



Mr. G. Visan
Chairman
Core TSOs

cc: Mr. A. Pototschnig
Director
ACER

cc: Mr. K. Borchardt
Director
IEM, DG ENER
European Commission

cc: Mr. G. Blaney
Chairman
Energy Regulators' Forum

7 September 2018,

Dear Mr. Visan,

I write on behalf of all Core Regulatory Authorities regarding the Core CCR TSOs' proposal for the regional specific annex for CCR Core to the Harmonised Allocation Rules for long-term transmission rights in accordance with article 52 of Commission regulation 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation.

The attached document elaborates the common position of all Core Regulatory Authorities, agreed by the Core Energy Regulators' Regional Forum (CERRF) on 5 September 2018, to request an amendment to the Core TSOs' proposal for the regional specific annex to the HAR.

This agreement of all Core Regulatory Authorities shall provide evidence that a decision on the proposal for the regional specific annex to the HAR does not, at this stage, need to be adopted by ACER pursuant to Article 4(11) of Regulation 2016/1719. This agreement is intended to constitute the basis on which all Core Regulatory Authorities will each subsequently request an amendment to the proposal for the regional specific annex to the HAR.

All Core Regulatory Authorities request all Core TSOs to modify the entry into force date of the regional specific annex to the HAR. Please find enclosed the position paper of all Core Regulatory Authorities in which further details are provided.

Yours sincerely,

Mathieu Fransen
Chairman of the Core Energy Regulators' Regional Forum



REQUEST FOR AMMENDMENT BY CORE REGULATORY AUTHORITIES OF THE CORE CAPACITY CALCULATION REGION

ON

**THE CORE CAPACITY CALCULATION REGION
TSOS' REGIONAL SPECIFIC ANNEX FOR CCR
CORE TO THE HARMONISED ALLOCATION RULES
FOR LONG-TERM TRANSMISSION RIGHTS IN
ACCORDANCE WITH ARTICLE 52 OF COMMISSION
REGULATION (EU) 2016/1719 of 26 SEPTEMBER
2016 ESTABLISHING A GUIDELINE ON FORWARD
CAPACITY ALLOCATION, DATED 24 April 2018**

27 August 2018

I. Introduction and legal context

This document elaborates an agreement of the regulatory authorities of the Capacity Calculation Region Core (hereafter “CCR Core”) on the amended Regional Specific Annex for CCR Core to the Harmonised Allocation Rules for long-term transmission rights in accordance with Article 52 of Regulation 2016/1719¹ (hereafter “the CCR Core Annex to HAR”), as, submitted by 15th May 2018 pursuant to Article 4(12) and 4(7)(e) respectively of Regulation 2016/1719. This amended Regional Specific Annex constitutes an Annex to the harmonised allocation rules for long-term transmission rights on EU level (HAR) in accordance with Article 51 of Regulation 2016/1719.

This agreement of all Core Regulatory Authorities (ACM, AGEN-RS, ANRE, BNetzA, CRE, CREG, E-Control, ERU, HEA, HERA, ILR, URE, URSO) shall provide evidence that a decision on the amended Regional Specific Annex does not, at this stage, need to be adopted by ACER pursuant to Article 4(10) of Regulation 2016/1719. It is intended to constitute the basis on which all Regulatory Authorities of the Core CCR will each subsequently request an amendment to the CCR Core Annex to HAR, dated 24 April 2018, pursuant to Article 4(7)(e) of Regulation 2016/1719.

The legal provisions relevant to the submission and approval of the amended Regional Specific Annex, and this all Regulatory Authorities agreed opinion of the amended Regional Specific Annex, can be found in Article 3, 4, 51, 52, 54, 55 of Regulation 2016/1719. They are set out here for reference.

The term ‘allocation rules’ is defined in Article 2(1) of Regulation 2016/1719 and means the rules for forward capacity allocation applied by the single allocation platform.

Article 3 of Regulation 2016/1719 states:

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.*

¹ Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation

Article 4 of Regulation 2016/1719:

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 developing 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. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities:*
 - (a) (...)
 - (b) (...)
 - (c) (...)
 - (d) *the harmonized allocation rules pursuant to Article 51;*
 - (e) (...)
 - (f) (...)
 - (g) (...)
7. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:*
 - (a) (...)
 - (b) (...)
 - (c) (...)
 - (d) (...)
 - (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. *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 and 7, the relevant TSOs 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 fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 shall apply.*
12. *TSOs responsible for developing a proposal for terms and conditions or methodologies or regulatory authorities responsible for their adoption in accordance with paragraphs 6 and 7, may request amendments of these terms and conditions or methodologies.*

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 6 and approved in accordance with the procedure set out in this Article.

