Proposal for contribution by TenneT TSO B.V. to costs incurred by designated NEMO EPEX SPOT SE in the Netherlands during the calendar year 2018 for establishing, amending and operating the single day-ahead and intraday coupling in accordance with Article 76(2) of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Calculation and Congestion Management

Whereas: 3

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THE DUTCH TRANSMISSION SYSTEM OPERATOR TENNET TSO B.V. AND THE DESIGNATED NEMO EPEX SPOT SE, TAKING INTO ACCOUNT THE FOLLOWING,

Whereas:

(1) Commission Regulation (EU) 2015/1222 establishes a guideline on capacity allocation and congestion management (hereinafter “CACM Regulation”) which entered into force on 14 August 2015.

(2) The CACM Regulation lays down detailed guidelines on cross zonal capacity allocation and congestion management in the day-ahead and intraday markets. It sets requirements for the Transmission System Operators (hereinafter “TSO”) to cooperate on a pan-European level and across bidding zone borders. The CACM Regulation helps in achieving a fully integrated electricity market for Europe by setting out the rules that will introduce a single approach to cross-border electricity trading in Europe.

(3) In accordance with Article 4 of the CACM regulation, the Authority for Consumers and Markets (hereinafter "ACM") designated two power exchanges, Nord Pool AS and EPEX SPOT SE (hereinafter "EPEX SPOT"), in the Netherlands as Nominated Electricity Market Operator (hereinafter “NEMO”). The decision regarding the nomination of EPEX SPOT as NEMO has been published in the Dutch State Gazette on the 14th of August 2017.

(4) According to Recital (14) of the CACM Regulation, for efficiency reasons and in order to implement single day-ahead and intraday coupling as soon as possible, single day-ahead and intraday coupling should make use of existing market operators and already implemented solutions where appropriate, without precluding competition from new operators.

(5) Market coupling is now applied on Dutch bidding zone borders in the day-ahead timeframe. It is based on implicit capacity allocation and ensures optimal allocation of cross-zonal capacity through maximisation of social welfare. This optimisation is achieved via the Euphemia algorithm as developed under the Price Coupling of Regions project (hereinafter “PCR project”) of European power exchanges. Euphemia performs the economical optimisation while taking into account the limitations of cross-border capacities between countries, as defined by the TSOs.

(6) For the intraday timeframe, a European project called “XBID Market Project” (hereinafter “XBID project”) has been launched by power exchanges in cooperation with the TSOs to create an integrated intraday cross-border market, enabling the implementation of the single intraday market coupling solution. This solution will allow the matching of orders entered by members of the power exchanges in one country continuously with orders submitted by other members in the same or another country according to their price and time of submission, while taking into account the limitations of cross-border capacities between countries (i.e. continuous implicit allocation).

(7) On 26th of June 2017 all National Regulatory Authorities (hereinafter “NRAs”) approved the proposal submitted by all NEMOs to establish European Market Coupling Operator functions for the single day-ahead and intraday coupling (hereinafter “MCO Plan”) in accordance with Article 7(3) of the CACM Regulation. The MCO Plan confirms the PCR solution as the basis for the single day-ahead coupling and the XBID solution as the basis for intraday coupling.

(8) Article 76(1) of the CACM Regulation requires all NEMOs to bear the costs for:
   a. common, regional and national costs of establishing, updating or further developing the price coupling algorithm and single day-ahead coupling;
   b. common, regional and national costs of establishing, updating or further developing the continuous trading matching algorithm and single intraday coupling; and
   c. common, regional and national costs of operating single day-ahead and intraday coupling.

(9) The costs for establishing, amending and operating the single day-ahead and intraday market must, in accordance with Article 80(2) of the CACM regulation, be broken down into:
   a. Common costs resulting from coordinated activities of all NEMOs or TSOs participating in the single day-ahead and intraday coupling;
   b. Regional costs resulting from activities of NEMOs or TSOs cooperating in a region; and
   c. National costs resulting from activities of NEMOs or TSOs in that Member state.

