

EFET response to the TSOs consultation on Hansa Splitting Rules for forward capacity allocation



EFET response – 16 May 2019

The European Federation of Energy Traders (EFET) welcomes the opportunity to provide comments on the ENTSO-E consultation on Splitting Rules for forward capacity allocation in the Hansa capacity calculation region. Forward capacity allocation is critical to allow market participants to hedge their long-term positions across borders and make sure that they are not exposed to short-term price volatility and imbalance costs. It is therefore vital that TSOs make available to the market the maximum capacity they can as far in advance of real time as possible (at least one year), as per their calculation at that time, by means of issuing forward transmission rights.

Comments on individual articles

- **Article 5.2:** [...] *In case that the full yearly NTC is not allocated in the yearly allocation, then the capacity not allocated can be offered in the monthly auction complying with the monthly NTC calculated.*

We agree that the full yearly NTC not allocated in the yearly allocation should be allocated in the monthly action. We would like however to have even stronger language on the issue and suggest changing the article as below. The article will be fully in line with the earlier paragraphs of article 5 and will reinforce the principles stated in Article 3.1:

“Article 5.2: [...] In case that the full yearly NTC is not allocated in the yearly allocation, then the capacity not allocated **shall** be offered in the monthly auction complying with the monthly NTC calculated.”

- **Article 6.1:** *The Capacity Split for a specific Interconnector shall be determined by the Responsible TSOs and shall contain direction specific volumes of all LTTTR products to be offered.*

This regional methodology, which is supposed to harmonise the capacity splits on all bidding zone borders of the Hansa region, fundamentally leaves the individual TSOs do what they want at an individual level – or even worse, do what they have already been doing for years. There is not a single element of harmonisation in the proposed document.

This is in our mind not compliant with article 16 of the FCA GL, which requires a common methodology for capacity splitting for each CCR, and more specifically one that is coherent with the capacity calculation methodology (CCM), article 16.2(b) FCA. In CCMs, the capacity is calculated in a coordinated manner by all TSOs of the CCR. It seems incoherent that the capacity splitting rules would not be coordinated and applied in the same manner by all the TSOs of the CCR. Besides, the potential lack of transparency in the application of different splitting rules and criteria on each interconnector of the region – and surely its lack of practicality for users – risks hindering the capacity of the splitting rules to meet market participants' hedging needs – article 16.2(c).

We refer to our comments on Chapter 3 for specific amendment proposals.

- **Chapter 3: splitting criteria (articles 7 to 11)**

The draft methodology presents five possible criteria for splitting capacity between the different time horizons in the forward timeframe. While it is certainly more elaborate than most splitting methodologies proposed in the different CCRs in Europe, we have fundamental objections with the overall approach:

1. We oppose any reservation of capacity from the year-ahead to month-ahead auctions, or for the day-ahead timeframe. Hedging is about assessing and covering against a variety of risks: price risk, volume risk, regulatory risk, etc. The further away from real time, the greater the uncertainty and therefore the greater the interest and importance for market participants to cover those risks. It is therefore vital that TSOs should make available to the market the maximum capacity they can as far in advance of real time as possible. All the capacity calculated as available at the Hansa borders by the capacity calculation process year ahead should be made available to the market at that stage by way of transmission rights (i.e. 100% of the calculated capacity year-ahead). Further release of capacity at shorter time horizons in the forward timeframe (quarterly where applicable, and monthly) should be the result of capacity recalculations, or gradual release of the margins and constraints initially applied by the TSOs for year-ahead allocations as uncertainties reduce with real time getting nearer. Hence, we oppose the use the specific criteria to withhold capacity when it is calculated as available and could be sold to the market.

For avoidance of doubt, and bearing in mind that certain market participants may only wish to purchase capacity for specific quarters or months and may

be reluctant to re-trade purchased yearly forward transmission rights on the secondary market, the TSOs may choose to allocate the 100% of calculated capacity year-ahead not only via yearly products but also via quarterly and monthly products (but a year in advance). There can be a distinction between the timing of the auctions and the granularity of the products offered by the TSOs.

2. The manner in which TSOs will apply the proposed criteria detailed in Chapter 3 (articles 7 to 11) leaves too vast a room for interpretation on the TSO side. Further, and despite the provision of article 6.3 and Annex 1, the combination of different criteria is not clear. Further, the sheer existence of multiple criteria, with complete freedom from TSOs on how they wish to combine them, means that there is no single way to allocate forward capacity in the region. We believe this goes against the spirit and letter of the FCA Regulation (see our comments to article 6.1)

The methodology should set much clearer and stricter boundaries to how the TSOs allocate capacity in the forward timeframe.

