

**ACER consultation on the amendments to the EU Harmonised Allocation Rules
for cross-border transmission in electricity****EFET response – 12 September 2019*****Topic 1: Reduction periods***

Q1.1: Do you see a benefit in having earlier auctions with flexible reduction periods?

No, we propose an alternative solution.

Q1.2: Please further clarify the reasons for your answer above.

As we mentioned in our previous positions¹, risk management through (cross-border) hedging is a key element in sourcing and providing electricity to customers competitively, as it allows market participants to avoid exposure to short-term price volatility and imbalance costs. Some market participants may wish to buy forward rights with flexible reduction periods and minimise risk in that way.

Reduction periods are means for the TSOs to reduce capacity allocated to the market in anticipation of line maintenance and planned outages. These reduction periods are set based on the TSOs individual maintenance plans and the inter-TSOs coordination work on the matter, a process that will end in December of Y-1 according to the System Operation Guideline. With the objective to anticipate capacity calculation and the year-ahead auction compared to current practices (possibly as early as August of Y-1), the inclusion of reduction periods in the capacity allocation process as it is performed at the moment becomes unmanageable. Hence, the choice of market design is being reduced to a simple alternative:

- early yearly auction of LTTRs with flexible reduction periods
- late yearly auction of LTTRs with firm reduction periods

¹ EFET response to the TSOs consultation on the review of the EU Harmonised Allocation Rules and the CORE and Hansa CCR specific annexes, dated 20 June 2019 and available at:
https://efet.org/Files/Documents/Downloads/EFET_TSOs%20consult%20EU%20HAR_20062019.pdf

We would first like to indicate that the choice given by ACER to market participants is based on a very basic simplistic explanation of the situation, without any kind of details on the proposed early auction in Y-1 with flexible reduction periods, such as:

- the timing of publication of reduction periods
- the application of reductions (pro-rata?)
- the compensation of market participants (market spread?)
- the publication of information on the reasons for the reduction periods

We definitely support the aim of move the yearly calculation and allocation of capacity further ahead of real time. However we do not believe that the new processes of inter-TSO cooperation for maintenance plans derived from the System Operations GL should open the door to reductions of the level of firmness of LTTRs.

Bearing this in mind, we believe there is a third alternative: we propose that the TSOs allocate a significant portion of the capacity early in Y-1 – a portion deemed close to certain to be available based on TSOs expectations of the future maintenance plans and historical information about such plans. The rest of the capacity – the uncertain part – should be allocated in December Y-1, shortly after the final conclusions of the inter-TSO coordination work are known. Both auctions should propose fully firm capacity to market participants. Should too much capacity have been allocated in the early Y-1 auction, then TSOs would be able to buy back this capacity in the December Y-1 auction.

Should the ACER nonetheless choose to apply its suggested solution, clear procedures need to be established in the EU HAR – after proper consultation of market participants of course – with regard to:

- the timing of publication of reduction periods
- the application of reductions (pro-rata?)
- the compensation of market participants (market spread?)
- the publication of information on the reasons for the reduction periods

Q2.1: Would you consider LTTRs with a flexible reduction period still as a relevant instrument to hedge your long-term positions??

No, at least not with the level of information provided by ACER in this consultation.

Q2.2: Please further clarify the reasons for your answer above.

As long argued by EFET², market participants need forward transmission rights to effectively hedge positions across borders. The rights contribute to efficient cross-border competition along the whole electricity value chain and for all timeframes. Where market participants hold transmission rights, they can compete in a neighbouring forward wholesale market while managing their geographical exposure

² EFET response to ACER consultation on Forward Risk-Hedging Products and Harmonisation of Long-Term Capacity Allocation Rules, dated 26 October 2012 and available at: https://efet.org/Files/Documents/Electricity%20Market/Forward%20markets/EFET-Response-to-ACER-Consultation-on-FCA_261012_revised.pdf

to volumes and price risks. Forward transmission rights are therefore essential to all market players: generators, traders, suppliers and final customers.

These forward transmission rights ought to be fully financially firm, i.e. that market participants are protected against the risk of financial exposure in the day-ahead market. In this sense, we were happy to see the Forward Capacity Allocation Guideline (FCA GL) and EU HAR adopt strict rules around the conditions for curtailment of transmission rights by the TSOs and the principle of market spread compensation in case of curtailment (except in cases of Force Majeure).

The allocation of firm transmission rights to market participants also provides long-term signals to the TSOs regarding potential congestion on certain cross-border elements. Forward transmission rights subscriptions by market participants provide an indication to the TSOs regarding forward market activities and potential needs for infrastructure investments. Guaranteeing their full financial firmness also allows TSOs to increase congestion rents as market participants are willing to pay more for a full financial hedge – without running any financial risk on the TSO side thanks to the caps introduced by the EU HAR.

