

Mr Corne Meeuwis  
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Cc:  
European Commission, DG Energy  
Mr Oliver Koch  
Mr Andras Hujber

Cc:  
ACER  
Mr Alberto Pototschnig  
Mr Christophe Gence-Creux

Cc:  
ENTSO-E  
Mr Laurent Schmitt

7 December 2018

**Subject: JAO – auction cancellation**

Dear Mr. Meeuwis,

We are writing to express our serious concerns regarding the cancellation of the yearly auction on November, 23rd, 2018 for the DE(50Hz) > PL+CZ profile.

Market participants have to use the JAO platform to buy cross-border capacity for long-term electricity contracts. Capacity for the year 2019 was published by JAO on their website on November, 15th 2018 including the DE (50Hz) > PL+CZ profile. The offered capacity for the year 2019 for the above-mentioned profile was 450MW. JAO organised an auction on November, 23rd 2018. Results were published at 10:25 and successful bids were informed accordingly. However, market participants received the following email from JAO on the same day at 15:11, informing them that the auction held in the morning has been cancelled:

*„Dear Market Participants,  
The first round of the yearly joint CEE auction has been cancelled due to incorrect offered capacity on DE(50Hz)>PL+CZ. A second round has been created, CEEXD-Y-BASE-  
-----190101-02, which will open for bidding at 16:00 today, 23/11/2018, and close on  
Tuesday, 27/11/2018 at 10:00.  
Offered capacity and maintenance periods stay the same except for the corridor  
DE(50Hz)>PL+CZ where the capacity is 150MW.*

*We kindly ask you to submit your bids to this new auction.  
Best Regards,  
Operations Team”*

Such behaviour can neither be considered correct and transparent nor can it be accepted. Market participants expect that JAO informs them concerning the precise circumstances that lead to JAO’s significant error concerning the amount of capacity offered and subsequently withdrawn, as well as the reasons why this error was not detected by JAO earlier than in the afternoon after the closing of the auction. We do not consider the mere statement of such cancellation as per the above-mentioned email, without any explanation, to be appropriate behaviour.

**It is important for market participants that auction results remain firm after publication. In case of mistakes, e.g. in the auctioned ATC values, TSOs can take corrective measures like cross-border redispatch or countertrading. Curtailment of long-term rights could also be used, provided that the compensation rules of the EU HAR apply. These approaches would shield market participants from unintended consequences of a mistake of the TSOs or JAO.**

Auction cancellations happened in the past when JAO was just created. The matter was brought to the Market European Stakeholder Committee (MESC), with a plea from all market participants around the table to find solutions to avoid such cancellations. Here is a quote from the discussions held at the 5<sup>th</sup> MESC meeting on September 7<sup>th</sup> 2016 regarding an auction cancellation on 29<sup>th</sup> July 2016:

“Paul Giesbertz (EFET) expressed his surprise of the very different triggers for cancellation in the past months and mentioned that this situation looks unprecedented. He argued that cancelling an auction because of a technical problem to hold the auction may be acceptable, but that **cancelling an auction because of a wrong capacity on one border should not be acceptable. Other remedies such as XB redispatch, counter-trading or curtailment are better alternatives to the cancellation of an auction. He suggested that the behaviour of JAO and the TSOs may go against the fundamental principles of the 2009/714 Regulation.**

[...]

Paul Giesbertz (EFET) noted that the issue with the ATC mistake is worrying and the issue in January was due to a different reason but had a huge impact too. Market parties were left with open positions, and they have the same urgent need to close their positions. EFET would like to see a clear promise that this won’t happen again. **Paul noted that TSOs do not seem to look for alternatives to auction cancellation, such as redispatching and XB countertrading for one border, which could be more cost-efficient from an overall welfare perspective.** Cancelling auctions on several borders is costly, in terms of transaction and administrative costs, as well as risky in terms of security of supply. **He asked for further clarification on why cancelling has been considered better for security of supply at these occasions when even for SoS it is more risky to cancel published auction results than to do redispatching.**

Frank Vandenbergh (JAO) noted that **TSOs take this issue at hand, and this will be discussed and addressed with all TSOs, shareholders and customers of JAO to avoid such situations in the future.** Corné Meeuwis (JAO) clarified that this is not in the hands of JAO and JAO can’t decide for TSOs if they should curtail, redispatch across borders etc.”

It looks like lessons from the past have not yet been learnt. Save for the decision to split the regional CEE auction in individual border-per-border auctions, the situation of November 23<sup>rd</sup> tragically reminds us of the situation two years ago. There has been no involvement of EFET Members to discuss alternatives to auction cancellations. Therefore, to avoid that this situation happens once again, JAO should thoroughly investigate whether the misconduct was caused by the individual TSOs on each side of the border or by JAO itself, and should inform participants accordingly about the details and findings. On the basis of the findings of such an investigation, JAO should take all necessary precautions to prevent similar fatal failure in the future.

Yours sincerely,

On behalf of the European Federation of Energy Traders

A handwritten signature in black ink that reads "Sandra Milardovic". The signature is written in a cursive, slightly slanted style.

Sandra Milardovic  
EFET TF Eastern Europe Electricity