Publishing date: 29/08/2012

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Forward Risk-Hedging Products and Harmonisation of Long-Term Capacity Allocation Rules

Consultation Document

PC_2012_E_13

29 August 2012

Agency for the Cooperation of Energy Regulators
Trg Republike 3
1000 Ljubljana, Slovenia

This consultation document is issued in the context of the Electricity Regional Initiative's effort towards the early implementation of the Target Model for capacity allocation and congestion management. It deals with two aspects of long-term transmission rights: forward risk-hedging products and the harmonisation of long-term (forward) capacity allocation rules.

The document is issued for consultation to all interested stakeholders, who are invited to submit their comments by:

28 October 2012
12.00 hrs (CET)

by sending them to the following address:

consultation2012E13@acer.europa.eu

It contains a number of specific questions for consultation. Stakeholders are invited to address the issues raised in the questions, as well as provide any other comment which they may have on the document.

Related Documents

ACER/CEER/ERGEG documents

- "Framework Guidelines on Capacity Allocation and Congestion Management for Electricity, 29 July 2011, FG-2011-E-002; http://www.acer.europa.eu/portal/page/portal/ACER_HOME/Public_Docs/Acts%20of%20the%20Agency/Framework%20Guideline/Framework_Guidelines_on_Capacity_Allocation_and_Congestion_M/FG-2011-E-002%20(Final).pdf

- "Implementing the 3rd Package: next steps", CEER/ERGEG, 18 June 2009, Ref. C09-GA-52-06a; http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Cross-Sectoral/2009/C09-GA-52-06a_Imlementing_3rdpackage_18-Jun-09.pdf

- ACER Work Programme 2012

- ERGEG final advice on Comitology Guidelines on Fundamental Electricity Data Transparency, Ref. E10-ENM-27-03, 7 December 2010, ERGEG; http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/CLOSED%20PUBLIC%20CONSULTATIONS/ELECTRICITY/Comitology%20Guideline%20Electricity%20Transparency/CD/E10-ENM-27-03_FEDT_7-Dec-2010.pdf

External Documents

- Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.
  http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0055:0093:EN:PDF

- Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.
  http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0001:0014:EN:PDF

- Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003:
  http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0015:0035:EN:PDF

Table of Contents

1 Introduction

1.1 Regulatory Framework

Pursuant to Regulation (EC) No 714/2009 and based on preceding work by ERGEG, the Agency for Cooperation of Energy Regulators ("ACER" or the "Agency") adopted Framework Guidelines on Capacity Allocation and Congestion Management for Electricity[1] (CACM) in July 2011, which also address forward markets and long-term capacity allocation.

The CACM Framework Guidelines and the Network Codes to be developed by ENTSO-E on their basis will be applied by Transmission System Operators as regards the integration, coordination and harmonisation of congestion management regimes in the long-term, day-ahead and intraday timeframes in order to facilitate cross-border electricity trade within the EU. For each timeframe a so-called Target Model has been identified. These Target Models represent a common vision of all stakeholders for the future Internal Electricity Market (IEM). In February 2011 the Council of the European Union set at 2014 the target date for the completion of the IEM and hence for implementing these Target Models.

ENTSO-E is developing the Network Code on CACM, covering capacity allocation and congestion management for the day-ahead and intraday timeframes. This Network Code is planned to be submitted to the Agency at the end of September 2012. The Network Code on Forward Markets covering the long-term timeframe is scheduled to be submitted to the Agency one year later.

In parallel to the process for the elaboration of Network Codes by ENTSO-E, the Agency, together with stakeholders, has identified four cross-regional roadmaps within the Electricity Regional Initiative[2], to guide the early implementation of the Target Models across regions. This early implementation of the Target Models, in parallel to the elaboration of the Network Codes:

- is deemed to be necessary in order to meet the ambitious 2014 deadline; but also
- may assist in the drafting of the Network Codes, by providing insights from the experience gained during the early implementation.

The cross-regional roadmap on long term transmission rights includes four areas of work to implement the corresponding Target Model by 2014:

- Harmonisation of long term allocation rules;
- Harmonisation of allocation platforms;
- Harmonisation of the nomination process;
- Possible implementation of Financial Transmission Rights (FTRs).

1.2 Background

The objective of long-term transmission rights, physical or financial, is to provide market participants with hedging solutions against the uncertainty related to congestion costs and the day-ahead congestion pricing.

