AGREEMENT ON APPROVAL BY THE REGULATORY AUTHORITIES OF GREAT BRITAIN (GB) AND BELGIUM (BE)

OF

THE GB AND BE TSOs' PROPOSAL FOR THE

GB - BE BORDER SPECIFIC ANNEX TO THE HARMONISED ALLOCATION RULES

21 January 2019

I. Introduction and legal context

This document elaborates an opinion of the Regulatory Authorities of the GB-BE Bidding Zone Border (GB-BE BZB), made on 21 January 2019, on the GB-BE TSOs' proposal for the GB-BE Border Specific Annex[1] (GB-BE BSA) to the Harmonised Allocation Rules[2] (HAR). The GB-BE BSA was submitted on 25 July 2018 in accordance with Article 51 of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation (Regulation 2016/1719).

This agreement of the Regulatory Authorities of the GB-BE BZB shall provide evidence that a decision on the GB-BE BSA does not, at this stage, need to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 4(10) of Regulation 2016/1719. This agreement is intended to constitute the basis on which the Regulatory Authorities of the GB-FR BZB will each subsequently make national decisions pursuant to Article 4(9) of Regulation 2016/1719 to approve the GB-BE BSA proposal.

The legal provisions relevant to the submission and approval of the GB-BE BSA, and this Regulatory Authority agreement on the GB-BE BSA, can be found in Articles 3, 4, 51 and 52 of Regulation 2016/1719. They are set out below for reference.

Article 3 of Regulation 2016/1719***:***

This Regulation aims at:

(a) promoting effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants;

(b) optimising the calculation and allocation of long-term cross-zonal capacity;

(c) providing non-discriminatory access to long-term cross-zonal capacity;

(d) ensuring fair and non-discriminatory treatment of TSOs, the Agency, regulatory authorities and market participants;

(e) respecting the need for a fair and orderly forward capacity allocation and orderly price formation;

(f) ensuring and enhancing the transparency and reliability of information on forward capacity allocation;

(g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union.

Article 4 of Regulation 2016/1719:

Adoption of terms and conditions or methodologies

[1] The GB - BE BSA contains bidding zone border specific requirements as meant in Articles 51(1) and 52(3) of Regulation 2016/1719.

[2] Submitted under Article 51(1) of Regulation 2016/1719, and approved by the Agency for the Cooperation of Energy Regulators (ACER) on the 02 October 2017. A link to the HAR can be found here: https://www.acer.europa.eu/en/Electricity/MARKET-CODES/FORWARD-CAPACITY-ALLOCATION/01%20HAR%20main%20body/Action%203%20-%20ACER%20Decision%2003-2017%20on%20HAR%20Annex%20I.pdf

1. *TSOs 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, the participating TSOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of these terms and conditions or methodologies.*
2. *(…)*
3. *(…)*
4. *(…)*
5. *Each regulatory authority shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7.*
6. *(…)*
7. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:*

   (…)

   (e) the regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55.
8. *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.*
9. *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 and 7 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.*
10. *(…)*
11. *(…)*
12. *(…)*
13. *TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 7.*

Article 51 of Regulation 2016/1719:

Introduction of harmonised allocation rules

1. *Within six months after the entry into force of this Regulation, all TSOs shall jointly develop a proposal for harmonised allocation rules for long-term transmission rights pursuant to Article 52(2). The proposal shall be subject to consultation in accordance with Article 6. This proposal shall include regional and bidding zone border specific requirements if developed by the TSOs of each capacity calculation region pursuant to Article 52(3).*
2. *Once the regional requirements have entered into force, they shall prevail over the general requirements defined in the harmonised allocation rules. In case the general requirements of the harmonised allocation rules are amended and submitted to all regulatory authorities' approval, the regional requirements shall also be submitted to regulatory authorities' approval of the concerned capacity calculation region.*

Article 52 of Regulation 2016/1719:

Requirements for the harmonised allocation rules

1. *The requirements for the harmonised allocation rules for long-term transmission rights shall cover physical transmission rights, FTRs — options and FTRs — obligations. TSOs shall consider and duly take into account specificities related to the different types of products.*

2. *The harmonised allocation rules for long-term transmission rights shall follow the principles of non-discrimination and transparency and at least contain the following general requirements:*

(a) *harmonised definitions and scope of applications;*

(b) *a contractual framework between the single allocation platform and the market participants including provisions on the applicable law, the applicable language, confidentiality, dispute resolution, liability and* force majeure*;*

(c) *harmonised UIOSI provisions in case of physical transmission rights pursuant to Article 32;*

