

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

OF

**THE SOUTH-WEST EUROPE TSOs' PROPOSAL FOR
A SOUTH-WEST EUROPE REGIONAL ANNEX TO THE
HARMONISED ALLOCATION RULES FOR LONG TERM
TRANSMISSION RIGHTS**

10 October 2017

I. Introduction and legal context

This document elaborates an agreement of the South-west Europe (SWE) Regulatory Authorities, made at the SWE Energy Regional Regulators' Forum on 10 October 2017, on the SWE TSOs' proposal for a South-west Europe regional annex to the Harmonised Allocation Rules (HARs) for Long Term Transmission Rights (LTTRs), 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 (Regulation 2016/1719).

This agreement of the SWE Regulatory Authorities shall provide evidence that a decision on the SWE regional annex to the HARs for LTTRs 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 SWE Regulatory Authorities will each subsequently make national decisions pursuant to Article 4(9) Regulation 2016/1719 to approve the SWE regional annex to the HARs for LTTRs.

The legal provisions relevant to the submission and approval of the SWE regional annex to the HARs for LTTRs, and to this SWE Regulatory Authorities agreement, can be found in Articles 3, 4, 51, 52 and 55 of Regulation 2016/1719. 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 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. (...)
 11. (...)
 12. (...)
 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. (...)
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. South-west Europe TSOs' proposal

The SWE TSOs' proposal for the SWE regional annex to the HARs for LTTRs, dated April 13th 2017, was received by the last Regulatory Authority on April 17th 2017 together with the HAR main body and a separated explanatory document. The annex is effective at the date of entry into force of the HARs as they will be approved by the Agency, according to the referral agreed by all Regulatory Authorities pursuant to Article 4(10) of Regulation 2016/1719.

The HAR main body was consulted from January 16th 2017 to February 17th 2017 together with annexes containing regional or bidding zone border specific requirements: specific provisions for the SWE CCR were included in Annex 1 (listing all the borders subject to the HARs and giving information about the application of a cap to reduction compensation according to Article 55 of Regulation 2016/1719), Annex 5 (regarding specific rules to be applied to the France-Spain border) and Annex 11 (regarding specific rules to be applied to the Portugal-Spain border).

The final version sent to SWE Regulatory Authorities slightly deviates, in its form, from the consulted one: Annex 1 was deleted (no border list is needed, since HARs are applicable to all borders where LTTRs are issued; provisions about cap application are moved to the regional annexes), and Annex 5 and 11 were merged into a unique SWE regional annex.

The main provisions contained in the SWE regional annex are as follows:

- Article 4.1 is intended to take into account the foreseen reduction periods that may be included in LTTRs on the France-Spain border in the return conditions of these rights;
- Article 3 states that a cap is applied on reduction compensations on the France-Spain border, in accordance with Article 59.2 of the HARs. However, an interim deviation from this article is introduced in Article 4.2, the intraday congestion rent being excluded from the calculation of the cap until the implementation of the continuous intraday coupling mechanism on this border;
- Article 6 states that LTTRs on the Portugal-Spain border are allocated on a specific platform (OMIP – OMIP Pólo Português, S.G.M.R, S.A.), different from the Single Allocation Platform (SAP) foreseen in chapter 4 of the Regulation 2016/1719, and which basically follows its own rules.

Article 4(9) of Regulation 2016/1719 requires SWE Regulatory Authorities 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 is therefore required by each Regulatory Authority by October 17th 2017.

III. South-west Europe Regulatory Authorities' position

France-Spain border:

SWE NRAs acknowledge that the provisions stated in Article 4.1 to take into account the foreseen reduction periods that may be included in LTTRs in the return conditions of these rights are justified. Besides, they consider that the application of a cap to compensations for LTTR reductions, as stated in Article 3, protects end consumers from having to support, through network tariffs, the potential net loss which would be incurred by TSOs if the amount of compensations was higher than the congestion rents associated with the issuance of transmission rights; they therefore support this cap. However, SWE NRAs want to underline that the deviation introduced by Article 4.2 in the calculation of the cap is formally non-compliant with Article 54 of the Regulation 2016/1719, and that they can approve it only as an interim measure until the implementation of the continuous intraday coupling mechanism on the France-Spain border, and because historical data show that the risk of reaching the cap, even if the intraday congestion rent is excluded from the calculation, is very low.

Portugal-Spain border:

SWE NRAs acknowledge the practical reasons which justify keeping the specific OMIP platform and the associated allocation rules for LTTRs in the short term under the provisions stated in Article 6 -Article 5 has been omitted from the document-. However, they want to underline that, although no time limit is stated in the annex for this situation, it can only be a transitory situation, and the SWE annex will have to be amended as soon as the SAP is implemented pursuant to the provisions of the Regulation 2016/1719.

Based on the proposal provided by SWE TSOs, and under the reservations expressed above, SWE Regulatory Authorities have reached the agreement that the submitted SWE regional annex to the HARs for LTTRs can be approved.

IV. Conclusions

SWE Regulatory Authorities have assessed the SWE TSOs' proposal for the SWE regional annex to the HARs for LTTRs, and have consulted and closely cooperated and coordinated to reach agreement that they can approve the submitted proposal.

SWE Regulatory Authorities must therefore make their decisions by October 17th 2017, on the basis of this agreement in accordance with the six months deadline as set out in the Regulation 2016/1719. Following national decisions taken by each Regulatory Authority, SWE TSOs will be required to publish the methodology on the internet in line with Article 4(13) of Regulation 2016/1719, together with the HAR main body once approved by the Agency according to the referral agreed by all Regulatory Authorities pursuant to Article 4(10) of Regulation 2016/1719.