

**OPINION No 03/2022**  
**OF THE EUROPEAN UNION AGENCY**  
**FOR THE COOPERATION OF ENERGY REGULATORS**  
**of 8 March 2022**

**relating to the implementation of long-term transmission rights on the  
FI-EE bidding zone border**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators<sup>1</sup>, and, in particular, Article 6(7) thereof,

Having regard to the outcome of the consultation with the European Commission, pursuant to Article 6(7) of Regulation (EU) 2019/942,

Having regard to the outcome of the consultation with ACER's Electricity Working Group ('AEWG'),

Having regard to the favourable opinion of the Board of Regulators of 2 March 2022, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

## **1. INTRODUCTION**

- (1) By email of 11 November 2021, the regulatory authority of Finland, Energiavirasto, and the regulatory authority of Estonia, Konkurentsiamet, requested ACER to provide an opinion, pursuant to Article 6(7) of Regulation (EU) 2019/942, with regard to difficulties which they were encountering in the application of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation<sup>2</sup> (the 'FCA Regulation').

---

<sup>1</sup> OJ L 158, 14.6.2019, p. 22.

<sup>2</sup> OJ L 259, 27.9.2016, p. 42.

- (2) The difficulties with the application of the FCA Regulation relate to the implementation of long-term transmission rights (LTTRs) on the border between the Finish and the Estonian bidding zone in accordance with Article 30 of the FCA Regulation, requested by Energiavirasto and Konkurentsiamet from the TSOs Fingrid Oyj (Fingrid) and Elering AS (Elering). In essence, those difficulties concern the procedural requirements for the approval of methodologies in particular under Articles 4(6), 49, 51, 57, 59 and 61 of the FCA Regulation, in order to make those methodologies applicable to Fingrid, and the requirements on the splitting of long-term cross-zonal capacity under Articles 16, 24, 29, 31, 38 and 39 of the FCA Regulation in the absence of an approved capacity calculation methodology for long-term time frames in the Baltic capacity calculation region.

## 2. LEGAL CONTEXT

- (3) The FCA Regulation lays down rules on cross-zonal capacity allocation in the forward markets, in particular on the establishment of various terms and conditions or methodologies and on the offering of LTTRs.
- (4) With regard to the adoption of terms and conditions or methodologies, Article 4 of the FCA Regulation establishes a general procedural framework, requiring the transmission system operators (TSOs) to develop the terms and conditions or methodologies, subject to specific voting requirements to reach their decisions, and tasking the regulatory authorities or ACER to approve them. Article 4 distinguishes between Union-wide terms and conditions or methodologies and those of a regional scope, and in that respect has been amended first by Article 5(2) of Regulation (EU) 2019/942 and then by Commission Implementing Regulation (EU) 2021/280 of 22 February 2021<sup>3</sup> with effect from 15 March 2021.
- (5) Initially, Article 4 provided, inter alia:

*‘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. [...]*

*2. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 4(6) shall decide with qualified majority if no consensus could be reached among them. [...]*

*3. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 4(7) shall decide with qualified majority if no*

---

<sup>3</sup> OJ L 62, 23.2.2021, p. 24.

*consensus can be reached amongst them and where the regions concerned are composed of more than five Member States. [...] TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 4(7) in relation to regions composed of five Member States or less shall decide based on consensus. [...]*

*'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 [i.e. pursuant to Articles 17, 18, 49, 51, 57, 59, 61] shall be subject to approval by all regulatory authorities: [...]*

*7. The proposals for the following terms and conditions or methodologies [i.e. pursuant to Articles 10, 16, 31, 42, 52, 55] shall be subject to approval by all regulatory authorities of the concerned region: [...]*

*'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.*

(6) As of 4 July 2019, Article 5 of Regulation (EU) 2019/942 provides, inter alia:

*'2. Where one of the following legal acts provides for the development of proposals for common terms and conditions or methodologies for the implementation of network codes and guidelines which require the approval of all regulatory authorities, those proposals for common terms and conditions or methodologies shall be submitted to ACER for revision and approval:*

*(a) a legislative act of the Union adopted under the ordinary legislative procedure;*

*(b) network codes and guidelines adopted before 4 July 2019 and subsequent revisions of those network codes and guidelines; or*

*(c) network codes and guidelines adopted as implementing acts pursuant to Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council'.*

(7) Since 15 March 2021, Article 4 states, inter alia:

*'1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency or 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. [...]*

*2. Where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 6 are not able to reach an agreement, they shall decide by qualified majority voting. [...]*

*3. Where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 are not able to reach an agreement and where regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. [...] TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 in relation to regions composed of five Member States or less shall decide by consensus. [...]*

*'5. Each regulatory authority or where applicable the Agency, as the case may be, 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 [i.e. pursuant to Articles 17, 18, 49, 51, 57, 59, 61] and any amendments thereof shall be subject to approval by the Agency: [...]*

*7. The proposals for the following terms and conditions or methodologies [i.e. pursuant to Articles 10, 16, 31, 42, 52, 55] and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region: [...]*

*'12. The Agency or the regulatory authorities jointly, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 6 and 7, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency.*

*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.'*

- (8) With regard to the offering of LTTRs, Article 30 of the FCA Regulation defines the conditions under which LTTRs have to be issued and the provisions of the FCA Regulation which do not apply where TSOs do not issue LTTRs, in particular:

*'1. TSOs on a bidding zone border shall issue long-term transmission rights unless the competent regulatory authorities of the bidding zone border have adopted coordinated decisions not to issue long-term transmission rights on the bidding zone border. [...]*'

*'5. In case the assessment referred to in paragraph 3 shows that there are insufficient hedging opportunities in one or more bidding zones, the competent regulatory authorities shall request the relevant TSOs:*

*(a) to issue long-term transmission rights; [...]*'

*'7. Where regulatory authorities decide that long-term transmission rights shall not be issued by the respective TSOs or that other long-term cross-zonal hedging products shall be made available by the respective TSOs, Articles 16, 28, 29, 31 to 57, 59 and 61 shall not apply to the TSOs of the bidding zone borders.'*