According to the CACM Framework Guidelines this has to be provided in a manner compatible with zone delimitation, through a single platform (single point of contact) and a harmonised set of

[1] http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/Pages/FG-on-Capacity-Allocation-and-.aspx

[2] http://www.acer.europa.eu/Electricity/Regional_initiatives/Cross_Regional_Roadmaps/Pages/Cross-Regional-Roadmaps.aspx

rules for long-term transmission rights. Options for enabling risk hedging for cross-border trading are FTRs or PTRs with UIOSI provisions, unless appropriate cross-border financial hedging is offered in liquid financial markets on both sides of an interconnector.

1.3 Purpose and scope of this document

This document is issued in the context of the Electricity Regional Initiative and the effort towards the early implementation of the Target Model for the long-term timeframe and of the corresponding cross-regional roadmap. It broadly covers the four areas of work identified in this roadmap and the aim of the public consultation on this document is to facilitate improvement and harmonisation of the current platforms, products and allocation, as well as the of nomination rules.

With respect to the allocation rules, the objective is better to differentiate the common features to be applied at European level from the possible local specificities. This distinction shall then assist ENTSO-E in drafting the common set of rules in close cooperation with stakeholders[3]. According to the cross-regional roadmap, this common set of rules shall then go through NRAs' approval[4] procedures by mid-2013 in order to enter in force in 2014 and will impact the decision on whether to merge the existing platforms, which is expected by mid-2013 (indeed, according to the CACM Framework Guidelines, "regional platforms may operate, as long as this does not hamper the improvement and harmonisation of allocation rules").

The public consultation shall also facilitate the NRAs' decision between Physical Transmission Rights (PTRs) with Use-It-Or-Sell-It (UIOSI) provisions and FTRs option/obligation, keeping in mind that this decision will highly impact the need for harmonisation of nominations rules, which, according to the cross-regional roadmap, needs to be defined and agreed upon by the end of 2012.

This consultation document mainly deals therefore with two aspects of long-term transmission rights:

1. Forward risk-hedging products
2. Harmonisation of long-term (forward) capacity allocation rules

2 Forward risk-hedging products

The ENTSO-E document "Transmission Risk Hedging Products - An ENTSO-E Educational paper" (the "ENTSO-E Educational paper")[5] describes four kinds of transmission risk hedging products: Physical Transmission Rights, Financial Transmission Rights options, Financial Transmission Rights obligations and Contracts for Difference.

In the following sections, these transmission risk-hedging products are briefly described and excerpts from the ENTSO-E educational paper have been used to describe the different options.

[3] As foreseen in the cross-regional roadmap, this ENTSO-E's task will have to be performed between Q4 2012 and Q3 2013.
[4] Directive 2009/72/EC Article 37 (6) (c)
[5] https://www.entsoe.eu/fileadmin/user_upload/_library/consultations/Network_Code_CACM/20120619_Educational_Paper_on_Risk_Hedging_Instruments_review5.pdf

2.1 Physical Transmission Rights

A physical transmission right (PTR) gives the holder the exclusive right to use a particular interconnection in one direction to transfer a predefined quantity of energy from one market hub to the other. It is issued by a TSO or by an entity acting on behalf of the TSOs, providing the holder the option to transport a certain volume of electricity in a certain period of time.

The exercise of PTRs as options is performed through a nomination process.

The use-it-or-sell-it (UIOSI) provision ensures that non-nominated capacity gets automatically re-sold in the day-ahead allocation. If market coupling is in place, the holder receives the difference between the day-ahead prices of the two concerned power exchanges. Otherwise (i.e. in case day-ahead explicit auction is still in place), the holder receives the price of the day-ahead explicit auction. Similarly to FTRs as options, the holder of UIOSI PTRs does not assume the risk of a negative price differential.

2.2 Financial Transmission Rights Options and Obligations

In contrast to a physical right, which enables the holder to use a transmission line, a financial transmission right (FTR) gives the holder the right to collect the revenue generated by the amount of capacity he is holding. The underlying condition for FTRs is the introduction of a functioning day-ahead market coupling. FTRs are managed by TSOs or subsidiary entities and can be implemented to hedge directly the risk of uncertain price differences in the day-ahead markets.

Two kinds of FTRs have to be differentiated: options and obligations.

a) Financial Transmission Rights Options

FTRs as options entitle their holders to receive a financial compensation equal to the positive (if any) market price differential between two areas during a specified time period in a specific direction. FTRs options are defined in a particular direction, and thus the market price difference represents the price difference between the ‘to’ market and the ‘from’ market.

b) Financial Transmission Rights Obligations

FTRs as obligations entitle their holder to receive or oblige him to pay the hourly market price difference between two areas during a specified time period. The product entails the obligation for holders to pay the respective market price differential if this is negative, i.e. if the price in the “to” market is lower than the price in the “from” market.

These payments can be used to pay the price differential to FTRs issued for the opposite direction (“netting”). This means that, provided FTRs obligations are requested by the market in both directions, FTR obligations can be allocated with no direct link to physical capacity, since the opposing payments could be netted.

2.3 System price derivatives and Contracts for Differences

A market with Contracts for Differences (CfDs) and System price derivatives acts under the assumption of a common market based on the system price and several price areas. For example in the Nordic market, the system price is defined and calculated as the price that would have emerged in the whole region (with all included bidding/price areas) if there were no congestions. In this sense the whole market (coupled) area uses the same reference price, and this reference price is the basis for all hedging positions. When congestion occurs, different bidding/price areas will have different prices, and the price will differ from the system price.

CfDs are contracts between two parties, where the underlying value is the price difference between two reference prices (typically a “price area” price and a “system” price). Should the price difference be positive (i.e. the price area price is higher than the system price), then the buyer will receive money from the seller; should the difference be negative (i.e. the price area price is lower than the system price), then the buyer has to pay the difference to the seller. A CfD is an obligation. This means that if the area price is lower than the system price the holder of a CfD will have to pay the seller of that CfD.Further, the CfDs are sold by market players not TSOs. Any interested market player may issue system price derivatives and CfDs.

2.4 Comparisons between the transmission risk-hedging products

In the ENTSO-E Educational paper, a set of evaluation criteria are used to analyse the nature and crucial characteristics of transmission rights and their impact on cross border trade. Moreover, a list of pros and cons was elaborated to summarise the overall findings. Here below are some important points.

One of the main advantages of **PTRs with UIOSI** is that Market Participants have the **possibility to choose between the physical and the financial use of the transmission right with the UIOSI mechanism**. However it should be taken into account that the long-term capacity right which is nominated explicitly is not made available to the day-ahead market and thereby decreases its liquidity.

FTR options facilitate trading through more moderate market requirements, while concentrating liquidity into the day-ahead market. Since, in the case of FTRs there is no nomination stage, the complexity of the general operational process can be reduced.

One of the main benefits of **FTR obligations** is their potential to **provide a complete hedge to market participants, as long as they have a physical position in both markets**. Furthermore, FTR obligations allow “immediate netting”, i.e. the possibility to automatically sell products in opposite directions. Therefore, **the volume of allocated transmission rights might be higher**. However additional constraints, such as margin calls[6], arise from the financial obligation to pay negative price differences between two zones. Though this creates **a higher financial risk, there is a positive effect on revenues, due to lower auction prices**.
There is a **counterparty risk exposure with FTR obligations due to possible defaults of payments**.

A **CfD provides also a complete hedge for a market participant** aiming to hedge his positions. Additionally, two CfDs (one sell and one buy) will give a complete hedge for market participants between two market areas as long as they have a physical position in both markets.

2.5 Questions

This consultation aims at identifying which forward risk-hedging products are best suited to implement the provisions in the CACM Framework Guidelines as well as any other products that might be implemented.

[6] A margin call occurs when the balance of the trading account falls below the maintenance margin (capital required to open one position). This is set in order to limit financial risk in case of a counter party default.

1) Are there other products or options which are not considered in this document that would be worth investigating?

With the achievement of the IEM and more especially with the implementation of the Target Models in the day-ahead (flow-based or ATC market coupling) and the intraday (continuous implicit trading), the forward markets may need to evolve and adapt. Having in mind the above description of the different forward risk-hedging products with their pros and cons, please answer the following questions:

2) What will be the importance of the long-term Target Model and specifically the design of the forward market and the structure of long-term hedging products once the Day-Ahead and Intraday Target Models are implemented? Do you think your interest and demand for long-term hedging products will change (either increase or decrease) with the implementation of the Day-Ahead and Intraday Target Models? More specifically, what is your interest in cross-border/zone hedging?

3) Would long-term hedging markets need to evolve (e.g. in terms of structure, products, liquidity, harmonisation, etc.) due to the implementation of: 1) the day-ahead market coupling, 2) day-ahead flow-based capacity calculation and 3) occasional redefinition of zones? If so, please describe how these changes would influence your hedging needs and strategy. If no evolution seems necessary, please elaborate why. Can you think of any striking change not considered here?

