

EnBW Energie Baden-Württemberg AG · Großkunden-PLZ: 76180 Karlsruhe



Per email: [fg\\_gasbalancing@ergeg.org](mailto:fg_gasbalancing@ergeg.org)

Mrs Fay Geitona  
CEER / ERGEG  
28 Rue le Titien  
1000 Brussels  
Belgium

Durlacher Allee 93  
76131 Karlsruhe  
Großkunden-PLZ: 76180 Karlsruhe  
Telefon 0721 63-06  
Telefax 0721 63-12725  
[www.enbw.com](http://www.enbw.com)

Sitz der Gesellschaft: Karlsruhe  
Amtsgericht Mannheim  
HRB Nr. 107956  
Steuer-Nr. 35001/01075

Name Felicitas Stuffer  
Department Regulatory Compliance (HOL ONC)  
Telephone 0721 63-24235  
Telefax 0721 63-13816  
E-Mail [f.stuffer@enbw.com](mailto:f.stuffer@enbw.com)

**ERGEG consultation on Pilot Framework Guideline on Gas Balancing Rules on European Gas Transmission Networks (# E10-GNM-13-03)**

October 28th 2010

Dear Ladies and Gentlemen, dear Mrs. Geitona,

EnBW welcomes the opportunity to comment on ERGEG's consultation on its "Pilot Framework Guideline on Gas Balancing Rules on European Gas Transmission Networks".

The topic of harmonised balancing rules in Europe has been a highly anticipated one to be dealt with by ERGEG and later on by ENTSOG in the respective network code. Harmonised balancing systems are without a doubt not only crucial for the market as a whole to flourish through EU-wide facilitated trading but also for EnBW as a specific market player. We are investing both in trading and in assets and their optimisation beyond the German borders. Harmonised balancing rules will strengthen our trust in European cross-border markets and in our investments beyond the German market.

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**Problem identification, scope, definitions, purpose, policy objectives and compliance**

***Question 1: Do you agree that the problems identified in the problem identification chapter are the main ones? Are there additional problems that should be addressed within the gas balancing pilot framework guideline?***

Generally we agree with the problems identified in this section of the document. In particular we see the need to comply with the legal requirement of Art. 21 of Regulation 715/2009 to implement a market-based balancing. Furthermore, we welcome the crosslink made to capacity allocation and the need for all market participants to have access to capacities in all time horizons as a means of flexibility beside storage capacities and LNG volumes. We would like to add that the issue of tariffication is likewise interlinked. Ideally all of these issues will be put into a

Vorsitzender des Aufsichtsrats:  
Dr. Claus Dieter Hoffmann  
Vorstand:  
Hans-Peter Villis (Vorsitzender)  
Dr. Bernhard Beck  
Christian Buchel

more holistic perspective by a target model for the European gas market in 2011, i.e. a target model that incorporates all interlinked issues.

***Question 2: Do you agree with the scope (section 1) and objectives (section 3) of this pilot framework guideline? Are there policy issues that should, but are not currently addressed by the draft document?***

Regarding section 3 we would like to stress that it has to be kept in mind that the Framework Guideline on Balancing will not create a more competitive market design in Europe all by itself. In order to do so other topics have to be dealt with accordingly: capacity allocation, congestion management, and tariffication. These issues – as it was also acknowledged at the latest Madrid Forum - are highly interlinked. The outcome of the Framework Guideline on CAM and the follow-up in the Network Code will influence a possible target model and Network Code on Balancing. The more the FG CAM creates a level playing field as it does in its latest public version the easier it will be to have a respective balancing target model.

***Question 4: Do you agree with the approach of defining a target model for the network code and allowing interim steps subject to NRA approval?***

Actually we miss a link to the possible capability of regional approaches in order to reach a pan-European target model. Rather than allowing different possibilities of interim steps we would like to see regional commitment to reach the target model.

