ACER
European Union Agency for the Cooperation of Energy Regulators

ACER Decision on the amendment of the pricing methodology: Annex II

Public Consultation

on

on the amendment of the EU electricity balancing pricing methodology

PC_2021_E_09

Evaluation Report

25 February 2022

1. INTRODUCTION

On 26 August 2021, all Transmission System Operators' ('TSOs') submitted to the European Union Agency for the Cooperation of Energy Regulators ('ACER') their proposal for the amendment of the methodology for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process (the 'Proposal') in accordance with Article 30(1) of the Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing ('EB Regulation').

In order to take an informed decision and in accordance with Article 14(6) of the Regulation (EU) 2019/942, ACER launched a public consultation on 13 October 2021 inviting all interested stakeholders, including ENTSO for Electricity, Regulatory Authorities and TSOs to provide comments on the Proposal. The closing date of the public consultation was 10 November 2021. More specifically, the public consultation invited stakeholders to comment on the following aspects of the Proposal:

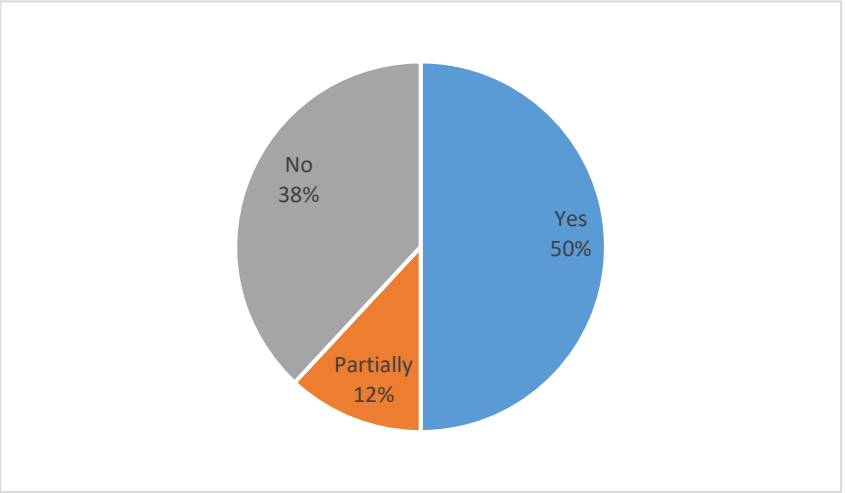
(i) if technical price limits as proposed by the TSOs are needed for the efficient functioning of the market;

(ii) the need, level and timeline for the lower technical price limit than currently approved level; and

(iii) if there should be an automatic adjustment mechanism for technical price limit to be increased if expected to be reached in the balancing timeframe.

2. RESPONSES

By the end of the consultation period, ACER received comments from 43 respondents. This evaluation paper summarises all of the respondents' comments and how these were considered by ACER. The table below is organised according to the consultation questions and provides the respective views of the respondents, as well as a response from ACER clarifying how their comments were considered in the present Decision.

Respondents' replies	ACER views
TOPIC 1: TECHNICAL PRICE LIMITS NEEDED FOR EFFICIENT FUNCTIONING OF THE MARKET	
1. **Question 1a)** In your view, could a reduction of the balancing technical price limits as proposed by the TSOs be justified on the grounds of a more efficient functioning of the market? **Answer:** Yes/No/Partially	
42 respondents provided answer to this question. 21 respondents answered 'Yes' (AIGET, Association of Energy Users in Finland (ELFi), E.ON Energie Deutschland GmbH, Edison S.p.A., Eneco, ENTSO-E, Finnish Energy Kymenlaakson Sähkö Oy, MFT Energy, Ompex AG, PD Power Oy, Quadra Energy GmbH, SachsenEnergie AG, Stadtwerke München GmbH, Statkraft Markets GmbH, Swedenergy, TotalEnergies Electricité et Gaz France Trianel GmbH, UPM Energy Oy, Westnetz GmbH on behalf of E.ON DSOs Germany, ZEW – Leibniz Centre for European Economic Research), 5 respondents answered 'Partially' (BayWa r.e. Energy Trading GmbH, CEZ, EDF, illwerke vkw AG, UFE) and 16 respondents answered 'No' (BDEW, Centrica Plc, EFET, EnBW Energie Baden-Württemberg AG, Entelios.AG, EUGINE – European Engine Power Plants Association, Eurelectric, Europe Energy S.p.A., Europex, FEBEG, 'individual respondent'[1], INNIO, RWE Supply & Trading GmbH, Slovenské elektrárne, a.s., UNIPER SE, VEMW).	

[1] Name is anonymised due to confidentiality claim.

Respondents' replies	ACER views
1. **Question 1b)** Please provide an explanation for your answer.	
40 respondents provided answer to this question.	
7 respondents (AIGET, BayWa r.e. Energy Trading GmbH, E.ON Energie Deutschland GmbH, Edison S.p.A., ENTSO-E, Finnish Energy, PD Power Oy) raised a concern that extremely high balancing energy prices could lead to considerable risks for BRPs to be charged with very high imbalance prices. 3 respondents (AIGET, Edison S.p.A, ENTSO-E) mentioned that renewable energy sources and small BRPs would be particularly sensitive to imbalances. 4 participants (ELFi, ENTSO-E, Finnish Energy, Swedenergy) mentioned the unjustified high imbalance costs could lead to bankruptcies of some BRPs.	ACER disagrees. As explained in the Decision, technical price limits can be introduced only if they are needed for efficient functioning of the market and ACER understands that efficient market functioning is based on free price formation on the basis of demand and supply. Furthermore, ACER notes that the target model for balancing markets as envisaged in the EB Regulation addresses issues outlined here, as it identifies the complementary nature of the balancing energy market and the imbalance settlement. Providing non-distortive incentives to both BSPs and BRPs is required by Article 44 of the EB Regulation, and ACER considers this essential for the success of the target model.
6 respondents (BayWa r.e. Energy Trading GmbH, ELFi, E.ON Energie Deutschland GmbH, Ompex AG, Quadra Energy GmbH, Statkraft Markets GmbH) consider that there is not enough competition on balancing markets.	ACER understands that according to the latest MARI and PICASSO accession roadmaps, many TSOs opted for a derogation to join the European platforms at the legal deadline. In order to encourage TSOs to join the European balancing platforms ACER allowed for a transitional price limit which is lower than technical price limit. Participation of all EU TSOs will bring the improved competition to balancing energy markets.