- (9) With regard to the splitting of long-term cross-zonal capacity, Article 16 of the FCA Regulation provides for the establishment of a methodology for each capacity calculation region, subject to regulatory approval according to Article 4(7)(b) of the FCA Regulation:

*'1. No later than the submission of the capacity calculation methodology referred to in Article 10, the TSOs of each capacity calculation region shall jointly develop a proposal for a methodology for splitting long-term cross-zonal capacity in a coordinated manner between different long-term time frames within the respective region. [...] proposal shall be subject to consultation in accordance with Article 6.*

*2. The methodology for splitting long-term cross-zonal capacity shall comply with the following conditions:*

*(a) it shall meet the hedging needs of market participants;*

*(b) it shall be coherent with the capacity calculation methodology; [...]*'

- (10) As regards its validation, the splitting of long-term cross-zonal is dealt with specifically in Articles 24, 29, 28 and 39 of the FCA Regulation.

- (11) Article 24, concerning validation and delivery of cross-zonal capacity and split cross-zonal capacity, provides:

*'2. Each TSO shall validate the results of the calculation for splitting of long-term cross-zonal capacity on its bidding zone borders or critical network elements pursuant to Article 16.*

*3. Each TSO shall send its capacity validation and validated splitting of this capacity for each forward capacity allocation to the relevant coordinated capacity calculators and to the other TSOs of the relevant capacity calculation regions.*

*4. Validated splitting of long-term cross-zonal capacity shall be provided by each coordinated capacity calculator for the execution of forward capacity allocation pursuant to Article 29.'*

(12) Article 29, concerning the inputs and results of forward capacity allocation, provides:

*'1. The single allocation platform shall use the following inputs for determining the allocation of forward capacity in accordance with paragraph 2:*

*(a) validated splitting of long-term cross-zonal capacity submitted by each coordinated capacity calculator and capacities associated with returned long-term transmission rights pursuant to Article 43;'*

(13) Article 38, concerning the submission of input data to the single allocation platform, provides:

*'Each TSO shall ensure that validated splitting of long-term cross-zonal capacity is submitted to the single allocation platform prior to the publication of the auction specification in accordance with Article 39.'*

(14) Article 39, concerning the operation of the forward capacity allocation, provides:

*'1. No later than the time specified in the harmonised allocation rules for each forward capacity allocation, an auction specification containing at least the following information shall be defined and published on the single allocation platform:*

*[...]*

*(b) validated splitting of long-term cross-zonal capacity and type of the long-term transmission rights that will be auctioned;'*

(15) With regard to the regional design of LTTRs, Article 31 of the FCA Regulation requires, inter alia:

*'2. All TSOs issuing long-term transmission rights shall offer long-term cross-zonal capacity, through the single allocation platform, to market participants for at least annual and monthly time frames. All TSOs in each capacity calculation region may jointly propose to offer long-term cross-zonal capacity on additional time frames.'*

(16) With regard to harmonised allocation rules for LTTRs, Article 51 of the FCA Regulation requires the establishment of such rules for Union-wide application, subject to regulatory approval according to Article 4(6)(d) of the FCA Regulation, and allows to include regional and bidding zone border specific requirements, which are subject to regulatory approval according to Article 4(7)(e) of the FCA Regulation:

*'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.'*

### **3. DIFFICULTIES WITH THE APPLICATION OF THE FCA REGULATION**

- (17) The difficulties described by Energiavirasto and Konkurentsiamet can be summarised as follows:
- (18) The Baltic capacity calculation region includes the border between the Finish and the Estonian bidding zone that is attributed to Fingrid and Elering (FI-EE bidding zone border).
- (19) On 6 April 2017, Energiavirasto and Konkurentsiamet agreed that there are sufficient hedging opportunities in the Finish and Estonian bidding zones and decided in accordance with Article 30(1) of the FCA Regulation that no LTTRs need to be issued on the FI-EE bidding zone border.
- (20) Because of this decision, Articles 16, 28, 29, 31 to 57, 59 and 61 of the FCA Regulation did not apply to the TSOs on the FI-EE bidding zone border, namely Fingrid and Elering<sup>4</sup>, in accordance with Article 30(7) of the FCA Regulation.
- (21) As a consequence, Fingrid did not submit and Energiavirasto did not approve for Fingrid terms and conditions or methodologies subsequently developed according to these articles.
- (22) The methodologies listed under Article 4(6) of the FCA Regulation were subject to approval of all regulatory authorities until the entry into force of Regulation (EU) 2019/942. Since entry into force of Regulation (EU) 2019/942 the proposals listed under Article 4(6) of the FCA Regulation are subject to approval of ACER.
- (23) On 28 May 2021, Energiavirasto and Konkurentsiamet, after a new assessment of the hedging opportunities in the concerned Finish and Estonian bidding zones, concluded

---

<sup>4</sup> Elering is exempted from issuing LTTRs on the FI-EE bidding zone border but does issue LTTRs on the EE-LV bidding zone border. Fingrid does not issue LTTRs on other bidding zone borders. Therefore, Article 30(7) of the FCA Regulation does exempt Fingrid but not Elering from the Articles listed under Article 30(7) of the FCA Regulation.

that the market did not provide sufficient hedging opportunities in those bidding zones and agreed to request, in accordance with Article 30(5) of the FCA Regulation, Fingrid and Elering to issue LTTRs on the FI-EE bidding zone border.

- (24) In June 2021, Energiavirasto and Konkurentsiamet requested Fingrid and Elering, as the respective TSOs, to issue LTTRs on the FI-EE bidding zone border in accordance with Article 30 of the FCA Regulation.
- (25) Because of this decision, the exemption under Article 30(7) of the FCA Regulation is no longer applicable and Articles 16, 28, 29, 31 to 57, 59 and 61 of the FCA Regulation do apply to Fingrid and Elering for the FI-EE bidding zone border.
- (26) The application of those articles, in particular with regard to the terms and conditions methodologies to be adopted thereunder, seems however not free from uncertainty to Energiavirasto and Konkurentsiamet.
- (27) In their view, there is uncertainty about the approval procedures for the methodologies, which have been developed according to these articles and approved by all regulatory authorities<sup>5</sup> or ACER, but not by Energiavirasto.
- (28) In that regard they mention specifically:
- Article 4(6) of the FCA Regulation;
  - five Union-wide terms/conditions and methodologies, namely the harmonised allocation rules pursuant to Article 51 of the FCA Regulation, the methodologies related to the single allocation platform pursuant to Articles 49 and 59 of the FCA Regulation, the congestion income distribution methodology pursuant to Article 57 of the FCA Regulation, and the methodology for sharing costs incurred to ensure firmness and remuneration of LTTRs pursuant to Article 61 of the FCA Regulation; and
  - one set of regional terms/conditions, namely the regional and bidding zone specific requirements of the harmonised allocation rules pursuant to Article 51 of the FCA Regulation.
- (29) According to Energiavirasto and Konkurentsiamet, there is also uncertainty about the implications which the lack of an approved long-term capacity calculation methodology, according to Article 10 of the FCA Regulation, in the Baltic capacity calculation region has for the legal requirements on the splitting of cross-zonal capacity in that region.
- (30) In that context, they wonder in particular about the interpretation of:

---

<sup>5</sup> Except those where the exemption of Article 30(7) of the FCA Regulation applied.

- the requirement under Article 16 of the FCA Regulation for a regional methodology for splitting long-term cross-zonal capacity which is coherent with the long-term capacity calculation methodology; especially whether in the absence of an approved long-term capacity calculation methodology the methodology pursuant to Article 16 of the FCA Regulation, instead, a bilateral TSOs' methodology can be implemented;
- the requirement for 'validated splitting of long-term cross-zonal capacity' under Articles 24, 29, 38 and 39 of the FCA Regulation; especially whether the splitting of long-term cross-zonal capacity can be calculated without the splitting methodology developed pursuant to Article 16 of the FCA Regulation; and
- the requirement under Article 31(2) of the FCA Regulation for offering long-term cross-zonal capacity for at least annual and monthly time frames; especially whether long-term cross-zonal capacity can be offered only for one time frame, as an interim regional design solution, as long as the splitting methodology pursuant to Article 16 of the FCA Regulation has not been implemented.

(31) To illustrate the relevance of a capacity calculation methodology for the related requirements, Energiavirasto and Konkurentsiamet refer to Article 38 of Commission Regulation (EU) 2017/2195 of 23 November establishing a guideline on electricity balancing ('EB Regulation') and to Article 13 of Annex I to ACER Decision No 22/2020 of 5 August 2020 on the market-based allocation process of cross-zonal capacity for the exchange of balancing capacity for the Nordic capacity calculation region, 'according to which the market-based allocation process of cross-zonal capacity for the exchange of balancing capacity for the Nordic capacity calculation region is possible *only when the cross zonal capacity on all bidding zone borders of the Nordic CCR is calculated in accordance with the capacity calculation methodologies developed pursuant to the CACM Regulation.*'

#### 4. THE REQUEST

(32) Energiavirasto and Konkurentsiamet request ACER's opinion on the abovementioned difficulties with the application of the FCA Regulation, and specifically, but not limited to, the following questions:

*'Question 1: During years 2016 – 2019, Energiavirasto has not made decisions on the proposals developed pursuant to Articles 49, 51 and 57 because these articles did not apply to Fingrid. The proposals under these articles are 'all TSOs' proposals. Shall all TSOs (ENTSO-E) start the process to get these proposals approved by ACER in order to be applied to Fingrid?'*

*Question 2: Shall the TSOs follow the process and timelines set in FCA guideline when providing proposals (European and regional) for approval?'*

*Question 3: The ACER decision ACER 25/2020 addresses also to Fingrid although at time of the decision Article 59 did not apply to Fingrid. Can this decision be considered valid or not? If not, which actions are needed from Fingrid / all TSOs to make the decision valid and addressing Fingrid?*

*Question 4: Through which kind of procedure would the new regional requirements be annexed to the HAR? When adding new regional and bidding zone specific requirements to the HAR, should the whole HAR be put for a public consultation and sent for ACER's approval or may the concerned TSOs hold the public consultation on regional requirements only and submit them for approval of the concerned capacity calculation region NRAs only? An alternative process could also be that the relevant regional TSOs or ENTSO-e would organize a public consultation on the regional BZ -specific requirements, after which ACER would handle the approval process.'*

*'Question 5: Shall Article 16(2)(b) of the FCA guideline be interpreted as precluding the implementation of the splitting methodology until long-term capacity calculation methodology has been implemented? And if so, could the issue be solved for instance with bilateral TSOs' methodology regarding the capacity splitting, that would be used until Article 16 methodology can be implemented.'*

*'Question 6: Can the definition of 'validated splitting of long-term cross-zonal capacity' in Articles 24(4), 29(1)(a), 38 and 39(1)(b) be interpreted as to not require that the splitting of long-term capacity is calculated using the methodology developed pursuant to Article 16 of the FCA guideline?'*

*'Question 7: Does Article 31(2) preclude an interim regional design, where long-term cross-zonal capacity would be offered only for one time frame until the relevant regional splitting methodology pursuant to Article 16 of the FCA guideline is implemented.'*

(33) In essence, these questions concern two areas:

- Questions 1, 2, 3 and 4 deal with the procedural requirements for applying to Fingrid those terms and conditions or methodologies which were adopted under Articles 16, 28, 29, 31 to 57, 59 and 61 of the FCA Regulation for either all capacity calculation regions or the Baltic capacity calculation region, however not approved by Energiavirasto.
- Questions 5, 6 and 7 relate to the requirements on the splitting of long-term cross-zonal capacity under Articles 16, 24, 29, 31, 38 and 39 of the FCA Regulation in the absence of an approved capacity calculation methodology for long-term time frames.

## **5. PROCEDURE**

- (34) On 11 November 2021, ACER received the request of Energiavirasto and Konkurentsiamet for an opinion, according to Article 6(7) of Regulation (EU) 2019/942, on the application of the FCA Regulation with regard to the implementation of LTTRs on the FI-EE bidding zone border.
- (35) Between 24 November 2021 and 9 February 2022, ACER engaged in discussions with the European Commission, the regulatory authorities, and the TSO of Finland, Fingrid. These discussions focused in particular on:
- (a) the approval status of the terms, conditions and methodologies relevant for issuing LTTRs on the FI-EE bidding zone border and the ways of making those terms, conditions and methodologies applicable to Fingrid which were not yet approved for it;
  - (b) the requirement for the methodology for splitting long-term cross-zonal capacity under Article 16 of the FCA Regulation, and the requirements related thereto, with regard to the issuing of LTTRs; and
  - (c) the actions (and related timelines) to be followed by Fingrid in order to issue LTTRs.
- (36) More specifically, on 8 and 15 December 2021, ACER consulted the European Commission through calls with the Directorate-General for Energy. With regard to the approval of Union-wide terms and conditions and methodologies not yet approved for Fingrid, the services of the Directorate-General for Energy supported a process in accordance with Article 4(6) of the FCA Regulation (proposals by all TSOs, approval by ACER), e.g. via an amendment of the personal scope of application of the relevant terms and conditions or methodologies. According to them, a decision pursuant to Article 30(5)(a) of the FCA Regulation might also provide a context for making the relevant terms and conditions or methodologies applicable to the respective TSO. With regard to splitting long-term cross-zonal capacity, they deemed it permissible to issue LTTRs before the implementation of the methodology according to Article 16 of the FCA Regulation.
- (37) On 13 December 2021, ACER discussed with Energiavirasto available options for making the relevant terms and conditions or methodologies applicable to Fingrid. According to Energiavirasto, issuing a decision pursuant to Article 30(5)(a) of the FCA Regulation would not provide the necessary clarity on the applicability of the respective terms and conditions or methodologies to Fingrid.
- (38) On 21 December 2021, ACER and Energiavirasto discussed with Fingrid the required steps and related required timings for allowing Fingrid to issue LTTRs on the FI-EE bidding zone border together with the Estonian TSO (which is already issuing LTTRs on the Estonian-Latvian bidding zone border and is therefore already ready to issue LTTRs).

- (39) By email of 7 January 2022, the Konkurentsiamet emphasized that LTTRs are needed as soon as possible to provide the market participants in Estonia (and the other Baltic states) with the necessary hedging opportunities. According to Konkurentsiamet, bilateral agreements can be applied in the absence of a splitting methodology implemented according to Article 16 of the FCA Regulation.
- (40) On 15 February 2022, the draft of an opinion replying to the present request of Energiavirasto, and Konkurentsiamet was submitted to the AEWG for consultation. In its advice of 18 February 2022, the AEWG invited ACER to take note of the comments raised by the German, the Finish, the Dutch and the Danish regulatory authority and broadly endorsed the draft opinion. Those comments concerned mainly the approval process for terms and conditions and methodologies which are identical with those already approved for other TSOs of the region or all TSOs in the EU. In essence, the German, the Dutch and the Danish regulatory authority considered it sufficient that the concerned TSO submits such identical proposal for regional terms and conditions or methodologies only to its regulatory authority for approval; should the respective regulatory authority disagree with the proposal, an amended proposal by all TSOs of the region would be necessary and would require approval by all regulatory authorities of the region. Regarding such disagreement, the Finish regulatory authority mentioned the option of involving ACER or rather first the other TSOs and regulatory authorities of the region. In addition, the German regulatory authority also considered that a single TSO could submit to ACER for approval a proposal which is identical with Union-wide terms and conditions or methodologies earlier approved by the regulatory authorities, and that ACER could approve such proposal without involving the other TSOs.
- (41) On 2 March 2022 ACER's BoR issued a favourable opinion pursuant to Article 22(5)(a) of Regulation (EU) 2019/942.

## **6. ASSESSMENT**

### **6.1. The procedural requirements for the approval of the methodologies under Articles 16, 28, 29, 31 to 57, 59 and 61 of the FCA Regulation with regard to Fingrid**

- (42) Article 30 of the FCA Regulation sets out the conditions under which TSOs on a bidding zone border must issue LTTRs, thereby also specifying whether or not certain provisions of the FCA Regulation and the related terms and conditions or methodologies apply.
- (43) According to Article 30(7) of the FCA Regulation, where TSOs do not issue LTTRs, Articles 16, 28, 29, 31 to 57, 59 and 61 of the same Regulation do not apply to those TSOs. In that event, the requirements for terms and conditions or methodologies under Articles 16, 31, 42, 49, 51, 52, 55, 57, 59 and 61 of the FCA Regulation do also not apply.
- (44) However, in accordance with Article 30(5)(a) of the FCA Regulation, following an assessment of the hedging opportunities, the competent regulatory authorities may

request the relevant TSOs to issue LTTRs. If they do so, the prerequisite for the exemption under Article 30(7) of the FCA Regulation ceases to exist and Articles 16, 28, 29, 31 to 57, 59 and 61 of the FCA Regulation become applicable to the previously exempted TSOs.

- (45) The applicability of Articles 16, 28, 29, 31 to 57, 59 and 61 of the FCA Regulation does not mean that the terms and conditions or methodologies earlier adopted under those Articles for other TSOs are automatically adopted also for the TSOs that are no longer exempted. In particular, it does not imply that the terms and conditions or methodologies have been adopted for these TSOs in accordance with Article 4 of the FCA Regulation.
- (46) For the adoption of terms and conditions or methodologies, Article 4 of the FCA Regulation distinguishes between those of Union-wide scope and the regional ones. Union-wide terms and conditions or methodologies are developed and submitted for regulatory approval by all TSOs in the EU, regional terms and conditions or methodologies by all TSOs of the region concerned. Until 3 July 2019, the responsibility for approving the terms and conditions or methodologies submitted by the TSOs rested for the Union-wide ones with all national regulatory authorities in the EU and for regional ones with all national regulatory authorities of the concerned region (subject to a subsidiary competence of ACER where the regulatory authorities could not agree). Since 4 July 2019, following the entry into force of Article 5(2) of Regulation (EU) 2019/942, Union-wide terms and conditions or methodologies are approved by ACER, whereas regional terms and conditions or methodologies are still approved by all regulatory authorities of the region concerned in first place (while ACER becomes competent in case of disagreement).
- (47) Under this framework, the adoption of the terms and conditions or methodologies is linked to a specific proposal submitted by the TSOs and to the regulatory approval of that proposal. By approving the proposed terms and conditions or methodologies for specific TSOs, the respective regulatory decision makes the terms and conditions or methodologies binding for those TSOs.
- (48) Consequently, where regulatory authorities were responsible for approving the TSOs' proposal and a regulatory authority did not approve a specific methodology for the TSO(s) under its jurisdiction, because the relevant provisions of the FCA Regulation were not applicable to the TSO(s), the respective methodology has not been adopted with regard to such TSO(s). If, subsequently, the respective methodology is to be approved also for the TSO(s) not yet covered, in principle the adoption process according to Article 4 of the FCA Regulation needs to be followed. This means, in principle, all relevant TSOs, including those for which the methodology has already been approved and the TSO(s) not yet covered, should develop and submit a proposal for the methodology to ACER (in case of a Union-wide methodology) or to the competent regulatory authorities of the region (in case of a regional methodology) for approval. A simplification of the process in terms of development/submission and approval could be considered where the relevant proposal is identical with the methodology already approved for the 'other' TSOs by, as the case may be, ACER or the competent regulatory authorities.

- (49) This approach applies also to TSOs which are no longer exempted under Article 30(7) of the FCA Regulation and therefore have to comply with the requirements for terms and conditions or methodologies under Articles 16, 31, 42, 49, 51, 52, 55, 57, 59 and 61 of the FCA Regulation.
- (50) Notwithstanding the above, it is also to note that Article 30(5)(a) of the FCA Regulation does not prescribe the exact scope of a decision by which the regulatory authority requests the relevant TSO to issue LTTRs. In ACER's view, this might allow the regulatory authority to request in the same context the TSO to comply with terms and conditions or methodologies which have been adopted for the relevant region, though not formally approved for that TSO.
- 6.1.1. The approval of Union-wide terms and conditions or methodologies under Articles 49, 51, 57, 59 and 61 of the FCA Regulation (Questions 1, 2 and 3)
- (51) Following the expiry of the exemption under Article 30(7) of the FCA Regulation, the Union-wide terms and conditions or methodologies under Articles 49, 51, 57, 59 and 61 of the FCA Regulation need to be applicable to Fingrid.
- (52) The current approval status of these terms and conditions or methodologies is as follows:
- (53) The harmonised allocation rules according to Article 51 of the FCA Regulation were approved by ACER with Decision No 15/2021 of 29 November 2021<sup>6</sup>. ACER Decision No 15/2021 was adopted at a time when Article 51 of the FCA Regulation has been applying to Fingrid for more than four months, and is addressed to Fingrid. Thus, ACER Decision No 15/2021 and the approved harmonised allocation rules are valid for and applicable to Fingrid, no further regulatory approval being required.
- (54) The methodology for sharing costs incurred to ensure firmness and remuneration of LTTRs according to Article 61 of the FCA Regulation was approved by ACER with Decision No 12/2021 of 4 October 2021<sup>7</sup>, which repeals ACER Decision No 25/2020 of 23 October 2020. ACER Decision No 12/2021 was adopted at a time when Article 61 of the FCA Regulation has been applying to Fingrid for more than three months, and is addressed to Fingrid. Thus, ACER Decision No 12/2021 and the approved methodology are valid for and applicable to Fingrid, no further regulatory approval being required.

---

6

[https://extranet.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20Decision%2015-2021%20on%20the%20Harmonised%20Allocation%20Rules%20for%20Long-term%20Transmission%20Rights.pdf](https://extranet.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2015-2021%20on%20the%20Harmonised%20Allocation%20Rules%20for%20Long-term%20Transmission%20Rights.pdf)

7

[https://extranet.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20Decision%2012-2021%20on%20the%20Harmonised%20Allocation%20Rules%20for%20Long-term%20Transmission%20Rights.pdf](https://extranet.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2012-2021%20on%20the%20Harmonised%20Allocation%20Rules%20for%20Long-term%20Transmission%20Rights.pdf)

- (55) The requirements for the single allocation platform according to Article 49 of the FCA Regulation and the methodology for sharing costs of establishing, developing and operating the single allocation platform according to Article 59 of the FCA Regulation were approved by the competent regulatory authorities, however not by Energiavirasto for Fingrid. Thus, those requirements and this methodology have not been adopted with regard to Fingrid and are not directly applicable to it. They still need to be approved for Fingrid in accordance with Article 4(6) of the FCA Regulation.
- (56) The methodology for sharing congestion income from forward capacity allocation according to Article 57 of the FCA Regulation was approved by the competent regulatory authorities, however not by Energiavirasto for Fingrid. Thus, this methodology has not been adopted with regard to Fingrid and is not directly applicable to it. It still needs to be approved for Fingrid in accordance with Article 4(6) of the FCA Regulation.
- (57) For this approval under Article 4(6) of the FCA Regulation, the responsibility is now with ACER. Accordingly, all TSOs to which Articles 49 and 59 and Article 51 of the FCA Regulation apply, including Fingrid, have to develop and submit a proposal for the respective terms and conditions or methodology to ACER for approval. When submitting such proposal, the TSOs should follow the procedures of Article 4 of the FCA Regulation and the related other provisions of the FCA Regulation. Where such proposal would only replicate the existing terms and conditions or methodology approved by the regulatory authorities, it could be feasible to simplify the proposal with a mere amendment of the personal scope of application of the relevant terms and conditions or methodology, specifying that they apply also to Fingrid.
- 6.1.2. Additional considerations with regard to the terms and conditions or methodologies to be adopted for Fingrid under Article 4(6) of the FCA Regulation and to the issuing of LTTRs on the FI-EE bidding zone border
- (58) In order to avoid further delays in the provision of the required hedging opportunities to market participants on the FI-EE bidding zone border, the proposals for the Union-wide terms and conditions or methodologies under Articles 49, 57 and 59 of the FCA Regulation should be kept as simple as possible (e.g. amending the scope of application of the existing terms and conditions or methodologies and amending their content only where necessary) and be submitted to ACER as soon as possible.<sup>8</sup>

---

<sup>8</sup> Such process with very limited amendments should be done in parallel to the ongoing amendment process to amend several methodologies under the FCA Regulation in order to allow long-term flow-based allocation (see ACER Decision No 14/2021 of 3 November 2021: [https://extranet.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20Decision%2014-2021%20on%20the%20long-term%20capacity%20calculation%20methodology%20of%20the%20Core%20capacity%20calculation%20region.pdf](https://extranet.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2014-2021%20on%20the%20long-term%20capacity%20calculation%20methodology%20of%20the%20Core%20capacity%20calculation%20region.pdf))

- (59) Regarding other necessary steps which would allow Fingrid and Elering to issue LTTRs on the FI-EE bidding zone border, ACER understands that approximately five months are necessary to introduce a new TSO and a new bidding zone border on the single allocation platform. Though ACER also understands that it takes some time to establish the transitional bilateral agreements needed to issue LTTRs on the FI-EE bidding zone border (see section 6.2), it should still be possible to deploy such transitional solution that allows a timely provision of the required hedging opportunities to market participants.
- 6.1.3. The approval of regional terms and conditions terms and conditions or methodologies under Articles 16 and 31 of the FCA Regulation (Question 2)
- (60) Following the expiry of the exemption under Article 30(7) of the FCA Regulation, the regional terms and conditions or methodologies under Articles 16 and 31 of the FCA Regulation need to be applicable to Fingrid.
- (61) The current approval status of these terms and conditions or methodologies is as follows:
- (62) The methodology for splitting long-term cross-zonal capacity according to Article 16 of the FCA Regulation was approved for the Baltic capacity calculation region by the competent regulatory authorities, however not by Energiavirasto for Fingrid. Thus, this methodology has not been adopted with regard to Fingrid and is not directly applicable to it. It still needs to be approved for Fingrid in accordance with Article 4(7) of the FCA Regulation.
- (63) The regional design of LTTRs according to Article 31 of the FCA Regulation was approved for the Baltic capacity calculation region by the competent regulatory authorities, however not by Energiavirasto for Fingrid. Thus, this methodology has not been adopted with regard to Fingrid and is not directly applicable to it. It still needs to be approved for Fingrid in accordance with Article 4(7) of FCA Regulation.
- (64) For this approval under Article 4(7) of the FCA Regulation, the responsibility is with the competent regulatory authorities of the Baltic capacity calculation region. Accordingly, all TSOs of that region to which Articles 16 and 31 of the FCA Regulation apply, including Fingrid, have to submit a proposal for the respective terms and conditions or methodology to the respective regulatory authorities for approval. When submitting such proposal, the TSOs should follow the procedures of Article 4 of the FCA Regulation and the related other provisions of the FCA Regulation. Where such proposal would only replicate the existing terms and conditions or methodology approved by the other competent regulatory authorities, it could be feasible to simplify the proposal in terms of scope (see above recital 57) or to simplify the process by which the TSOs develop and submit the proposal and the regulatory authorities provide their approval. For instance, where Fingrid proposes, in agreement with the other TSOs of the Baltic capacity calculation region, a methodology replicating the methodology approved already for those TSOs by the respective regulatory authorities, such proposal could be submitted to and approved by Energiavirasto only. If in such case Energiavirasto were to conclude that amendments to the proposal are

required, a respective proposal would have to be submitted by all TSOs of the region to all respective authorities for their approval.

6.1.4. The approval of regional and bidding zone specific requirements of the harmonised allocation rules pursuant to Article 51 of the FCA Regulation (Question 4)

- (65) According to Articles 51 and 52 of the FCA Regulation, the harmonised allocation rules must include specific general requirements and may contain also regional and bidding zone border specific requirements. The general part of the harmonised allocation rules is to be developed by all Union TSOs and approved by ACER, according to Article 4(6)(d) of the FCA Regulation. For the regional part, the development lies on the TSOs of the concerned capacity calculation region and the approval on all regulatory authorities of that region, according to Article 4(7)(e) of the FCA Regulation. The same allocation of responsibilities applies for the amendment of approved harmonised allocation rules, according to Article 4(12) of the FCA Regulation.
- (66) As regards the amendment of approved harmonised allocation rules, Article 51(2) of the FCA Regulation provides that if the general requirements are amended and submitted for regulatory approval, then the regional requirements need also to be submitted for approval, namely by the regulatory authorities of the concerned capacity calculation region. This specific obligation for an ‘all-inclusive’ revision and approval of the harmonised allocation rules does however not imply that regional requirements can be amended only together with the general requirements. Neither follows such limitation explicitly from any other provision of the FCA Regulation. Therefore, regional and border specific requirements of the harmonised allocation rules can be amended separately, without putting the general requirements of those rules also to regulatory review.
- (67) Thus, where harmonised allocation rules are to be amended only with regard to their regional and bidding zone border specific requirements, the amendment process is governed by Article 4(7)(e) and Article 4(12) of the FCA Regulation: all TSOs of the concerned capacity calculation region develop the regional amendment proposal, consult on it in accordance with Article 6 of the FCA Regulation, and submit it for approval to all regulatory authorities of that capacity calculation region, the latter then decide on the proposal.

