

# Public consultation on the ENTSO-E proposals for technical specifications for cross-border participation in capacity mechanisms

Fields marked with \* are mandatory.

## Public Consultation

### ENTSO-E proposals for technical specifications for cross-border participation in capacity mechanisms

This consultation is addressed to all interested stakeholders.

Stakeholders are invited to fill out this online survey by **9 August 2020, 23:59 hrs (CEST)**.

For questions, please contact ACER at: [ACER-ELE-2020-014@acer.europa.eu](mailto:ACER-ELE-2020-014@acer.europa.eu)

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## Consultation objective and background

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This consultation aims to gather stakeholder views on the proposed technical specifications for cross-border participation in capacity mechanisms.

On 3 July 2020, the European Network of Transmission System Operators for Electricity (ENTSO-E) submitted to ACER their proposals for technical specifications for cross-border participation in capacity mechanisms pursuant to Article 26(11) of Regulation (EU) 2019/943, and consisting of:

- a methodology for calculating the maximum entry capacity for cross-border participation;
- a methodology for sharing the revenues;
- common rules for the carrying out of availability checks;
- common rules for determining when a non-availability payment is due;
- terms of operation of the ENTSO-E registry; and
- common rules for identifying capacity eligible to participate in the capacity mechanism.

According to Article 26(11), ACER shall approve these proposals based on the procedure set out in Article 27 of Regulation (EU) 2019/943, amending them where required. In order to inform its assessment and if required, identify areas for amendment, ACER invites all interested third parties to submit their views on the proposals by responding to this online survey during a consultation period of 4 weeks.

Following this consultation, ACER will consider stakeholder feedback and expects to take a decision on the proposals, including potential amendments, within the next three months as required by Article 27 of Regulation (EU) 2019/943, i.e. by 5 October 2020.

### Related documents

- ENTSO-E, Cross-border participation in capacity mechanisms: Proposed methodologies, common rules and terms of operation in accordance with Article 26 of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), version of 3 July 2020

([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Single%20document%20for%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Single%20document%20for%20XB%20CM%20methodologies.pdf))

- ENTSO-E proposed methodologies, common rules and terms of reference related to cross-border participation in capacity mechanisms: Explanatory document, version of 3 July 2020 ([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Explanatory%20document%20for%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Explanatory%20document%20for%20XB%20CM%20methodologies.pdf))
- ENTSO-E, Public consultation on draft methodologies and common rules for cross-border participation in capacity mechanisms: Response to public consultation comments received during the consultation held from 31 January to 13 March 2020, version of 3 July 2020 ([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Response%20to%20public%20consultation%20on%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Response%20to%20public%20consultation%20on%20XB%20CM%20methodologies.pdf))
- 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 (recast) (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32019R0942>)
- Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0943>)
- ACER Guidance Note on Consultations ([https://www.acer.europa.eu/Official\\_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf](https://www.acer.europa.eu/Official_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf))
- ACER Rules of Procedure (AB Decision No 19/2019) ([https://www.acer.europa.eu/en/The\\_agency/Organisation/Administrative\\_Board/Administrative%20Board%20Decision/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf](https://www.acer.europa.eu/en/The_agency/Organisation/Administrative_Board/Administrative%20Board%20Decision/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf))

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## Privacy and confidentiality

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ACER will publish all non-confidential responses, including the names of the respondents, unless they should be considered as confidential, and it will process personal data of the respondents in accordance with Regulation (EU) 2018/1725 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725>) of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, taking into account that this processing is necessary for performing ACER's consultation task. For more details on how the contributions and the personal data of the respondents will be dealt with, please see ACER's Guidance Note on Consultations ([https://www.acer.europa.eu/Official\\_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf](https://www.acer.europa.eu/Official_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf)) and the specific privacy statement attached to this consultation.

Article 7(4) of ACER's Rules of Procedure (RoP) (<https://s-intranet/Drive/Departments/Electricity/ED%20Deliverables/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf#search=rules%20of%20procedures>) requires that a party participating in an ACER public consultation explicitly indicates whether its submission contains confidential information.

\* Is your submission to this consultation confidential?

- YES  
 NO

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## Consultation questions

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ACER seeks the opinion of stakeholders with respect to the following elements of the ENTSO-E proposal.

### **Methodology for calculating the maximum entry capacity**

1. Do you agree with the proposed methodology for calculating the maximum entry capacity for cross-border participation? If not, please explain which elements of the methodology should be changed or otherwise improved.

Our view on this matter is largely unchanged from that expressed when responding to the earlier ENTSOE consultation. The methodology for calculating the Maximum Entry Capacity lacks sufficient detail and transparency to assess properly. Whilst ENTSOE has provided further explanation on the methodology after its consultation, the MEC will hinge on results of the European Resource Adequacy Assessment ("ERAA"), the methodology for which is still to be finalised.

We note ENTSOE's views in its explanatory document that "the results of the maximum entry capacity calculation coming out of the ERAA simulation could be in some cases difficult to understand intuitively". Such a situation is quite alarming as it suggests it may be extremely difficult for a party to accept the results of the MEC calculation. It will be critical that the inputs and results of the ERAA are publicised and consulted upon throughout the process to improve confidence and understanding of the ERAA and thus the MEC.

