ACER decision on FRC methodology: Annex II

Evaluation of responses to the public consultation on the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights

1 Introduction

On 23 April 2020, all TSOs submitted to ACER an 'All TSOs' Proposal for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights (FRC) methodology in accordance with Article 61 of the Commission Regulation (EU) 2016/1719 of 26 September 2016'.

On 22 June 2020, ACER launched a public consultation on the FRC methodology inviting all market participants to submit their comments by 12 July 2020. In particular, ACER asked stakeholders to provide comments on the structure of the sharing key used for the remuneration of LTTRs and the use of long-term congestion income in that sharing key.

2 Responses

By the end of the consultation period, ACER received 17 responses, out of which one was confidential[1].

[1] That one respondent did not provide a non-confidential version of the input as required by the consultation rules; therefore, that input is not included in the assessment.

This evaluation paper includes all received comments by respondents and ACER's views on them. The table below is organised according to the consultation questions and provides the respective views from the respondents, as well as a response from the Agency clarifying the extent to which their comments were taken into account.

You can see the complete full-text responses published on ACER's website:

- https://surveys.acer.europa.eu/eusurvey/publication/FRC_consultation

3 Background of the consultation questions

All TSOs propose to cover the costs for remuneration of the LTTRs in the following way:

First: The remuneration costs are covered by the day-ahead congestion income ('DA CI') of the relevant bidding zone border and market time unit ('MTU'), according to the day-ahead congestion income distribution methodology and the remaining DA CI is calculated (i.e. the assigned DA CI - remuneration costs) for each border within a capacity calculation region ('CCR').
Second: If there are remaining costs, they are covered by the long-term congestion income ('LT CI') allocated to the same bidding zone border in the same MTU.
Third: If there are still remaining costs on some bidding zone borders of a CCR, they are shared proportionally (weighted by the positive DA CI) among bidding zone borders with positive remaining DA CI calculated in the first step (in case of coordinated NTC approach this step includes only borders which are declared as interdependent – by default borders are not interdependent, but in case TSOs of a CCR agree that they are, they will transparently declare this interdependency and publish the list of interdependent BZBs). The TSOs' proposal does not clarify cost sharing in case there are still remaining costs after the third step.

ACER proposes to cover the costs for remuneration of the LTTRs in the following way:

First: (identical to the first step of the TSOs' proposal): The remuneration costs are covered by the DA CI of the relevant bidding zone border and MTU, according to the day-ahead congestion income distribution methodology and the remaining DA CI is calculated (i.e. the assigned DA CI – remuneration costs) for each border within a CCR.
Second: If there are still remaining costs on some bidding zone borders of a CCR, they are shared proportionally among bidding zone borders with positive remaining DA CI calculated in the first step, i.e. the calculated DA CI establishes the weights according to which each bidding zone border contributes to the bidding zone borders with negative income (in case of coordinated NTC approach this step includes only borders which are declared as interdependent – by default borders are not interdependent, but in case TSOs of a CCR agree that they are they will transparently declare this interdependency and publish the list of interdependent BZBs).
Third: If there are still remaining costs, they are covered by the CI of the TSO(s) on the concerned bidding zone border (without specifying from which timeframe and MTU). In this option the second and third step are reversed compared to the TSOs' proposal, although step 3 is not limited to LT CI in a specific MTU. If there are still remaining costs after the step 3, TSOs would need to use other resources not specified in this methodology.

