

1. Nord Pool's considerations on points 14 and 18 of the CREG draft decision

Nord Pool confirms that it agreed with the 2018 cost contribution proposal submitted to the CREG on 18th January 2018, and notes that such proposal was drafted in accordance with the 'Guidance on the sharing of costs incurred for the establishing, amending and operating single day-ahead and intraday coupling' issued by the CREG on 23/11/2017.

Nord Pool would like to clarify that, during the negotiations with ELIA, it understood that the proposal submitted by ELIA should be based on the Guidance issued by the CREG, even if this was non-binding, and that, should Nord Pool have any objections to such Guidance, or wish to ask any questions about it, it should do so by means of an additional letter to the CREG. Such letter was enclosed with the ELIA proposal.

Therefore, when Elia submitted its cost-contribution proposal to the CREG, Nord Pool had no objections to the proposal as such, but had some objections and questions related to the Guidance provided by the CREG. Nord Pool reiterates such comments and questions, and would like to bring to the attention of the CREG some additional considerations, in the following sections.

2. Treatment of single intraday coupling and single day-ahead coupling development costs

Nord Pool does not agree with the CREG's view expressed on page 13 of its consultation document, that part of the development costs emanating from NEMOs should be borne by the NEMOs themselves, and hence does not support the CREG's proposal to cap the ELIA's cost contribution for such costs to 50% of the costs incurred.

Nord Pool's position on this matter is explained below.

Nord Pool has always maintained that the only equitable and efficient way to recover costs related to the Day Ahead Coupling (SDAC) and the Single Intra Day Coupling (SIDC) in BZs where multiple NEMOs operate is via network tariffs. The creation of the SDAC and SIDC are mandated by EU legislation, the CACM-regulation, for the benefit of all electricity consumers. Therefore, in Nord Pool's opinion, the costs for operating these markets should be socialised amongst the target beneficiaries, i.e. electricity consumers. This will be most efficiently achieved by passing through such costs to consumers via network tariffs. Sharing the costs of the SDAC and SIDC markets between several hundred million consumers across all of Europe would, on a per-capita basis, produce a more appropriate result than a significant fee increase aimed at a few hundred power exchange members (who, incidentally, already pay fixed and variable trading and clearing fees to participate in such markets). Moreover, a cost increase for exchange members would most likely result in an unintended shift of traded volumes away from exchanges to the over-the-counter market, in contradiction with the objectives of the Third Energy Package, the CACM Guidelines and the proposed Clean Energy Package.

Nord Pool deems that the joint NEMO costs incurred by the Interim NEMO Committee from the entry into force of CACM until the go live of the SDAC and SIDC should be classified as development costs, as such costs have arisen in relation to the establishment of the governance framework of the SDAC and SIDC, and the drafting of the MCO Plan and the CACM methodology proposals.

Once the SDAC and SIDC go live, Nord Pool deems that a certain portion of the joint NEMO Committee costs, related to the implementation of the CACM requirements and their development (e.g. by implementing change requests to methodologies) should also be classified as joint NEMO development costs and, as such, should be eligible for cost recovery through socialised network fees.

3. Treatment of single intraday coupling and single day-ahead coupling common operational costs

Nord Pool believes that, for the same reasons stated above, the common operational costs should be, at least partially recovered through socialised network fees. Nord Pool understands that efficiency gains must be sought with regards to the operation of the SDAC and the SIDC, but it is of the view that this can be achieved by setting out specific incentives and control measures, similar to the ones in place in network regulation in most countries. Furthermore, especially in SDAC Nord Pool expects that tasks and the related cost will not be evenly distributed between the NEMOs, as the operation requires a subset of parties to perform the central tasks. It will be important to ensure that parties are incentivised to perform the tasks and hence that proper recovery of costs is in place.

Nord Pool proposes, for instance, that:

- operational costs could be audited on a regular basis and efficiency gains could be agreed with the concerned NEMOs and
- cost recovery for such costs could be set at a level lower than 100%, to be agreed with NRAs, and decreasing gradually over time.

