

**APPROVAL 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 51 AND 52(3) OF
COMMISSION REGULATION (EU) 2016/1719 OF 26
SEPTEMBER 2016 ESTABLISHING A GUIDELINE ON
FORWARD CAPACITY ALLOCATION**

06 December 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 06 December 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 make national decisions pursuant to Article 4(9) of Regulation 2016/1719 to approve the proposal for SEE Annex to the HAR for LTTR.

The legal provisions relevant to the SEE Annex to the HAR, and this SEE NRAs' agreement on the approval of 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 14/2019 issued on 29 October 2019 (that succeeded 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.

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

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

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.

On 16 May 2019, SEE NRAs agreed on a request for amendment on the SEE Annex to the HAR for LTTR proposal, mainly regarding the entry into force of the document and the introduction of specific requirements regarding the deadline for LTTR firmness (curtailment deadline) for the Romania-Bulgaria Bidding Zone Border and sent it to the relevant TSOs.

Article 4(11) of Regulation 2016/1719 requires the relevant TSOs to submit a proposal for amended methodologies for approval to the concerned NRAs within two months following the requirement from the NRAs. The competent regulatory authorities shall decide on the amended methodologies within two months following their submission. In this case, the amended SEE Annex to the HAR for LTTR proposal was received by the last concerned NRA on 19 June 2019: a decision by each Regulatory Authority was therefore required by 19 August 2019.

On 31 July 2019, SEE NRAs agreed on a request for amendment on the SEE Annex to the HAR for LTTR proposal and asked the SEE TSOs to submit the amended proposal within the deadline provided by Article 4(11) of the Regulation 2016/1719, taking into consideration all issues addressed in the common position paper and Annex I, unanimously agreed by SEE NRAs. On this basis, each SEE NRA sent the request for amendment to their respective TSO.

The amended and last SEE TSOs' proposal for the SEE Annex to the HAR for LTTR was received by the last SEE NRA on 17 October 2019. Therefore, according to Article 4(11) of Regulation 2016/1719, a decision is required by each SEE NRA by 17 December 2019.

The last 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

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>

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.

- Temporary arrangement for curtailment deadline on Romania-Bulgaria Bidding Zone Border: The Allocation Platform shall publish on its website and take into account for the calculation of compensation for curtailed Long Term Transmission Rights the deadline for LTTR firmness which for the purpose of these Allocation Rules is 10:00 (CET). The mentioned deadline for LTTR firmness will be available until Single Day-Ahead Coupling is implemented on Romania - Bulgaria border.
- 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

On the first SEE TSOs' proposal for SEE Annex to the HAR for LTTR

The SEE NRAs agreed to request for an amendment to the first SEE TSOs' proposal for SEE Annex to the HAR for LTTR. The basic elements requested by the SEE NRAs to be amended were mainly regarding the entry into force of the document and the introduction of specific requirements regarding the deadline for LTTR firmness (curtailment deadline) for the Romania-Bulgaria Bidding Zone Border. Annex I to the SEE NRAs' agreement set 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.

On the amended SEE TSOs' proposal for SEE Annex to the HAR for LTTR

SEE NRAs welcomed the amended version of the proposal and believed that most of the requests included in the position paper of the first RfA had been addressed. However, regarding the temporary arrangements for the deadline for LTTR firmness (curtailment deadline) on both bidding zone borders (BG-GR and RO-BG), SEE NRAs deemed it important to propose some amendments to the SEE Annex to the HAR for LTTR proposal for clarification and harmonization reasons as incorporated in the, attached to the SEE NRAs' agreement, SEE Annex (Annex I).

On the amended and last SEE TSOs' proposal for SEE Annex to the HAR for LTTR

After assessing the last version of the SEE Annex to the HAR for LTTR submitted by the SEE TSOs, SEE NRAs acknowledge that their requests have been fulfilled and have reached the agreement that the proposal for the SEE Annex to the HAR for LTTR is complying with the provisions of Regulation 2016/1719.

IV. Conclusions

SEE NRAs have assessed, consulted and closely cooperated and coordinated to reach an agreement on the amended and last version of the SEE Annex to the HAR for LTTR submitted by SEE TSOs. On 06 December 2019, SEE NRAs agreed that the amended and last SEE Annex to the HAR for LTTR meets the requirements of Regulation 2016/1719 and as such can be approved.

SEE NRAs must therefore make their decisions by 17 December 2019, on the basis of this agreement in accordance with the two months deadline as set out in Regulation 2016/1719. Following national decisions taken by each SEE NRA, SEE TSOs will be required to publish the methodology on the internet in line with Article 4(13) of Regulation 2016/1719.