

Mr Cosimo Campidoglio,
Chairman
Interim NEMO Committee

Cc. Mr Klaus-Dieter Borchardt
Director,
Internal Energy Market,
DG ENER,
European Commission

Cc. Mr Alberto Pototschnig,
Director
ACER

Cc. Mr Laurent Schmitt,
Secretary-General
ENTSO-E

25 July 2017

Dear Mr Campidoglio,

I write on behalf of all Regulatory Authorities regarding the all Nominated Electricity Market Operators (NEMOs) proposal for products than can be taken into account by NEMOs in single day ahead coupling process, in accordance with Article 40(1) of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (Regulation 2015/1222) (hereafter referred to as: "the DA Products proposal").

All NEMOs submitted the DA Products proposal in accordance with Article 9(6)i of Regulation 2015/1222; this was received by the last Regulatory Authority on 16 February 2017. All Regulatory Authorities reached a unanimous agreement to request to all NEMOs an amendment to the DA Products proposal, within the six months' deadline.

This agreement by all Regulatory Authorities provides evidence that a decision on the abovementioned proposal does not need to be adopted by ACER pursuant to Article 9(11) of the Regulation 2015/1222. It is intended to constitute the basis on which all Regulatory Authorities will each subsequently make legally binding national decisions to request an amendment to the proposal by 16 August 2017 at the latest, pursuant to Article 9(10) of Regulation 2015/1222.

All Regulatory Authorities request All NEMOs to amend a number of issues in the proposal pursuant to Article 9(12) of the Regulation 2015/1222. Please, find attached the common position paper as agreed by all Regulatory Authorities at the ERF on 24 July 2017, in which further details are provided regarding these issues.

Yours sincerely,



Lord Mogg

Attachment: request for amendment by All Regulatory Authorities agreed at the Energy Regulators' Forum on the DA Products proposal.

**REQUEST FOR AMENDMENT BY ALL
REGULATORY AUTHORITIES AGREED AT THE
ENERGY REGULATORS' FORUM**

ON

**ALL NEMOS' PROPOSALS FOR
PRODUCTS THAT CAN BE TAKEN INTO ACCOUNT
BY NEMOs IN SINGLE DAY- AHEAD COUPLING
PROCESS**

24 July 2017

I. Introduction and legal context

This document elaborates an agreement of All Regulatory Authorities, agreed at the Energy Regulators' Forum on 24 July 2017, on the All NEMOs' proposals concerning products that can be taken into account in the single day-ahead coupling (hereinafter the DA Product proposal) in **accordance with Article 40 of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management** (Regulation 2015/1222).

This agreement of All Regulatory Authorities shall provide evidence that a decision does not, at this stage, need to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 9(11) of Regulation 2015/1222. This agreement is intended to constitute the basis on which All Regulatory Authorities will each subsequently request an amendment to the Product proposals pursuant to Article 9(12) of Regulation 2015/1222.

The legal provisions relevant to the submission and approval of the Product proposals and this All Regulatory Authority agreement on the Product proposals, can be found in Articles 3, 9, and 40 of Regulation 2015/1222. They are set out here for reference.

Article 3 of Regulation 2015/1222:

This Regulation aims at:

- (a) promoting effective competition in the generation, trading and supply of electricity;*
- (b) ensuring optimal use of the transmission infrastructure;*
- (c) ensuring operational security;*
- (d) optimising the calculation and allocation of cross-zonal capacity;*
- (e) ensuring fair and non-discriminatory treatment of TSOs, NEMOs, the Agency, regulatory authorities and market participants;*
- (f) ensuring and enhancing the transparency and reliability of information;*
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union;*
- (h) respecting the need for a fair and orderly market and fair and orderly price formation;*
- (i) creating a level playing field for NEMOs;*
- (j) providing non-discriminatory access to cross-zonal capacity*

Article 9 of Regulation 2015/1222

- 1. TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the competent regulatory authorities within the respective deadlines set out in this Regulation. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO or NEMO, the participating TSOs and NEMOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, and all NEMOs shall regularly inform the competent regulatory authorities and the Agency about the progress of developing these terms and conditions or methodologies.*
- 2. (...)*
- 3. (...)*