(10) Article 75(2) of the CACM Regulation establishes that costs referred to in Article 80(2)(a), (b) and (c) of the CACM Regulation assessed as reasonable, efficient and proportionate shall be recovered through NEMO fees, network tariffs or other appropriate mechanisms as determined by the competent regulatory authorities.

(11) The process for the sharing of common and regional costs for establishing, amending and operating the single day-ahead and intraday market is described in Article 80(3) and 80(4) of the CACM regulation:
   a. Article 80(3) defines the share of common costs that are to be supported by the TSOs and NEMOs of a Member State (hereinafter “Member State Bill” or “Dutch Member State Bill” for the part of costs for the Netherlands); and
   b. Article 80(4) defines that regional costs are subject to a region specific sharing key approved by the competent national authorities of each of the Member States in the region or may be shared between NEMOs and TSOs cooperating in a certain region in accordance with the sharing key defined under Article 80(3), .

(12) Article 76(2) of the CACM regulation allows TSOs and NEMOs to agree on the contribution by the TSOs to the costs borne by NEMOs in accordance with Article 76(1) of the CACM regulation. In such cases, within two months of receiving a forecast from the NEMOs concerned, each TSO shall provide a cost contribution proposal to the relevant regulatory authority for approval.

(13) EPEX Spot has provided TenneT TSO B.V. (hereinafter “TenneT”) with a qualitative and quantitative motivation as to why the costs that EPEX SPOT incurs for its NEMO tasks cannot be reasonably born by EPEX SPOT and why recovery of these costs different than via the TSO in accordance with Article 76(2) of the CACM regulation would hinder the objectives set out in article 3 of the CACM regulation.

(14) TenneT acknowledges that Common, Regional and Individual National NEMO development costs (establishing and amending costs) are driven by the regulatory obligations as set in the CACM Regulation and the subsequent MCO methodologies approved by the National Regulatory Authorities, and are therefore of a fixed/inevitable nature. They do not depend on the level of activity recorded on the NEMOs’ platforms. The operation of the MCO function is defined and executed to the benefit of public and all market stakeholders, and is not driven by their positive or negative impact on the profitability of the NEMOs.

(15) Inability of NEMOs to recover the costs for their MCO activities leads to a situation that contradicts the objectives of Article 3 of the CACM regulation. Absent of cost recovery via TSOs for their MCO activities, NEMOs would be forced to either pass on these costs to their customers or to absorb these costs. TenneT is of the opinion that NEMOs having to (fully) recover the costs for their MCO activities by passing these costs on to their customers, e.g. via increasing their customers' trading fees, is undesirable if this leads to a significant reduction in liquidity and volumes exchanged on the organized and coupled day-ahead and intraday market to the point that it undermines the trust in the reliability of their price signals.

(16) EPEX SPOT has made a case for not being able to pass on the costs for their MCO activities to their customers and that it will therefore be forced to absorb these costs. In this case, the absence of cost recovery for NEMOs is very likely to negatively impact the quality of the market coupling solution to the detriment of end consumers by reducing the offered quality of services or eventually reducing the

number of competitive market operators in Europe. TenneT acknowledges that this case is not a sustainable situation, and that in this case costs are to be recovered in a way that is neutral to the market activities of NEMOs and in line with the CACM Regulation, e.g. via the regulated network tariff or another mechanism. TenneT therefore considers that a contribution to the costs incurred by designated NEMO EPEX SPOT in accordance with Article 76(2) of the CACM regulation is appropriate.

(17) Pursuant to Article 76(2) of the CACM regulation, EPEX SPOT has provided TenneT with a forecast of costs to be incurred for establishing, amending and operating single day-ahead coupling (hereinafter "SDAC") and single intraday coupling (hereinafter "SIDC") in the calendar year 2018 . On this basis, TenneT and EPEX SPOT have been commonly working on the elaboration of a proposal for a cost contribution by TenneT and agree to submit this document (hereinafter “Cost Contribution Proposal”) as the proposal by TenneT for a contribution to costs by EPEX in the calendar year 2018 on the basis of Article 76(2) of the CACM regulation. Consequently, this Cost Contribution Proposal is to be read by ACM as a whole whereby each element of the proposal is interlinked with the others.

