

**Approval by all Regulatory Authorities
agreed at the Energy Regulators' Forum**

on

**the all TSOs' Proposal for Amendment in accordance
with Article 9(13) of the Commission Regulation (EU)
2015/1222 of 24 July 2015 establishing a Guideline on
Capacity Allocation and Congestion Management on
the Determination of Capacity Calculation Regions
(30 June 2017)**

18 September 2017

I. Introduction and legal context

This document elaborates an agreement of All Regulatory Authorities, agreed at the Energy Regulators' Forum on 18 September 2017, on the **all TSOs' Proposal for Amendment in accordance with Article 9(13) of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management on the Determination of Capacity Calculation Regions** (hereafter referred to as respectively "the CCR Amendment Proposal" and "Regulation 2015/1222"), as submitted in July 2017.

This agreement of all Regulatory Authorities shall provide evidence that a decision on the Amendment Proposal does not, at this stage, need to be adopted by 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 adopt a decision to the CCR Amendment Proposal pursuant Article 9(6)(b).

The legal provisions relevant to the submission and approval of the CCR Amendment Proposal can be found in Articles 3, 9 and 15 of Regulation 2015/1222.

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) (...)
 - (b) *the capacity calculation regions in accordance with Article 15(1);*
 - (c) (...)
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. (...)
13. *TSOs or NEMOs responsible for developing a proposal for terms and conditions or methodologies or regulatory authorities responsible for their adoption in accordance with paragraphs 6, 7 and 8, 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 12 and approved in accordance with the procedure set out in this Article.
14. (...)

Article 15 of Regulation 2015/1222

1. *By three months after the entry into force of this Regulation all TSOs shall jointly develop a common proposal regarding the determination of capacity calculation regions. The proposal shall be subject to consultation in accordance with Article 12.*
2. *The proposal referred to in paragraph 1 shall define the bidding zone borders attributed to TSOs who are members of each capacity calculation region. The following requirements shall be met:*
 - (a) it shall take into consideration the regions specified in point 3(2) of Annex I to Regulation (EC) No 714/2009;*
 - (b) each bidding zone border, or two separate bidding zone borders if applicable, through which interconnection between two bidding zones exists, shall be assigned to one capacity calculation region;*
 - (c) at least those TSOs shall be assigned to all capacity calculation regions in which they have bidding zone borders.*
3. *Capacity calculation regions applying a flow-based approach shall be merged into one capacity calculation region if the following cumulative conditions are fulfilled:*
 - (a) their transmission systems are directly linked to each other.*
 - (b) they participate in the same single day-ahead or intraday coupling area;*
 - (c) merging them is more efficient than keeping them separate. The competent regulatory authorities may request a joint cost-benefit analysis from the TSOs concerned to assess the efficiency of the merger.*

II. The CCR Amendment Proposal

Article 15(1) of Regulation 2015/1222 requires that all TSOs shall jointly develop a proposal for the determination of Capacity Calculation Regions (CCR) by three months after the entry into force of Regulation 2015/1222. By 17 November 2015, as required by Regulation 2015/1222, all TSOs submitted, to their respective Regulatory Authority, a CCR Proposal. By letter of 17 May 2016, the Chair of the Energy Regulators' Forum informed ACER of the outcome of all attempts between Regulatory Authorities to reach a unanimous decision on the CCR Proposal, asking ACER to adopt a decision following the failure of Regulatory Authorities to adopt a common decision. ACER published, on 17 November 2016, its Decision 06/2016, by which the CCRs have been established.

In April 2017, all TSOs drafted an amendment to CCRs established by ACER Decision 06/2016 ("the draft CCR Amendment Proposal") to include the bidding zone border between Belgium and Great Britain (BE-GB) and to assign this new bidding zone border to the Channel CCR. The draft CCR Amendment Proposal aimed to validate this provision by amending Annex I of ACER's Decision 06/2016.

The draft CCR Amendment Proposal was consulted by ENTSO-E, on behalf of all TSOs, for the period of one month between 7 April 2017 and 8 May 2017. No responses were received from stakeholders during the public consultation. All regulatory authorities sent an informal shadow opinion, drafted and agreed by the members of the CACM TF, on 8 June 2017.

The final version of the all TSOs' CCR Amendment Proposal, dated 30 June 2017, was received by the last Regulatory Authority on 17 July 2017. As no responses from stakeholders were received during the public consultation, the CCR Amendment Proposal does not contain a consultation report. 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 in order to reach agreement, and make decisions within six months following receipt of submissions of the last Regulatory Authority concerned. A decision is therefore required by each Regulatory Authority by 17 January 2018.

III. All Regulatory Authorities' position

a) On the inclusion of the BE-GB bidding zone border

All Regulatory Authorities agree that the amendment to the Channel CCR, to include the bidding zone border BE-GB resulting from the Nemo Link interconnection, is the logical evolution in the determination of the Capacity Calculation Regions. All regulatory authorities understand and accept the argument (laid out in point (7) of the Preamble of the CCR Amendment Proposal) that, for geographical simplicity and as a result of the combined interaction of the BE-GB, NL-GB and FR-GB bidding zone borders on the neighboring networks, the inclusion of the BE-GB in the Channel CCR is proposed.

The bidding zone border BE-GB is, in Article 1(1)(b) of the CCR Amendment Proposal, attributed to Elia System Operator NV/SA, National Grid Electricity Transmission plc and Nemo Link Limited. All Regulatory Authorities accept and understand that, given national arrangements between the Regulatory Authorities and those TSOs, these three parties shall be responsible for the development of the terms and conditions or methodologies defined in the relevant regulations, i.e. Regulation 2015/1222, Regulation 2016/1719 or any other regulation imposing obligations on those TSOs attributed to bidding zone borders in a CCR.

b) On the implementation timeline

All Regulatory Authorities expressed, in their shadow opinion, the wish to include the bidding zone border and their attributed TSOs in the Channel CCR upon the moment of certification of Nemo Link Limited as a TSO under the provisions laid out in Article 10 of Directive 2009/72/EC concerning common rules for the internal market in electricity.

All TSOs complied with this consideration of all Regulatory Authorities and included, in Article 2 of the CCR Amendment Proposal, the provision that all TSOs shall apply the amendments upon the certification of Nemo Link Limited.

c) On the form of the document

All TSOs propose, via the CCR Amendment Proposal, to amend the Channel CCR as defined by the ACER Decision 06/2016 in accordance with Article 15(1) of Regulation 2015/1222. As such, the concerns from all NRAs that the CCR Amendment Proposal should amend the currently established terms and conditions or methodology (i.e. the CCRs) rather than the decision by which it was established (i.e. the ACER Decision 06/2016) have been taken into account.

d) On future bidding zone borders

Regulatory authorities reiterate the request voiced in the shadow opinion, motivating all TSOs to duly and proactively consider merging future amendment proposals to the determination of the capacity calculation regions, as a way of ensuring an efficient process.

IV. Actions / conclusion

All Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to reach the agreement that the CCR Amendment Proposal meets the requirements of Regulation 2015/1222 and as such can be approved by all Regulatory Authorities.

All Regulatory Authorities must therefore make their decisions, on the basis of this agreement, by 17 January 2018. The CCR Amendment Proposal will be adopted upon the decision of the last Regulatory Authority concerned.

Following the national decisions by all Regulatory Authorities, all TSOs will be required to publish the CCR Amendment Proposal as approved, in line with Article 9(14) of Regulation 2015/1222. All TSOs must respect the implementation deadlines provided in Article 2 of the CCR Amendment Proposal.