We also note that TSOs are afforded the option to deviate from the ERAA results under article 10 of the proposed methodology. The circumstances where this may happen and the likely consequences are unclear, which undermines the production of a methodology to govern the process. We suggest this should be clarified and a step introduced to the methodology where affected parties may challenge the MEC calculation results as an extra form of governance over the process. This step would address some transparency concerns and increase the level of confidence in the end results.

**2. Should the methodology allow for calculating capacity contributions from Member States with no direct network connection with the Member State applying the capacity mechanism?**

Yes this would seem to be consistent with optimising investment and efficiently sharing resources across the EU as a whole. We recognise that this will be challenging to model but it will be important to recognise the wider contribution of capacity.

**Methodology for sharing the revenues from the allocation of entry capacity**

**3. Do you agree with the proposed methodology for sharing the revenues from allocating entry capacity? If not, please explain which elements of the methodology should be changed or otherwise improved.**

Article 13 of the proposal describes how the total revenue to be shared will be determined. For both implicit and explicit allocations of Entry Capacity, the revenue considered for sharing is analogous to congestion rents generated by interconnectors across various timeframes, so this is a well-established and understood principle.

Article 14 then diverges from well-established and understood principles for sharing of congestion income, describing a process where a proportion of the total revenue considered for sharing is attributed to the TSO organising the capacity mechanism based on the likelihood of simultaneous scarcity. We consider that this may 'double de-rate' the cross-border capacity as the likelihood of simultaneous scarcity has already been considered in determination of the MEC.

We note that a significant number of responses to ENTSOEs consultation raised this point and it has not been satisfactorily addressed. In its response to the consultation ENTSOE has not provided any rationale for why it is beneficial for revenues to be retained by the TSO organising the capacity market, which may not even operate or develop cross border capacity. Instead it has noted that this principle will be applied in both directions (with the implication that this is fair) and that revenues will be used in accordance with article 19(2) of the Regulation, so argues this is not beneficial to the TSO in question. If a TSO does not own or develop interconnection it is difficult to see how revenues will be effectively used in accordance with article 19(2). While there may not be a direct profit-making benefit to the TSO organising the capacity market, this approach will retain revenues within the member state organising the capacity market and appears to be a rather protectionist approach. If the cross-zonal capacity is developed by TSOs or other parties who do not organise capacity markets (such as interconnector TSOs or owners) then applying this process in both directions simply means the developer of the cross-zonal capacity is deprived of revenue in both directions! This approach fails to fully recognise the contribution of investment in interconnection, without which there would be no revenues to share from cross-border participation in the capacity market.

As capacity markets become more prevalent, reducing energy market price volatility, capacity market revenues will become increasingly important to providing market signals for investment in interconnection. If this market based revenue stream is unjustly reduced as proposed in this methodology, the investment signal will be distorted leading to less efficient outcomes and higher prices for European consumers.

We propose that all of the revenue determined for sharing in accordance with the proposed article 13 should be shared. The steps set out in article 14(2) and 14(4) should be removed. We believe these revenues should be shared in a manner consistent with existing congestion income distribution methodologies and consider that article 14(3) allows for this eventuality.

## **Common rules for the carrying out of availability checks**

4. Do you agree with the proposed common rules for the carrying out of availability checks? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

This section is silent on any availability checks that would be applied to cross-border capacity itself i.e. interconnectors. This was raised in the response to the ENTSOE consultation but ENTSOE appeared to conflate it with direct interconnector participation. If an interconnector is unavailable, this will clearly affect the actual contribution of foreign capacity so seems to be a relevant point and if TSOs are receiving capacity market revenues they should be incentivised to ensure their assets are available at times of system stress.

### **Common rules for determining when a non-availability payment is due**

5. Do you agree with the proposed common rules for determining when a non-availability payment is due? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

No comments

### **Terms of the operation of the ENTSO-E registry**

6. Do you agree with the proposed terms of the operation of the ENTSO-E registry? If not, please explain which elements of the proposed terms should be changed or otherwise improved.

No comments

### **Common rules for identifying capacity eligible to participate in the capacity mechanism**

7. Do you agree with the proposed common rules for identifying capacity eligible to participate in the capacity mechanism? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

No comments

### **General provisions and other comments**

8. Do you agree with the general provisions of the ENTSO-E proposals (Title 1)? If not, please specify which provisions should be changed or otherwise improved, and explain why.

No comments

9. Do you have any other comments on the ENTSO-E proposals that we should take into account in our assessment?

With respect to the methodology for sharing revenues, this appears to have been written with the purpose of retaining capacity market revenues within the member state that is organising the capacity market. This is a threat to the maintenance of existing and development of additional interconnection and is at odds with the spirit of the internal energy market and requirements for non-discrimination within Regulation (EU) 2019/943.

As stated in responses to specific questions, it is our view that the proposal lacks sufficient detail to ensure consistent interpretation and implementation.

Mutual Energy owns the Moyle Interconnector between the Single Electricity Market on the island of Ireland and Great Britain. We have extensive experience of directly participating in capacity markets in both jurisdictions and are acutely aware of the impact they can have on market dynamics and therefore to an interconnector business. It is from this position of experience that we can see that the proposals are not sufficiently detailed and warn against any approach that does not appropriately reward the provider of cross-border capacity for their role in the process. Attempts to dilute the revenue sharing process harm the business case for additional interconnection and poses a risk to market integration.

## Contact

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