

**REQUEST FOR AMENDMENT BY THE SEE CCR
REGULATORY AUTHORITIES AGREED AT THE SEE
CCR ENERGY REGULATORS' REGIONAL FORUM**

OF

**THE SEE CCR TSO PROPOSAL FOR
FALLBACK PROCEDURES**

12 December 2017

I. Introduction and legal context

This document elaborates an agreement of the SEE CCR Regulatory Authorities, agreed on 12 December 2017 at SEE CCR Energy Regulators' Regional forum, on the SEE CCR TSO proposal for 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 (the CACM Regulation).

This agreement of the SEE CCR Regulatory Authorities shall provide evidence that a decision on fallback procedures does not, at this stage, need to be adopted by ACER pursuant to Article 9(11) of the CACM Regulation. It is intended to constitute the basis on which the SEE CCR Regulatory Authorities will each subsequently request an amendment to the proposal for fallback procedures pursuant to Article 9(12) of the CACM Regulation.

The legal provisions that lie at the basis of the fallback procedures, and of this SEE CCR Regulatory Authority agreement on the request for amendment on the fallback procedures, can be found in Article 3, 8, 9, and 44 of the CACM Regulation. They are set out here for reference.

Article 3 of the CACM Regulation

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 the CACM Regulation

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 the CACM Regulation

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.

(...)

7 The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:

(...)

e) the fallback procedures in accordance with Article 44;

(...)

(...)

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.

(...)

12 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, 7 and 8, the relevant TSOs or NEMOs 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 or NEMOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 of this Article shall apply.

(...)

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 the CACM Regulation

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 SEE CCR TSO proposal

The proposal for fallback procedures was consulted by the SEE CCR TSOs through ENTSO-E from 1 March 2017 to 31 March 2017, in line with Article 44 and Article 12 of CACM.¹ The final SEE CCR TSOs' proposal for fallback procedures, dated April 2017, was received by the last Regulatory Authority of the SEE CCR on 15 June 2017. The proposal includes proposed timescales for its implementation and a description of its expected impact on the objectives of the CACM Regulation, in line with Article 9(9) of the CACM Regulation itself.

Article 9(10) of the CACM Regulation requires SEE CCR 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 15 December 2017.

The SEE CCR TSOs' proposal for fallback procedures shall cover the following:

- a) Fallback Procedure on Romania-Bulgaria (RO-BG) interconnection; and
- b) Fallback Procedure on Bulgaria-Greece (BG-GR) interconnection.

¹ <https://consultations.entsoe.eu/markets/see-fallback/>

The Fallback Procedure on each interconnection is based on explicit day ahead auctions, the Shadow Auctions. The auction specification of a Shadow Auction on a specific interconnection for the contract day will be published by the Allocation Platform in advance according to the Shadow Allocation Rules.

SEE NEMOs performing MCO function shall inform SEE TSOs in the event of risk of Full or Partial decoupling. In the event of Full decoupling, the Fallback Procedure on both interconnections is initiated. In the event of Partial decoupling affecting the RO-BG (or BG-GR respectively) interconnection, the Fallback Procedure on RO-BG (or BG-GR respectively) interconnection is initiated.

If a Fallback Procedure cannot be implemented in time, the Shadow Auction will be postponed. If postponement of a Shadow Auction is not considered by the Allocation Platform as being possible, the Shadow Auction will be cancelled and all bids already submitted will automatically set to be invalid.

The Fallback Procedures shall be implemented after SEE NRAs approval and when the Day Ahead Markets from SEE CCR will be coupled.

III. SEE CCR Regulatory Authority position

The SEE CCR Regulatory Authorities have no objections against the execution of Shadow Auctions on the SEE CCR interconnections in the event of Full or Partial decoupling. Nevertheless, the SEE CCR TSOs proposal on fallback procedures lacks several specifications. In particular:

1. The Allocation Platform that will execute the Shadow Auctions for each interconnection (RO-BG and BG-GR) should be specified. In addition, it should be specified if the participants should pay any fees for registration in the Allocation Platform and participating in the Shadow Auction, as well as, the requirements and the process of participating in a Shadow Auction.
2. The Shadow Allocation Rules should be provided in an Annex together with the main body of the fallback procedures. In the Shadow Allocation Rules the main principles of the Shadow Auctions should be specified, as for example, the Shadow Auction process, the capacity auctioned, the capacity pricing mechanism (for example, marginal price principle), the bid submission/update, the details on invoicing and payment.
3. In case the Shadow Allocation Rules are amended, a request for amendment of the fallback procedures is required according to Article 9(13) of the CACM Regulation.
4. Article 3 of the fallback procedures shall contain a precise description of the procedure, timing and communication channel that will be used by the SEE NEMOs performing MCO function to inform SEE TSOs on any potential problem for delivering the results according to Article 50(2) of the CACM Regulation.
5. The exact timing of all steps of the fallback procedures should be described. In particular, the time of initiating a Shadow Auction and the time of publication of the Shadow Auctions results should be specified.
6. It should be described what procedure will be followed in the case a Shadow Auction is cancelled and where the relevant capacity is allocated. If the capacity is allocated to the subsequent relevant intraday market, it should be taken into account that the timing of the day ahead and intraday coupling of the interconnections in the SEE CCR do not coincide.
7. Article 7 of the fallback procedures shall be amended as follows: "The arrangements described in Article 3 to 6 shall be implemented after SEE NRAs approval and on an interconnection of the SEE CCR immediately after the day ahead market MCO function becomes operational on that interconnection according to Article 7(3) of the CACM Regulation."
8. Article 1 of the fallback procedures states that the assignment of roles and responsibilities to specific parties will be defined in accordance to Article 8(2i) of the CACM Regulation. However, Article 8(2i) of the CACM Regulation refers exactly to the fallback procedures.

9. Several Articles of the fallback procedures contain reference to the “Fallback Procedures Proposal”. It should be noted that the “methodology” should be published, not the “proposal”. Thus, the relevant Articles should be amended by skipping the word “proposal” in accordance to article 9(14) of the CACM Regulation.

IV. Conclusions

Due to the above-mentioned lack of specifications of the fallback procedures in the SEE CCR, the SEE CCR Regulatory Authorities agree to request an amendment by the SEE CCR TSOs to the proposal on the fallback procedures. This amendment should contain the following elements:

1. To specify the Allocation Platform(s) and the fees paid by the participants.
2. To provide an Annex with the Shadow Allocation Rules and to foresee that a change in the Shadow Allocation Rules will result in a request for amendment of the fallback procedures.
3. To describe precisely the procedure, timing and communication channel that will be used by the SEE NEMOs performing MCO function to inform SEE TSOs on any potential problem for delivering the results.
4. To specify the time of initiating a Shadow Auction and the time of publication of the Shadow Auctions results.
5. To describe the procedure followed in the case a Shadow Auction is cancelled.
6. To set an implementation date for each interconnection in the SEE CCR.
7. To assign the specific roles and responsibilities of the parties involved in the fallback procedures.
8. To delete any reference to the word “proposal”, when the reference is on the “methodology”.

The amended proposal on the Fallback Procedures shall take into account the SEE CCR NRAs position stated above, and shall be submitted by all SEE CCR TSOs no later than 2 months following the requirement from the regulatory authorities, in accordance with Article 9(12) of CACM Regulation.