Respondents' replies	ACER views
5 respondents (ELFi, EDF, Eurelectric, UFE, Swedenergy) claim that there is no sufficient transparency in the balancing markets and the transparency should increase.	ACER agrees that the transparency in the balancing markets is very important and with the European balancing platforms, the TSOs will provide relevant data on the Transparency platforms in accordance with the Transparency Regulation (EU) 543/2013. In addition and within the scope of the Pricing Methodology, ACER included additional quarterly and incident-based reporting requirements on the TSOs. The TSOs also have other transparency-based obligation from the EB Regulation and REMIT.
3 respondents (TotalEnergies, EDF, UFE) believe the price should indirectly be put on customers' demand.	ACER considers that such change would require changing the Implementation Frameworks of respective European platforms rather than changes to the Pricing Methodology.
3 respondents (Quadra Energy GmbH, Statkraft Markets GmbH, Trianel GmbH) consider that based on German balancing market example, technical price limits are needed for efficient functioning of the market.	ACER considers that the German national balancing market has different design elements than the ones which will be present in the European platforms. This relates mainly to the long balancing energy gate closure time and the pay as bid pricing rule.
2 respondents (ENTSO-E, ZEW – Leibniz Centre for European Economic Research) claimed they disagree with ACER's statements and want to clarify that the External study is generic and not specifically based on a certain market design. They repeat some of the elements mentioned in the External study, for example the main reasons according	ACER disagrees. As explained in the Decision, ACER considers that the design elements used in the External study as the reasons for the alleged inefficient functioning of the market and a need for lower technical price limits have either been part of national design elements or are inherent to all electricity markets.

Respondents' replies	ACER views
to the study for BSPs submitting exaggeratedly high bids. 1 respondent (Westnetz GmbH on behalf of E.ON DSOs Germany) strongly supports ENTSO-E's proposal.	
2 respondents (EDF, UFE) consider that there is no real market in balancing timeframe because the customers are not able to react to balancing energy prices as they are settled too close to the real time.	ACER disagrees. In accordance with Article 44 of the EB Regulation, BRPs should be incentivised to be in balance or help the system to restore its balance.
2 respondents (Ompex AG, Quadra Energy GmbH) claim that no technology is being profitable if the technical price limit of 15,000 €/MWh is applied. 1 respondent (UPM Energy Oy) considers that the proposed limit is high enough to allow efficient functioning of the market. 2 respondents (Kymenlaakson Sähkö Oy, PD Power OY) consider the level of 5,000 €/MWh would be high enough.	ACER would not like to pre-conclude on an exact value under which the technology would be or not profitable. This is particularly important when it comes to evolving technologies such as battery storage of demand side response. ACER disagrees. The technical price limit shall not restrict free price formation. Under any circumstances, it should not be lower than the limit used in the intraday market.
1 respondent (ELFi) considers that the gap between price limits in different markets (DA, ID and balancing) should not be too wide because it would affect negatively the functioning of all markets together. 1 respondent (CEZ) considers that if there are limits on the day-ahead and intraday markets, it makes sense to impose similar limits on the balancing energy market as well.	ACER agrees in principle. However, in accordance with Article 10(2) of the Electricity Regulation, the limits in day-ahead and intraday market need to increase in case they are expected to be reached to ensure that there is no limit to free price formation. Therefore, ACER considers that a similar mechanism should also be designed in the balancing timeframe.

Respondents' replies	ACER views
7 participants (BDEW, EFET, EnBW, Energie-Netherlands, FEBEG, RWE Supply&Trading, Uniper SE) consider that the reasons of TSOs for introducing lower technical price limits are economic, commercial, or regulatory, rather than technical. They claim that the TSOs have not demonstrated that the proposed limits are required and that they don't put limit on free price formation. They point that the technical price limits are a mathematic maximum for the algorithm to function without having the purpose of limiting price formation as noted by ACER in its Decision 01/2020.	ACER agrees and therefore did not amend the technical price limit as previously decided in ACER decision 01/2020.
4 participants (EFET, Energie-Netherlands, Febeg, RWE supply and trading GmbH) question the legality of the TSOs' proposal and state that the proposal should be rejected by ACER.	As noted in ACER Decision 01/2020, ACER understands that Regulation (EU) 2019/943 does not restrict the possibility, provided by Article 30(2) of the EB Regulation, of introducing technical price limits in the balancing timeframe.
4 respondents (EDF,EFET, Energie-Netherlands, Eurelectric, Europex) consider it is not the task of TSO to evaluate and prevent the situations of potential abuse of dominant position as they are already addressed by specific rules and regulation, notably competition law and REMIT, and that setting the technical price limits are not the right tool for this purpose.	ACER agrees that REMIT and the competition law are the appropriate means to deal with the market abuse and market power potential concerns raised by the TSOs, rather than the introduction of technical price limits. Furthermore, the TSOs do have market surveillance obligations directly at the European platform levels under Article 15 of REMIT as person(s) professionally arranging transactions.