(18) Article 76(3) of the CACM regulation further establishes that NEMOs shall be entitled to recover costs in accordance with Article 76(1) of the CACM regulation which have not been borne by TSOs in accordance with Article 76(2) of the CACM regulation by means of fees or other appropriate mechanisms only if the costs are reasonable and proportionate, through national agreements with the competent regulatory authority.

SUBMIT THE FOLLOWING PROPOSAL FOR APPROVAL TO THE AUTHORITY FOR CONSUMERS AND MARKETS:

TITLE 1: GENERAL PROVISIONS

Article 1
Subject matter and scope

1. This Cost Contribution Proposal is the proposal for the contribution by TenneT, in accordance with Article 76(2) of the CACM regulation, to costs incurred by the designated NEMO EPEX SPOT for establishing, amending and operating the SDAC and SIDC in the Netherlands during calendar year 2018.

2. As a general principle, TenneT and EPEX SPOT consider that any cost contribution to NEMOs and or cost sharing between NEMOs and TSOs within a country should be compatible with the general objectives of capacity allocation and congestion management cooperation as listed in art. 3 of the CACM regulation

3. This Cost Contribution Proposal describes how the Dutch Member State Bill (Common (EU) and Regional costs), in accordance with Article 80(3) and (4) of the CACM regulation, is shared between TenneT, EPEX SPOT and other NEMOs in the Netherlands and how, when applicable, to deal with regional sharing keys defined under Article 80(4) of the CACM regulation. This Cost Contribution Proposal also describes how National Costs are shared between TenneT, EPEX SPOT and other NEMOs in the Netherlands.

4. This Cost Contribution Proposal provides a detailed description of the principles for cost contribution by TenneT to EPEX SPOT for the calendar year 2018 pursuant to Article 76(2) of the CACM regulation. The amount proposed for a cost contribution is based on the cost forecast submitted by EPEX SPOT pursuant to Article 76(2) of the CACM regulation.

5. Finally, the Cost Contribution Proposal establishes principles for the ex-post reporting and reconciliation of the actual cost contribution by TenneT for the calendar year 2018.

6. This proposal is subject to approval by the ACM in accordance with Article 9(8)(e) of the CACM Regulation.

Article 2
Definitions and interpretation

1. For the purposes of this Cost Contribution Proposal, terms used in this document shall have the meaning of the definitions included in Article 2 of the CACM Regulation.

2. In this Cost Contribution Proposal, unless the context requires otherwise:
   a) the singular indicates the plural and vice versa;
   b) the table of contents, headings and examples are inserted for convenience only and do not affect the interpretation of this Cost Contribution Proposal;
   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.

3. National NEMO costs individually incurred for establishing, amending and operating SDAC and SIDC, will in this proposal be referred to as “Individual National NEMO costs”.

Article 3
Definition of Costs

1. The costs referred to in this Cost Contribution Proposal are the costs incurred by EPEX SPOT related to the establishment, amendment and operation of the SDAC and SIDC solutions during the calendar year 2018. They can be broken down into the following categories:
    a. Day-ahead and Intraday costs;
    b. Common (EU), Regional and National costs;
    c. Development (establishing) and Amendment (updating) costs, and Operational (operating) costs;
    d. Joint TSO, Joint TSO-NEMO, Joint NEMO costs and Individual National NEMO costs.

2. With this Cost Contribution Proposal, TenneT proposes a contribution to the costs incurred by EPEX SPOT for activities related to establishing, amending and operating SDAC and SIDC. This includes – but is not limited to - costs for the following projects:
    a. SDAC related projects:
        i. Multi-Regional Coupling Project (MRC Project);
        ii. Price Coupling of Regions Project (PCR Project);
        iii. Multi-NEMO Arrangements (MNA Project) ;
        iv. All NEMO Committee Costs.
    b. SIDC related projects:
        i. XBID project;
        ii. Local Implementation Projects (LIPs) costs;
        iii. All NEMO Committee Costs.