However, Nord Pool maintains that granting no cost recovery for common operational costs from day one, at all will lead to a sudden and substantial increase in fees levied on market participants, and lead to a material and swift reduction in both the number of players and the volumes traded.

As we noted in other occasions, many small and medium market players may, as a first step, reduce their trading activities in order to reduce costs. Subsequently, smaller, non-financial players may stop trading altogether and outsource their trading activities to bigger trading outlets. Both developments would decrease market transparency and the efficiency of the price formation process. These developments would hinder the achievement of the objectives of the Third Energy Package, the CACM Guidelines and the proposed Clean Energy Package.

4. Treatment of joint NEMO-TSO costs

In Nord Pool's view, the same reasoning described above for the common development and operational costs applies to common and operational joint NEMO-TSO costs, and as such, full cost recovery should apply to joint development costs and at least partial cost recovery should apply to operational costs.

5. Treatment of national costs, including 'Individual in support of common' and costs and 'Individual in support of regional' costs

Nord Pool would like to inquire whether the CREG could consider amending its guidance in respect if national costs, and guarantee a cost contribution by the TSOs of the so called '**individual in support of common**' and '**individual in support of regional**' costs in particular, for the reasons stated below.

'Individual in support of common/regional Costs' are costs incurred by individual NEMOs in relation to essential activities whose sole aim is that of fulfilling joint NEMO responsibilities set out by CACM at European and regional level. These costs can be broadly grouped as follows:

- a) Costs associated with market coupling projects (former XBID, PCR and MRC) at EU level, i.e costs associated with the individual contribution by a NEMO for developing, updating and operating of the price coupling algorithms and single day-ahead and intraday coupling
- b) Costs associated with market coupling projects (former XBID, PCR and MRC) at regional level, i.e costs associated with the individual contribution by a NEMO for developing, updating and operating of the regional projects underpinning the single intraday and day ahead coupling projects
- c) Costs associated with joint NEMO activities related to CACM compliance, i.e costs associated with the individual contribution by a NEMO for delivering the CACM terms and conditions or methodologies and other contractual arrangements required by the CACM Regulation.
- d) Costs associated with the development and operations of regional projects (e.g. CORE, CWE, LIPs)

These costs are typically related to:

- attendance to the meetings and contribution to joint work of relevant working groups or committees
- commenting of the commonly prepared materials
- internal testing of the relevant IT tools (for a. and b. only)

Until 14th February 2017, the importance of such activities had been recognised by the concerned NRAs in the XBID and PCR projects, and the associated costs were subjected to cost

recovery through network fees levied by the concerned TSOs. However, there is no mention of such costs in the NRA guidance on cost allocation of 11th July 2017.

The joint NEMO position NEMOs sent to NRAs in September 2016, proposed to classify such costs as 'national costs', as, for competition law reasons, NEMOs could not agree to a joint oversight and control and supervision of all their 'individual in support of common' costs. Such cost is however budgeted and recorded by all XBID NEMOs in the XBID budget reports, and by Nord Pool in the "Nordic DAOA" framework.

Not granting any cost recovery through network fees for such costs will severely distort the level playing field between NEMOs for the following reasons:

- a) If these costs are not fully socialised through network fees or equivalent mechanism across Europe, then there is a risk that some NEMOs will free ride on the work done by others and that NEMOs operating in a competitive environment may be unable dedicate sufficient resources to fulfil the aforementioned tasks.
- b) To the best of Nord Pool's knowledge, the monopolistic NEMOs will keep receiving cost recovery for such costs through the appropriate mechanisms determined by the relevant NRAs. If Nord Pool's understanding is correct, granting cost recovery for such costs to monopolistic NEMOs but not to competitive NEMOs breaches, in Nord Pool's view, at least the following CACM Article 3 objectives:
 - (e) ensuring fair and non-discriminatory treatment of TSOs, NEMOs, the Agency, regulatory authorities and market participants;
 - (i) creating a level playing field for NEMOs;
 - (a) promoting effective competition in the generation, trading and supply of electricity;
 - (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union;

Furthermore, due to the magnitude of such costs, the resulting increase in NEMO fees charged to market participants will further reduce the participation of small and medium market players, with all the negative effects for the coupled markets described in the previous page.