***Question 5: What timescale is needed to implement the provisions in the target model outlined in Part II after the network code is adopted? Is 12 months (as in section 10) appropriate or should it be shorter or longer?***

Section 10 gives NRAs a great deal of discretion on how to proceed towards the target model. We see this as a danger especially in less developed market. In order to ease the tension and allow for TSOs to comply with the target model of the Framework Guideline we see at least a 24-months-period as appropriate. TSOs should however signal problems within 12 months of the adoption of the Network Code.

***Question 6: Should the pilot framework guideline be more specific regarding the purpose and policy objectives for network codes (section 3), in particular areas including nomination procedures?***

The issue of nomination procedures is a highly debated one in some national markets, e.g. in Germany. As balancing and capacity allocation (plus day-ahead re-marketing of capacities) are highly interlinked issues we think that the harmonisation of nomination procedures should be clearly included in the target model.

***Question 7: With reference to section 3 (proposed policy objectives), do you have comments on how Article 21 of the Gas Regulation 715/2009 should be reflected in the gas balancing network code?***

Article 21 of the Gas Regulation 715/2009 sets the necessary basic principles for a future European balancing regime.

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## The role of network users and TSOs

***Question 8: Is it necessary to have a harmonised approach to the network user and TSO roles regarding gas balancing?***

It is indeed necessary to have a harmonised approach to the network user and TSO roles regarding gas balancing. If there is not the same approach, it will be difficult to create cross-border balancing zones as there will be different rationales by market participants on how to behave in a market.

***Question 9: What are your views on the proposals for the target model to be reducing the need for TSOs to undertake balancing activities?***

We think that a reduced role of the TSO to balance the system is an efficient means to have a fair cost-allocation for imbalances in place. The worst case is a TSO that takes very long-term balancing actions to cover any possible imbalance and then allocates the costs on all shippers. We support a system in which a shipper is primarily responsible for managing his imbalances. The important prerequisites are the respective information on the system and on the own portfolio in order to be able to allow the TSO to move into a more residual balancing role without moving the shipper into a position of incalculable risk (due to the lack of information).

***Question 10: Is it appropriate for the target model to impose within-day constraints on network users? If so, should such constraints be imposed on all network users or only on certain groups of network users? If within-day constraints should only be imposed on certain groups of network users, which ones are these? How could this be justified?***

Although we support a harmonised pan-European target model with clear rules and ideas for a Network Code to be developed we also acknowledge the fact that there may be situations in which within-day constraints are appropriate. ERGEG should from our perspective give more precise advice in which circumstances a constraint may be necessary.

***Question 12: Should TSOs have the option to sell flexibility provided by the gas transmission pipelines system (linepack) subject to the NRAs' approval? If so, should this be mandatory?***

At first sight the linepack seems to be a natural given and should therefore be free of charge. At second sight however the linepack is also the result of TSO and DSO activities. EnBW sees the need for clear accountability rules to create transparency on the costs incurred of providing this flexibility. We call for clear application rules on a European level. When it comes to the use of it, linepack should remain a system service and be available to all respective network-users.

***Question 13: Should the target model enable TSOs to provide tolerances to market participants for free or should this be an interim step?***

5.9 of the Framework Guideline text speaks of granting tolerance to market participants. The aim of this point is not very clear to us – which cases of market situations are covered? We currently see tolerances being implemented in the

German market which will lead to higher smeared balancing costs. Any tolerance given reduces the incentive for the shipper to balance his own portfolio. Therefore we do not support the implementation of tolerances.

The introduction of tolerances in the German system is due to the fact that industrial shippers ask for the same level of tolerance as is given to standard load profiles (SLP). The fact that there are deviations from SLP when looking at the difference between nomination and allocation is however due to the fact that the SLP are not always precise. Rather than broadening the non-market based tolerances we see the need of detailing the SLPs.

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#### TSO obligations on information provision

***Question 14: Are there any additional information requirements that you believe should be included? In particular, should the pilot framework guideline oblige TSOs to provide information beyond the requirements set out in the revised Article 21 and Chapter 3 of Annex 1 to Regulation (EC) No 715/2009 (as recently approved through comitology)? If so, please provide details?***

EnBW thinks that non-discriminatory information provision is a prerequisite for a fair and well-functioning European gas market – this applies to balancing as it does for capacities and their calculation. At this stage it is difficult to assess if there should be more information provided than required by the TSO transparency annex of Regulation (EC) No. 715/2009. The possible need for more information depends on the final design of the target model.