3. This Cost Contribution Proposal does not deal with costs incurred by Central Counter Parties (CCPs) and Shipping Agents for the clearing and settlement activities subject to Article 77 of the CACM regulation.

Article 4
Conditions for cost sharing and cost contribution

1. In order for Joint TSO-NEMO, Joint NEMO, and Individual National NEMO costs for establishing, amending and operating SDAC and SIDC to be eligible for cost sharing under Title 2 and a cost contribution under Title 3 of this Cost Contribution Proposal, the following conditions need to be fulfilled:
    a. the costs are incurred for activities related to establishing, amending and/or operating SDAC or SIDC;
    b. the costs directly related to SDAC and SIDC are clearly and separately identified and auditable;
    c. an estimation of the costs is included in the cost forecast submitted by EPEX SPOT pursuant to Article 76(2) of the CACM regulation;
    d. the costs have a clear contractual basis (or, where applicable, result from a decision of the relevant governance body of the project);
    e. the costs need to be reasonable, efficient and proportionate.

2. Costs that do not fulfil the conditions under paragraph 1 will not be subject to cost sharing or cost contribution under this Cost Contribution Proposal.

3. Only Joint TSO-NEMO, joint NEMO, and Individual National NEMO costs which are considered by the relevant National Regulatory Authorities to be efficiently incurred, reasonable and proportionate are eligible for a cost contribution by TenneT.

TITLE 2: COST-SHARING

Article 5
Sharing of Common costs

1. The Common costs for establishing, amending and operating the SDAC and SIDC from the Dutch Member State Bill shall be shared as follows:
    a. Joint TSO costs shall be allocated to the TSOs in the Netherlands;
    b. Joint TSO-NEMO costs shall be allocated equally (i.e.”50-50”) between the TSOs in the Netherlands on the one hand, and the NEMOs designated in the Netherlands on the other hand;
    c. Joint NEMO costs shall be allocated to the NEMOs designated in the Netherlands.

2. The share of the costs allocated to TSOs in the Netherlands resulting from the application of paragraph 1 shall be shared among TSOs in the Netherlands based on the distribution of their voting power under the CACM regulation in the year 2018.

3. The share of the costs allocated to NEMOs designated in the Netherlands resulting from the application of paragraph 1 shall be shared among these NEMOs based on the distribution of their voting power under the CACM regulation in the year 2018.

Article 6
Sharing of Regional costs

1. Article 80(4) of the CACM regulation establishes that NEMOs and TSOs cooperating in a certain region shall jointly agree on a proposal for the sharing of regional costs in accordance with Article 80(2b) of the CACM regulation. This proposal shall then be individually approved by the competent national authorities of each of the Member States in the region. Alternatively, NEMOs and TSOs cooperating in a certain region may use the cost sharing arrangements as set out in Article 80(3) of the CACM regulation.

2. In case NEMOs and TSOs cooperating in a certain region jointly agreed on a proposal for the sharing of regional costs, and this proposal is individually approved by the competent national authorities of each of the Member States in that region, the regional costs in accordance with Article 80(2b) of the CACM regulation will be shared between TenneT, EPEX SPOT and third parties involved according to this proposal for the sharing of regional costs.

3. In case NEMOs and TSOs cooperating in a certain region use the cost sharing arrangements as set out in Article 80(3) of the CACM regulation, the resulting Dutch Member State bill for the regional costs in accordance with article 80(2b) of the CACM regulation will be shared between TenneT, EPEX SPOT and other third parties as set out in Article 5 of this Cost Contribution Proposal.

Article 7
Sharing of National costs

1. Individual National NEMO costs, incurred for establishing, amending and operating SDAC and SIDC, shall not be shared between NEMOs designated in the Netherlands.

TITLE 3: COST-CONTRIBUTION

Article 8
Cost contribution to Common costs

1. TenneT will bear 100% of the Common costs incurred by EPEX SPOT pursuant to Title 2 for the establishment and amendment of the SDAC.

2. TenneT will bear 100% of the Common costs incurred by EPEX SPOT pursuant to Title 2 for the operation of the SDAC.

3. TenneT will bear 100% of the Common costs incurred by EPEX SPOT pursuant to Title 2 for the establishment and amendment of the SIDC.