4 Consultation questions

Respondents' views	ACER views
QUESTION 1: Which of the proposed options (TSO or ACER proposal) do you support or prefer? Please, substantiate your choice. If you propose a different solution, please specify and explain your choice.	
12 respondents provided an answer to this question. Three other respondents provided input to the question, nevertheless, did not relate the answer to it and these inputs are addressed within the QUESTION 2 below.	
Seven respondents (Ørsted, Terna, Core TSOs, Austrian power Grid AG, Amprion GmbH, Elia and EFET) support ACER's proposal for the sharing of costs for remuneration of the LTTRs, and three respondents (ENTSO-E, PSE and DUR) support the all TSOs' proposal.	
Ørsted supports ACER's proposal, because the LTTR remuneration should be correlated with the day-ahead market coupling result.	ACER agrees.
Terna, Austrian Power Grid AG, Amprion GmbH and Elia support ACER's proposal because the inclusion of LT CI to remunerate LTTRs can be counter-productive in terms of promoting effective long-term cross-zonal trade and striving for harmonised LTCC and splitting rules methodologies.	ACER agrees, because using the LT CI would mean much higher risk for individual TSOs since the LT CI is never equal to remuneration costs on specific border, whereas the DA CI in a CCR is always sufficient to cover remuneration costs given long term inclusion in day-ahead capacity calculation.
EFET supports ACER's proposal because it would avoid that the cap on congestion income for the remuneration (or compensation in case of curtailment) of LTTRs, which is calculated per bidding zone border, is reached too quickly.	ACER agrees, but would like to clarify that the link to the cap on remuneration is not legally possibly in any case, but this could indeed impact the cap on curtailment compensation. If BZB 'A' remunerated the LTTRs with the use of the LT income, the effect goes beyond the DA reallocation of capacity, because it would suffer from lowering the potential cap for curtailment, while BZB 'B' would not, perhaps, use any LT congestion income (because 'A' covered the negative effect already) and increase the cap.
ENTSO-E and PSE reiterate their position to maintain the sharing principle introduced in the all TSOs' submission to ACER and reminds the voting results among all TSOs that support the early use of the long-term congestion income	ACER disagrees. You can find the full reasoning in Chapter 6.3 of the Decision.

Respondents' views	ACER views
in the sharing key for the reasons described in the explanatory note that accompanied the submission of the proposal for the FRC methodology.	
DUR (common position of the Nordic regulators) supports the all TSOs' proposal because it values the use of congestion income per BZB and MTU and the socialisation of remuneration costs comes later in the sharing key; because the TSOs might tend to oversell cross-zonal capacity in order to secure higher income; and because it should not matter which of the long-term or day-ahead congestion income the TSOs use first.	The FRC methodology should be implemented at the date of implementation of the long-term capacity calculation methodology. The capacity calculation will be performed in a pre-defined and coordinated manner and that should prevent over-selling of capacity on individual BZBs.
The Market Parties Platform and EDF consider that, among the two envisaged methodologies, the all TSOs' one seems to be the more consistent with the methodologies developed under Article 74 of CACM, as it features in the two first steps the bearing of the costs by the TSO(s) involved in the LTTR curtailment without impacting TSOs managing borders that are independent of the LTTR curtailment (applying the (non-)polluter (non-)payer principle). Conversely, the inversion of step 2 and 3 as featured in ACER's proposal does not provide fair economic signals as TSOs, which are not responsible for the reduction of capacity, could be more frequently penalised. This could lead to adverse incentives for TSOs and does not provide fair economic signals.	Question 1 relates to the rules for remuneration of LTTRs, not with compensating capacity curtailment. Curtailment should be paid by the long-term congestion income and therefore by the TSOs on their BZB as they, alone, have received the congestion income. Remuneration costs are caused by re-allocation of cross-zonal capacity in the day-ahead timeframe and, in ACER's view, should in priority be covered by the day-ahead congestion income.
QUESTION 2: Do you have any other comments on the methodology?	
Seven respondents provided an additional input on either firmness (five respondents) and/or cost recovery (two respondents).	
Oesterreichs Energie points out that it is essential that market participants can rely on their full remuneration without any additional conditions and other resources should be specified in order to cover all remaining cost, if any.	First, ACER would like to note that the scope of the FRC methodology is primarily on sharing of costs not on cost recovery. The legal framework does not allow exceptions or caps to remuneration. Although the chance that the three steps presented in the consultation document will not be sufficient is very low, ACER agrees with the comment and added a new paragraph, which details an additional step