Finally, Nord Pool notes that such costs, which are incurred by each NEMO, arise from the need to ensure that the SDIC, the SDAC and the regional projects are developed and operated in a fair, transparent and equitable manner, which is acceptable to all NEMOs. These objectives would not be achieved unless each NEMO did not put the necessary resources.

For example, Nord Pool spent time and resources to bring to the attention of all NEMOs, by means of drafting explanatory documents and attending NEMO Committee meetings and calls in order to ensure:

- That no NEMO/CCP was able to raise invoices to another NEMO/CCP in relation to any cross-CCP clearing costs it may incur to discharge the duties pursuant to Article 7(g) of the CACM Regulation. The issue was escalated to the NRAs and the Commission, and Nord Pool believes that it is in the process of being resolved.

- That all MNAs should require multiple NEMOs operating in the same bidding zone to remain coupled, in the event that such bidding zone is decoupled, to guarantee a level playing field for all NEMOs, as well as enhance security of supply and minimise the damages to social welfare that would arise in the event of decoupling. The issue has been under consideration by NRAs for some time, and Nord Pool understands that all NRAs, in principle, agree with Nord Pool's view. A decision on whether the CWE MNAs should be amended accordingly is pending.
- Equal treatment of all NEMOs in the XBID Project from a development and operational point of view.
- Fair and balanced NEMO and joint NEMO-TSO cooperation agreements to implement the SDAC and SIDC.

Nord Pool proposes to allocate its individual in support of common and regional costs among the Member States in which it operates (plus Norway) based on its traded volumes such Member States/Norway in the previous calendar year.

For the reasons mentioned above, Nord Pool urges the CREG to allow the NEMOs operating in Belgium to recover the share of such costs allocated to Belgium by means of socialised TSO network fees.

6. Treatment of clearing and settlement costs pursuant Article 77 of the CACM Regulation.

Article 7(g) of the CACM Regulation assigns NEMOs the task of 'acting as central counter parties for clearing and settlement of the exchange of energy resulting from single day-ahead and intraday coupling in accordance with Article 68(3)'. Article 68(3), in turns, states that 'Central counter parties shall act as counter party to each other for the exchange of energy between bidding zones with regard to the financial rights and obligations arising from these energy exchanges'. In addition, Article 77 states that 'all costs incurred by central counter parties and shipping agents shall be recoverable by means of fees or other appropriate mechanisms **if they are reasonable and proportionate**¹' and that 'the central counter parties and shipping agents shall seek efficient clearing and settlement arrangements **avoiding unnecessary costs and reflecting the risk incurred**.

In Nord Pool's view, a clear consequence of these provisions is that clearing and settlement costs should be divided into two distinct cost sub-categories (derived from the CACM definition of 'central counterparty') as follows, and each should be recovered by different means:

- (i) A central counterparty's costs with respect to clearing and settlement of the respective trading positions of its own exchange members. Nord Pool already passes through the costs of this

¹ Emphasis added

service to our members via a volume based clearing fee, and deem this should continue to be the case.

(ii) The costs attributable to the transfer of net positions **by central counterparties between and within BZs** (and between Shipping Agents, where applicable). For these purposes, CACM defines 'net position' as the netted sum of electricity exports and imports for each market time unit for a BZ. A transfer of the net position for a BZ involves the sale and purchase of energy between central counterparties at each end of a relevant interconnector. It is the price differential between the BZ in which the energy is purchased and the BZ in which it is sold that gives rise to the congestion revenue earned by the TSOs in return for making their capacity implicitly available to the market.

The coupling costs mentioned in section (ii) may be further broken down as:

- **Pre-and post-coupling operational costs**, e.g. costs associated with daily cross-clearing tasks and maintenance of the necessary technical/IT systems, at cross-border and inter-NEMO hub level, in accordance with the relevant MNA arrangements.
- **Pre-financing (bank facility) costs** associated with setting up, maintaining and operating the settlement bank account(s), which are necessary to enable the settlement of cross-border volumes and inter-NEMO hub volumes under the MNA arrangements.
- **Collateral costs** attributable to the funding of initial collateral and subsequent collateral calls (e.g. loans, bank guarantees, letter of credit..), required in relation to the collateralisation of cross-border volumes and inter-NEMO hub volumes under the MNA arrangements.

