

ACER

 Agency for the Cooperation
of Energy Regulators

The Director

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By e-mail only

Mr. Dominique Ristori
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Subject: Information pursuant to Article 7(5) of Regulation (EC) No 713/2009

Dear Mr. Ristori,
Dear Madam/Sir,

I write to you with regard to the Agency's Opinion No 09/2015 of 23 September 2015 on the compliance of national regulatory authorities' (NRAs') decisions approving the methods of allocation of cross-border transmission capacity in the Central-East Europe (CEE) region with Regulation (EC) No 714/2009 and the Guidelines on the management and allocation of available transfer capacity of interconnections between national systems contained in Annex I thereto¹.

In this Opinion, which was addressed to the NRAs of the CEE region, i.e. of Austria, the Czech Republic, Germany, Hungary, Poland, Slovakia and Slovenia, and notified to them on 23 September 2015, the Agency concluded that the decisions of those NRAs approving the methods of allocation of cross-border transmission capacity in the CEE region are not compliant with Regulation (EC) No 714/2009 and the Guidelines contained in Annex I thereto. The Agency also concluded that the implementation of a coordinated capacity allocation procedure on the German-Austrian border is required pursuant to Article 16(1) of Regulation (EC) No 714/2009 and points 1.2, 1.4 and 3.1 of Annex I to this Regulation. The Agency therefore invited the TSOs and NRAs of the CEE region to commit, within four months of the date in which this Opinion was adopted and published, to the adoption of a coordinated capacity allocation procedure on the German-Austrian border, with a realistic but ambitious implementation calendar, including concrete steps and allowing for a reasonable amount of time for TSOs and market participants to prepare themselves for this important change.

In the joint letter of 22 January 2016, which is attached to this letter, the NRAs and electricity transmission system operators (TSOs) of the CEE region² informed the Agency about the outcome of their discussions regarding the Agency's Opinion No 09/2015.

According to the letter, the Austrian NRA and the Austrian TSO refuse to implement a procedure for capacity allocation on the border between Germany and Austria as long as such capacity allocation has not been confirmed by *'the results of the bidding zone review conducted in line with the provisions of the CACM Guideline'*, while the other NRAs and TSOs of the CEE region agree that *'the set of borders on which capacity calculation and allocation shall take place includes the border between Germany and Austria'*.

¹ http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2009-2015.pdf

² Signed also by the TSOs Amprion and TransnetBW.

Therefore, despite the good will and effort deployed by many parties involved in the discussions, the NRAs and TSOs of the CEE region have failed to commit to a coordinated implementation of a procedure for the allocation of cross-border capacity on the border between Germany and Austria within a reasonable amount of time. Consequently, pursuant to Article 7(5) of Regulation (EC) No 713/2009, the Agency is hereby informing the European Commission and the Member States of the CEE region accordingly.

The Agency still considers the absence of a regionally coordinated capacity allocation procedure on the German-Austrian border as non-compliant with Regulation (EC) No 714/2009. Given the significant volume of cross-border electricity trade between Germany and Austria and its very significant impact on, in particular, the CEE region, the Agency believes that this situation seriously hampers the market integration process.

Yours sincerely,


Alberto Pototschnig

Enclosure: Common letter of the CEE NRAs and TSOs of 22 January 2016