

**REQUEST FOR AMENDMENT BY THE SEE CCR
REGULATORY AUTHORITIES AGREED AT THE SEE
CCR ENERGY REGULATORS' REGIONAL FORUM**

OF

**THE SEE CCR TSOs PROPOSAL FOR THE
REGIONAL SPECIFIC ANNEX FOR THE SEE CCR
TO THE HARMONISED ALLOCATION RULES FOR
LONG-TERM TRANSMISSION RIGHTS IN
ACCORDANCE WITH ARTICLE 52 OF COMMISSION
REGULATION (EU) 2016/1719 OF 26 SEPTEMBER
2016 ESTABLISHING A GUIDELINE ON FORWARD
CAPACITY ALLOCATION**

16 May 2019

I. Introduction and legal context

This document elaborates an agreement of the SEE CCR Regulatory Authorities (in the following: SEE NRAs), made at the SEE CCR Energy Regulators' Regional forum on 16 May 2019, on the SEE CCR TSOs (in the following: SEE TSOs) Proposal for Regional Specific Annex for SEE CCR (in the following: SEE Annex) to the Harmonised Allocation Rules (in the following: HAR) for Long Term Transmission Rights (in the following: LTTR), submitted in accordance with Article 51, 52(3) and 55 of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation (in the following: Regulation 2016/1719).

This agreement of SEE NRAs shall provide evidence that a decision on the SEE Annex does not, at this stage, need to be adopted by ACER pursuant to Article 4(10) of the Regulation 2016/1719. It is intended to constitute the basis on which SEE NRAs will each subsequently request an amendment to the proposal for SEE Annex to the HAR for LTTR pursuant to Article 4(11) of Regulation 2016/1719.

The legal provisions relevant to the SEE Annex to the HAR, and this SEE NRAs' agreement on the request for amendment to the proposal for SEE Annex to the HAR for LTTR, can be found in Articles 3, 4, 51, 52 and 55 of FCA. They are set out here for reference.

Article 3 of Regulation 2016/1719:

This Regulation aims at:

- (a) promoting effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants;*
- (b) optimising the calculation and allocation of long-term cross-zonal capacity;*
- (c) providing non-discriminatory access to long-term cross-zonal capacity;*
- (d) ensuring fair and non-discriminatory treatment of TSOs, the Agency, regulatory authorities and market participants;*
- (e) respecting the need for a fair and orderly forward capacity allocation and orderly price formation;*
- (f) ensuring and enhancing the transparency and reliability of information on forward capacity allocation;*
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union.*

Article 4 of Regulation 2016/1719:

- 1. TSOs 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, the participating TSOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of these terms and conditions or methodologies.*
- 2. (...)*
- 3. (...)*
- 4. (...)*
- 5. Each regulatory authority shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7.*
- 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 regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55.*
8. *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.*
 9. *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 and 7 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.*
 10. *Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 9, or upon their joint request, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within six months, in accordance with Article 8(1) of Regulation (EC) No 713/2009.*
 11. *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 and 7, the relevant TSOs 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 713/2009. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 shall apply.*
 12. *TSOs responsible for developing a proposal for terms and conditions or methodologies or regulatory authorities responsible for their adoption in accordance with paragraphs 6 and 7, 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 6 and approved in accordance with the procedure set out in this Article.*
 13. *TSOs 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 7.*

Article 51 of Regulation 2016/1719:

Introduction of harmonised allocation rules

1. *Within six months after the entry into force of this Regulation, all TSOs shall jointly develop a proposal for harmonised allocation rules for long-term transmission rights pursuant to Article 52(2). The proposal shall be subject to consultation in accordance with Article 6. This proposal shall include regional and bidding zone border specific requirements if developed by the TSOs of each capacity calculation region pursuant to Article 52(3).*
2. *Once the regional requirements have entered into force, they shall prevail over the general requirements defined in the harmonised allocation rules. In case the general requirements of the harmonised allocation rules are amended and submitted to all regulatory authorities' approval, the regional requirements shall also be submitted to regulatory authorities' approval of the concerned capacity calculation region.*

Article 52 of Regulation 2016/1719:

