

**Approval by Capacity Calculation Region Hansa
Regulatory Authorities**

of

**Capacity Calculation Region Hansa TSO Proposal for
Fallback Procedures 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**

4 December 2017

I. Introduction and legal context

This document elaborates an agreement of all Capacity Calculation Region (“CCR”) Hansa Regulatory Authorities (Bundesnetzagentur, Energimarknadsinspektionen, Energy Regulatory Office, Danish Energy Regulatory Agency) on 4 December 2017, on the fallback procedures related to the situation where the single day-ahead market coupling process for the internal EU electricity market is unable to produce results. This is pursuant to Article 44 of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management (“Regulation 2015/1222”). The views of Norges vassdrags- og energidirektorat and Autoriteit Consument & Markt¹ have been acknowledged in the process.

This document is intended to constitute the basis on which all CCR Hansa Regulatory Authorities will each subsequently make national decisions pursuant to CACM GL Article 9(7)(e) and Article 9(10) to approve the proposal submitted by CCR Hansa TSOs and Statnett. The CCR Hansa TSOs are: TenneT TSO GmbH, Svenska Kraftnät, Polskie Siecie Elektroenergetyczne, 50hertz, Energinet.

The legal provisions relevant to the submission and approval of the proposal, and this CCR Hansa Regulatory Authority agreed opinion, can be found in Articles 3, 8, 9, 12, and 44 of Regulation 2015/1222. They are set out below 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:

- 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:*
 - (a) (...)*
 - (b) (...)*
 - (c) (...)*

¹ ACM and NVE are expected to join the CCR Hansa NRA Group at a later point in time

- (d) (...)
- (e) (...)
- (f) (...)
- (g) (...)
- (h) (...)
- (i) *establish and operate fallback procedures as appropriate for capacity allocation in accordance with Article 44;*
- (j) (...)
- (k) (...)
- (l) (...)

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. *If TSOs or NEMOs fail to submit a proposal for terms and conditions or methodologies to the national regulatory authorities within the deadlines defined in this Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies, and explain what has prevented an agreement. The Agency shall inform the Commission and shall, in cooperation with the competent regulatory authorities, at the Commission's request, investigate the reasons for the failure and inform the Commission thereof. The Commission shall take the appropriate steps to make possible the adoption of the required terms and conditions or methodologies within four months from the receipt of the Agency's information.*
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 of the concerned region*
 - (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. *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. *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 12 of Regulation 2015/1222:

1. *TSOs and NEMOs responsible for submitting proposals for terms and conditions or methodologies or their amendments in accordance with this Regulation shall consult stakeholders, including the relevant authorities of each Member State, on the draft proposals for terms and conditions or methodologies where explicitly set out in this Regulation. The consultation shall last for a period of not less than one month.*

2. *The proposals for terms and conditions or methodologies submitted by the TSOs and NEMOs at Union level shall be published and submitted to consultation at Union level. Proposals submitted by the TSOs and NEMOs at regional level shall be submitted to consultation at least at regional level. Parties submitting proposals at bilateral or at multilateral level shall consult at least the Member States concerned.*

3. *The entities responsible for the proposal for terms and conditions or methodologies shall duly consider the views of stakeholders resulting from the consultations undertaken in accordance with paragraph 1, prior to its submission for regulatory approval if required in accordance with Article 9 or prior to publication in all other cases. In all cases, a clear and robust justification for including or not the views resulting from the consultation shall be developed in the submission and published in a timely manner before or simultaneously with the publication of the proposal for terms and conditions or methodologies.*

Article 44 of Regulation 2015/1222:

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.

The deadline above says that fallback procedures shall be proposed before 14 December 2016.

The CCR Hansa NRAs acknowledge that this deadline could not be met, since ACER's CCR decision was taken 17 November 2016 and Regulation 2015/1522 prescribes a hearing lasting no less than a month. Already for this reason, the deadline from Regulation 2015/1522 was not possible to meet.

TSOs informed ACER and NRAs about the issue, cf. article 9(4), in a coordination group meeting 28 September 2016, where also the European Commission was attending. In addition to this ENTSO-E on behalf of all TSOs also informed the European Commission in a letter dated 30 November 2016 about the deadline issue.

At the FCA/CACM coordination group meeting 28 November 2016, the group agreed that the TSOs in each CCR should inform relevant NRAs about a new deadline, and that EC and ACER would not take further steps regarding the deadline. CCR Hansa TSOs informed the CCR Hansa NRAs that the proposal would be sent no later than 14 June 2017, cf. letter sent from CCR Hansa TSOs to CCR Hansa NRAs dated 12 December 2016.

