



**Agreement on approval by all Core Regulatory Authorities
agreed at the Core Energy Regulators' Regional Forum**

on

**the “Regional Specific Annex for CCR Core 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”**

3 October 2017

I. Introduction and legal context

The Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (“Regulation 2016/1719”) entered into force on 17 October 2016. Regulation 2016/1719 sets out detailed rules on cross-zonal capacity allocation in the forward markets, on the establishment of a common methodology to determine long-term cross-zonal capacity, on the establishment of a single allocation platform at European level offering long-term transmission rights, and on the possibility to return long-term transmission rights for subsequent forward capacity allocation or transfer long-term transmission rights between market participants.

This document elaborates an agreement of all Regulatory Authorities of the Core Capacity Calculation Region (“CCR”) on 3 October 2017, on the **Regional Specific Annex for CCR Core to the Harmonised Allocation Rules for long-term transmission rights in accordance with Article 52 of Regulation 2016/1719** (hereafter referred to as respectively “the CCR Core Annex to HAR”), as submitted in April 2017.

This agreement of all Core Regulatory Authorities (ACM, AGEN-RS, ANRE, BNetzA, CRE, CREG, E-Control, ERU, HEA, HERA, ILR, URE, URSO) shall provide evidence that a decision on the CCR Core Annex to HAR does not, at this stage, need to be adopted by ACER pursuant to Article 4(10) of Regulation 2016/1719. This agreement is intended to constitute the basis on which all Core Regulatory Authorities will each subsequently adopt a decision on the CCR Core Annex to HAR pursuant Article 4(7)(e) of Regulation 2016/1719.

The legal provisions relevant to the submission and approval of the CCR Core Annex to HAR Proposal can be found in Articles 3, 4, 51-52 and 54-55 of Regulation 2016/1719.

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:*

(...)

(e) the regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55;
8. (...)
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 to 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. (...)
12. (...)
13. (...)

Article 51 of Regulation 2016/1719

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

1. (...)
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

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. *In case of several interconnectors operated by different TSOs on the same bidding zone border and subject to different regulatory regimes overseen by regulatory authorities, the*

total congestion income used for calculation of capped compensation pursuant to paragraph 2 may be dissociated between each interconnector. Such a division shall be proposed by the concerned TSOs and approved by the competent regulatory authorities.

Article 55 of Regulation 2016/1719

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 Regional Specific Annex for CCR Core to the Harmonised Allocation Rules for long-term transmission rights

Article 51 (1) of Regulation 2016/1719 requires that all TSOs shall jointly develop a proposal for harmonised allocation rules for long-term transmission rights pursuant to Article 52(2) within six months after the entry into force of this Regulation. 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).

All Core TSOs organized, from 16 January 2017 until 17 February 2017, a public consultation on the draft CCR Core Annex to HAR, where the provisions in relation to the applicability of the cap were consulted together with the main body of the HAR proposal (as part of the former Annex 1 of that proposal) in accordance with the requirements in Article 51 and Article 6 of Regulation 2016/1719. This public consultation has been organized by ENTSO-E on behalf of all – including Core – TSOs, via the online ENTSO-E Consultation Hub. The other regional or bidding zone border specific rules of this proposal as contained in the third Title were also consulted upon during the public consultation on the former border/ regional specific Annexes to the HAR proposal.

By 21 April 2017, all TSOs in the Core CCR submitted the CCR Core Annex to HAR to their respective Regulatory Authority. Within six months following the receipt of the CCR Core Annex to HAR by the last Regulatory Authority concerned, on 21 October 2017, each Core Regulatory Authority shall take a decision concerning the CCR Core Annex to HAR.

The Core TSOs' CCR Core Annex to HAR includes, as required by Article 4(8) of Regulation 2016/1719, a proposed timescale for the implementation i.e. date of entry into force of the HAR in accordance with the applicable national regulatory regime. The description of the expected impact of the objectives of Regulation 2016/1719 is not explicitly repeated since CCR Core Annex to HAR constitutes an Annex to the proposal of the harmonised allocation rules for long-term transmission rights on EU level (hereafter referred to as "HAR") in accordance with Article 51 of Regulation 2016/1719 where expected impact on the objectives of the Regulation is provided.

The Core TSOs' CCR Core Annex to HAR includes general provisions, addresses the applicability of a cap on compensations for curtailments in accordance with Article 54 and Article 55 of Regulation 2016/1719 as well as Article 59 of the HAR and details further regional or bidding zone border specificities applicable to the CCR Core in accordance with Article 52(3) of Regulation 2016/1719.