***Question 15: What are the benefits and disadvantages of TSOs providing network users with system information?***

We clearly see benefits of TSOs providing network users with system information. Especially with the development of TSOs becoming more and more active in the wholesale markets in order to procure balancing energy there is a need for information symmetry – for the sake of the TSO and for the sake of market participants likewise.

***Question 16: What are the costs of TSOs providing network users with system information? How do these compare against the benefits and/or disadvantages?***

We are well aware of the fact that data provision by the TSO comes at a cost – the more real-time information about a network there is to publish and to meter the higher the price becomes for providing this data. There maybe TSOs who already have lots of needed information available anyway – in this case the publication should not be very costly. However, there are TSOs in Europe that are well behind others and need to invest money to meet existing benchmarks. Therefore we see the need to distinguish between offering information to all network users free of charge and being able to recover the costs for network transparency on the TSO side. The essential question is: are TSOs capable of cooperating in a way that they will provide information in the same way and formats? We see the TSOs in the role of publishing network information in the same formats, in the same time intervals and on multi-TSO platforms. Multi-TSO-platforms are especially important in bal-

ancing zones formed by more than one TSO. The cost allocation should not be smeared over the whole of Europe but should be allocated in the respective markets. Otherwise TSOs and shippers in better developed markets in terms of data provision have to bear costs that less developed markets have failed to cover in the past. So, in this respect cross-European cost-sharing would be a clear discrimination of existing liquid wholesale markets. We would like to see this point made very clear in the Framework Guideline.

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## Balancing periods

### ***Question 17: What are your views on our assessment of the policy options?***

We welcome the assessment of different policy options which acknowledge partly existing market designs. The challenge for the target model is indeed to be workable in all gas markets acknowledging that more or less sophisticated balancing systems already exist.

### ***Question 18: Are there relevant additional policy options on balancing periods which have not been considered in this section? Should these be considered going forward?***

We do not have additional policy options to add.

### ***Question 19 + 20:***

***Is it necessary to harmonise balancing periods? If so, what are the benefits of a regional or pan-European harmonised balancing period? If not, why is it not necessary? Please explain your answer.***

***If you agree with a harmonised balancing period, what do you consider is the appropriate length of the balancing period?***

EnBW supports the harmonisation of balancing periods – both in length and in timing. We share the widespread position that a day is an appropriate length (ER-GEG option 2). An hourly system as a target model would demand massive investments in appropriate metering. This money should not be taken away from the market and customers because a well designed daily system can deliver the best results for Europe.

In terms of timing there is no pan-European harmonisation of market design possible if the gas day starts at different times in adjacent markets. We therefore propose that ERGEG imposes the start of the gas day at 6:00h CET as the major gas markets lie in the CET-zone. We are an active market participant in different gas markets in Europe – any difference in market design raises the complexity of being active in numerous markets and therefore raises the transactional costs.

### ***Question 21: Do you agree with the target model? (Please explain your answer).***

We agree with the target model in respect of the daily balancing period. We think that the issue of restrictions should be dealt with in more detail (see our answer 10). We think that neither tolerances nor ex-post balancing aspects should be included in the Framework Guideline.

***Question 22: What would be the costs of implementing the target model in (and beyond) your Member State or balancing zones(s) (as the case may be)?***

As we already have a daily balancing regime starting at 6.00 h CET we do not think that there will be any additional costs in that sense. However, implementing the target model will mean changes for other markets not yet complying to the balancing period of a day starting at 6:00h CET. We would like to stress our position that costs arising from the implementation of a target model should be allocated in the respective markets. Today's markets have different status of implementation of parts of the target model already – no market should be discriminated against by smearing the costs of implementation caused by a less developed market over all other markets.