Respondents' replies	ACER views
3 respondents (EUGENE, INNIO, Uniper SE) consider that lower technical price limits risk lower market participation. 2 respondents (EUGENE, INNIO) consider it especially problematic for new, flexible and decarbonised technology such as hydrogen power plants). They also consider that one national case should not be taken as a benchmark for the whole European target model.	ACER agrees.
1 respondent (illwerke vkw AG) believes that the issues raised by the TSOs are not as significant in the new market design and expect that marginal pricing and the shortened lead time will create more competition and thus lower prices will be offered.	ACER agrees.
1 participant (Europex) believes that temporary price limits could be justified to address transitory risks which may occur during the adjustment to the new European-wide balancing energy market design.	ACER agrees.
1 participant (Uniper SE) explains that bidding for balancing services replaces a marketing opportunity in the intraday market with an uncertain revenue position in the balancing markets. With a call probability of 1% (which reflects an essential part of the merit order in 2020 in Germany), a plant operator must quote about 100 times the price of the price in the intraday market to cover opportunity costs.	ACER considers that balancing capacity markets are in place to make up for lost opportunities of BSPs in the day-ahead and intraday markets and balancing energy bidding with a short gate closure time should ensure that these bids only include the marginal cost of providing balancing energy and only include opportunity cost for the balancing market (notably imbalance settlement).

Respondents' replies	ACER views
5 respondents (CEZ, EDF, EFET, Eneco, Eurelectric) proposed different solutions to deal with issues raised by the TSOs: 3 respondents (EDF,EFET, Eurelectric) invite to: • review the Imbalance settlement harmonisation methodology, • better prepare for the go-live of the balancing platforms, • to have mandatory solutions in place to allow to warn the BSPs in case of issues (IT / operational errors and corrupted data) and this in real time, • improve transparency in the criteria used for the choice of balancing products activated by TSOs and more transparency from TSOs on the state of the system close to real time.	ACER generally agrees that the alleged issues raised by the TSOs should not be resolved by introducing lower technical price limit but rather by other means (in case issues would become present in the European Platforms).
1 respondent (CEZ) considers that a better solution would be to set clear principles on bid activation (e.g activation of indivisible bids in different direction). 1 respondent (Eneco) considers that the legal route in Germany should be reforming German balancing energy auctioning system in Germany and moving to EU platforms	ACER agrees in principle, however this is out of scope of the Pricing Decision and would require amending the Implementation Frameworks of the respective European Platforms. ACER agrees.

Respondents' replies	ACER views

TOPIC 2: LEVEL AND THE TIMELINE FOR THE LOWER TECHNICAL PRICE

2.1 **Question 2.1a)** Do you consider that the lower price limit during the implementation of the integrated European balancing platforms until more TSOs connect to the European platforms would provide a safeguard for secure implementation?

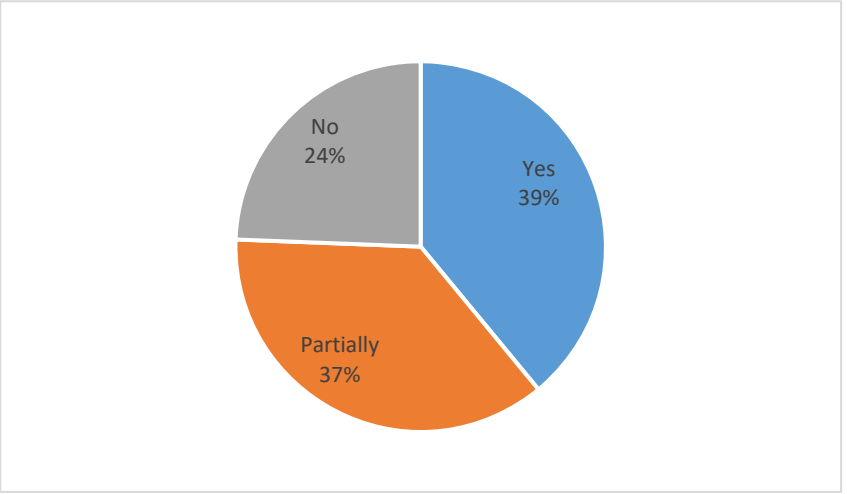
Answer: Yes/Partially/No

41 respondents provided answer to this question.

16 respondents answered 'Yes' (AIGET, Association of Energy Users in Finland (ELFi), BayWa r.e. Energy Trading GmbH, Centrica Plc, E.ON Energie Deutschland GmbH, Edison S.p.A., ENTSO-E, Europe Energy S.p.A.,MFT Energy, Ompex AG, Quadra Energy GmbH, SachsenEnergie AG, Stadtwerke München GmbH, Statkraft Markets GmbH, Trianel GmbH, Westnetz GmbH on behalf of E.ON DSOs Germany),

15 respondents answered 'Partially' (CEZ, EDF, Eneco, Entelios.AG, Eurelectric, Europex, Finnish Energy, illwerke vkw AG, 'individula respondent'[1], Kymenlaakson Sähkö Oy, PD Power Oy, Swedenergy, TotalEnergies Electricité et Gaz France, Union Française de l'Electricité (UFE), UPM Energy Oy) and

10 respondents answered 'No' (EFET, EnBW Energie Baden-Württemberg AG, Energie-Nederland, EUGINE – European Engine Power Plants Association, FEBEG, INNIO, RWE Supply & Trading GmbH, Slovenské elektrárne, a.s., UNIPER SE, VEMW).



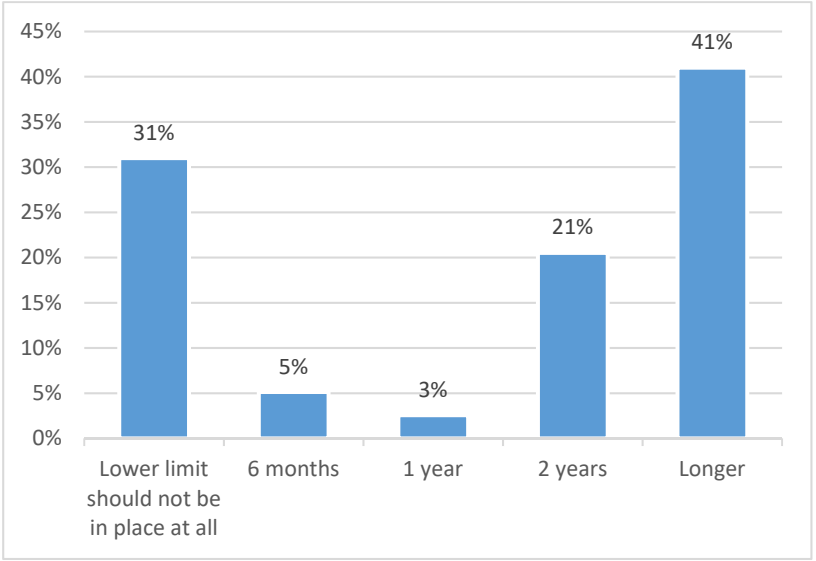
2.1 **Question 2.1b)** Please provide an explanation for your answer.

