

**REQUEST FOR AMENDMENT BY THE SOUTH-WEST  
EUROPE REGULATORY AUTHORITIES AGREED AT  
THE SOUTH-WEST EUROPE ENERGY  
REGULATORS' REGIONAL FORUM**

**ON**

**THE SOUTH-WEST EUROPE TSO's PROPOSAL FOR  
DAY AHEAD FALLBACK PROCEDURES**

**30.01.2018**

## I. Introduction and legal context

This document elaborates an agreement of the South-west Europe (SWE) Regulatory Authorities on the SWE TSOs' proposal for Day Ahead 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 (Regulation 2015/1222).

This agreement of the SWE Regulatory Authorities shall provide evidence that a decision does not, at this stage, need to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 9(11) of the Regulation 2015/1222. This agreement is intended to constitute the basis on which SWE Regulatory Authorities will request an amendment to the Day Ahead Fallback Procedures methodology (FPM) proposal pursuant to Article 9(12) of Regulation 2015/1222.

The legal provisions relevant to the submission and approval of the FPM proposal and this SWE Regulatory Authority agreement on the FPM proposal, can be found in Articles 3, 9, and 44 of the 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) Optimizing 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 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. (...)
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:*
  - (..) (...)
  - (e) *the fallback procedures in accordance with Article 44;*
  - (..) (...)
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. *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 719/2009. 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.*

1. *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 Regulation 2015/1222 has been published in the European Journal on 25 July 2015, and entry into force of this Regulation was on 14 August 2015 (20 days after publication). The FPM proposals had therefore to be submitted by 14 December 2016. However, taking into account that the determination of Capacity Calculation Regions (CCRs), required by Article 15 of the Regulation 2015/1222 and necessary for the submission of regional FPM proposals, was approved by ACER only on 17 November 2016, and that, according to Articles 44 and 12(1) of the Regulation 2015/1222, the FPM proposals shall be subject to a public consultation which lasts for a period of not less than one month, several FPM proposals, including the SWE proposal, were submitted with a slight delay.

According to Article 9(7)(e) of the Regulation 2015/1222 these proposals must be subject to the approval of all Regulatory Authorities (NRAs) of the concerned region.

In line with Article 9(9) of the Regulation 2015/1222 the proposal must include a proposed timescale for its implementation and a description of the expected impact on the objectives of the Regulation 2015/1222.

The SWE TSOs' draft proposal was published on 18 November 2016 and publically consulted between 18 November 2016 and 19 December 2016, as provided by Article 12 of the Regulation 2015/1222.

On 20 December 2016, SWE NRAs issued a Shadow Opinion on the SWE TSOs' draft FPM proposal.

The FPM proposal developed by the SWE TSOs, dated on 24 March 2017, was received by the last SWE NRA on the 30 March 2017. On 2 October 2017, all SWE agreed, at the South-West Europe Energy Regulators' Forum, to request an amendment of this first proposal, pursuant to Article 9(12) of the Regulation 2015/1222. An amended FPM proposal was therefore jointly submitted by all SWE TSOs to all SWE NRAs on 30 November 2017, and is subject now to a second request for amendment by the SWE NRAs according to Article 9(12) of the Regulation 2015/1222.

## **II. The SWE TSOs Proposal**

The amended SWE TSO FPM proposal, dated 30 November 2017, 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 the SWE Regulatory Authorities to consult and closely cooperate and coordinate with each other to reach agreement, and Article 9(12) of this regulation requires that they make decisions on the amended proposal within two months following receipt of submissions by the last Regulatory Authority concerned. This decision taken by the SWE Regulatory Authorities on 30<sup>th</sup> January 2018 fulfills the deadline of two months foreseen by regulation.

The main elements of the amended FPM as understood by SWE Regulatory Authorities are summarized here for reference:

- The FPM proposal contains the process to ensure efficient, transparent and non-discriminatory capacity allocation on the French-Spanish (FR-ES) and Portuguese-Spanish (PT-ES) interconnections, in the event that the single day-ahead market coupling process is unable to completely or partially produce results, in accordance with Article 44 of the Regulation 2015/1222.
- FPM is initiated when the market operator performing the MCO functions is unable to deliver part or all of the results.
- The fallback procedure for the FR-ES interconnection consists of an explicit allocation (Shadow Auction). In case of failure of data exchange process, data could be exchanged by e-mail. In case of impossibility to run the Shadow Auction, it could be deferred, or eventually cancelled, leaving the daily offered capacity to be allocated in the next intraday allocation process.
- The fallback procedure for the PT-ES interconnection consists of an implicit allocation for the MIBEL area running the EUPHEMIA algorithm, or in case of failure, running the SIOM algorithm, using the same bids and ATCs received for day ahead market coupling. In case of failure of this fallback procedure, the daily offered capacity is allocated in the subsequent relevant intraday allocation process.
- The TSOs shall implement this methodology immediately after approval by Regulatory Authorities.

### **III. SWE Regulatory Authorities' position**

The SWE Regulatory Authorities request SWE TSOs to amend some parts of the proposal pursuant Article 9(12) of the Regulation 2015/1222. The details of the request for amendment is explained in this section.

#### **1. General comment on Articles 3, 4 and 5 of the FPM**

The explanatory note suggests that, whatever the scenario (full or partial decoupling, this latter case being seemingly excluded on the ES-PT interconnection), the fallback procedure will consist of both elements: a local coupling process for the Portuguese and Spanish bidding zones, and an explicit auction (shadow auction) for the French-Spanish border. Consequently, for sake of clarity and simplicity, SWE Regulatory Authorities ask for a review and/or merging of the articles 3, 4 and 5 considering that there is indeed only one fallback procedure to be launched in any kind of decoupling affecting the SWE CCR.

#### **2. Article 4 of the FPM**

Article 4(2) addresses the coupling process for the Portuguese and Spanish bidding zones executing the price coupling algorithm proposed by All NEMOs in accordance with Article 37

of the Regulation 2015/1222 in an isolated mode. It should be clearly stated that, before this coupling process, order books are going to be reopened so that stakeholders can adjust their bids.

Additionally, where the proposal addresses the second attempt for the coupling process for the Portuguese and Spanish bidding zones in Article 4.4, it indicates that SIOM algorithm will use the same bids received for the “single day-ahead” coupling, while it should refer to the same bids received for executing the day-ahead market coupling in an isolated mode for the MIBEL area, as described in the Article 4.2.

Finally, SWE Regulatory Authorities welcome the way Art 4(5) take into consideration the new version of the Iberian Market Rules (IMR), expected to be in place by the time of approval of this FPM.