**6.2. The requirements on the splitting of long-term cross-zonal capacity under Articles 16, 24, 29, 31, 38 and 39 of the FCA Regulation in the absence of an approved capacity calculation methodology for long-term time frames**

- (68) First it is to note that unlike Article 38(5) of the EB Regulation, which allows cross-zonal capacity to be allocated for the exchange of balancing capacity or sharing of reserves only if the cross-zonal capacity is calculated in accordance with the capacity calculation methodology developed pursuant to Commission Regulation (EU) 2015/1222 (CACM Regulation) and the FCA Regulation, the FCA Regulation does not expressly condition the allocation of LTTRs on the use of a specific capacity calculation methodology.

6.2.1. The requirement under Article 16 of the FCA Regulation for a methodology for splitting long-term cross-zonal capacity which is coherent with the capacity calculation methodology according to Article 10 of the FCA Regulation (Question 5)

- (69) According to Article 16(1) of the FCA Regulation, a methodology for splitting long-term cross-zonal capacity in a coordinated manner between different long-term time frames within the respective region has to be developed no later than the submission of the capacity calculation methodology referred to in Article 10 of the FCA Regulation; and according to Article 16(2)(b) of the FCA Regulation, this splitting methodology has to *'be coherent with the capacity calculation methodology'*, i.e. with the long-term capacity calculation methodology according to Article 10 of the FCA Regulation.
- (70) In ACER's view, this coherence requirement implies that the splitting methodology according to Article 16 of the FCA Regulation can only be implemented when the long-term capacity calculation methodology under Article 10 of the FCA Regulation has been implemented for the respective region. In that sense, also Article 10(2) of the methodology for splitting long-term cross-zonal capacity in the Baltic capacity calculation region, proposed by and approved for the Estonian and Latvian TSOs, provides: *'The [splitting] methodology will be implemented at the same time of the implementation of [the] methodology for long term capacity calculation [...].'*
- (71) On the other hand, in ACER's view, the coherence requirement does not necessarily imply that cross-zonal capacity may not be split at all without a long-term capacity calculation methodology under Article 10 of the FCA Regulation and without a splitting methodology according to Article 16 of the FCA Regulation. In fact, such splitting may be needed to continue offering LTTRs which existed on a bidding zone border at the entry into force of the FCA Regulation, i.e. before the implementation of those methodologies, or to introduce LLTRs. Indeed, Article 30 of the FCA Regulation does prescribe that LTTRs must be issued, however it does not condition their issuing on the use of the methodologies according to Articles 10 and 16 of the FCA Regulation. Nor are such conditions established by Articles 31 to 35 of the FCA Regulation, which define the regional design of LTTRs, physical transmission rights and financial transmission rights.
- (72) Therefore, in ACER's view, cross-zonal capacity may be split according to a methodology bilaterally agreed by the relevant TSOs, subject to regulatory oversight, until the splitting methodology according to Article 16 of the FCA Regulation has been implemented.
- (73) As regards the implementation of the splitting methodology according to Article 16 of the FCA Regulation in the Baltic capacity calculation region, it is to note that until today a respective methodology has been adopted only for the Estonian and Latvian TSOs. In order to implement a splitting methodology in accordance with Article 16 of the FCA Regulation in the Baltic capacity calculation region, such methodology will however have to be proposed by and approved for all relevant TSOs of the Baltic capacity calculation region, i.e. the Estonian TSO, the Latvian TSO, and Fingrid (see above section 6.1).

6.2.2. The requirement of ‘validated splitting of long-term cross-zonal capacity’ in Articles 24, 29, 38 and 39 of the FCA Regulation (Question 6)

- (74) Article 24(4), Article 29(1)(a), Article 38 and Article 39(1)(b) of the FCA Regulation refer to ‘*validated splitting of long-term cross-zonal capacity*’.
- (75) According to Article 24(2) and (3) of the FCA Regulation, ‘*[e]ach TSO shall validate the results of the calculation for splitting of long-term cross-zonal capacity on its bidding zone borders or critical network elements pursuant to Article 16*’ and ‘*send its capacity validation and validated splitting of this capacity for each forward capacity allocation to the relevant coordinated capacity calculators and to the other TSOs of the relevant capacity calculation regions*’. Subsequently, Article 24(4) of the FCA Regulation states that ‘*[v]alidated splitting of long-term cross-zonal capacity shall be provided by each coordinated capacity calculator for the execution of forward capacity allocation pursuant to Article 29*’.
- (76) Those provisions describe sequential steps in the capacity calculation process which start with the splitting of long-term cross-zonal capacity according to Article 16 of the FCA Regulation and the validation of those results. Therefore, in ACER’s view, ‘*validated splitting of long-term cross-zonal capacity*’ in Article 24(4) of the FCA Regulation should be understood as a reference to the starting point of long-term cross-zonal capacity splitting as defined by Article 16 of the FCA Regulation.
- (77) According to Article 29(1) of the FCA Regulation, ‘*[t]he single allocation platform shall use the following inputs for determining the allocation of forward capacity in accordance with paragraph 2: (a) validated splitting of long-term cross-zonal capacity submitted by each coordinated capacity calculator*’.
- (78) The ‘*validated splitting of long-term cross-zonal capacity*’ at this stage of the capacity allocation has been explicitly linked to Article 24(4) of the FCA Regulation. As such, in ACER’s view, its meaning follows, in line with Article 24 of the FCA Regulation, from the splitting of long-term cross-zonal capacity according to Article 16 of the FCA Regulation.
- (79) According to Article 38 of the FCA Regulation, ‘*[e]ach TSO shall ensure that validated splitting of long-term cross-zonal capacity is submitted to the single allocation platform prior to the publication of the auction specification in accordance with Article 39*’. And, according to Article 39(1)(b) of the FCA Regulation, the following information shall be defined and published on the single allocation platform: ‘*validated splitting of long-term cross-zonal capacity and type of the long-term transmission rights that will be auctioned*’.
- (80) Here, the ‘*validated splitting of long-term cross-zonal capacity*’ is also part of the capacity allocation process defined by Article 29 of the FCA Regulation and stems from the TSOs. This connection, in ACER’s view, links the validated splitting of long-term cross-zonal capacity to the results of the calculation for splitting of long-term cross-zonal capacity according to Article 16 of the FCA Regulation which the respective TSO validated.