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**TSO buying and selling of flexible gas and balancing services**

***Question 23: Do you agree with our assessment of the policy options?***

We agree with ERGEG's assessment of the policy options and think that the options are not to be taken separately but already exist one next to each other.

***Question 24: Do you agree with the target model? (Please give reasons). If so, what do you consider are the benefits and disadvantages of the target model?***

We support any move of procurement of balancing energy to the wholesale market. The target model should be exclusive procurement through the market. Balancing platforms can indeed only be an interim step or a means to procure physical products for specific geographical spots in the network (local balancing). In the German market we have seen that a TSO move has actually fostered wholesale market liquidity.

A balancing platform will never be as open for all market participants as the wholesale market is. Otherwise this proprietary platform would not make any sense. Due to product design or contractual constraints such a platform will always keep market participants out. The wholesale market platform e.g. through an energy exchange offers the advantage of central clearing and hence reduces the counterparty risk on all sides.

***Question 25 + 26:***

***What are the costs of implementing the target model in your Member State? What interim steps, if any, may be needed in your Member State or balancing zone(s)?***

In Germany we have both ways of procurement used by the TSOs. We support TSOs shifting more volumes away from their platforms towards the wholesale market (into day-ahead and furthermore into the within-day timescale).

**Question 27 + 28 + 29:**

***Is it appropriate for balancing platforms to be part of the target model subject to NRA approval, even where markets are sufficiently liquid to enable TSO procurement on wholesale markets?***

***Is it appropriate for TSOs to procure balancing services on the wholesale market and/or is appropriate for these to be procured on the balancing platform?***

***Should TSOs be permitted to reserve long-term contracts for flexible gas and/or associated capacity for this purpose?***

***In your view is it possible in your market to reduce TSOs' reliance on long-term products? If so, how may this be best achieved?***

In the German market we have seen the positive effect the TSO balancing energy procurement has on wholesale market liquidity from the moment Net Connect Germany started its activities at the EEX (October 2008, see traded volume data available on the NCG website). Gaspool has also started wholesale market procurement. We think the TSOs' initiatives are the right way forward, however more than half of their balancing needs are still procured via their own platforms. We envisage a much further shift of volumes into the day-ahead or even better into the within-day wholesale market. Procurement – plus the more long-term it is – through proprietary platforms is more expensive and less efficient than through the wholesale market. TSOs in their role as residual balancers should primarily procure their need through the market. The more difficult question to solve is how to procure physical balancing need in a specific geographical spot (local balancing) on a market-based and cost-effective basis. Having this question in mind we do not think that balancing platforms should be part of the target model because any platform will always exclude some market participants due to certain restrictions.

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## Imbalance Charges

**Question 30 + 31:**

***Do you agree with our assessment of the policy options?***

***Do you agree that methods for calculating imbalance charges should be harmonised? If so please explain what the benefits may be. If not, please explain why not.***

EnBW agrees that the methods for calculation imbalance charges should be harmonised. Shippers will only use the same rationale to balance their portfolio if there are the same rules in all markets. Imagine two adjacent markets with different methods: they will not be able to form a cross-border balancing zone. When speaking about the shipper rationale, the less different methods there are in the European markets, the easier it becomes for shippers to become active in more than their own market.

***Question 32: What are your views of the target model? In particular, please provide your views on:***

***- Whether an imbalance charge should be applied when TSOs do not take balancing actions;***

***- What the imbalance charge should be based on, if it is applied when the TSO has not taken a balancing action, whether imbalance charges should be dual or single priced;***

***- Whether imbalance charges should be based on the marginal price.***

From our perspective imbalance charges should in principal be based on marginal prices and single priced. In order to reach marginal prices the TSOs should aim at procuring their balancing needs rather in the wholesale market than via balancing platforms. We do not support the idea of an uplift of the marginal price as described in 7.7. If implemented properly, the marginal price is a fair means of allocating the costs incurred by the TSO to the shipper in imbalance. The proper implementation is marked by the fact that the marginal price is not foreseeable for shippers. This should be incentive enough not to run into imbalance charges on purpose. The idea of setting incentives for TSOs to behave cost-effectively, i.e. selling and buying at different times and in a way not to influence market prices, is one we would support in the Framework Guideline.

