

**APPROVAL BY THE IU REGULATORY AUTHORITIES**

**OF**

**THE IU TSO PROPOSAL FOR THE  
FALLBACK METHODOLOGY**

**13 June 2017**

## I. Introduction and legal context

This document elaborates an opinion of the Irish-UK (IU) Regulatory Authorities, agreed on 13 June 2017 on the IU TSO Proposal for the fallback procedures submitted in accordance with Article 44 of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management (Regulation 2015/1222).

This agreed opinion of the IU Regulatory Authorities shall provide evidence that a decision on the fallback procedures does not, at this stage, need to be adopted by ACER pursuant to Article 9(11) of the Regulation 2015/1222. It is intended to constitute the basis on which the IU Regulatory Authorities will each subsequently make national decisions pursuant to Article 9(10) to approve the fallback procedures, submitted by TSOs in line with Article 9(7)(e) of Regulation 2015/1222.

The legal provisions that lie at the basis of the fallback procedures, and this IU Regulatory Authority agreed opinion of the fallback procedures, can be found in Article 3, 8, 9, and 44 of Regulation 2015/1222. They are set out here for reference.

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 8 of Regulation 2015/1222:

*TSOs' tasks related to single day-ahead and intraday coupling*

*1. In Member States electrically connected to another Member State all TSOs shall participate in the single day-ahead and intraday coupling.*

*2. TSOs shall:*

*[...]*

- (i) establish and operate fallback procedures as appropriate for capacity allocation in accordance with Article 44;*

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.

[...]

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. (...)
7. The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities:
  - a. (...)
  - b. (...)
  - c. (...)
  - d. (...)
  - e. the fallback procedures in accordance with Article 44;
  - f. (...)
  - g. (...)
  - h. (...)
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. (...)
14. TSOs and NEMOs 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 13.

Article 44 of Regulation 2015/1222:

*Establishment of fallback procedures*

*By 16 months after the entry into force of this Regulation, each TSO, in coordination with all the other TSOs in the capacity calculation region, shall develop a proposal for robust and timely fallback procedures to ensure efficient, transparent and non-discriminatory capacity allocation in the event that the single day-ahead coupling process is unable to produce results.*

*The proposal for the establishment of fallback procedures shall be subject to consultation in accordance with Article 12.*

## II. The IU TSO proposal

The fallback procedures proposal was consulted on by the IU TSOs through ENTSO-E for one month from 14 October 2016 to 15 November 2016, in line with Article 44 and Article 12 of Regulation 2015/1222.<sup>1</sup> The final IU TSO fallback proposal, dated 14 December 2016, was received by the last Regulatory Authority on 14 December 2016. The proposal includes proposed timescales 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 the Regulation 2015/1222, requires IU 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 14 June 2017.

Regulatory Authorities understanding of the IU proposal is that it is based upon the reallocation of the day-ahead cross-zonal capacity to the intraday timeframe. This is proposed to be done through the interim intraday coupling solution of auctions on the Great British : Irish Single Energy Market (GB:SEM) bidding zone border.

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<sup>1</sup> The public consultation held 14 October 2016 to 15 November 2016 is available on the ENTSO-e website: <https://consultations.entsoe.eu/markets/channel-and-iu-da-proposals/>.

### III. IU Regulatory Authority position

According to Regulation 2015/1222, the proposal should provide robust and timely fallback procedures to ensure efficient, transparent and non-discriminatory capacity allocation in the event that the single day-ahead coupling process is unable to produce results.

The IU Regulatory Authorities are of the opinion that the procedures, the reallocation of the day-ahead cross-zonal capacity to the intraday timeframe (with the interim intraday auction planned on the GB:SEM border) are sufficiently robust and provide an efficient, timely fallback solution. These procedures are transparent for market participants and provide an efficient solution for the GB:SEM border. The procedures will lead to *non-discriminatory* capacity allocation *in the event that the single day-ahead coupling process is unable to produce results*.

The IU Regulatory Authorities take note that the IU TSOs acknowledge there will be a future requirement to update the fallback procedures. This update will be required when the enduring single intraday coupling solution for the CACM Regulation becomes operational on the GB:SEM border. IU regulators then expect IU TSOs will then request an amendment of the current fallback proposal pursuant to Article 9(13) of Regulation 2015/1222. The amended proposal will be consulted in accordance with Article 12 of Regulation 2015/1222, as recalled in Article 11(2) of the proposal.

### Conclusions

The IU Regulatory Authorities welcome the fallback proposal. IU Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to reach agreement that the fallback procedures meet the requirements of the Regulation 2015/1222 and as such can be approved by the IU Regulatory Authorities.

The IU Regulatory Authorities must therefore make their decisions, on the basis of this agreement, by 14 June 2017. The fallback procedures should therefore be adopted by 14 June 2017.

Following national decisions by the IU Regulatory Authorities, IU TSOs will be required to publish the fallback procedures on the internet in line with Article 9(14) of Regulation 2015/1222, and must meet the implementation deadlines required by Article 6 of the fallback procedures.