

To:
ACER
CCR Hansa NRA's

02 October 2017

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Joint ACER-ENTSO-E CACM/FCA Coordination Group

LTRRs proposal for CCR Hansa:
Initiation of a procedure pursuant to article 4(4) of FCA GL in relation to articles 4 (7) c) and 31 (3) of FCA GL

Dear Sir or Madam,

I write this letter on behalf of the TSOs in the CCR Hansa.

Article 4(4) of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (FCA GL) stipulates that if TSOs fail to submit a proposal for certain terms and conditions or a certain methodology to the national regulatory authorities (NRAs) within the deadlines defined in the FCA GL, they shall provide the NRAs and the ACER with the relevant drafts of the terms and conditions or methodology in question, and explain what has prevented an agreement. Further, the ACER shall inform the European Commission (EC) and shall, in cooperation with the NRAs, at the EC's request, investigate the reasons for the failure and inform the EC thereof. The EC shall take the appropriate steps to make possible the adoption of the required terms and conditions or methodology within four months from the receipt of the ACER's information.

In line with the agreement made in the 31 January 2017 Joint ACER-ENTSO-E CACM/FCA Coordination Group meeting under agenda item 5, CCR Hansa TSOs and CCR Hansa NRAs aligned on the 29 May 2017 on the submission of the proposal for regional design of long-term transmission rights (LTRRs) in the CCR Hansa (LTRRs proposal) by November 2017¹.

On the basis of this initial mutual agreement between the CCR Hansa NRAs and the CCR Hansa TSOs, the latter agreed to continue their work on the LTRRs proposal according to the time schedule decided by the CCR Hansa Steering Committee (SC) in its 2 March 2017 meeting.

On the 20 June 2017, the CCR Hansa NRAs informed the CCR Hansa TSOs that they had revoked the previously mutually agreed deadline for submitting the LTRRs proposal and had unilaterally set a new deadline, namely the 17 April 2017².

The CCR Hansa NRAs informed the CCR Hansa TSOs about the new deadline approximately two months after the new deadline had already expired. It was therefore always impossible for the CCR Hansa TSOs to meet that deadline.

Regardless of it being at that point in time impossible for the CCR Hansa TSOs to meet the deadline, the ACER Opinion 10/2017 clearly states that the deadline has anyway to be postponed to the 17 May 2017 therefore the 17 April 2017 cannot be the correct deadline in the first place.

For this and other reasons, the CCR Hansa TSOs have never agreed with the decision of the CCR Hansa NRAs to change the deadline. The CCR Hansa TSOs explained their point of view and reasons in their letter to the CCR Hansa NRAs dated 4 July 2017³.

¹ Email from NRAs to TSOs of the 29 May 2017, Annex 1

² Email from NRAs to TSOs of the 20 June 2017, Annex 2

On 23 August 2017, the CCR Hansa TSOs received a written response⁴ from the CCR Hansa NRAs, *inter alia* informing the CCR Hansa TSOs that

"The legal interpretation of Article 31(3) as communicated by the CCR Hansa NRAs on 20 June 2017 still stands. As a consequence of this, the relevant CCR Hansa NRAs cannot approve a proposal submitted after the legal deadline of 17 April 2017."

To be able to approve a LTTRs proposal in compliance with the procedure set out in the FCA GL, the CCR Hansa NRAs urged the CCR Hansa TSOs to initiate a procedure pursuant to Article 4(4) FCA GL, stressing that

"Such initiation by the TSOs does by no means imply that the TSOs bear the sole responsibility for the passing of the deadline. Rather, it seems that in the relevant process, the CCR Hansa NRAs have not at all times communicated their views in an optimal way, thereby contributing to a delay in the process."

Even if the CCR Hansa TSOs still are of the opinion stated in the letter to CCR Hansa NRAs dated 4 July 2017, the CCR Hansa TSOs hereby initiate the article 4 (4) FCA GL procedure with regards to article 4 (7) c) FCA GL in connection with article 31 (3) FCA GL in order to facilitate a solution.

In line with article 4(4) FCA GL, please find the current LTTRs proposal⁵ in the attachment.

The LTTRs proposal has been in public consultation between and including 14 June and 30 July 2017 with only one reply to the consultation document. The attached version is amended according to the consultation answer as well as the Shadow Opinion⁶ of the CCR Hansa NRAs. Further an explanatory document⁷ is attached.

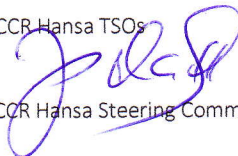
From the CCR Hansa TSOs' viewpoint the LTTRs proposal for the CCR Hansa only needs final CCR Hansa SC approval before its submission to the CCR Hansa NRAs. That final approval is expected at the next CCR Hansa SC meeting scheduled for the 7 November 2017.

The CCR Hansa TSOs kindly request ACER to clarify the next steps, and suggest that ACER advises the EC to let the process continue in the CCR Hansa with the 17 November 2017 being the deadline for submission to the CCR Hansa NRAs as the LTTRs proposal is almost ready for submission. An intervention by the EC will not facilitate or speed-up the process. At this point it may only hamper it.

The CCR Hansa TSOs want to emphasise that they have, throughout the entire process, been transparent and ensured that information was always given to the CCR Hansa NRAs in due time.

On behalf of the CCR Hansa TSOs

Jens Mattausch
Chairman of the CCR Hansa Steering Committee



³ Letter from CCR Hansa TSOs sent on 4 July 2017, Annex 3

⁴ Letter from CCR Hansa NRAs received on 23 August 2017, Annex 4

⁵ Current LTTR design proposal document from CCR Hansa, Annex 5

⁶ Reply to consultation as Shadow Opinion by NRAs, Annex 6

⁷ Current LTTR design proposal explanatory document from CCR Hansa, Annex 7

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