In case of no action taken by the TSO the marginal price can be determined by the maximum bid-offer-spread of that day or by using a (ex post) indexation of wholesale market prices where it exists.

***Question 33: What would be the costs and benefits of implementing your preferred options in your Member State?***

In the German market we already have a development towards market-based pricing of imbalances. However, the costs of procurement of balancing energy are not directly linked to the imbalance charges. The price of imbalances is determined on the basis of a price basket including four hub prices plus/minus a premium. Additional cost and revenues occurring in the procurement of balancing services is allocated on almost all shippers.

The implementation of a marginal price system would at first mean the abolishment of the price basket (with foreseeable price elements). The price for imbalances would then be determined on the price the TSO pays for balancing energy bought/sold at the two hubs (Gaspool / Net Connect Germany). Following this logic, a shipper would pay for imbalances the highest price paid by the TSO to procure the balancing energy (alternatively the gas could be priced on a to-be developed index). This would also imply that TSOs in Germany shift much more of their procurement from their own platforms towards the wholesale market. As long as the platforms exist, the delta of platform procurement (mostly more expensive than the wholesale market) and wholesale procurement costs will still have to be allocated on all system users.

***Question 34: What are your views on the interim steps in the document?***

The interim step described in 7.B. is something we have seen in the German market so far. We think it is a useful step towards a relevant market price. However, the experiences in the German market show also that there is a possibility to choose proxies that are linked to different fundamentals than the underlying market (until recently the NBP price was a proxy used in the German market – the price development of the British market is based on different fundamentals such as LNG or North Sea production and does not necessarily react on changing consumption behaviour in Germany).

At the same time the interim step is implemented there is a need for a clear vision of the NRA and of the TSO on how to facilitate the development of a liquid home market with a reference price. Otherwise the interim step will be the only step to be taken – the German example shows that it was the TSOs turning toward market-based procurement which helped to maximise the liquidity of the German hubs. Eventually the German TSOs' procurement behaviour will help to establish a sustainable indigenous reference price.

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### Cross-border cooperation

Cross-border cooperation should be a natural TSO (and NRA) attitude in all sorts of fields in order to reach harmonised gas market rules in Europe. Balancing is therefore only one more area of cooperation besides capacity calculation, capacity allocation and tariffication.

We welcome ERGEG's clear focus on stakeholder participation when it comes to the aspects of cross-border balancing. EnBW supports the approach of an impact assessment but we are not sure how ERGEG defines costs and benefits – costs incurred by what and to be paid by whom? Benefits to be reaped by whom? We think that there is a need to be more precise on what spin and focus such an assessment should have.

A regular review of the progress of harmonisation of rules in adjacent balancing zones is helpful tool yet we think point 9.8 which states the TSOs' possibility for an initiative will be more fruitful in terms of results. In order to facilitate the TSO activities, we therefore advocate for clear requirements which automatically trigger a balancing zone merger process (i.e. no physical congestion between two balancing zones).

When it comes to cross-border balancing we opt for shipper-led cross-border balancing. We find the ERGEG idea of portfolio balancing across borders intriguing yet we do not really envisage how that would practically work. Meanwhile it is important to allow shippers to offer cross-border system services (in form of intraday trading activities) – we rather see the shippers in the role of balancing energy providers and we think that adequate day-ahead and within-day cross-border capacity services will allow the market to provide the needed services. The TSO-TSO-model as vividly discussed in the power market bears the risk of a reservation of capacities for balancing purposes by TSOs. These capacities would then not be available for wholesale market transactions.



EnBW hopes that its comments contribute to ERGEG's consultation on its "Pilot Framework Guideline on Gas Balancing Rules on European Gas Transmission Networks".

We remain at your disposal should you have any further enquiries.

Kind regards.

Yours sincerely

EnBW Energie Baden-Württemberg AG  
i. A. Felicitas Stuffer