4) What is for you the most suitable Long-Term Target Model (combination of energy forwards and transmission products) that would enable efficient and effective long term hedging? What would be the prerequisites (with respect to the e.g. regulatory, financial, technical, operational framework) to enable this market design in Europe? Which criteria would you use to assess the best market design to hedge long-term positions in the market (e.g. operability, implementation costs, liquidity, efficiency…)?

5) What techniques of market manipulation or "gaming" could be associated with the various market for hedging products? What measures could in your view help prevent such behaviour?

3 Harmonisation of long-term (forward) capacity allocation rules

In order to progress on the harmonisation of long term allocation rules (the first area of work identified in the cross-regional roadmap on long term transmission rights), NRAs compared the different sets of allocation rules currently in use with the CACM Framework Guidelines. The outcome of this comparison exercise is a list of requirements, i.e. the "wish-list" presented in Annex 1 below, which the single European set of rules to come into force by 2014 should comply with.

The requirements are listed according to the structure of the Harmonised Auctions Rules[7] (HAR) implemented in the Central-West and Central-South regions and Switzerland, as this is the first multi-regional set of auction rules and the most in line with the CACM Framework Guidelines.

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7 http://www.casc.eu/media/pdf/Harmonized%20Auction%20Rules%20Doc/Rules%20for%20Capacity%20Allocation%20by%20Explicit%20Auctions_V1%200_CWE%20CSE%20and%20Switzerland.pdf

3.1 Questions regarding the wish-list

6) Would you like to change, add or delete points in this wish-list? If so, please indicate why and how.

7) Which aspects of auction rules would be most valuable to be harmonised? Can you provide some concrete examples (what, when, where) of how this could help your commercial operation (e.g. lowering the transaction costs)?

8) Which elements of auction rules have regional, country specific aspects, which should not be harmonised?

9) Which aspects should be harmonised in binding codes?

10) If you are to trade from the Iberian Peninsula to the Nordic region and there existed PTRs with UIOSI, FTR Options or Obligations and CfDs in different regions – what obstacles, if any, would you face? How would you deal with them?

3.2 Questions regarding potential additional requirements

Capacity calculation and allocation method

In some parts of Europe, for each border/cable and product, there are two (one for each direction) long-term capacity auctions organised in a sequential manner. As an alternative, simultaneous auctions could be introduced by allocating long-term products on different borders/zones at the same time (examples: CAO auctions or PJM's Simultaneous Feasibility Test). Furthermore, in line with the CACM Framework Guidelines' requirements that capacity calculation for long term timeframes shall be compatible with the adopted short term capacity calculation, long term products could (similar to the flow-based method) provide for capacities that are interdependent i.e. allocating more capacity on borders with higher bid prices and thus optimising the overall social welfare.

11) Would allocating the products at the same time represent an improvement for market players? Why? Where, if not everywhere, and under which conditions?

12) How important is it that capacity calculation for the long-term timeframe is compatible and/or consistent with the short-term capacity calculation and that capacity is interdependent and optimised across different borders?

Products

The following questions are relevant for both the current situation and once the Day-Ahead and Intraday Target Models are implemented. Whenever you think it is worth to distinguish between both situations, please do so.

Currently, transmission rights are usually allocated yearly and monthly, but other delivery periods exist on some borders. In addition, the available underlying transmission capacity is split between the different allocation timeframes, according to specific splitting rules.

13) Please indicate the importance of availability of different hedging products with respect to their delivery period (e.g. multi-year, year, semester, season) for efficient hedging against price differential between bidding zones. What do you think of multiple-year products in particular?

14) What would be your preferred splitting of available interconnection capacity between the different timeframes of forward hedging products? Which criteria should drive the splitting between timeframes of forward hedging products?

On some borders, long-term products are offered with planned unavailability periods (because of maintenance work or structural change in the load/generation scheme) or for specific hours (peak and off-peak).

15) While products with planned unavailability cannot be standardised and harmonised throughout Europe, they enable TSOs to offer more long-term capacity on average than standardised and harmonised products would allow. Do you think these products should be kept in the future and, if so, how could they be improved?

16) Products for specific hours reflect market participants' needs. What should drive the decision to implement such products? How should the available capacity be split between such products and base load ones in the long-term timeframe?