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:

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:

1. (...)
2. (...)
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.*

Article 54 of Regulation 2016/1719:

1. *The concerned TSOs on a bidding zone border may propose a cap on the total compensation to be paid to all holders of curtailed long-term transmission rights in the relevant calendar year or the relevant calendar month in case of Direct Current interconnectors.*
2. *The cap shall not be lower than the total amount of congestion income collected by the concerned TSOs on the bidding zone border in the relevant calendar year. In case of Direct Current interconnectors, TSOs may propose a cap not lower than the total congestion income collected by the concerned TSOs on the bidding zone border in the relevant calendar month.*
3. *In case of several interconnectors operated by different TSOs on the same bidding zone border and subject to different regulatory regimes overseen by regulatory authorities, the total congestion income used for calculation of capped compensation pursuant to paragraph 2 may be dissociated between each interconnector. Such a division shall be proposed by the concerned TSOs and approved by the competent regulatory authorities.*

Article 55 of Regulation 2016/1719:

1. *Where TSOs propose to apply a cap referred to in Article 54, they shall jointly propose a set of compensation rules with regard to the applied cap.*

II. The CCR Core TSO proposal

According to Article 4(12) of Regulation 2016/1719, amendments of the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 6 of Regulation 2016/1719, to stakeholders, including relevant authorities of each Member State for a period of not less than one month. The CCR Core Annex to HAR draft proposal, as amended upon the CORE TSOs' initiative, was consulted by All TSOs of the Core CCR through ENTSO-E via the online ENTSO-E Consultation Hub for one month from 12th of March 2018 until the 12th of April 2018 in line with Article 6 of Regulation 2016/1719². The amended CCR Core Annex to HAR proposal, dated 24 April 2018, was received by the last Regulatory Authority on 15 May 2018. The proposal includes proposed timescales for its implementation. The description of the expected impact of the objectives of Regulation 2016/1719 is not explicitly repeated since CCR Core Annex to HAR constitutes an Annex to the HAR in accordance with Article 51 of Regulation 2016/1719 where the expected impact on the objectives of the Regulation is provided.

This amended CCR Core Annex to HAR introduces Article 19, which describes the cap on compensation applicable to the SK-CZ border in accordance with Article 59(2) of the HAR.

III. The position of the regulatory authorities of the Core CCR

All Regulatory Authorities of the Core CCR cannot approve the amended CCR Core Annex to HAR due to the reason detailed below.

Subject matter and scope:

All Regulatory Authorities of the Core CCR consider Article 1(2) of the amended CCR Core Annex to HAR, which deals with the entry into force of this amended proposal, as problematic, since it suggests that the entry into force of this amended proposal should be the entry into force of HAR.

Article 1(2) Subject matter and scope

“... 2. This annex enters into force as of the date of entry into force of the HAR in accordance with the applicable national regulatory regime. ...”

However, the HAR was already adopted by the Agency for the Cooperation of Energy Regulators, with the Decision of the Agency for the Cooperation of Energy Regulators No 03/2017, dated 2nd of October 2017 and has already entered into force, in line with Article 5 of the HAR.

As the current wording of the amended CCR Core Annex to HAR suggests potential retroactivity, All Regulatory Authorities of the Core CCR ask TSOs to modify this part of the proposal.

IV. Conclusions

Based on the rationale explained above, All Regulatory Authorities of the Core CCR agree to request an amendment to the CCR Core Annex to HAR, pursuant to Article 4(11) of Regulation 2016/1719.

This amendment should contain the following element:

- Modification of entry into force of the amended CCR Core Annex to HAR

According to Regulation 2016/1719, All Regulatory Authorities of the Core CCR should issue their national decisions, on the basis of this agreement, within 6 months after the receipt of the proposal by the last NRA, i.e. by the 15th of November 2018.

² The public consultation held from 12th of March 2018 until the 12th of April is available on the ENTSO-E website: <https://consultations.entsoe.eu/markets/amendments-to-annex-for-ccr-core-har-ltr/>