(d) *a description of the types of long-term transmission rights which are offered, including the remuneration principles pursuant to Article 35;*

(e) *principle description of the applicable nomination rules pursuant to Article 36;*

(f) *harmonised provisions on eligibility and entitlement, suspension and renewal and costs of participation pursuant to Article 37;*

(g) *a description of the forward capacity allocation process including at least provisions on auction specification, submission of bids, publication of auction results, contestation period and fallback procedures pursuant to Articles 37, 38, 39, 42, 43 and 44;*

(h) *harmonised provisions on financial requirements and settlement pursuant to Article 41;*

(i) *harmonised provisions for the return of long-term transmission rights pursuant to Article 43;*

(j) *harmonised provisions for notification of transfer of long-term transmission rights pursuant to Article 44;*

(k) *provisions on firmness and compensation rules pursuant to Article 53 and Article 55;*

(l) *harmonised provisions concerning netting policies and financial collaterals for FTRs — obligations, where applicable.*

3. *The harmonised allocation rules may also contain regional or bidding zone border specific requirements in particular for, but without limitation to:*

(a) *the description of the type of long-term transmission rights which are offered on each bidding zone border within the capacity calculation region pursuant to Article 31;*

(b) *the type of long-term transmission rights remuneration regime to be applied on each bidding zone border within the capacity calculation region according to the allocation in the day-ahead time frame pursuant to Article 35;*

(c) *the implementation of alternative coordinated regional fallback solutions pursuant to Article 42;*

(d) *the regional compensation rules defining regional firmness regimes pursuant to Article 55.*

II. The GB-BE TSO proposal

The proposal for the GB-BE BSA was consulted on by the GB-BE TSOs through Nemo Link for one month from 25 May 2018 to 25 June 2018, in line with Article 51 and Article 6 of Regulation 2016/1719.[3] The GB-BE BSA proposal was received by the last Regulatory Authority on 25 July 2018.

The proposal includes proposed timescales for its implementation, in line with Article 4(8) of Regulation 2016/1719. The GB-BE BSA constitutes an Annex to the HAR elaborated and approved in accordance with Article 51 of Regulation 2016/1719.

Article 4(9) of Regulation 2016/1719, requires Regulatory Authorities of the GB-BE BZB to consult, closely cooperate and coordinate with each other in order to reach an agreement, and make a decision within six months following receipt of submission by the last Regulatory Authority concerned. A decision is therefore required by each relevant Regulatory Authority by 25 January 2019 for the GB-BE BSA.

The GB-BE BSA has been developed to specify bidding zone border requirements, submitted as an annex to the HAR, ahead of Nemo Link's planned go-live in Q1 of 2019.

III. GB and BE Regulatory Authorities' position

Based on the proposal, and on the additional clarifications provided by the TSOs, the GB and BE Regulatory Authorities have reached agreement that the proposed GB-BE BSA is consistent with the objectives of Regulation 2016/1719.

The Regulatory Authorities of the GB-BE BZB acknowledge the amendment of Article 48 of the HAR, through the GB-BE BSA, to reflect the transmission losses over Nemo Link with respect to the compensation in the case of curtailment that shall be paid to holders of Long Term Transmission Rights. In addition, the GB-BE BSA states that the cap on compensation payable in the case of curtailment shall be calculated on a monthly basis as set out in Article 59 of the HAR. The Regulatory Authorities of the GB-BE BZB agree to approve these amendments.

The timescale for the implementation of the provisions, defined in Article 2 of the GB-BE BSA, corresponds with the first explicit long term product auctions, which will be offered from April 2019.

Going forward GB and BE NRAs welcome harmonisation across the bidding zone border, moving towards progressive harmonisation across the Capacity Calculation Region (CCR) is desired.

[3] The consultation can be found on the website of Nemo Link, http://www.nemo-link.com/blog/2018/05/

IV. Conclusions

The Regulatory Authorities of GB and BE have assessed, consulted and closely cooperated and coordinated to reach the agreement that the GB-BE BSA meets the requirements of Regulation 2016/1719 and as such can be approved.

The relevant Regulatory Authorities of GB and BE must therefore make their decision on the basis of this agreement in accordance with the six months deadline as set out in Regulation 2016/1719 by 25 January 2019. Following the relevant decisions by the Regulatory Authorities of Great Britain and Belgium Bidding Zone Border, the GB-BE TSOs will be required to publish the GB-BE BSA on the internet in line with Article 4(13) Regulation 2016/1719 and must meet the implementation deadline required by Section 2 of the GB-BE BSA.