In relation to the above-mentioned costs, Nord Pool considers that:

- the costs incurred by a NEMO (in its capacity as central counterparty) in connection with the transfer of net positions are costs associated with the discharging of tasks pursuant to Article 7(g) of the CACM Regulation, which benefit the relevant system operators (and, where applicable, their respective balancing agents) at each end of the interconnector. Such costs are eligible for recovery pursuant to Article 77(1) provided that they are reasonable and proportionate.
- As the TSOs are the main beneficiaries of such tasks, without which the calculation and distribution of congestion income to TSOs would not be possible, we believe that NEMOs should recover such costs by means of a TSO contribution drafted in accordance with Article 76(2) and Article 77(2).
- Nord Pool would like to stress that, should the NEMOs and/or its market participants have to bear all the cross-CCP clearing and settlement costs, such NEMOs/Market participants would effectively subsidise the TSOs, as they would benefit from the congestion income but would not have to pay for the tasks which NEMOs must perform in order to calculate and distribute them to the TSOs. Specifically:
 - a. The NEMOs provide a route to market for the TSOs capacity (which is more efficiently allocated in implicit allocation systems than it otherwise would if the capacity were allocated expressly). Nord Pool does not consider that it should provide a route to market service for TSO's capacity, which in turn may

generate significant amounts of congestion income for the TSO in question, while at the same time the TSO has to pay nothing to the NEMO with respect to the funding of the collateral needed to ensure proper coverage of the risk exposure (delivery and payment risk).

- b. Significant amounts of congestion income are generated as a result of implicit allocation. But for the CACM tasks performed by the NEMOs, the TSOs have no other means of generating such a level of income from the marketing of capacity via explicit auctions
- Finally, Nord Pool believes that there is a need to distinguish between CACM-based costs, e.g. in connection with coupling tasks undertaken pursuant to Article 68(3), and non-CACM-based costs related to other services provided to TSOs. Under the existing frameworks, there is no distinction between the two. Nord Pool's position is that:
 - i) As mentioned above, costs incurred in connection with the performance of CACM-based coupling tasks, to the extent the costs are reasonable and proportionate, should be recovered in full from TSOs, either via an ex-post refund or an ex-ante contribution (with NRA consent); and
 - ii) Any non-CACM-based services provided to TSOs (e.g. REMIT reporting, other data handling) should be capable of being remunerated by TSOs on a commercial basis

7. Treatment of CACM common, regional and national costs incurred in 2017

Nord Pool noted that the guidance issued by the CREG states that 'for practical reasons, the CREG has decided that for the period between 14/02/2017 and 31/12/2017, the guidance will not be retroactively applied, and taken commitments on cost recovery principles in accordance with existing contractual arrangements are to be respected between ELIA and NEMOs and this is for all Common (EU), Regional and National costs'.

Nord Pool has no previous agreement with ELIA to recover the common, regional and national costs incurred in 2017. As a designated NEMO in Belgium since 2016, however, Nord Pool believes that it should be entitled to the same cost allocation and recovery treatment granted for the same period to the other NEMO(s) operating in Belgium, in accordance with article 3 (e) and (i) of the CACM Regulation of 24 July 2015².

Nord Pool does not know what the arrangements between ELIA and the other NEMO operating in Belgium are. However, Nord Pool would like to seek assurance that it will receive the same treatment granted to the other NEMOs operating in Belgium with regards to any allocation and contribution to costs incurred from 14/2/2017 to 31/12 2017.

² Article 3 of the CACM Regulation (EU) 2015/1222 states that the Regulation aims at: (e) ensuring fair and non-discriminatory treatment of TSOs, NEMOs, the Agency, regulatory authorities and market participants; and (i) creating a level playing field for NEMOs;

8. Treatment of LIP 6 and LIP 8 costs

Nord Pool would like to inquire whether a cost contribution for its participation in the LIP 6 and LIP 8 projects in 2017 (and in 2018, if any are incurred) could be considered by the CREG.