III. All Core NRAs' position

a) On the amendment and approval process

Whereas (8) as well as Article 1 of the proposed CCR Core Annex to HAR include provisions on the amendment and approval process of this annex. For the avoidance of doubt, All Core Regulatory Authorities consider important to underline the following elements:

- Article 1 states that *“This annex may be reviewed based on request of the relevant National Regulatory Authorities. In case this annex needs to be amended based on a decision of the National Regulatory Authorities, Article 68 of the HAR shall apply”*. All Core Regulatory Authorities consider that this provision is valid only in so far as Article 68 of the HAR itself complies with Regulation 2016/1719, whose provisions concerning the amendment process shall prevail in any case. In this view, All Core Regulatory Authorities recall that, pursuant to Regulation 2016/1719 Article 4(12), a request for amendment of the CCR Core Annex to HAR may also be triggered by *“TSOs responsible for developing [the] proposal”*.

- Whereas (8) states that *“for the purposes of the approval or the future amendment of bidding zone border specific requirements of this proposal, only the NRAs of the respective bidding zone border will have to state their explicit approval. Non-concerned NRA(s) of the CCR will be duly informed”*. While acknowledging that this Whereas is not legally binding *per se*, All Core Regulatory Authorities would like to stress that they do not share this view, and derive from Articles 4(7), 51 and 52(3) of Regulation 2016/1719 that future amendments of bidding zone border specific requirements should also be developed jointly by the TSOs of the CCR Core, and therefore be approved by all NRAs of the CCR Core.

b) On the cap on compensation

According to the CCR Core Annex to HAR a cap on compensation shall be applicable to all CORE CCR bidding zone borders listed under Title 2 in accordance with Article 59(2) of the HAR.

Article 59 (2) of the HAR – once approved – provides that *“If specified in the relevant annexes to these Allocation Rules, a cap shall be applied to the compensations on specific bidding zone borders. The cap shall be determined as the total amount of Congestion Income collected by the concerned TSOs on the respective Bidding Zone border in the relevant calendar year, deducting all remunerations paid according to Articles 40 (of HAR) and 48 (of HAR) and compensations paid according to Article 60 (of HAR) and where applicable Article 61 (of HAR).”*

Article 59 (4) of the HAR – once approved – also provides that *“if, before application of the relevant cap described in paragraph 2 of this Article, the total calculated compensations of curtailed Long Term Transmission Rights exceed the relevant cap, the compensations of curtailed Long Term Transmission Rights shall be reduced on a pro rata basis. This will be based on the proportion of uncapped compensation of allocated Long Term Transmission Rights due to each Registered Participant in the relevant period (calendar month or calendar year). The compensations due to each Registered Participant will be calculated as follows:*

$$[(\text{Uncapped compensations of curtailed Long Term Transmission Rights due to Registered Participant}) / (\text{Total uncapped compensations of curtailed Long Term Transmission Rights due to all Registered Participants})] \times (\text{Relevant Cap as described in paragraph 2 of this Article})”$$

Considering Article 54 and Article 55 of Regulation 2016/1719 – “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” – together with Article 59 (2) and (4) of the HAR – once approved – all Core Regulatory Authorities find the CCR Core Annex to HAR compliant with requirements of Regulation 2016/1719.

c) On further regional or bidding zone border specific requirements

Title 3 of the CCR Core Annex to HAR contains both technical aspects like the optimisation of technical profiles for borders between Czech Republic, Germany, Poland and Slovakia. It also covers transitory arrangements until the SAP establishment for the border Hungary-Romania.

d) On the implementation timeline

Article 1(2) of the CCR Core Annex to HAR states that the CCR Core Annex to HAR enters into force as of the date of entry into force of the HAR in accordance with the applicable national regulatory regime.

e) On the expected impact on the objectives of the Regulation

Since CCR Core Annex to HAR constitutes an Annex to the proposal of the HAR on EU level in accordance with Article 51 of Regulation 2016/1719 where description of the expected impact on the objectives of the Regulation is provided all Core Regulatory Authorities deems CCR Core Annex to HAR fulfils the requirements of Article 4(8) of Regulation 2016/1719.

IV. Conclusion

All Core Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to reach the agreement that the CCR Core Annex to HAR meets the requirements of Regulation 2016/1719 and as such can be approved by all Core Regulatory Authorities.

All Core Regulatory Authorities must therefore make their decisions, on the basis of this agreement, by 21 October 2017 provided that the necessary legal precondition – namely the approval of the proposal of the HAR on EU level in accordance with Article 51 of Regulation 2016/1719 – is adopted. The CCR Core Annex to HAR will be adopted upon the decision of the last Core Regulatory Authority concerned.

Following the national decisions by all Core Regulatory Authorities, all Core TSOs will be required to publish the CCR Core Annex to HAR as approved, in line with Article 4(13) of Regulation 2016/1719. All Core TSOs must respect the implementation deadlines provided in Article 1(2) of the CCR Core Annex to HAR.