3. On the specific articles:
 - a. **Article 7** would cap the volume of forward transmission rights allocated to the market to the day-ahead market price at individual bidding zone borders. This is a way to restrict the hedging opportunities of market participants. The allocation of capacity should solely be based on the technical capacity and requirements of the grid. It is not the place of system operators to analyse market data in order to maximise their benefits from forward capacity allocation. We remind the TSOs that by owning the interconnectors, they de facto sit on a free hedge that can and should be made available to the market as much and as early as possible. Retaining this hedge opportunity from the market based on expectation of evolutions of market prices could be considered market manipulation. Further, the calculations will be based on historic volumes of forward transmission rights and historical market spreads in day-ahead (from the 12 or 24 previous months), which does not represent the current reality of either the forward or day-ahead markets.
 - b. **Article 8** would cap the volume of forward transmission rights allocated to the market to the forward market price at individual bidding zone borders. This is a way to restrict the hedging opportunities of market participants. The allocation of capacity should solely be based on the technical capacity and requirements of the grid. It is not the place of system operators to analyse market data in order to maximise their benefits from forward capacity allocation. We remind the TSOs that by owning the interconnectors, they de facto sit on a free hedge that can and should be made available to the market as much and as early as possible. Retaining this hedge opportunity from the market based on expectation of evolutions of market prices could be considered market manipulation. Further, the calculations will be based on historic volumes of forward transmission rights and

historical market spreads in forward (from the 12 or 24 previous months), which does not represent the current reality of the forward market.

- c. **Article 9** leaves entire room for TSOs to assess the competitive situation in an auction and possibly modify the volume of transmission rights allocated to the market without any kind of criteria or oversight. The proposed criterion is very restrictive and unpredictable, and we deem it extremely dangerous that TSOs are given this right of judgment without limitation or oversight.
- d. **Article 10** only states that TSOs may choose to decide on a balance of transmission rights allocated in the yearly auction and subsequent auction, without specification or criteria. Beyond the fact that we believe that all the capacity calculated as available at a certain point in the forward timeframe should be allocated directly to the market, article 10 does not specify how the TSOs will assess the needs of market participants for transmission rights, nor how they will take account of the latter's input. This article is written in a markedly vague fashion. The FCA GL was already approved as a Guideline and not a Network Code as a result of its lack of binding effect; its implementation methodologies, including the present one, should set clear rules and not postpone decisions once more.
- e. **Article 11** proposes that TSOs may choose to cap transmission rights allocated in the yearly auction and subsequent auction at a fixed percentage. We disagree with the concept of capping forward capacity allocation to specific percentages for each time horizon within the forward timeframe. All the capacity calculated as available at the Hansa borders by the capacity calculation process year ahead should be made available to the market at that stage by way of transmission rights (i.e. 100% of the calculated capacity year-ahead). Further release of capacity at shorter time horizons in the forward timeframe (quarterly where applicable, and monthly) should be the result of capacity recalculations, or gradual release of the margins and constraints initially applied by the TSOs for year-ahead allocations as uncertainties reduce with real time getting nearer.

In short, none of the proposed splitting criteria, nor their combination, appears satisfactory for us. Hence, we recommend that the entire Chapter 3 (articles 7 to 11) be deleted and replaced by a single article:

“The percentage of long term offered capacity with respect to the calculated long term capacity for all Interconnectors shall be set at 100%. The TSOs shall make available to the market 100% of the capacity calculated year-ahead during the yearly allocation. The TSOs shall recalculate the available capacity that can be allocated during each following auction (monthly or other) in addition to the capacity allocated at the yearly auction.”

- **Article 13.1:** *The Responsible TSOs shall, in compliance with national legislation and in accordance with Article 3(f) of the FCA Regulation, and in addition to the data items and definitions of Transparency Regulation, publish the following on a regular basis and as soon as possible;*
 - a. *The marginal auction price and demand curve for all LTTR auctions performed on the corresponding Interconnector.*
 - b. *The analyses to determine the reference volume for each splitting criterion applicable for the corresponding Interconnector.*
 - c. *The Capacity Split relating to a specific time frame before the first allocation of capacity relating to that time frame, following long-term capacity calculation and applicable splitting criteria analyses.*

We disagree with the possibility that the TSOs wish to include in article 13 that they can deviate from the common transparency requirements based on national legislative requirements. This argument is regularly used by TSOs to resist information disclosure. For example, it was used by some of the CWE TSOs to resist transparency publication in CWE flow-based coupling, to be ultimately rejected by their NRA(s) but after far too long a time. Granting TSOs the benefit of this clause from the start inverses the burden of proof and forces market participants to challenge their non-transparent behaviour. TSOs are subject to the Transparency Regulation, and have to submit all “price sensitive data” according to it. According to European case law, this takes precedent over national legislation barring TSOs to do so. Should legal interpretations in some Member States differ, it should be up to the TSOs to bring the matter to their NRA and request the non-publication, not the other way around.