Requirements for the harmonised allocation rules

1. *The requirements for the harmonised allocation rules for long-term transmission rights shall cover physical transmission rights, FTRs — options and FTRs — obligations. TSOs shall consider and duly take into account specificities related to the different types of products.*
2. *(...)*
3. *The harmonised allocation rules may also contain regional or bidding zone border specific requirements in particular for, but without limitation to:*
 - (a) the description of the type of long-term transmission rights which are offered on each bidding zone border within the capacity calculation region pursuant to Article 31;*
 - (b) the type of long-term transmission rights remuneration regime to be applied on each bidding zone border within the capacity calculation region according to the allocation in the day-ahead time frame pursuant to Article 35;*
 - (c) the implementation of alternative coordinated regional fallback solutions pursuant to Article 42;*
 - (d) the regional compensation rules defining regional firmness regimes pursuant to Article 55.*

Article 54 of Regulation 2016/1719:

Definition of caps

1. *The concerned TSOs on a bidding zone border may propose a cap on the total compensation to be paid to all holders of curtailed long-term transmission rights in the relevant calendar year or the relevant calendar month in case of Direct Current interconnectors.*
2. *The cap shall not be lower than the total amount of congestion income collected by the concerned TSOs on the bidding zone border in the relevant calendar year. In case of Direct Current interconnectors, TSOs may propose a cap not lower than the total congestion income collected by the concerned TSOs on the bidding zone border in the relevant calendar month.*
3. *(...)*

Article 55 of Regulation 2016/1719:

Compensation rules

1. *Where TSOs propose to apply a cap referred to in Article 54, they shall jointly propose a set of compensation rules with regard to the applied cap.*

II. The SEE TSOs proposal

The SEE Annex to the HAR for LTTR contains specific requirements related to LTTR issued for the Romania-Bulgaria and Bulgaria-Greece bidding zone borders that prevail, pursuant to art. 51 par. 3 of the FCA, over the general requirements included in the Harmonized Allocation Rules approved by the Agency with the Decision 03/2017 issued on 2 October 2017.

The specific annex for one of the bidding zone borders in the SEE CCR, i.e. for the border Bulgaria-Greece, was consulted from 16 January until 17 February 2017¹ together with the “All TSOs’ proposal for harmonised allocation rules for long-term transmission rights in accordance with Article 51 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation”. The specific annex for the other bidding zone border in the SEE CCR, i.e. the border Bulgaria-Romania, was addressed through a separate public consultation, from 27 January until 3 March 2017².

The first version of the SEE Annex to the HAR was received by the last concerned regulatory authority on 19 April 2017.

Article 4(9) of Regulation 2016/1719 requires SEE 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. A decision was therefore required by each Regulatory Authority by 19 October 2017.

In a letter dated 27 October 2017 and received by ACER on the same date, SEE NRAs informed the Agency that they agreed at SEE CCR Energy Regulators’ Regional Forum to request the Agency to adopt a decision, pursuant to Article 4(10) of the Regulation 2016/1719, on the SEE Annex Proposal, because they were not able to reach an agreement on this proposal. According to the letter, the proposal could not ensure the application of the HAR, as not all SEE TSOs have been able to join an auction office for the conduct of the respective auctions. In their letter, the SEE NRAs suggested, for the year 2018, to allocate LTTRs with Capacity Allocation Rules (‘CAR’) that are to be approved bilaterally by the two regulatory authorities on each bidding zone border of the SEE CCR.

On 13 December 2017, ACER, with its Decision No 06/2017, approved, subject to some amendments, the SEE Annex to the HAR for LTTR, pursuant to Articles 51(1) and 52(3) of Regulation 2016/1719.

According to Article 4(12) of Regulation 2016/1719, SEE TSOs prepared an amended version that was consulted on JAO site from 8 October 2018 to 8 November 2018³. This new version was received by the last concerned regulatory authority on 20 November 2018. According to Article 4(9) of Regulation 2016/1719, as mentioned above, a decision by each Regulatory Authority would therefore be required by 20 May 2019.

The second version of the SEE Annex to the HAR for LTTR states the following specific rules:

- Temporary arrangement for curtailment deadline on Bulgaria-Greece Bidding Zone Border: LTTR may be curtailed in the event of Force Majeure or to ensure operations remain within Operation Security Limits before the Day Ahead Firmness Deadline approved pursuant to Article 69 of Commission Regulation (EU) 2015/1222, i.e. 11.00 CET time equal to one hour before the day-ahead market gate closure time; after this deadline, curtailment is possible only in Emergency Situations or in the case of Force Majeure; the above mentioned rule will apply, setting Day Ahead Firmness Deadline as the deadline for LTTR firmness, once Single Day-Ahead Coupling is implemented on the Bulgaria-Greece bidding zone borders; in the meanwhile, instead, the nomination deadline, i.e. 08.00 CET will be used.

