

ANNEX to the EFET feedback on the draft Forward Capacity Allocation Network Code



Calling for improvements of the firmness regime and compensation rules at the Italian borders

In the context of the ENTSO-E Harmonised Allocation Rules for Forward Capacity Allocation (HAR) adoption, the Italian regulator had issued last May the consultation document n. 239/2015 on firmness regime and compensation rules at the Italian borders for the year 2016. Following the consultation, AEEGSI and respective Regulatory Authorities have decided to implement for 2016 a new regime with market spread compensation in case of curtailment with monthly cap based on congestion revenues and a “modest” reduction in the yearly and monthly allocated capacity rights volumes (Option 2 in the consultation document) at the French and Slovenian borders.

First of all, EFET considers the content of the AEEGSI consultation as highly disappointing as it did not foresee any real improvement to the firmness regime: market participants were placed in front of a choice between no evolution of firmness and improvement in firmness conditions to the detriment of allocated capacity volumes and the facilitation of cross-border transmission risk hedging.

Second, EFET believes that the regime chosen for 2016 goes against several provisions of the draft FCA NC and against several ACER Recommendations:

- The new regime foresees a “modest” reduction of allocated capacity “in exchange” for more firmness: besides the fact that this is a highly unclear, vaguely defined and highly discretionary concept, we reiterate that reductions of allocated capacity has never been considered an option both in the FCA or HAR discussions. This represents a step-back from the previous regime which already stood for significant differences compared to other borders. Calculation of available transmission capacity and determination of transmission rights volumes offered on a forward basis should not be part of the discussion on firmness. The determination of interconnection capacity rights volumes to be offered to the market should not be based on economic considerations, **but instead on technical grid calculations**. We strongly argue that TSOs, as regulated monopolies, have the mandate to allocate the maximum available cross-border capacity and receive the payment in case of congestion. Establishing a relationship, whereby available capacity is the function of firmness, is illegitimate and distorts market signals.
- Monthly congestion income caps do not provide any incentive for TSOs to avoid or reduce curtailments, nor are they justified in terms of regulatory risk for TSOs. EFET recognises that compensation for curtailment of the allocated rights in case of Emergency Situation can be subject to a cap upon request of the TSOs to the regulators. Nonetheless, this cap should be calculated by TSOs on the yearly total amount of congestion income as envisaged by the current draft FCA NC (Article 54).

- We believe that in the spirit of a real harmonisation of European rules, no improvement at all of the firmness regime on Austrian, Swiss and Greek borders represent a huge shortcoming. We therefore call on the respective regulatory Authorities to coordinate and improve the firmness of the allocated transmission rights.

EFET believes that the only scenario that is compliant with the EU Target Model, the EU Regulation n. 714/2009 and the draft FCA NC is to have a full firmness regime with a yearly cap related to total congestion income, accompanied by equivalent allocated capacity rights volumes as they are today. As explained above, EFET accepts caps on market spread compensation based on TSOs' yearly income from capacity allocation in all timeframes. Capping the amount payable to the value of yearly congestion revenues will sufficiently limit the financial risk for the TSO.

In case the burden for the TSO is unsustainable, we request a real analysis of the risks for Terna to allocate and guarantee capacity in this manner. Therefore, we would urge a full impact assessment of granting more firmness with a yearly cap on income from all timeframes. Market participants would benefit from a truly informed decision made upon a serious, quantitative analysis that would show whether the situation would be sustainable or not for Terna.

We also would like to draw the attention to general firmness provisions as described in Article 53.1 of the draft Code: curtailments of cross-border capacity should be restricted to cases of emergency situation and Force Majeure. However, in the past Terna has often used curtailments of forward capacity rights as a preventive measure to manage internal grid issues. NTC on the Northern Italian borders is at times reduced significantly and at very short notice: we understand that these reductions are due to the management of the system at times of high renewable energy production, but these types of significant and sudden reductions have an effect on the market both in Italy and in neighbouring countries. We suggest a closer regulatory scrutiny on such 'preventive curtailments' which in our view are excessively utilized. We believe that the use of other measures, such as buy back, redispatching and countertrading, should be considered before curtailing cross-border capacities.