Respondents' replies	ACER views
38 respondents provided answer to this question[2].	
8 respondents (AIGET, EDF, Edison S.p.A., Kymenlaakson Sähkö Oy, PD Power Oy, TotalEnergies Electricité et Gaz France, UFE, Westnetz GmbH on behalf of E.ON DSOs Germany) consider that lower technical price limits should rather be enduring solution. 3 respondents (EDF, TotalEnergies Electricité et Gaz France, UFE) that lower technical price limit is needed because market imperfections would persist even after the transitory period. 2 respondents (AIGET, Edison S.p.A.) consider that the lower technical price limits should be accompanied by a proper automatic adjustment mechanism to avoid undue limits to price formation.	ACER disagrees that lower technical price limits shall at this point be the enduring solution as ACER considers that the TSOs provided no evidence which demonstrates that different technical price limits are needed for the efficient functioning of the market. ACER also disagrees with the respondents who claim that market imperfections will persist after the legal deadline of the European platforms. ACER understands the above concerns in the context of the ongoing integration of the balancing markets, but notes that the target model for balancing markets as envisaged in the EB Regulation addresses those issues, as it identifies the complementary nature of the balancing energy market and the imbalance settlement. ACER agrees that lower technical price limits should be accompanied by a proper automatic adjustment mechanism to avoid undue limits to price formation.
6 respondents (AIGET, CEZ, Edison S.p.A., Eurelectric, Ompex AG, Quadra energy) agree that during the transition, the lower technical price	ACER agrees. Therefore, ACER introduced transitory price limits for the first years of the operation of the European platforms.

[2] ACER has only brought forward arguments by respondents which were not raised already in the previous sections.

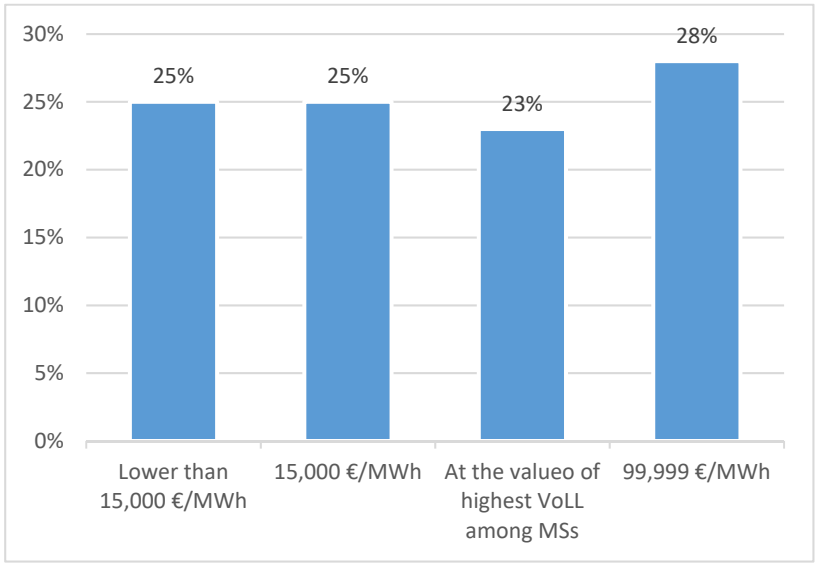
Respondents' replies	ACER views
limit could be a safeguard particularly against IT/operational issues, corrupted data or accidental submissions.	
5 respondents (E.ON Energie Deutschland GmbH, EDF, Eurelectric, Europex, BDEW) raise the importance of stable and well tested IT systems. They call for testing periods ahead of the start of operation of the European platforms, and if possible, for parallel runs to ensure a smooth go-live. 3 respondents (EDF, Eurelectric,BDEW) call for a transparent monitoring of those issues, rather than reducing technical price limits.	No option of parallel running was available, however, ACER allowed for transitional price limit to allow all market parties to accustom to the new market. ACER agrees on the importance of transparent monitoring of issues. Therefore, ACER added in Annex I additional reporting requirements on the TSOs.
2 respondents (Finnish energy, Swedenergy) do not find the number of connecting TSOs relevant. The more TSOs are connecting, the more there can be situations of error. After the TSOs have used the platforms for some time and there has been learning by the TSOs and market participant, the bidding limits should be re-evaluated.	As the transitional price limit introduced by ACER will be in place for up to the first 4 years of the operation of the European platforms, all TSOs and the market participants would have sufficient time for learning. ACER added in Annex I a requirement on the TSOs to perform an assessment of the functioning of the balancing market 3 years after the implementation deadline of the European platforms in order to investigate whether different technical price limits are needed for efficient functioning of the market.
1 respondent (Stadtwerke München GmbH) claims that until now, there is an oligopolistic structure (only few providers) in the balancing market, so an efficient functioning of the balancing energy market can't be secured	ACER disagrees. An explanation was provided under Topic 1.

