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COMMISSION OPINION

of 14.6.2022

**under Regulation (EU) No 2019/941, on risk-preparedness in the electricity sector and
repealing Directive 2005/89/EC, on the Risk-preparedness Plan submitted by the
Competent Authority of Sweden to the European Commission.**

(only the Swedish text is authentic)

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1. PROCEDURE

Article 10 of Regulation (EU) 2019/941 of the European Parliament and of the Council of 5 June 2019 on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC¹ (the "Regulation") requires the Competent Authority of each Member State to establish a Risk-Preparedness Plan ("RPP"). In accordance with Article 10(8) of the Regulation, the RPPs have to be updated every four years, unless circumstances require updates that are more frequent. The consultation between Competent Authorities and the Electricity Coordination Group provided for under Article 10(4) of the Regulation has to be carried out before the adoption of the RPP.

The RPP (as well as its updates) need to be based on the regional electricity crisis scenarios identified by ENTSO-E² pursuant to Article 6 of the Regulation as well as the national electricity crisis scenarios that each Competent Authority has to identify before the adoption of the RPP pursuant to Article 7 of the Regulation. The electricity crisis scenarios must be identified in relation to system adequacy, system security and fuel security and considering, among others, extreme natural hazards, accidental hazards and consequential hazards, including the consequences of malicious attacks.

The Competent Authority of Sweden, the Swedish Energy Agency (SEA), notified its draft RPP to the Electricity Coordination Group for the purpose of the consultation required by Article 10(4) of the Regulation on 4 June 2021. SEA notified to the Commission on 3 January 2022 its final RPP.

After having assessed the RPP, in view of the criteria mentioned in Article 11 of the Regulation and the template provided for in the Annex to the Regulation, and having consulted the Electricity Coordination Group between 7 January and 31 January 2022, the Commission has the following remarks on the RPP.

2. COMMISSION'S ASSESSMENT OF THE RISK-PREPAREDNESS PLAN

The RPP is quite comprehensive in the description of the national framework and measures. It describes well the principles governing the management of crises and a detailed and well-established planning process to prioritise the supply to essential consumers in case of

¹ OJ L 158, 14.6.2019, p. 1–21.

² European Network of Transmission System Operators for Electricity.

disconnections (Styrel). There is also a clear description of the consultations carried out to prepare the RPP, including the results of such process, and references to frameworks other than risk preparedness but which are relevant for a comprehensive RPP, such as the NIS Directive³ and defence.

The Commission welcomes in particular the efforts devoted to regional cooperation among the Nordic countries as described under section 3.2 of the RPP, such as the NordAM⁴ and NordBER⁵, for their mutual assistance agreements and the coordination of joint projects and activities relevant to preparedness and crisis management (e.g. joint exercises). The Commission invites Sweden to further deepen such cooperation, notably in the light of the comments included in the sections below.

Nevertheless, the Commission considers that some elements of the RPP do not fully comply with the requirements of the Regulation.

2.1. Amendments to the Risk Preparedness Plan (RPP)

2.1.1. Missing information on the electricity crisis scenarios

Pursuant to Article 7 of the Regulation, each competent authority has to identify the most relevant national electricity crisis scenarios on the basis of at least certain risks (rare and extreme natural hazards, accidental hazards and consequential hazards, including malicious attacks and fuel shortages). These scenarios have to be consistent with the regional electricity crisis scenarios identified by ENTSO-E pursuant to Article 6 of the Regulation. The national and regional electricity crisis scenarios are the basis on which the Competent Authority has to establish the RPP in accordance with Article 10(1) of the Regulation, and the RPP must include a summary of the electricity crisis scenarios defined for the Member State and the region, in accordance with Article 11(1)(a) of the Regulation and point 1 of the Annex thereto.

The RPP submitted by SEA includes under section 1 a summary of the most relevant electricity crisis scenarios developed as a basis for the measures in the RPP. However, all the descriptions in that section are of very general nature. It is not possible to conclude from these descriptions what the concrete scenarios considered for Sweden are nor the identified estimated impacts, even if the RPP refers to a national risk and vulnerability analysis for the electricity sector prepared by Svenska Kraftnät.

For example, regarding cyberattacks, the RPP only indicates that cyberattacks can be a threat to the country's integrity and security. It is unclear what concrete scenario have been considered (e.g. target), what preventive measures are considered to prevent/mitigate the attack and the estimated potential impacts. Scenarios of fuel shortage are not described either and the RPP does not indicate why these would not be relevant. The RPP does not include a description of the relevant regional scenarios and consequently, it does not explain either why a scenario such a solar storm would not be relevant for Sweden, even if this has been identified as relevant for Member States in the area.

³ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union, OJ L 194, 19.7.2016, p. 1–30.

⁴ Nordic Asset Management Forum

⁵ NordBER is an electricity preparedness network for all Nordic energy and electricity preparedness authorities and system operators.

The Commission considers that the RPP submitted by SEA needs to be amended to further describe all the national and regional scenarios considered. This information on the national scenarios is necessary to assess the completeness and effectiveness of the preventive and mitigating measures contained in the RPP. Moreover, this information is also relevant for other Member States, notably within the same region, to understand the potential impacts and shared challenges that a number of these scenarios may pose.

The Commission also considers that a refined assessment of the crisis scenarios is particularly necessary following the dramatic changes in the EU security situation as a result of the invasion of Ukraine by Russia. Consequently, the Commission takes the view that the RPP submitted by SEA needs to be updated in the light of these circumstances, focusing on geopolitical risks, dependence on fuels (or fuel designs for nuclear generation) and on other supply chains from third countries (including fuel-switching possibilities) and spill over effects from other sectors into electricity (e.g. increase in electricity demand for heating purposes in the absence of other fuels). The Commission reminds SEA that Article 10(8) of the Regulation already requires updating the RPP more frequently than every 4 years where circumstances so warrant.

The Commission recommends that the description of the scenarios includes:

- A clear link between the national and regional scenarios, including the assumptions for its selection and/or rejection.
- A description of the scope, including the national and regional characterization of the hazard.
- The characterization of the selected scenario, including the cross-sector and cross-border interdependencies, initial condition of the system prior to the initiating event, assets exposure and vulnerabilities (based on damage curves if available), and the time-horizon and assumptions applied.
- Account and timeline of events, including the description of initiating events and chain of events. The description should include the coping mechanisms and characterization of the response, including the applicable procedures and measures at national and regional level.
- Impacts on the electricity system and assets, including electricity flows and consequences. The assessment should include a quantitative analysis in terms of EENS⁶/LOLE⁷ estimates and/or other quantitative values, as well as possible spill over effects to other sectors, e.g. to the gas sector.
- Specifically for scenarios on cyber-risks, a reference to a framework with minimum and advanced cybersecurity requirements, procedures to follow in case of an incident, a description of the roles and interactions between the competent authority and the cyber-specific actors, such as CSIRT⁸, CERT⁹ and cyber-specific authorities, including during a crisis, and the links with cyber specific legislation.

⁶ Expected Energy Not-Served (EENS) as defined in Article 2(1)(e) of the methodology for identifying regional electricity crisis scenarios established in accordance with Article 5 of the Regulation.

⁷ Loss of Load Expectation (LOLE) as defined in Article 2(1)(g) of the methodology for identifying regional electricity crisis scenarios established in accordance with Article 5 of the Regulation.

⁸ Computer Security Incident Response Team

⁹ Computer Emergency Response Team

- Diversification plan for nuclear fuel supply, including timing of designing, licensing and use of fuel from alternative suppliers. The assessment should include qualitative analysis of potential alternative suppliers.
- Climate change considerations, such as climate vulnerability and risks, including with a view to design preventive measures against the climate risks identified with a view to reducing exposure and vulnerability to the risks.

Moreover, and given the current exceptional circumstances, the Commission recommends that the SEA accelerates their calendar for the mandatory tests on the effectiveness of the procedures developed in its RPP (i.e. by 31 December 2022). These tests should be carried as soon as possible and with a focus on winter 2022-2023. They should cover regional and national measures and communication and coordination protocols, in cooperation with neighbouring countries within the region. These tests should help improve the existing measures and the mechanisms for cooperation and communication, and identify additional national and regional measures (the latter preferably jointly with regional partners).

2.1.2. Missing information on regional and bilateral measures for cooperation and assistance among Member States

Pursuant to Article 15 of the Regulation, Member States have to cooperate in a spirit of solidarity in order to prevent or manage crises. Where they have the technical ability, Member States have to offer each other assistance by means of regional measures (with Member States within their region) and bilateral measures (with Member States to which they are directly connected but do not belong to the same region). Such regional and bilateral measures must be described in the RPP in accordance with Articles 12 and 15 of the Regulation and point 3(2)(b) of the Annex thereto, as well as the national measures necessary to implement them pursuant Article 11(1)(j) of the Regulation.