The allocation of transmission rights with flexible reduction periods could represent a breach in the firmness principle agreed upon in the FCA GL and EU HAR. Much depends on the compensation scheme foreseen for the reduced periods, of course. Besides, should the compensation scheme be aligned on that of curtailments under the EU HAR, the risk of TSOs reaching the yearly (for AC) or monthly cap (for DC) would significantly increase, thereby damaging the firmness of transmission rights allocation as a whole, not only for the rights affected by reductions. We request more details in order to take a firm position on the matter.

Topic 2: Remuneration rules

Q3: Do you agree on having the clarification of remuneration rules for the described case of no market spread between bidding zones but available results from explicit fallback auctions?

Yes

Q4: Please provide any further comments on the remuneration rules.

Currently article 40 of the EU HAR, dealing with the remuneration of forward transmission rights, foresees three cases:

- in case of implicit auction or explicit fallback auction: remuneration at market spread
- in case of explicit auction other than the fallback auction: remuneration at the marginal price of the daily LTTR auction
- in case of an absence of price in the implicit or explicit auction: remuneration at the initial price paid for the LTTR

The ACER consultation wants to solve the case of an absence of price in at least one of the two relevant bidding zones but existing results from the explicit fallback auction. The text of the EU HAR is indeed not fully clear, and a clarification of the text is advisable. However, the situation described by ACER is not fully clear, and we recommend a clarification of the first case, and the addition of one more case to make sure that all situations are covered. In addition, after looking into fallback procedures in case of decoupling, we are of the view that clarifying that article 40 refers to “clearing” prices (and not “reference” prices) may also be needed:

- in case of implicit auction or explicit fallback auction [*addition: with at least one market clearing price in each of the concerned bidding zones*]: remuneration at market spread
- [*Addition: in case of explicit fallback auction with no market clearing price in at least one of the concerned bidding zones: remuneration at the marginal price of the daily LTTR auction*]
- in case of explicit auction other than the fallback auction: remuneration at the marginal price of the daily LTTR auction
- in case of an absence of price in the implicit or explicit auction: remuneration at the initial price paid for the LTTR

To be clear: whenever a market clearing price is available in each of the concerned bidding zones, the spread between these market prices should be the basis for the remuneration of LTTRs. It is irrelevant whether the price derives from market coupling or if local auctions had to be organised after a decoupling event. **For avoidance of doubt, the decoupling event of 7 June 2019 would qualify for the case of a remuneration of LTTRs at the market spread:** even though many borders were decoupled on that day, local auctions were used and have resulted in each of the bidding zones of the normally coupled area having a market clearing price. Therefore, the remuneration of the LTTRs was rightly based on the price differential between relevant bidding zones.

The marginal price of the daily LTTR auction should only be used as a basis for the remuneration of LTTRs if no price differential between two markets can be calculated, i.e. if there is no market price in at least one of the relevant bidding zones. In this case indeed, the fallback explicit auction for capacity in day-ahead is the best indicator of the price of capacity at that moment.

Topic 3: Other comments

Q5: Please provide any other comments concerning the proposed harmonised allocation rules for long-term transmission rights.

We are disappointed to see that some elements of the EU HAR we have long suggested to review on are not up for consultation. These include:

Article 4 and Recital (5): We miss an amendment to article 4 on regional specificities that reflects the inclusion of new wording in Recital (5) recently proposed by the TSOs (*“The regional or bidding zone border specific requirements shall not include any kinds of regional specificity that significantly deviates from the HAR or even from the FCA Regulation itself”*). We believe that ACER should include a strict limit for possibilities of deviation from the EU HAR to the four elements listed in article 4.3 only.

Article 56: As stated at numerous occasions, we remind the ACER that we have serious concerns regarding article 56.3 of EU HAR for the case of FTR options. Article 56.3 lays down the rules for curtailment of allocated rights, i.e. one of the elements of the firmness of long-term transmission rights, which is of course of utmost important for market participants. EFET does not agree with the possibility for TSOs to curtail allocated FTR options to ensure that operation remains within Operational Security Limits: since FTR options cannot be nominated, their allocation cannot have any impact on the state of the system, hence TSOs bear no physical risk. Therefore, we do not see any reason to apply a curtailment for system security reasons to FTR options. Only curtailments in case of Force Majeure should be applicable for FTR options.

While FTRs curtailed to ensure that operation remains within Operational Security Limits shall be compensated to market participants at the market spread, this compensation is subject to a cap. Hence, article 56.3 creates a risk of curtailment and incomplete compensation for cases that are not justifiable in practice. We therefore request that ACER takes the responsibility to review this article, especially given the increasing number of borders that are likely to use FTR options going forward.