Respondents' replies	ACER views
7 respondents (EFET, Energie-Netherland, EUGENE, FEBEG, INNIO, RWE Supply & Trading GmbH, Uniper SE) miss a detailed analysis or an explanation from the TSOs on the transitory risks associated with changes to cross-border and local balancing energy market designs, and adaption needs by all market participants and in which way lower price limits could be a safeguard for secure implementation of the European platforms.	The TSOs explained that market participants need time to adjust to the new market rules and to anticipate the new market conditions and the TSOs also need time to become operationally familiar with the new processes to be established. This may lead to transitory effects such as significant mark-ups on bids submitted by BSPs, limited competition on the balancing platforms due to high number of derogations expected to be granted in accordance with Article 62(2)(a) of the EB Regulation or higher risk of IT issues which could result in artificial scarcity situations.
2.2 **Question 2.2a)** How long in your view shall the lower technical price limit remain in place after the start of the operation of European platforms (foreseen for July 2022)? **Answer:** Lower technical price limit shall not be in place at all/6 months/1 year/2 years (until the expiration of all the derogations in accordance with Article 62(2)(a) of the EB Regulation)/Longer	

Respondents' replies	ACER views
39 respondents provided answer to this question. 12 respondents (EFET, EnBW Energie Baden-Württemberg AG, Energie-Nederland, Entelios.AG, EUGINE – European Engine Power Plants Association, FEBEG, 'individual respondent'[1], INNIO, RWE Supply & Trading GmbH, Slovenské elektrárne, a.s., UNIPER SE, VEMW) answered that 'Lower technical price limit shall not be in place at all', 2 respondents (illwerke vkw AG, MFT Energy) answered ‚6 months', 1 respondent (E.ON Energie Deutschland GmbH) answered '1 year', 8 respondents (BayWa r.e. Energy Trading GmbH, Centrica Plc, Eneco, Europe Energy S.p.A., Europex, Finnish Energy, SachsenEnergie AG, Swedenergy) answered ‚2 years' and 16 respondents (AIGET, Association of Energy Users in Finland (ELFi), EDF, Edison S.p.A., ENTSO-E, Kymenlaakson Sähkö Oy, Ompex AG, PD Power Oy, Quadra Energy GmbH, Stadtwerke München GmbH, Statkraft Markets GmbH, TotalEnergies Electricité et Gaz France, Trianel GmbH, Union Française de l'Electricité (UFE), UPM Energy Oy, Westnetz GmbH on behalf of E.ON DSOs Germany) answered ‚Longer'.	
2.2 **Question 2.2b)** Please provide an explanation for your answer.	

Respondents' replies	ACER views
39 respondents provided answer to this question[2].	
3 respondents (BayWa r.e. Energy Trading GmbH, Ompex AG, Quadra Energy GmbH) propose to define a set of market indicators and propose to monitor the key figures indicating if there is e.g. scarcity, enough competition, market power of big players, unjustified market prices and strategic pricing.	ACER indeed introduced in Annex I the key performance indicators ('KPIs') for the TSOs to report on related to cross zonal capacity, submitted and activated standard balancing energy bids per product and per direction with prices exceeding the threshold of particular percentage of the upper/lower transitional price limits and the volume weighted average price of the most expensive 5% of the volume of submitted standard balancing energy bids. In addition, ACER also introduced KPIs on market concentration levels in case cross border marginal price reaches at least 50% of the transitional price limit.
1 respondent (BDEW) raise a point that the definition of the start of the operation of European platforms should be defined differently as some TSOs will already join the Platforms in Q1 according to the current accession roadmap.	ACER clarified in the Decision that as soon as the TSOs in question have implemented the European platforms, the pricing methodology (including this amendment) is applicable. In case of early implementation, this means that the transitional price limits can be applied as soon as the European platforms are implemented in those specific Member States, which in this case would mean - ahead of the legal implementation deadline. Accordingly, ACER updated paragraph 3 of Article 3 of Annex I to make this explicit.

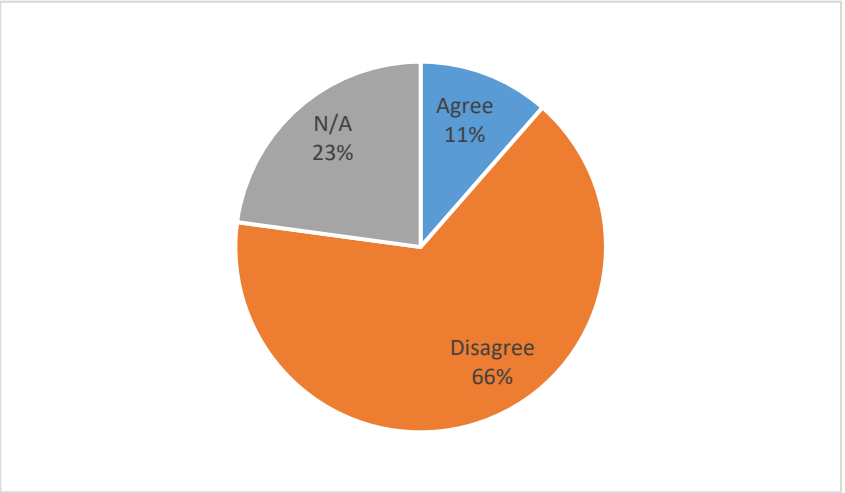
Respondents' replies	ACER views
1 respondent (ENTSO-E) considers that in order to mitigate the fundamental risks outlined to a reasonable level and to ensure the efficient functioning of the market, lower technical price limit should remain in place after the connection of all TSOs to the platforms.	ACER disagrees with the fundamental risks raised by the TSOs. The response has been explained in the Decision.
2 respondents (Eurelectric, Uniper SE) raise the question of the legal basis for the transitory period and compatibility with Regulation (EU) 2019/943.	ACER has not made changes to the existing technical price limits as sufficient justification was not provided to demonstrate that they need to change. ACER did introduce transitional price limits which are transitory by nature, in order to facilitate the smooth accession of TSOs to the platforms, and serve the purpose of achieving the objective of the EB Regulation. They are expected to expire as soon as the transitory risks are removed.
2.3 **Question 2.3a)** At what level in your view shall the lower technical price limit be set? **Answer:** Lower than 15,000 €/MWh / 15,000 €/MWh/At the value of highest VoLL among Member States / Higher than the highest VoLL among member states but lower than the existing technical price limit / 99,999 €/MWh (existing technical price limit)	

