

**REQUEST FOR AMENDMENT BY THE CHANNEL
REGULATORY AUTHORITIES**

OF

**THE CHANNEL TSO PROPOSAL FOR THE
REGIONAL DESIGN OF LONG-TERM
TRANSMISSION RIGHTS**

1. Introduction and legal context

This document elaborates an agreement of the Channel Regulatory Authorities, made on 9 October 2017, for requesting an amendment of the Channel TSO Proposal for the Regional Design Of Long-Term Transmission Rights (Channel Regional Design Proposal) submitted in accordance with Article 31 of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation (Regulation 2016/1719).

This agreed opinion of the Channel Regulatory Authorities shall provide evidence that a decision on the Channel Regional Design proposal does not, at this stage, need to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 4(10) of Regulation 2016/1719. This agreement is intended to constitute the basis on which the Channel Regulatory Authorities will each subsequently request an amendment to the Channel Regional Design Proposal pursuant to Article 4(11) of Regulation 2016/1719.

The legal provisions relevant to the submission and approval of the Channel Regional Design Proposal, and this Channel Regulatory Authority agreement on the Channel Regional Design Proposal, 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:

Adoption of terms and conditions or methodologies

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:
(c) the regional design of long-term transmission rights pursuant to Article 31;
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. 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. (...)

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.

No later than six months after the coordinated decisions of the regulatory authorities of the bidding zone border to introduce long-term transmission rights pursuant Article 30(2), TSOs of the concerned capacity calculation region, shall jointly develop a proposal for the regional design of long-term transmission rights to be issued on each bidding zone border within the concerned capacity calculation region.

Regulatory authorities of Member States in which the current regional design of long-term transmission rights is part of a TSO cross-border re-dispatch arrangement for the purpose of ensuring that operation remains within operational security limits may decide to maintain physical long-term transmission rights on its bidding zone borders.

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. A review of long-term transmission rights offered on a bidding zone border may be launched by:

- (a) all regulatory authorities of the bidding zone border, at their own initiative; or*
 - (b) all regulatory authorities of the bidding zone border based upon a recommendation from the Agency or joint request by all TSOs of the concerned bidding zone border.*
8. *All TSOs in each capacity calculation region shall be responsible for undertaking the review as provided for in paragraph 9.*
9. *Each TSO involved in the review of long-term transmission rights shall:*
- (a) assess the offered long-term transmission rights taking into account the characteristics in paragraph 4;*
 - (b) if considered necessary, propose alternative long-term transmission rights, taking into account the result of the assessment in subparagraph (a);*
 - (c) carry out a consultation in accordance with Article 6 regarding:*
 - (i) the results of the assessment of the offered long-term transmission rights;*
 - (ii) if applicable, the proposal for alternative long-term transmission rights.*
10. *Following the consultation referred to in paragraph 9(c) and within three months of the issuance of the decision to launch a review, the TSOs of the capacity calculation region concerned shall jointly submit a proposal to the competent regulatory authorities to maintain or amend the type of long-term transmission rights.*

2. The Channel TSO proposal

The draft Channel Regional Design Proposal was consulted on by the Channel TSOs through ENTSO-E in line with Article 31(5) of Regulation 2016/1719. The Channel Regional Design Proposal, dated 17 April 2017, was received by the last Regulatory Authority on 18 April 2017.

The Proposal includes proposed timescales for its implementation and a description of its expected impact on the objectives of Regulation 2016/1719, in line with Article 4(8) of Regulation 2016/1719.

The Proposal also includes a description of the forward capacity allocation timeframes, the form of product (base load, peak load, off-peak load), and the bidding zone borders covered. The capacity allocated to the various timeframes and forms of product will be established by the Methodology for splitting long-term cross-zonal capacity pursuant to Article 16 of Regulation 2016/1719. Annex 1 of the Proposal describes the type of transmission rights offered on the bidding zone borders France – Great Britain and Belgium – Great Britain.

On the bidding zone border Netherlands – Great Britain, however, Channel TSOs propose two options for the type of transmission rights: “Physical Transmission Rights or Financial Transmission Rights-Options”.

Article 4(9) of Regulation 2016/1719, requires Channel Regulatory Authorities to consult and closely cooperate and coordinate with each other in order to reach an agreement, and make decisions within six months following receipt of submissions by the last Regulatory Authority concerned. A decision is therefore required by each Regulatory Authority by 18 October 2017.

3. Channel Regulatory Authorities position

All Channel Regulatory Authorities request Channel TSOs to amend Annex 1 of the Channel Regional Design Proposal pursuant to Article 4(11) of Regulation 2016/1719.

According to Article 31(3) of Regulation 2016/1719 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. According to Article 31(4) of Regulation 2016/1719, this proposal shall include a time schedule for implementation and at least the description of, among other things, the type of long-term transmission rights.

The type of transmission rights that is issued on each bidding zone border is described in Annex 1 of the proposal. Channel TSOs, however, do not describe in Annex 1 the type of transmission rights to be issued on the bidding zone border Netherlands – Great Britain. For this bidding zone border they propose two options: ‘Physical Transmission Rights or Financial Transmission Rights-Options’. This means that from the Channel Regional Design Proposal it is not clear which type of transmission rights will be issued on this bidding zone border, except that the possibility of issuing Financial Transmission Rights-Obligations is excluded.

All Channel Regulatory Authorities consider this to be incompatible with Article 31 of Regulation 2016/1719. The Proposal should clearly define the type of transmission rights that will be issued on the bidding zone border Netherlands – Great Britain. The current Annex 1 leaves it to the discretion of the TSOs whether Physical Transmission Rights or Financial Transmission Rights-Options are offered on this border. All Channel NRAs deem this to undermine the purpose of the Regional Design Proposal.

4. Actions

Based on the above rationale, all Channel Regulatory Authorities agree to request an amendment to the Channel Regional Design Proposal. This amendment should contain the following elements:

To amend the definition of type of transmission rights on the bidding zone border “Netherlands – Great Britain (NL-GB)” in Annex 1 on the Channel Regional Design Proposal on the following points:

- From the Proposal it must be clear which type of transmission rights will be offered on the bidding zone border NL-GB upon entry into force of the regional design methodology. Thus Annex 1 has to specify whether Physical Transmission Rights or Financial Transmission Rights-Options are offered.
- In case it is already decided to start with one type of transmission rights on the the bidding zone border NL-GB but to change to another type of long-term transmission rights in the future, then this can be included in the proposal, together with a time schedule for implementation.