

JAO S.A.
2 Rue de Bitbourg
L-1273 Luxembourg-Hamm

14 June 2017

EFET¹ comments on the Draft Rules for explicit Daily Capacity Allocation on Bidding Zone borders of the Core CCR serviced by JAO

Dear Sir or Madam

We would like to thank JAO and the respective TSOs to have looked at our proposed amendments from 6th December 2016 to rules for Daily Capacity Allocation on CEE borders and borders Croatia-Hungary and Croatia-Slovenia (version dated 20 April 2016). Our proposals had been submitted as a constructive contribution to help avoid, as well as reduce the impact of, auction cancellations like the one that occurred on 29th July 2016. Unfortunately, most of our proposals have not been reflected in the new draft rules dated 17th May 2017. We do not see how these proposals would address the failures that have led to the unacceptable auction cancellations that occurred in July 2016.

Should this draft be adopted in its current form, our members face the continuing risk of similar incidents as the one of July 2016 occurring again. This was a situation where some market parties, out of no failure of their own, had their cross-border capacity bookings cancelled at late notice (after the closure of exchanges for daily spot settlements) and therefore found themselves with unintended open positions in markets where such positions cannot necessarily be rectified without incurring significant losses. Ultimately, this sort of risk will drive market parties out of these markets, where additional liquidity is actually much needed. Furthermore, it creates an additional risk for traders which means it may well feed into prices. Ultimately, it is end consumers who suffer from less competitive markets, the inefficiencies of which are reflected in higher bills.

The way in which roles and responsibilities are allocated between TSOs and JAO seems to result in a situation of suboptimal market design in which market participants' needs are not fully met. This poses wider questions around the governance of TSO-cooperation across borders, which should also be taken into account during the discussions around the Clean Energy Package.

We therefore invite TSOs and JAO to continue the discussion with us before finalising the new rules. A useful starting point could be a meeting to discuss how the points set out in this consultation response could be addressed.

We have specific comments on the following articles:

Article 33(3): *EFET proposal not implemented*

It is not clear to us how the new internal procedures and the "eCAT Release 3" will prevent auction cancellations going forward. We would appreciate further clarifications on that. We still believe that the most obvious and perhaps most effective way to avoid mistakes is to put an onus on TSOs to check the calculation results, as we proposed.

¹ EFET is an industry association which was set up in order to improve the conditions of energy trading in Europe, mainly in electricity and gas markets. Established in 1999, EFET represents today over 100 companies in 28 European countries. EFET works to promote and facilitate European energy trading in an open, transparent market unhindered by national borders.

Article 39(4): *EFET proposal partially implemented.*

The drafting proposed by JAO remains too unspecific. It should be clarified that firstly JAO shall inform registered participants immediately once a problem has been identified. Secondly, it should specify that JAO shall release information regarding the ramifications, solutions and timelines as soon as it becomes available.

Article 41(3): *New EFET comment:*

The "subsequent capacity allocation process" should be specified (e.g. Intraday Auction and which others?).

At the Croatian/Hungarian border it is still impossible to organize an intraday auction. EFET recommends to nominate available capacity remained from the Long-Term Auction at that border which national TSOs (HOPS and MAVIR) can explicitly see and trace.

Article 42(6): *New EFET comment:*

The described process could lead to operational uncertainty regarding the scheduling process in the practice.

Article 43(3) and 43(4): *EFET proposal not implemented because they are out of scope or too complex.*

In our view these are the most important changes and it is disappointing that they have not been implemented, nor is there an indication of how or when they might be addressed going forward. We would welcome an exchange with JAO and the relevant TSOs on what their views are and how discussion on the topic can progress. Fundamentally, risk should be allocated to the party that is best placed to manage it. Clearly, improving the reliability of the auctioning mechanism can only be done by the TSOs and JAO. It is therefore wholly inappropriate for the risks arising from mistakes in this mechanism to be allocated to grid users. Doing so creates costs for grid users which ultimately are likely to needlessly increase costs for end consumers. The refusal of TSOs and JAO to address this issue poses the wider question of the governance of TSO cooperation across borders.

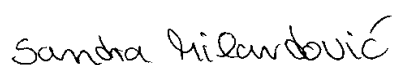
Article 47(1) *New EFET comment:*

When a Market Participant that had received Daily Transmission Rights has already sent bids to the Power Exchange or entered into a bilateral trade within the respective country using received Daily Transmission Rights, and afterwards gets information about the curtailment of the used Daily Transmission Rights, then there is also an issue with the value of that energy (open position), which stayed trapped in that country and for which the Market Participant is exposed to the corresponding imbalance price. EFET proposes that the value of that exposure to the imbalance price should also be included in the reimbursement.

We remain at your disposal for any questions you may have.

Yours sincerely,

On behalf of the European Federation of Energy Traders



Sandra Milardovic
EFET TF Eastern Europe Electricity