Respondents' replies	ACER views
40 respondent provided answer to this question. 10 respondents (AIGET, BayWa r.e. Energy Trading GmbH, Edison S.p.A., Eneco, Kymenlaakson Sähkö Oy, PD Power Oy, Quadra Energy GmbH, SachsenEnergie AG, Stadtwerke München GmbH, Westnetz GmbH on behalf of E.ON DSOs Germany) answered 'Lower than 15,000 €/MWh, 10 respondents (Association of Energy Users in Finland (ELFi), Centrica Plc, E.ON Energie Deutschland GmbH, ENTSO-E, Finnish Energy, Ompex AG, Statkraft Markets GmbH, Swedenergy, Trianel GmbH, UPM Energy Oy) answered '15,000 €/MWh', 9 respondents (CEZ, EDF, Europe Energy S.p.A., Europex, illwerke vkw AG, MFT Energy, TotalEnergies Electricité et Gaz France, Union Française de l'Electricité (UFE), VEMW) answered 'At the value of highest VoLL among Member States', 11 respondents (EFET, EnBW Energie Baden-Württemberg AG, Energie-Nederland, Entelios.AG, EUGINE – European Engine Power Plants Association, FEBEG, 'individual respondent'[1], INNIO, RWE Supply & Trading GmbH, Slovenské elektrárne, a.s., UNIPER SE) answered '99,999 €/MWh (existing technical price cap)'	
2.3 **Question 2.3b)** Please provide an explanation for your answer.	
37 respondents provided answer to this question[2].	

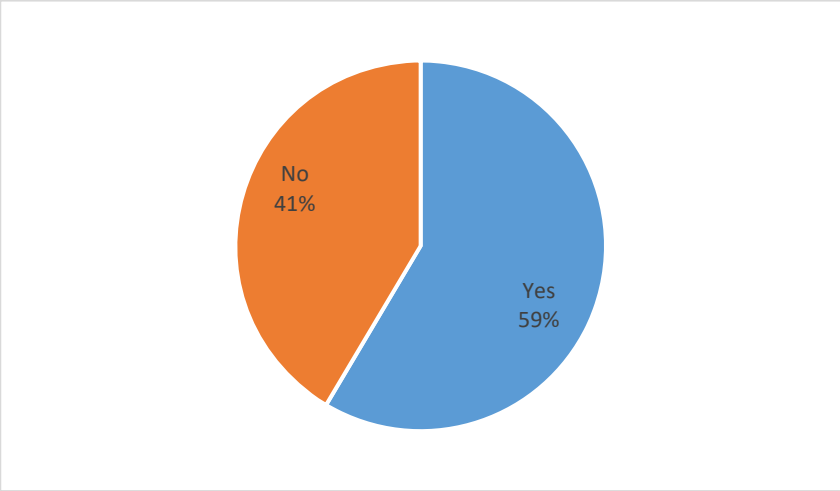
Respondents' replies	ACER views
1 participant (Statkraft Markets GmbH) considers that the best would be to ensure that the same price ceilings exist in the intraday market and the balancing market in order to avoid BSPs to withhold power in the intraday market in order of obtaining higher prices in the balancing energy market.	ACER Guidance on REMIT puts forward a non-exhaustive list of types of practices that could constitute market manipulation also relevant in the context of the European platforms. Electricity generation capacity withholding is considered one of them.
2 participants (EDF, UFE) consider that setting the technical price limit at an averaged VoLL could hinder the free formation of prices in the countries with a VoLL higher than the average. So, taking the highest VOLL among Member States would permit to address partially the lack of a true market without hindering the free formation of prices. 1 participant (Eurelectric) believes that the technical price limit shall be higher than the highest VoLL among Member States considering the calculation of imbalance prices and in order for imbalance prices to theoretically reach the VoLL, 3 respondents (EDF, Eurelectric, TotalEnergies Electricité et Gaz France consider that the following principles should be followed to define the values of technical price limits: The VoLL should be properly assessed and should be the result of the methodology developed in the framework of E-Reg Art 23.6 and decided upon by ACER back in November 2020. The VoLL is probably not a single value as it can vary from one country to the other and from one industry/type of consumer to the	As already mentioned earlier, for changing the technical price limit, sufficient evidence would need to be provided that different technical price limits would be needed for the efficient functioning of the market. Even though ACER could in theory agree to the concept of linking the technical price limit to the highest VoLL, there are numerous issues with respect to how the VoLL values are calculated, with the fact that there is no single value of VoLL for the whole EU as VoLL differs per Member States, and with respect to the purpose of the VoLL calculation (i.e. if the VoLL calculated for the purpose of resource adequacy would be fit for the purpose of being used as the technical price limit). Therefore, setting a technical price limit at any of the fixed values (without an adjustment mechanism) would constitute a breach (in principle) of the rule of not having a limit to the price formation.

Respondents' replies	ACER views
other. Any technical price limit for the clearing of balancing energy should never be lower than the ID price limits The technical price limits should continue to be harmonized.	
1 participant (RWE Supply & Trading GmbH) states that some Member States have scarcity components in place to ensure imbalance prices are sufficiently high during periods of scarcity and that the proposed maximum price would cap the price for balancing energy below the level from the scarcity component in some Member States, for example Germany. This would not be desirable.	ACER considers it extremely important to ensure that prices of balancing energy are formed based on free price formation. In this way, the imbalance prices would not be restricted either and would be allowed to reflect scarcity situation.
3 respondents (EFET, RWE Supply & Trading GmbH, Uniper SE) question whether VoLL is appropriate reference to set the technical price limit. 1 respondent (EFET) considers that VoLL calculations only result in estimates of what consumers would be willing to pay for their electricity supply, balancing energy – and in turn imbalance prices – and may rise above that level in concrete situations of scarcity. 1 respondent (RWE Supply & Trading GmbH) considers that according to Regulation (EU) 2019/943, prices for electricity should be allowed to reach the VoLL, therefore the imbalance pricing must be allowed to reach VoLL, and prices of balancing energy must be allowed then to exceed that value. The way imbalance prices are calculated permits the use of volume weighted averages of the different product types and market time	ACER explained above its views on linking the technical price limit to the VoLL.