4. (...)
5. *Each regulatory authority shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6, 7 and 8.*
6. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities:*
 - (a) (...)
 - (..) (...)
 - (h) *products that can be taken into account by NEMOs in the single day-ahead and intraday coupling process in accordance with Articles 40 and 53;*
 - (m) (...)
7. (...)
8. (...)
9. *The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by several or all regulatory authorities shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.*
10. *Where the approval of the terms and conditions or methodologies requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, within six months following the receipt of the terms and conditions or methodologies by the regulatory authority or, where applicable, by the last regulatory authority concerned.*
11. (...)
12. *In the event that one or several regulatory authorities request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6, 7 and 8, the relevant TSOs or NEMOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the regulatory authorities. The competent regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraphs (6) and (7) within the two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within six months, in accordance with Article 8(1) of Regulation (EC) No 713/2009. If the relevant TSOs or NEMOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 of this Article shall apply.*

Article 40 of Regulation 2015/1222:

1. *No later than 18 months after the entry into force of this Regulation NEMOs shall submit a joint proposal concerning products that can be taken into account in the single day-ahead coupling. NEMOs shall ensure that orders resulting from these products submitted to the price coupling algorithm are expressed in euros and make reference to the market time.*
2. *All NEMOs shall ensure that the price coupling algorithm is able to accommodate orders resulting from these products covering one market time unit and multiple market time units.*
3. *By two years after the entry into force of this Regulation and in every second subsequent year, all NEMOs shall consult, in accordance with Article 12:*
 - (a) market participants, to ensure that available products reflect their needs;*
 - (b) all TSOs, to ensure products take due account of operational security;*
 - (c) all regulatory authorities, to ensure that the available products comply with the objectives of this Regulation.*
4. *All NEMOs shall amend the products if needed pursuant to the results of the consultation referred to in paragraph 3.*

II. The All NEMO DA Product Proposal

The All NEMO DA Product proposal, dated 14 February 2017, was received by the last Regulatory Authority on 16 February 2017. The proposal includes a proposed timescale for its implementation and a description of its expected impact on the objectives of Regulation 2015/1222, in line with Article 9(9) of Regulation 2015/1222.

Article 9(10) of Regulation 2015/1222 requires All Regulatory Authorities to consult and closely cooperate and coordinate with each other to reach agreement, and make decisions within six months following receipt of submissions by the last Regulatory Authority concerned. A decision is therefore required by each Regulatory Authority by 16 August 2017.

A brief summary of the DA Product proposal is provided here for reference.

The NEMOs have provided one proposal for products that should be accommodated in the single day-ahead coupling. The proposal builds upon existing arrangements and products.

The proposal contains products covering one market time unit and several market time units. Different types of hourly orders and block orders are listed, but all products relates to the market time unit of one hour.

III. All Regulatory Authorities' position

a) General

All Regulatory Authorities request NEMOs to improve the DA Product proposal, avoiding any inconsistencies between Articles and with all other NEMOs' terms and conditions or methodologies, in particular:

- All NEMOs' proposal for the price coupling algorithm and for the continuous trading matching algorithm, also incorporating TSO and NEMO proposals for a common set of requirements, in accordance with Article 37(5) of Regulation 2015/1222,
- All NEMOs' proposal for products that can be taken into account by NEMOs in intraday coupling process in accordance with Article 53 of Regulation 2015/1222,
- All NEMO's proposal for harmonized maximum and minimum clearing prices for Single Day Ahead Coupling in accordance with Articles 41(1) of Regulation 2015/1222,
- All NEMO's proposal for harmonized maximum and minimum clearing prices for Single Intra Day Coupling in accordance with Article 54(2) of Regulation 2015/1222,
- All NEMOs' proposal for the back-up methodology in accordance with Article 36(3) of Regulation 2015/1222.

All Regulatory Authorities consider it of paramount importance that these terms and conditions and methodologies are aligned and drafted taking into account the interdependencies between them. Furthermore, for practical reasons, NEMOs are requested to standardize the format of the submitted terms and conditions and methodologies.

The proposals contain several issues that, in the opinion of All Regulatory Authorities, need to be revised. All Regulatory Authorities therefore request All NEMOs to amend a number of areas of the proposal pursuant Article 9(12) of Regulation 2015/1222. The details of the request for amendment is explained in this section, followed by the requested actions.

To facilitate the finalization of the NEMO proposals All Regulatory Authorities have developed a guidance paper. Thus, when amending the DA Product proposal the NEMOs shall consider the "NRAs Guidance to NEMOs on how to draft proposals for terms and conditions or methodologies under CACM Regulation".

b) Editing

The DA Product proposal needs substantial editing; there are incorrect references, denominations are not used consistently etc. In addition abbreviations should in principle be avoided unless not previously defined in the specific document. This concern should be addressed by introducing a separate article with definitions. The following non-exhaustive list contains examples that All Regulatory Authorities have encountered and should serve as a guide to NEMOs when amending the proposals. The NEMOs are urged to search and ensure that no other editorial inconsistencies remain in the amended proposal.

