

**Approval by all Baltic Capacity Calculation region  
National Regulatory Authorities agreed**

**on**

**the all Baltic Capacity Calculation region Transmission  
System Operators proposal for the  
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**

20 March 2018

## **1. Introduction and legal base**

This document elaborates an agreement of All Baltic Capacity Calculation region (CCR) National Regulatory Authorities (NRAs), agreed on 20 March 2018, on the All Baltic CCR Transmission System Operators (TSOs) proposal for the fallback procedures (Fallback Procedures Proposal) 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 (CACM).

This agreement of all Baltic CCR NRAs shall provide evidence that a decision on the amended Fallback Procedures Proposal does not, at this stage, need to be adopted by ACER pursuant to Article 9(11) of CACM. This agreement is intended to constitute the basis on which All Baltic CCR NRAs will each subsequently adopt a decision to the Fallback Procedures Proposal pursuant Article 9(6)(h).

The legal provisions relevant to the submission and approval of the Fallback Procedures Proposal and this All Baltic CCR NRAs agreement on the Fallback Procedures Proposal, can be found in Articles 3, 8, 9, 12 and 44 of the CACM.

Article 3 of CACM:

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 CACM:

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 CACM:

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 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.

Article 12 of CACM:

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 CACM:

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.

## **2. The Baltic CCR Fallback Procedures Proposal**

The proposed Fallback Procedures was consulted by the Baltic CCR TSOs through ENTSO-E for one month from 5 April 2017 to 5 May 2017 in line with Article 12 of CACM.

The Baltic CCR TSOs proposal, dated 16 May 2017, was received by the last Baltic CCR NRA on 25 May 2017, together with a document of public consultation responses and TSOs reactions and minutes of Baltic Capacity Calculation Region Steering Committee.

On 21 November 2017, the Baltic CCR NRAs issued a Request for Amendment to the proposed Fallback Procedures.

The amended Fallback Procedures dated 26 January 2018, was received by the last Baltic CCR NRA on 29 January 2018. The proposal includes a proposed timescale for its implementation and a description of its expected impact on the objectives of CACM.

CACM requires Baltic CCR NRAs 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 and on the amended terms and conditions or methodologies within two months following their submission. A decision is therefore required by each Baltic CCR NRA by 29 March 2018.

### **3. The Baltic CCR NRAs position**

According to CACM, the scope of the fallback procedures is to 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 Baltic CCR NRAs brought out in the request for amendments that Fallback Procedures Proposal is no justifications presented for the chosen solution. In addition the proposed Fallback Procedures was missing links to fulfilment of Article 3 CACM requirements and impact assessment which is requirement of Article 9(9) CACM.

In the Baltic CCR NRAs request of amendments the Baltic CCR TSOs were asked to clarify the proposed Fallback Procedures. The proposed Fallback Procedure lacked for example a proper clarification on how imbalances shall be treated and how the coordination process for keeping the Baltic CCR and Nordic coupled should be arranged. Furthermore, the Baltic CCR TSO were also asked to clarify how the regional setup will look like in case there are more than one NEMO designated or offering trading services.

In the amended proposed Fallback Procedures the Baltic CCR TSOs have introduced the Fallback Coordinator. The Fallback Coordinator means the day-ahead NEMO, who is responsible for coordinating the operation of the Market Coupling Session within the coupled region in case of Single Day-Ahead Coupling decoupling. The Fallback Coordinator shall initiate the fallback procedures in the coupled region when Single Day Ahead Coupling declares decoupling affecting the coupled region.

The Baltic CCR TSOs have taken the Baltic CCR NRAs requests into account and have made Fallback Procedures clearer.

#### **4. Conclusion**

The Baltic CCR NRAs have assessed, consulted and closely cooperated and coordinated to reach the agreement that the proposed Fallback Procedures meets the requirements of CACM and as such can be approved by the Baltic CCR NRAs.

All Baltic CCR NRAs must therefore make their decisions, on the basis of this agreement, by 29 March 2018 at the latest.

Following the national decisions by the Baltic CCR NRAs, the Baltic CCR TSOs will be required to publish the Fallback Procedures, in line with Article 9(14) of CACM.