Respondents' replies	ACER views
units (as is currently being implemented in Germany, for example). This means that capping the price for balancing energy at VoLL, would effectively rule out imbalance prices ever reaching VoLL, which in turn could dampen prices on wholesale electricity markets. 1 respondent (Uniper SE) considers that the balancing energy is required to ensure system stability and the blackout would be the corresponding case if the balancing energy is not available on a sufficiently firm basis. The cost for a blackout would then be higher than the VoLL because the collateral damages of the whole community have to be taken into account.	
2.4 **Question 2.4** Do you agree that the technical price limit shall increase once all TSOs have joined the European platforms? If you agree, at what level in your view shall technical price level increase?	
35 respondents provided answer to this question[2].	

Respondents' replies	ACER views
4 respondents (BDEW, Entelios.AG, Europex, Ompex AG) agree. 23 respondents (AIGET, Association of Energy Users in Finland (ELFi), BayWa r.e. Energy Trading GmbH, CEZ, EDF, Edison S.p.A., EFET, Eneco, ENTSO-E, Finnish Energy, 'individual respondent'[1], Kymenlaakson Sähkö Oy, PD Power Oy, Quadra Energy GmbH, Statkraft Markets GmbH, Stadtwerke München GmbH, Swedenergy, TotalEnergies Electricité et Gaz France, Trianel GmbH, Union Française de l'Electricité (UFE), UNIPER SE, UPM Energy Oy, Westnetz GmbH on behalf of E.ON DSOs Germany) disagree. 8 respondents' (Centrica Plc, EnBW Energie Baden-Württemberg AG, Energie-Nederland, Eurelectric, FEBEG, illwerke vkw AG, RWE Supply & Trading GmbH, Slovenské elektrárne, a.s.,) answer does not directly answers to the questions, therefore it is marked as 'N/A' on the diagram[3].	
TOPIC 3: AUTOMATIC ADJUSTMENT MECHANISM LINKED TO BALANCING ENERGY PRICES	
3. **Question 3a)** Do you agree there shall be a transparent mechanism to adjust automatically the technical price limits if set limits in the balancing timeframe are expected to be reached? **Answer:** Yes/No	

[3] Based on ACER's interpretation of responses.

Respondents' replies	ACER views
41 respondents provided answer to this question. 24 respondents (AIGET, BayWa r.e. Energy Trading GmbH, Bundesverband der Energie- und Wasserwirtschaft, Centrica Plc, E.ON Energie Deutschland GmbH, Edison S.p.A., EFET, EnBW Energie Baden-Württemberg AG, Eneco, Energie-Nederland, Entelios.AG, EUGINE – European Engine Power Plants Association, Eurelectric, Europe Energy S.p.A., Europex, FEBEG, illwerke vkw AG, INNIO, MFT Energy, Ompex AG, RWE Supply & Trading GmbH, SachsenEnergie AG, UNIPER SE, VEMW) answered 'Yes' and 17 respondents (Association of Energy Users in Finland (ELFi), EDF, ENTSO-E, Finnish Energy, 'individual respondent' [1],Kymenlaakson Sähkö Oy, PD Power Oy, Quadra Energy GmbH, Slovenské elektrárne, a.s., Stadtwerke München GmbH, Statkraft Markets GmbH, Swedenergy, TotalEnergies Electricité et Gaz France, Trianel GmbH, Union Française de l'Electricité (UFE), UPM Energy Oy, Westnetz GmbH on behalf of E.ON DSOs Germany) answered 'No'.	
3. **Question 3b)** Please provide an explanation for your answer.	
38 respondents provided answer to this question[2].	
7 respondents (BDEW, Centrica Plc, EFET, E.ON Energie Deutschland GmbH, EnBW Energie Baden-Württemberg AG, Energie-Netherland, FEBEG) agree with having an automatic adjustment mechanism to	As already mentioned in previous sections, ACER agrees with an approach to have an automatic adjustment mechanism if set limits in the balancing timeframe are expected to be reached if the

Respondents' replies	ACER views
increase the technical price limit if expected to be reached. However, in their view the automatic adjustment should happen in a timely manner and without delay (e.g. the limit in day-ahead market would only increase after 5 weeks).	technical price limit is set in a way that could restrict free price formation. Since such mechanism was not developed in this Decision, the discussion on the duration of the gap between the occurrence of the situation that would trigger an increase of the technical price limit and an actual increase was not further elaborated.
1 respondent (EFET) considers that the starting point for the automatic adjustment should be the existing technical price limit (99,999 €/MWh) and not the one proposed by the TSOs.	ACER considers that the existing technical price limit is sufficiently high and additional automatic adjustment triggering an increase is not needed.
2 respondents' (Ompex AG, Quadra Energy GmbH) main concern about unrestricted pricing is that market power can be abused resulting in unjustified pricing which would with such mechanism lead to even higher prices. As a solution, they propose that there should be market indicators monitoring scarcity, competition and price formation. Only if all indicators would be green, the limits should increase. 1 respondent (Eurelectric) consider it the most important in case the trigger for an adjustment has been reached, there is a transparent and thorough analysis of the event to learn lessons in terms of the functioning of the European platforms.	ACER agrees with the importance of market indicators in order to understand the market functioning. ACER introduced additional reporting requirements in Annex I of the Decision. In addition to quarterly reporting, ACER introduced incident-based reporting during the transitory period whereas the TSOs need to prepare a report that includes an analysis of the event in case the price reaches at least 50% of the upper or lower transitional price limit. Furthermore, ACER added in Annex I a requirement on the TSOs to perform an assessment of the functioning of the balancing market 3 years after the implementation deadline of the European