- a. The proposal contains incorrect references, in particular:
 - Whereas section (1) includes unnecessary reference to article 53 dealing with intraday (ID) products.
 - Whereas (3): the reference of the paragraph of article 40 is missing.

- b. Use denominations consistently and explain abbreviations, in particular:
 - There are many references to "bidding area" e.g. in art 2(1), 2(2) and 2(15), but the reference should be to "bidding zone".
 - In article 2(8) of the proposal the abbreviation MP is used without being explained. All used abbreviations should be explained when introduced in the proposal.

- c. Other:
- The language issue currently in Article 1 should be moved to a separate article in the end of the proposals.
 - Article 1 should for clarity reasons state: The products accommodated in SDAC as determined in this Product proposal is the common proposal by all NEMOs in accordance with Article 40 of Regulation 2015/1222.
 - Article 2(11), the ending sentence appears to be unfinished or needs to be reworded.

c) Article with definitions

All NEMOs should introduce an article containing relevant definitions. For the purposes of the DA Product proposal, it should be clear that the terms used in the document shall have the meaning of the definitions included in Article 2 of Regulation 2015/1222, Regulation (EC) 714/2009, Directive 2009/72/EC and Commission Regulation (EU) 543/2013. For other terms a new definition should be provided.

d) Compliance with article 3

The DA Product proposal comprise a section on compliance with Article 3 in Regulation 2015/1222. The sections are high level but generally sufficient. However, in the impact sections in paragraph 3 it is stated that local regulatory constraints on market design are taken into account. The NEMOs should make reference to the relevant regulations and comment on potential impact on the compliance with Regulation 2015/1222 Article 3.

e) Implementation timeline

The proposed timeline for the implementation of the DA Products Proposal is not justified. Regulatory authorities request more information on why the implementation of the DA Products Proposal should only take place after the moment of setting up the Common Grid Model, the Capacity Calculation Methodology and the Coordinated Capacity Calculator in accordance with the relevant TSO obligations in the Regulation 2015/1222. It's also unclear why implementation is dependent on implementing (a) the Article 57 arrangements this Article refers to intraday only, and (b) in **all** Bidding Zones where there is more than one NEMO regardless if other Bidding Zones are ready to implement. The implementation timescale doesn't distinguish between day-ahead and intraday so this will make the DA Products proposal contingent on intraday arrangements for more than one NEMO.

f) Orders for one and several market time units

All Regulatory Authorities note that the current DA product proposal is prescribing orders based on the current market time unit of one hour. Article 40(2) of Regulation 2015/1222 stipulates; *All NEMOs shall ensure that the price coupling algorithm is able to accommodate orders resulting from these products covering one market time unit and multiple market time units*. Therefore the proposal shall be amended so that a potential change of market time unit does not automatically render a need for change of the products methodology. All Regulatory Authorities suggest that NEMOs make, where appropriate, reference to the market time unit, without specifying the actual timeframe considered.

g) Accomodated products and changes based on defined products

The products defined in the DA Products proposal form a framework of functionalities. Within this framework any product or combination of products can be applied without changing the proposal itself. This ensures that processes for introducing new products can be done with a minimum of bureaucracy. It should be stated that for the introduction of new products based on the functionalities in the product list or a combination of functionalities should not require regulatory approval. However, any change in functionalities which result in a change to the DA Products Proposal approved by All Regulatory Authorities would require an amendment procedure according to article 9(13) of Regulation 2015/1222.

IV. Actions

Based on the above, all Regulatory Authorities agree to request an amendment to the DA Product proposal. The amendment should address the following issues:

1. Make sure that all references are correct, denominations and abbreviations used consistently.
2. Include a new article with definitions.
3. Include reference to the local regulations taken into account and comment on potential impact on the compliance with Regulation 2015/1222 Article 3.
4. A duly elaborated timeline for implementation, including a description of the interdependencies with other terms and conditions or methodologies, established within Regulation 2015/1222. These interdependencies need to be justified within the proposal.
5. Revise the proposal so that the products can be of another market time unit than hourly.
6. The process and for which changes requires approval of All Regulatory Authorities are necessary must be clear to all parties. It should be stated that for the introduction of new products based on the functionalities in the product list or a combination of functionalities should not require regulatory approval. However, any change in functionalities which result in a change to the DA Products Proposal approved by All Regulatory Authorities would require an amendment procedure according to article 9(13) of Regulation 2015/1222.