¹ <https://consultations.entsoe.eu/markets/fca-har/>

² <https://consultations.entsoe.eu/markets/har-annex14/>

³ <http://www.jao.eu/news/messageboard/view?parameters=%7B%22NewsId%22%3A%22bdd91f21-2dbb-4e32-84ee-a97300a5ad11%22%2C%22FromOverview%22%3A%221%22%7D>

- in case of curtailment, a cap is set to the compensations on the Romania-Bulgaria and Bulgaria-Greece bidding zone borders, according to Article 59(2) of the HAR;

III. SEE NRAs' position

Article 52(3) of Regulation 2016/1719 states that the HAR may include specific requirements “in particular for but without limitation to” the description of the type of LTTR offered on each bidding zone border, the remuneration regime to be applied on each bidding zone border, the alternative coordinated regional fallback solutions, the regional compensation rules defining regional firmness regimes. Moreover Article 59(2) allows the TSOs to propose caps to the compensation granted to LTTR holders.

The above-mentioned specific curtailment rules proposed by SEE TSOs are duly justified.

Regarding the curtailment deadline on Bulgaria-Greece Bidding Zone Border, SEE NRAs appreciate that the SEE TSOs refer to the standard Day Ahead Firmness Deadline to be used once Single Day-Ahead Coupling is implemented in this border. In the meanwhile, lacking a harmonized day-ahead gate closure time, SEE NRAs agree with the SEE TSOs that the LTTR firmness cannot yet be based on the standard Day Ahead Firmness Deadline (1 hour before day ahead gate closure time); thus firmness on this Bidding Zone Border shall refer to the unanimously agreed nomination deadline, i.e. 08.00 CET.

However, SEE NRAs deem it important to propose some amendments to the SEE Annex, mainly regarding the entry into force of this document as follows and as incorporated in the, attached to this agreement, SEE Annex (Annex I).

It is, also, required to introduce specific requirements regarding the deadline for LTTR firmness (curtailment deadline) for the Romania-Bulgaria Bidding Zone Border, as the two markets lack a harmonized day-ahead gate closure time (Romanian Day Ahead Market closes at 11.00 CET, while Bulgarian Day Ahead Market closes at 12.00 CET). Thus, SEE NRAs propose that the deadline for LTTR firmness could be set at 10.00 CET (or earlier) until Single Day-Ahead Coupling is implemented on this border.

Given the fact that the HAR and the SEE Annex (ACER Decision 6/2017) are in force from 01.01.2019, this amended SEE Annex, has to start being in force from the date and time specified in the notice sent to the Registered Participants by the Allocation Platform (e.g. JAO), in accordance with the applicable national regulatory regime and the procedure laid down in Article 68(2) of the HAR and it is subject to prior approval by the relevant NRAs.

SEE NRAs consider that there is an overlapping in the provisions of articles 1 and 8 of the SEE Annex proposal and a wording that may lead to misunderstandings.

Furthermore, any amendment or review should be compliant to article 68 of the HAR.

For these reasons, article 1 was rewritten, article 8 was deleted and a new article 9 (“Entry into force”) is introduced.

Finally, SEE NRAs propose, also, to amend Article 5 and Article 6 for typos correction.

IV. Conclusions

In order for the SEE Annex to the HAR for LTTR proposal to be compliant with Regulation 2016/1719 and to reflect the actual entry into force, SEE NRAs have assessed, consulted and closely cooperated and coordinated to reach agreement to request an amendment by the SEE TSOs to the second version of the SEE Annex to the HAR for LTTR.

The amended SEE Annex shall take into account the SEE NRAs position stated above and shall be submitted by all SEE TSOs no later than 2 months following the requirement from the regulatory authorities, in accordance with Article 4(11) of Regulation 2016/1719.

Annex I to this SEE NRAs' agreement sets out the majority of the amendments to the SEE Annex to the HAR for LTTR, pursuant to Articles 51(1) and 52(3) of Regulation 2016/1719, as requested by SEE NRAs.

Annexes:

Annex I – Regional Specific Annex for the CCR SEE to the Harmonised Allocation Rules for long-term transmission rights (ACER Decision 3/2017) in accordance with Articles 51 and 52(3) of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation