

Ministero dello Sviluppo Economico

Via Molise 2
00187 Roma - Italy

To the attention of:

Ms. Laura Vecchi

Mr. Giuseppe Corrente

Brussels, 15 October 2015

Subject: EFET comments on the draft Forward Capacity Allocation Network Code – version of 10.06.2015

Via electronic email

Dear Ms Vecchi, dear Mr. Corrente,

Since the spring of 2012, the European Federation of Energy Traders (EFET¹) has been actively cooperating with ENTSO-E, ACER and the European Commission to help developing a robust network code for Forward Capacity (FCA). Our objective is to ensure that the FCA network Code fulfils its potential to push forward the integration of European wholesale power markets and promote the liquidity of forward markets.

While we welcome the many improvements in the draft FCA NC version of 10 June 2015, we believe it still presents a number of shortcomings. We have attached to this letter our mark-up of the draft FCA NC and a table listing our concerns and proposed amendments to the final version of the network code. In the Annex we have also highlighted in detail the current situation at the Italian borders, in light of the development of the ENTSO-E Harmonised Allocation Rules for Forward Capacity Allocation (HAR) and of the most recent decisions of the National Authority.

Below, we have highlighted a number of provisions which are still matter of concern and that in our view should be addressed with the highest priority in the Comitology process:

- Recital 4: as laid out in the existing Congestion Management guideline, TSOs should always seek to maximise the allocated volumes of fully financial firm capacity rights at all borders. Optimising calculation and allocation without a view to maximise available capacity does not add any value to this objective. The approach for long-term capacity calculation and allocation should be based on coordinated net transmission capacity (NTC). A flow-based capacity allocation shall be applied only when justified from an

¹ EFET, The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org

economic efficiency point of view. We appreciate the provision contained in Article 10(5) under which TSOs in each capacity calculation region may jointly apply the flow-based approach **on the condition** of a regional cost-benefit analysis.

We acknowledge that the Italian TSO Terna, while adopting a top-down approach, allocates the maximum long-term available capacity at the Italian borders according to the calculation methodology adopted. This is valuable and should be taken as an example for other TSOs. However, we stress that the determination of interconnection capacity rights volumes to be offered to the market should always be based on technical grid calculations rather than on economic considerations.

- Article 1(4-5): paragraph 5 introduces an additional requirement beyond compliance with the main provisions of Union electricity market legislation and the signature of an EU-Switzerland electricity agreement: the participation of Switzerland in the single allocation platform would now be subject to an authorisation of the European Commission based on an ACER opinion. Both these paragraphs undermine the path towards the integration of the electricity markets in Europe. They create obstacles/additional difficulties for market participants to procure long-term transmission rights at the Swiss borders with potential additional costs, operational risks, potentially impacting the liquidity. This is of particular importance for the Italian market, given the large electricity flows imported/exported from/to Switzerland.
- Article 2 (Definitions): we suggest deleting definition (5) on FTR obligations and any reference to FTR obligations throughout the text, as the concept should be removed from the FCA Guideline. TSOs get the congestion revenue in case the request for capacity (with the price > 0) is higher than the available capacity at each allocation. In case the spread is in the opposite direction we don't see the rationale for paying a negative spread to the TSOs. There is no financial risk for the TSOs in allocating capacity, and FTRs as obligation would only make sense if market participants would trade between themselves such or similar contracts and payment for the negative spread would be the consequence of risk premiums. This is however not the case when TSOs allocate capacity.

Article 25: we suggest to add the following paragraph (6) "*The concerned TSOs shall publish all information and justifications pertaining to the curtailment or reduction of cross-zonal capacity in a timely manner*". We believe that timely information disclosure obligations on the side of TSOs in case of curtailments is of fundamental importance and should be included in the code. Also, we reiterate that curtailments in case of emergency situation should as well be compensated at market spread, as defined at Article 53(2).

Article 30(4): the article should mention that each Bidding Zone border must be analysed, instead of the region as a whole. The assessment criteria need to be clear enough to ensure precision in the analysis. We suggest to assess the following indicators for each bidding zones border of the capacity calculation region:

- trading horizon of the forward markets between the concerned bidding zones;
- bid-ask spread and the correlation of the market spreads between the concerned bidding zones;
- traded volumes of the products or the combination of products in relation to the forward available capacity between the concerned bidding zones;

- open interest in relation to physical consumption.

In any case, we consider that all TSOs should issue forward transmission rights on all bidding zone borders, independently of the existence (or not) of other local hedging instruments.

Article 30 (7): we appreciate the fact that the derogation to issue transmission rights does not anymore constitute a derogation to calculate and to publish the available capacity on each border. Cross-zonal capacity is part of the fundamental transparency data that all TSOs should calculate and publish in an effective and timely manner for all bidding zone borders and directions, even in the absence of capacity allocation.

Article 35: we consider of fundamental importance that any reference to allocation constraints on interconnections between bidding zones is removed from the FCA NC, in line with ACER's proposal.

Article 36.1: the code should foresee that the nomination or the possibility to nominate exchange schedules should be at least hourly, as the possibility to nominate should match the balancing period, thus allowing to trade across borders with the smallest product granularities.

Article 51.3: we don't think that regional specificities should be an integral part of the enduring rules as these do not promote a truly integration and harmonization of the rules. Regional specificities and regional annexes of the Harmonised Allocation Rules should be part of transitional arrangements.

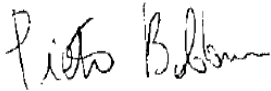
Article 53.1 (General firmness provisions): curtailments of cross-border capacity should be restricted to cases of Emergency Situation and Force Majeure. No different regime for curtailments should be introduced in the Code: we reject any different treatment and the definition itself in the code of "operational security" or "system security", as a network security issue that would justify curtailment of transmission rights is in fact an Emergency Situation. In the past Terna has often used curtailments of forward capacity rights as a preventive measure to manage internal grid issues. This provision must be included in the FCA NC as to bind TSOs to eliminate such 'preventive curtailments' which are in our view overly utilised, especially at the Italian borders. We approve the amendment setting market spread as the standard compensation rule in case of curtailment of long-term transmission right: this provision should as well bind Terna to apply a full firmness regime. At the same time, the Italian Regulator should ensure that there is no step back or decrease of the transmission capacity offered, in light of the objective of maximizing the allocation of available capacity (up to the level it is technically possible).

Article 54: EFET welcomes the amendment of the European Commission for the cap on the total amount of congestion income to be calculated by TSOs, rather than per bidding zone border as in earlier versions of the text. Nevertheless, we expect that further methodologies will need to be developed to accommodate this new perimeter for the congestion income cap calculation. Indeed, specific rules need to govern extreme cases when a TSO on one side of a bidding zone border has reached its cap, and the other one not. Would partial compensation apply? Would the solvent TSO cover the full compensation costs at the bidding zone border?

We also agree that such cap shall not be lower than the total amount of congestion income collected by TSOs in a calendar year. In this respect, we would like to draw your attention to the recent AEEGSI decision to implement a new firmness regime at the French and Slovenian borders by applying a cap on monthly congestion revenues.

We remain at your disposal should you have any question with regard to the present letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Pietro Baldovin". The signature is written in a cursive, slightly slanted style.

Pietro Baldovin
(EFET Task Force Italy Secretary)