

**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
THE DESIGN OF LONG TERM TRANSMISSION RIGHTS
ON SWE (SOUTH WEST EUROPE) IN ACCORDANCE
WITH ARTICLE 31 OF COMMISSION REGULATION (EU)
2016/1719 OF 26 SEPTEMBER 2016**

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 proposal for the regional design of long-term transmission rights (LTTRs) developed by RTE, REE and REN as SWE TSOs, submitted in accordance with Article 31 of 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 design of 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 design of LTTRs.

The legal provisions relevant to the submission and approval of the SWE regional design of LTTRs, and to this SWE Regulatory Authorities agreement, can be found in Articles 3, 4, and 31 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) the regional design of long-term transmission rights pursuant to Article 31;*
 - (d) (...)*
 - (e) (...).*
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. *(...)*
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 31 of Regulation 2016/1719

1. *Long-term cross-zonal capacity shall be allocated to market participants by the allocation platform in the form of physical transmission rights pursuant to the UIOSI principle or in the form of FTRs — options or FTRs — obligations.*
2. *All TSOs issuing long-term transmission rights shall offer long-term cross-zonal capacity, through the single allocation platform, to market participants for at least annual and monthly time frames. All TSOs in each capacity calculation region may jointly propose to offer long-term cross-zonal capacity on additional time frames.*
3. *No later than six months after the entry into force of this Regulation, TSOs in each capacity calculation region where long-term transmission rights exist shall jointly develop a proposal for the regional design of long-term transmission rights to be issued on each bidding zone border within the capacity calculation region.*
(...)

- (...)
4. *The proposals referred to in paragraph 3 shall include a time schedule for implementation and at least the description of the following items specified in the allocation rules:*
 - (a) *type of long-term transmission rights;*
 - (b) *forward capacity allocation time frames;*
 - (c) *form of product (base load, peak load, off-peak load);*
 - (d) *the bidding zone borders covered.*
 5. *The proposals shall be subject to consultation in accordance with Article 6. For the proposed long-term transmission rights to be issued, each TSO shall duly consider the result of the consultation.*
 6. *The allocation of physical transmission rights and FTRs — options in parallel at the same bidding zone border is not allowed. The allocation of physical transmission rights and FTRs — obligations in parallel at the same bidding zone border is not allowed.*
 7. (...)
 8. (...)
 9. (...)
 10. (...)

II. South-west Europe TSOs' proposal

Pursuant to Article 4(7) and 4(9) of Regulation 2016/1719, the proposal for the regional design of LTTRs shall be subject to approval by all Regulatory Authorities of the concerned region within six months following the receipt of the proposal by the last Regulatory Authority concerned. The draft proposal for the regional design of LTTRs developed by SWE TSOs was received by the last Regulatory Authority concerned on 18 April 2017. A decision is therefore required by each Regulatory Authority by 18 October 2017.

Before the submission to the concerned Regulatory Authority and according to Article 6(2) of Regulation 2016/1719, the proposals for the SWE regional design of LTTRs was subject to public consultation¹ from 30 January 2017 to 28 February 2017².

The final version sent to SWE Regulatory Authorities includes a new paragraph in Article 5 with the detail of the information to be included in the auction specifications for each reduction period.

The proposal includes the timeline for their implementation and a description of its expected impact on the objectives of Regulation 2016/1719, as stated in Article 4(8) of Regulation 2016/1719.

The main elements of the proposal include the bidding zone borders covered, type of LTTRs, forward capacity allocation time frames and form of product, as stated in Article 31(4) of Regulation 2016/1719. More precisely, the proposal establishes::

- on the FR-ES border, baseload products (possibly with foreseen reduction periods) shall be offered in the monthly and yearly timeframes, in the form of PTRs;

¹ <https://consultations.entsoe.eu/markets/design-of-long-term-transmission-rights-on-swe-sou/>

² Only one market party answered to the public consultation.

- on the PT-ES border, baseload products (possibly with foreseen reduction periods) shall be offered in the monthly, quarterly and yearly timeframes, in the form of FTRs-Options.

III. South-West Europe Regulatory Authorities' position

It is the view of SWE Regulatory Authorities that the draft proposal for the regional design of LTTRs on SWE region is consistent with:

- a) The objectives of the Regulation 2016/1719 defined in Article 3;
- b) The procedure for the adoption of terms and conditions or methodologies established in Article 4 of the Regulation 2016/1719; and,
- c) The specific requirements set out in Article 31 of the Regulation 2016/1719.

However, SWE Regulatory Authorities want to underline that:

- In point 3 of "Whereas" section, SWE TSOs explain the expected impact of the regional design of LTTRs on SWE. As drafted in the proposal, on PT-ES interconnection the expected impact is "(...) a potential increase of the open interest from market participant on PT-ES interconnection, once the addition of monthly time frame after the migration of the Portuguese – Spanish auctions to the Single Allocation Platform". The use of the wording "open interest" could be confused with the term "open interest"³ of derivative contracts generally accepted.
- According to the second paragraph of Article 6 "The implementation of monthly products for the Portuguese - Spanish border will occur after the migration of the Portuguese - Spanish auctions to the Single Allocation Platform". Moreover, a similar wording is included in point 3 of "Whereas" section, as indicated in the previous paragraph. Nevertheless, according to Portuguese and Spanish legislation, listed in Article 2.12 of the Border specific annex for PT-ES interconnection in the last version of the HAR, it is possible to implement monthly products before the migration of the PT-ES auctions to the Single Allocation Platform (SAP).

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

IV. Conclusions

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

³ Open interest refers to the total number outstanding of derivative contracts that have not been settled (offset by delivery).

SWE Regulatory Authorities must therefore make their decisions by 18 October 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 regional design of LTTRs on the internet in line with Article 4(13) of Regulation 2016/1719.