Respondents' replies	ACER views
	platforms in order to investigate whether different technical price limits are needed for efficient functioning of the market.
TOPIC 4: OTHER COMMENTS	
4. **Question 4** If you would like to comment on other topics please indicate clearly the related Article, paragraph of the Amendment Proposal and add a sufficient explanation.	
18 respondents provided answer to this question[2].	
1 respondent (ELFi) raised the very important role of market surveillance in the balancing market and importance of having adequate resources under REMIT	ACER agrees with its importance and mentioned it in the Decision.
2 respondents (Finnish Energy, Swedenergy) consider that technical bidding limit in the balancing markets is not a market surveillance tool, but a needed safeguard to promote trust in the market and to avoid overactions in the balancing and imbalance price formation. Market surveillance is an ex-post measure and would not help in a situation where prices reach un-reasonably high levels.	ACER notes that market surveillance can contribute to detect and deter market abuse. Therefore, the objective of REMIT is not only to detect but also to deter market abuse. Deterrence does work ex-ante via the efficient functioning of all interacting elements of the REMIT framework. It includes advocacy of the REMIT transparency and integrity principles, e.g. via the ACER

Respondents' replies	ACER views
	Guidance on REMIT[4] that puts forward a non-exhaustive list of types of practices that could constitute market manipulation also relevant in the context of the European platforms.
3 respondents (EDF, Eurelectric, UFE) state that symmetricity of technical price limit is not a must (e.g. DA technical price limits) and therefore, call for a debate/specific discussion on the rationale for the value of this minimum price limit. 2 respondents (EDF, UFE) propose, regarding minimum technical price limit, a similar reasoning based on the "Value of Lost Generation" for downward energy bids.	ACER explained in its Decision that hhaving different values for positive and negative price limits is not justified on the basis either of the TSOs' need or the product. Therefore, ACER has proposed that if the upper transitional price limit is increased due to an increase of the ID limit, the lower transitional price limit is decreased by the same absolute value.
1 respondent (Edison) asks for an alignment of price limits applied in national ancillary services and balancing markets with the harmonized maximum and minimum bid and clearing prices which will be applied on the European balancing platforms (or at least on the Single Intraday Coupling).	ACER notes that the Pricing methodology implementation timeline is linked to the implementation of the European platforms. Therefore, once the TSO joins the European platforms, it will have to use technical price limits as approved by this methodology.
2 respondents (EFET, EnBW Energie Baden-Württemberg AG) support an option to continue the application of releasing bids that exceed the	Pursuant to Article 29(10) of the EB Regulation, the release of balancing energy bids in the context of the European platforms

[4] ACER Guidance on the application of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency 6th Edition.

Respondents' replies	ACER views
previously defined TSO demand because additional capacity is blocked by the TSO and withdrawn from the market. In their view, BSPs with a contract for capacity will increase their capacity bid prices to compensate for the opportunity loss.	will be only allowed after the balancing energy gate closure time, respecting the minimum volume of bids that should be forwarded to the European platforms, which is subject to an evaluation and impact assessment by all TSOs pursuant to Article 29(11) of the EB Regulation. ACER agrees that in principle opportunity cost of not being able to trade on intraday market could be included in the BE bids, if the intraday gate closure time is after the balancing energy one, but also notes that the possibility of releasing balancing energy bids incentivises BSPs to include them in their balancing energy bids.
1 respondent (Europex) considers that the price limits should expire in accordance with an agreed set of and independently of the findings of this report.	As ACER only introduced transitional price limits, the limit is transitory by nature and set to expire 4 years after the legal deadline to join the European platforms. During this time, TSOs are obliged to report on relevant key performance indicators.
1 respondent (Statkraft Markets GmbH) claims that the balancing energy market has high barriers to entry, which discourages many potential balancing energy providers. The respondent outlines the following barriers: • Investment and maintenance of systems; • Uncertain revenues, not at least due to frequent regulatory changes (EU and Member States); • High requirements in terms of availability and redundancy.	Even though very important, ACER considers that barriers to the balancing energy are out of scope of this Pricing Methodology.

3. LIST OF RESPONDENTS

No.	Organisation
1.	AIGET
2.	Association of Energy Users in Finland (‘ELFi’)
3.	BayWa r.e. Energy Trading GmbH
4.	Bundesverband der Energie- und Wasserwirtschaft (‚BDEW‘)
5.	Centrica Plc
6.	CEZ
7.	E.ON Energie Deutschland GmbH
8.	EDF
9.	Edison S.p.A.
10.	EFET
11.	EnBW Energie Baden-Württemberg AG
12.	Eneco

13.	Energie-Nederland
14.	Entelios.AG
15.	ENTSO-E
16.	EUGINE – European Engine Power Plants Association
17.	Eurelectric
18.	Europe Energy S.p.A.
19.	Europex
20.	FEBEG
21.	Finnish Energy
22.	illwerke vkw AG
23.	INNIO
24.	Kymenlaakson Sähkö Oy
25.	MFT Energy
26.	Ompex AG

27.	PD Power Oy
28.	Quadra Energy GmbH
29.	RWE Supply & Trading GmbH
30.	SachsenEnergie AG
31.	Slovenské elektrárne, a.s.
32.	Stadtwerke München GmbH
33.	Statkraft Markets GmbH
34.	Swedenergy
35.	TotalEnergies Electricité et Gaz France
36.	Trianel GmbH
37.	Union Française de l'Electricité (UFE)
38.	UNIPER SE
39.	UPM Energy Oy
40.	VEMW

41.	Westnetz GmbH on behalf of E.ON DSOs Germany
42.	ZEW – Leibniz Centre for European Economic Research
43.	'individual respondent'[1]