4. TenneT will bear 100% of the Common costs incurred by EPEX SPOT pursuant to Title 2 for the operation of the SIDC.

Article 9
Cost contribution to Regional costs

1. TenneT will bear 100% of the Regional costs incurred by EPEX SPOT pursuant to Title 2 for the establishment and amendment of the SDAC.

2. TenneT will bear 100% of the Common costs incurred by EPEX SPOT pursuant to Title 2 for the operation of the SDAC.

3. TenneT will bear 100% of the Regional costs incurred by EPEX SPOT pursuant to Title 2 for the establishment and amendment of the SIDC.

4. TenneT will bear 100% of the Common costs incurred by EPEX SPOT pursuant to Title 2 for the operation of the SIDC.

Article 10
Cost contribution to National costs

1. TenneT will bear 100% of the National costs incurred by EPEX SPOT pursuant to Title 2 for the establishment and development of the SDAC.

2. TenneT will bear 100% of the National costs incurred by EPEX SPOT pursuant to Title 2 for the operation of the SDAC.

3. TenneT will bear 100% of the National costs incurred by EPEX SPOT pursuant to Title 2 for the establishment and development of the SIDC.

4. TenneT will bear 100% of the National costs incurred by EPEX SPOT pursuant to Title 2 for the operation of the SIDC.

Article 11
Cost contribution settlement, reporting and reconciliation

1. For 2018, TenneT will perform a cost contribution to NEMOs on a quarterly basis. At the beginning of each quarter, EPEX SPOT will send an invoice to TenneT for the corresponding quarter on the basis of

the estimated costs (i.e. 1/4th of the estimated budget per quarter) as set out in the cost forecast submitted by EPEX SPOT pursuant to Article 76(2) of the CACM regulation.

2. EPEX SPOT will submit a final cost report to TenneT and the ACM with the actual costs shared and contributed in 2018 to EPEX SPOT in the Netherlands before 1 April 2019 .

3. If required for any of its regulated tasks and obligations, TenneT may request EPEX SPOT to provide additional information related to the costs as reported under paragraph 2. In such case, EPEX SPOT shall provide this information to TenneT within 10 working days from receiving the request, unless otherwise agreed between the parties.

4. The reconciliation for 2018 will be performed on the basis of the approved 2018 yearly cost report, on the cost sharing and cost contribution on the basis of actual incurred costs under paragraph 2 of this Cost Contribution Proposal. When, on the basis of the report submitted to ACM, the actual cost contribution on basis of real incurred costs:
    a. exceeds the already settled budgeted amount, TenneT will settle the difference with NEMOs within one month after the submission of the report and the receiving of an invoice by EPEX SPOT to TenneT;
    b. is below the already settled budgeted amount, EPEX SPOT will settle the different towards TenneT within one month after the submission of the report. Alternatively, TenneT can deduct the open amounts from future cost contribution settlements to EPEX SPOT.

TITLE 4 – FINAL PROVISIONS

Article 12
Implementation date

1. This Cost Contribution Proposal will apply, as of its approval by the ACM, for any cost contribution by TenneT to EPEX SPOT in the Netherlands for costs related to establishing, amending and operating the single day-ahead and intraday coupling as defined under the CACM Regulation, in 2018.

2. After receiving the approval of the ACM on this Cost Contribution Proposal, a settlement of the costs for the period between 1 January 2018 and the date of receiving the approval will take place on the basis of the quarterly invoices as set out in Article 11(1) of this Cost Contribution Proposal. In case the approval on this Cost Contribution Proposal by ACM is given after 1 April 2019, the settlement will take place on the basis of the final cost report of Article 11(2) and the reconciliation process of Article 11(4) of this Cost Contribution Proposal.

Article 13
Language

1. The reference language for this Cost Contribution Proposal shall be English.

Article 14
Confidentiality

1. The information provided by EPEX SPOT to TenneT in preparation and or application of this Cost Contribution Proposal should be treated as confidential unless stated or agreed otherwise.