The last CCR Hansa TSO sent the proposal to their NRA 14 June 2017.

On this background, the CCR Hansa NRAs acknowledge that the proposal was sent within deadline.

II. The CCR Hansa TSO proposal

The CCR Hansa TSO proposal for fallback procedures was consulted on by CCR Hansa TSOs through ENTSO-e for one month from 14 April 2017 to 15 May 2017 in line with Article 44 and Article 12 of Regulation 2015/1222².

² <https://consultations.entsoe.eu/markets/fallback-procedures-cc-region-hansa/>

The proposal for fallback procedures developed by all CCR Hansa TSOs, dated 14 June 2017, was received by the last CCR Hansa Regulatory Authority on 14 June 2017 together with a separate explanatory document and the Shadow Allocation Rules. The proposal includes proposed timescales for its implementation and a description of its expected impact on the objectives of Regulation 2015/1222. The Shadow Allocation Rules are given as an appendix to the main methodology and are not for approval here.

Article 9(10) of Regulation 2015/1222 requires Regulatory Authorities of the region, in this case CCR Hansa, 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 main elements of the fallback procedures are:

- *In the event that the single day-ahead coupling process is unable to produce results for at least one bidding zone border within CCR Hansa, Fallback Procedures in the form of Shadow Auctions shall be performed to allocate cross-zonal capacities on the concerned bidding zone border(s). Another procedure shall be used for the bidding zone border between Sweden and Poland on which available capacity shall be set to zero for the day-ahead market time-frame and be released to the intraday market time-frame.*
- *If Shadow Auctions are unable to produce a result, on the concerned bidding zone border(s), the cross-border capacities to be allocated in the day-ahead market time-frame shall be set to zero, and the available capacities shall be released for the intraday market time-frame.*
- *The arrangements (...) shall be implemented no later than 3 months after the approval of the proposal for the establishment of Fallback Procedures by the National Regulatory Authorities of CCR Hansa. The fallback procedure for the bidding zone border between Sweden and Poland shall be implemented simultaneously with implementation of intraday capacity allocation for this bidding zone border.*

III. All Regulatory Authority position

Current procedures

According to the supporting document to the CCR Hansa Fallback proposal the following applies:

- In case of activation of the MRC fallback procedures, the current procedure on the bidding zone borders DE/LU-DK1 and DE/LU-DK2 is Shadow Auctions.
- Available transmission capacity (ATC) on SwePol Link not used for the purpose of the day-ahead market coupling or in case of unavailability of the market coupling results by 15:45 CET, goes back to the relevant TSOs for operational security purposes until intraday capacity allocation is implemented.

New proposed procedures

All Regulatory Authorities of CCR Hansa are of the opinion that using shadow auctions and/or releasing capacity to the intraday market are both methods that are fair and contribute to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union and also supports the need for a fair and orderly market and fair and orderly price formation. The two methods differ between the DK-DE borders and the SE-PL borders. The main reason for allocating the capacity on the SE-PL border through the Intraday market instead of via an auction at JAO is that Swedish market participants have limited opportunities to trade at JAO since transmission rights are not frequently used. The CCR Hansa Regulatory Authorities see no problem in having different rules.

All Regulatory Authorities of CCR Hansa also notes that the proposed rules are similar to the current rules.

CCR Hansa consists of interconnectors between other CCRs only. In comparison, e.g. CCR Core and CCR Nordic consist of several bidding zones. Thus there is no calculation of clearing prices within CCR Hansa. The CCR Hansa NRAs are therefore of the opinion that it is acceptable that the CCR Hansa fallback proposal does not address trading related matters other than in Article 3(3).

All Regulatory Authorities of CCR Hansa have therefore reached the agreement that the proposed fallback procedures meet the requirements of Regulation 2015/1222.

IV. Conclusions

All CCR Hansa Regulatory Authorities have assessed, consulted and coordinated and closely cooperated with ACM and NVE to reach an agreement that the fallback procedures for CCR Hansa meet the requirements of Regulation 2015/1222 and as such can be approved by All CCR Hansa Regulatory Authorities.

The proposal for fallback procedures was received by the last CCR Hansa Regulatory Authority on 14 June 2017. All CCR Hansa Regulatory Authorities must therefore make their decisions latest 14 December 2017, on the basis of this agreement and in accordance with the six months deadline as set out in Regulation 2015/1222. Following national decisions taken by each Regulatory Authority, all CCR Hansa TSOs will be required to publish the regional requirements on the internet in line with Article 9(14) of Regulation 2015/1222.