Respondents' views	ACER views
	of remuneration of LTTRs. This step determines that any TSO should use any other resource to remunerate completely the LTTR holders, because there is no cap envisaged by the FCA Regulation. Additionally, the new paragraph brings more clarity and prevents a possible interpretation of the sequence of the sharing steps in a way that would lead to stopping the remuneration after the last step.
EFET questions ACER's intention to include new paragraphs on cost recovery and argues that they do not have any connection to the cost-sharing key.	ACER generally agrees. Even though the additional paragraph clarifying the resources for remuneration is not connected to the sharing of costs, it is important for TSOs to clarify how these costs will be recovered. Also Article 61 of the FCA Regulation belongs to Chapter 8: Cost recovery.
ElecLinc would like the TSOs that caused curtailment situation to bear the corresponding costs following the 'polluter pays principle'. The coordinated capacity calculator will be able to identify the TSO that introduces the limiting critical network element and ElecLink believes that this TSO should bear the firmness costs. Social welfare could have been increased further (and the firmness costs avoided) had the TSO taken action to remove the constraint on the critical network element. Moreover, ElecLinc is concerned with similar situation in case of two interconnectors on one BZB. Similarly, Market Parties Platform is of the opinion that costs of ensuring firmness of LTTRs should be borne by the Requesting TSOs, avoiding at the same time any penalisation of other TSOs when only one TSO is not in a situation to manage exchanges (due to lack of investments or internal issues).	ACER believes that LTTRs have inherent risks of curtailment built in the product since it is not possible to provide LTTRs with zero risk that actual capacity will not be available in real-time. LT congestion income is considered as an option premium to cover this risk and therefore the costs of ensuring firmness of LTTRs should be borne by the TSOs that receive the congestion income for the border that is subject to LTTR curtailment. Nevertheless, ACER does see the room for improvement of this framework by putting additional incentives on TSOs to avoid applying curtailment. One such incentive is the use of FTRs, which should not be curtailed because they have no physical impact.
Baltic Cable AB raised concerns about: - the way the scope (in the dedicated chapter) of the document is presented in the methodology,	- ACER amended the scope of the methodology to cover all the legal prerequisites of the FCA Regulation and included separate provisions concerning the countertrading and re-dispatching and imbalance settlement

Respondents' views	ACER views
- the methodology following the 'polluter pays' principles regarding firmness, - legal base, which can justify remuneration cost sharing among TSOs and the application of Article 61(2) of the FCA Regulation and - the way the 'subsets' of BZBs are drafted and explained.	- see ACER's comment in the answer above - the legal base is given directly by Article 61 of the FCA Regulation, which obliges the TSOs to develop a methodology that complies with the FCA Regulation's objectives and its Article 57. Chapter 6.2 of the Decision provides justification that the TSOs' proposal as amended by ACER follows the legal requirements required by the FCA Regulation. - ACER changed the original drafting and replaced the 'subsets' with a concept of 'interdependent BZBs', which is described in detail in Article 3(3)(b) of the approved FRC Methodology.
Market Parties Platform states that cost-sharing in the day-ahead timeframe is decided according to CACM at regional level and the FRC methodology should, therefore, be consistent with the single day-ahead and intraday coupling redispatching and countertrading cost-sharing methodologies to be adopted under article 74 of the CACM Regulation, as both aim – certainly at different time horizons – to cover and share the costs incurred to ensure firmness of capacity/rights.	ACER disagrees. Re-dispatching and countertrading cost sharing methodology applies the polluter pays principle by which only the costs caused by loop flows are shared among TSOs. The costs caused by allocated capacities if any should be borne by the concerned TSOs, preferably from congestion income. Re-dispatching and countertrading cost sharing methodology will not identify and share the costs that are potentially caused by allocated capacities, because it is not possible to identify who caused those costs and who benefited from these capacities. LT congestion income is considered as an option premium that should be used to cover the possible costs arising from the LTTR compensation.
EDF believes that it would make sense that the costs of ensuring firmness of LTTRs are borne by the TSOs that receive the congestion income for the border subject to LTTR curtailment.	ACER agrees and confirms that this is the current practice, nevertheless harmonising firmness regimes is outside of scope of the FRC methodology.

Respondents' views	ACER views
EDF would like to recall that, at present, LTTR curtailment practices are quite heterogeneous in the EU. Curtailments are excluded by design in CWE/CORE (through the LTA inclusion in the day-ahead flow-based domain), whereas LTTR firmness is not fully guaranteed on other borders, since compensations for curtailed capacities are capped. A consistent methodology providing for harmonised incentives at the different borders would therefore be welcome.	Sharing of curtailment costs is independent from policies of applying compensation caps. The latter are beyond the scope of the FRC methodology and can only be addressed through an amendment of the FCA Regulation.

5 List of respondents

Organisation	Type
Amprion GmbH	TSO
Austrian Power Grid AG	Energy company
Baltic Cable AB	TSO
Core TSOs - Convenor of the Core TSO Congestion Income Distribution Task Force	TSO
EDF	Energy company
ElecLink	TSO
Elia	TSO
ENTSO-E	Association (acting on behalf of all TSOs)
European Federation of Energy Traders (EFET)	Association
Forsyningstilsynet / Danish Utility Regulator (DUR)	Regulatory authority
Oesterreichs Energie, Association of Austrian Electricity Companies	Association

Organisation	Type
Ørsted AS	Energy company
PSE	TSO
Market Parties Platform	Association
IFIEC Europe	Association
TERNA S.p.A.	TSO