The RPP submitted by SEA refers under section 3.2.b) on regional and bilateral measures to the ‘Nordic SOA (System Operation Agreement)’ solely. However, and absent further information, it is unclear whether such agreement would meet the requirements for cooperation and assistance described in Article 15 of the Regulation. A System Operation Agreement is often limited to the content of the network codes and not going beyond operation rules, as it appears to be the case for the Nordic SOA, based on publicly available information. Consequently, on its own, it would fall short of the requirements of Article 15 that require cooperation and assistance for the ultimate purpose of protecting public safety and personal security, going thus beyond the typically technical requirements contained in a SOA.

The Commission considers that the Swedish RPP has to be amended to describe in detail the provisions in place to comply with the obligation to establish regional and bilateral measures required by the Regulation and how these would actually meet the requirements of Article 15 of the Regulation. Where such provisions fell short of the requirements of the Regulation, the RPP would need to be amended to include the necessary additional provisions (legal, technical and financial arrangements) to meet the requirements established in the Regulation.

2.1.3. Missing definition of electricity crisis

Article 2(9) of the Regulation defines an electricity crisis as a present or imminent situation in which there is a significant electricity shortage, as determined by the Member States and described in their RPP, or in which it is impossible to supply electricity to consumers.

The RPP submitted by SEA describes in general terms what an ‘electric power shortage’, ‘energy shortage’ and a ‘power outage’ are, however, it does not describe what an ‘electricity emergency’ would be, even if it describes a process of consultation between SEA and Svenska Kraftnät for its declaration.

The Commission considers that the RPP submitted by SEA needs to be amended to include a definition of electricity crisis as required by the Regulation.

2.2 Other comments

Apart from the substantive remarks presented above, the Commission would like to draw the attention of SEA, to some other elements of the submitted RPP, which do not raise legal concerns in terms of their compatibility with the elements mentioned in Article 13(2)(a) to (f) of the Regulation, but which may provide useful guidance to the Competent Authority for future amendments of the RPP.

- While the Styrel process is well detailed in the RPP under section 3.1.d), it only contains a list of 8 priority classes without a technical characterisation of these consumers. Following the Commission Recommendation (EU) 2020/775¹⁰, it would be desirable to describe the technical characteristics of these consumers, such as estimated consumption or if they have business continuity arrangements in place to maintain adequate supply services in the event of an electricity crisis.
- Decision and intervention flowcharts would increase the readability of the RPP.
- While the RPP does not refer to preventive or mitigating measures that could have an impact on greenhouse gas (GHG) emissions (e.g. back-up fossil fuel generation or the deployment of additional fossil fuel capacity), the Commission reminds SEA that such measures should be listed in the RPP if they existed. In such case, the Commission also recommends that the risk/impact on GHG emissions is quantified and assessed to determine the alignment of the RPP with the climate neutrality goal.

3. CONCLUSION

Based on the above assessment, and in view of Article 13(2)(c) of the Regulation, the Commission concludes that some elements of the RPP submitted by SEA do not comply with certain provisions of this Regulation.

The Commission requests SEA to amend the RPP taking duly into consideration all the concerns expressed by the Commission in the present opinion and notify the amended RPP to the Commission within three months of receipt of this opinion, pursuant to Article 13(3) of the Regulation. In view of the circumstances following Russia’s invasion of Ukraine, the Commission recommends to prioritise the focused update of the RPP described in section 2.1.1, the test on the effectiveness of the procedures developed in the RPP referred to in section 2.1.1, the missing information on regional and bilateral measures for cooperation and assistance among Member States described in section 2.1.2 and the detailed description of national electricity crisis scenarios described in section 2.1.1.

The Commission's assessment expressed in this opinion is without prejudice to any position it may take *vis-à-vis* Sweden as regards the compatibility of national measures with EU law,

¹⁰ OJ L 184, 12.6.2020, p. 79–93.

including in the context of infringement proceedings and the enforcement of European Union competition rules, including State aid rules.

The Commission will publish this opinion. The Commission does not consider the information contained herein to be confidential, in particular as it relates to the RPP which is publicly available. SEA is invited to inform the Commission within five working days following receipt of the opinion whether it considers that it contains commercially sensitive information, the confidentiality of which is to be preserved.

Done at Brussels, 14.6.2022

For the Commission
Kadri SIMSON
Member of the Commission