- (81) For these reasons, in ACER's view, the expression '*validated splitting of long-term cross-zonal capacity*' in Article 24(4), Article 29(1)(a), Article 38 and Article 39(1)(b) of the FCA Regulation refers to a calculation for the splitting of long-term cross-zonal capacity which uses the methodology developed pursuant to Article 16 of the FCA Regulation. However, since the requirements of Article 24(4), Article 29(1)(a), Article 38 and Article 39(1)(b) of the FCA Regulation on the validation for the splitting of long-term cross-zonal capacity are also relevant where the calculation cannot be based on the splitting methodology pursuant to Article 16 of the FCA Regulation, ACER considers it in such cases of splitting appropriate to apply those requirements analogously.
- 6.2.3. The requirement of offering long-term cross-zonal capacity for at least annual and monthly time frames in Article 31(2) of the FCA Regulation (Question 7)
- (82) Article 31 of the FCA Regulation defines requirements for the regional design of LTTRs. Amongst other, according to Article 31(2) of the FCA Regulation, '*[a]ll TSOs issuing long-term transmission rights shall offer long-term cross-zonal capacity, through the single allocation platform, to market participants for at least annual and monthly time frames.*'
- (83) Article 31 of the FCA Regulation, including its paragraph 2, does not contain any reference to the long-term capacity calculation methodology or the splitting methodology according to Articles 10 and 16 of the FCA Regulation. In particular, it does not condition the required offering of long-term cross-zonal capacity at annual and monthly time frames on those methodologies. Moreover, the implementation of those methodologies is also not a prerequisite for offering long-term cross-zonal capacity at annual and monthly time frames. In such context, the wording of Article 31(2) of the FCA Regulation covers in principle all LTTRs which are issued after the entry into force of the FCA Regulation, regardless of the methodologies used for the calculation and splitting of long-term cross zonal capacity.
- (84) Therefore, in ACER's view, Article 31(2) of the FCA Regulation precludes a regional design where long-term cross-zonal capacity is offered for only one time frame as an interim solution, until the splitting methodology pursuant to Article 16 of the FCA Regulation is implemented,

HAS ADOPTED THIS OPINION:

Regulation (EU) 2016/1719 can be interpreted to the following effect:

1. The terms and conditions or methodologies under Articles 51 and 61 of Regulation (EU) 2016/1719 have been approved for Fingrid. The terms and conditions or methodologies under Articles 49 and 59 as well as Article 57 of Regulation (EU) 2016/1719 need to be approved for Fingrid in accordance with Article 4(6) of Regulation (EU) 2016/1719, i.e. upon a respective proposal of all TSOs and with a decision of ACER.

2. When submitting proposals for terms or conditions or methodologies for regulatory approval according to Article 4(6) or Article 4(7) of Regulation (EU) 2016/1719, the TSOs should follow the procedures of that Article and the related other provisions of Regulation (EU) 2016/1719, subject to simplifications where possible.
3. ACER Decision No 25/2020 of 23 October 2020 was repealed by ACER Decision No 12/2021 of 4 October 2021. ACER Decision No 12/2021 was adopted at a time when Article 61 of Regulation (EU) 2016/1719 applied to Fingrid, and is addressed to Fingrid. ACER Decision No 12/2021 and the approved methodology are valid for and applicable to Fingrid.
4. The regional and border specific requirements of the harmonised allocation rules under Articles 51 and 52 of Regulation (EU) 2016/1719 can be amended separately, without putting the general requirements of those rules also to regulatory review. The process for amending the harmonised allocation rules only with regard to their regional and bidding zone border specific requirements is governed by Article 4(7)(e) and Article 4(12) of Regulation (EU) 2016/1719, according to which all TSOs of the concerned capacity calculation region develop the regional amendment proposal, consult on it in accordance with Article 6 of Regulation (EU) 2016/1719, and submit it for approval to all regulatory authorities of that capacity calculation region.
5. The requirement of Article 16(2)(b) of Regulation (EU) 2016/1719 for a methodology that is coherent with the capacity calculation methodology implies that the splitting methodology according to Article 16 of Regulation (EU) 2016/1719 can only be implemented when the long-term capacity calculation methodology under Article 10 of Regulation (EU) 2016/1719 has been implemented for the respective region. Until the splitting methodology according to Article 16 of Regulation (EU) 2016/1719 has been implemented, cross-zonal capacity may be split according to a methodology bilaterally agreed by the relevant TSOs, subject to regulatory oversight.
6. The expression '*validated splitting of long-term cross-zonal capacity*' in Article 24(4), Article 29(1)(a), Article 38 and Article 39(1)(b) of Regulation (EU) 2016/1719 refers to a calculation for the splitting of long-term cross-zonal capacity which uses the methodology developed pursuant to Article 16 of Regulation (EU) 2016/1719. Since the requirements of Article 24(4), Article 29(1)(a), Article 38 and Article 39(1)(b) of Regulation (EU) 2016/1719 on the validation for the splitting of long-term cross-zonal capacity are also relevant where the calculation cannot be based on the splitting methodology pursuant to Article 16 of Regulation (EU) 2016/1719, applying in such case those requirements analogously seems appropriate.
7. Article 31(2) of Regulation (EU) 2016/1719 precludes a regional design where long-term cross-zonal capacity is offered for only one time frame as an interim solution, until the splitting methodology pursuant to Article 16 of Regulation (EU) 2016/1719 is implemented.

This Opinion is addressed to the regulatory authority of Finland, Energiavirasto, and the regulatory authority of Estonia, Konkurentsiamet.

Done at Ljubljana, on 8 March 2022.

**- SIGNED -**

*For the Agency  
The Director*

C. ZINGLERSEN