCR Nordic NRAs will keep ACER updated of the process and have sent a copy of this letter to ACER.

Yours sincerely,

Søren Lorenz Rask Søndergaard  
Chair of NordREG Electricity Balancing Task Force  
On behalf of ERRF CCR Nordic