Secondary market

In recent years, some market participants and stakeholder associations have been arguing that TSOs should have the possibility to buy back already allocated long-term capacity whenever a problem is foreseen on the grid. This could be seen as a preventive measure and in case a reduction would occur, capacity holders would be impacted to a lesser extent or not impacted at all.

17) Should this possibility be investigated and why (please provide pros and cons)? In case you favour this possibility, how should this buyback be organised?

Nomination

Nomination is not dealt within the auction rules as they focus on allocation and not on the use of cross-border capacity.

18) With the potential evolution from PTRs with UIOSI to FTR options, does the removal of the nomination process constitute a problem for you? If so, why and on which borders, if not on all of them?

19) How could the potential evolution from PTRs with UIOSI to FTRs on border(s) you are active impact your current long-term hedging strategy?

20) If nomination possibility exists only on some borders (in case of wide FTRs implementation), is it worth for TSOs to work on harmonising the nomination rules and procedures? If so, should this harmonisation consider both the contractual and technical side? How important is such harmonisation for your commercial operation? Which aspects are the most crucial to be harmonised?

Auction Platforms

As considered in CACM Framework Guidelines and the Cross-Regional Roadmap for the long-term timeframe, a European platform for the allocation of long-term transmission rights must be implemented. Stakeholders' opinions on the existing solutions and on the possible way this European platform could be set and operated are of utmost interest.

21) Looking at the current features offered by the different auction platforms (e.g. CASC.EU, CAO, individual TSO systems) and financial market platforms in Europe, what are the main advantages and weaknesses of each of them?

22) How do you think the single auction platform required by the CACM Framework Guidelines should be established and organised?
    - How do you see the management of a transitional phase from regional platforms to the single EU platform?
    - Should current regional platforms merge via a voluntary process or should a procurement procedure be organised at European Union level (and by whom)?
    - Should the Network Code on Forward Markets define a deadline for the establishment of the single European platform? If so, what would be a desirable and realistic date?

ANNEX: ACER "wish-list" for further harmonisation of auction rules for Long-Term Transmission Rights:

Background

This wish-list is the result of:

- a benchmarking exercise of existing auction rules in Europe, which aimed at identifying the best practices;
- a comparison of existing auction rules with the requirements set in the CACM Framework Guidelines.

The outcome of this work is a list of requirements, which the single European set of rules to come into force by 2014 should comply with.

As agreed in the cross-regional roadmap, these requirements follow the structure of the HAR implemented in the Central-West and Central-South regions and Switzerland, as this is the first multi-regional set of auction rules and the most in line with the CACM Framework Guidelines.

General

- **Scope**

Point 4.1 of the CACM Framework Guidelines states that "The CACM Network Code(s) shall also foresee a harmonised set of rules for borders where PTRs with UIOSI are applied and a harmonised set of rules for borders where FTRs are applied. The CACM Network Code(s) shall require that the TSOs provide a single platform (single point of contact) for the allocation of long-term transmission rights (PTR and FTR) at European level. As a transitional arrangement, regional platforms may operate, as long as this does not hamper the improvement and harmonisation of allocation rules".

The "European Rules for Long Term Capacity Allocation" (hereinafter referred to as "European LT Rules") to be developed are mainly aimed at setting harmonised rules for annual and monthly transmission right auctions, but they could also apply to multiannual, quarterly, seasonal or weekly products where relevant. The allocated products covered within those rules could be PTRs with UIOSI, FTRs option or FTRs obligation. The rules might also describe an auction mechanism in the day-ahead timeframe either in case no market coupling is implemented yet or as a fallback solution.

The new "European LT Rules" shall be governed by and construed in accordance with the laws of the Member State where the allocation platform is registered, as well as EU law. In case different platforms operate long-term transmission right auctions, the structure may be different but should contain the same features.

The "European LT Rules" shall be implemented on all borders where PTRs or FTRs option are/will be implemented, i.e. at least on the borders of the Central-West, Central East, France-UK-Ireland and South-West regions, plus the Denmark-Germany interconnections and the interconnections between Hungary, Romania, Bulgaria and Greece and other Members States.

- **Format of Auction Rules**

There shall be no border/country specific annexes. In cases where there are different rules for various borders these rules should be stated in the specific section of the main document and justified.

- **Level of Harmonisation**

In case rules for different regions/borders are not in line, they shall be harmonised as much as possible in order to ensure that only elements of minor importance are subject to differences and key elements allow for the same conditions for market participants across Europe: e.g. deadlines for information sent to market players, roles, tasks, processes, timing for contesting the allocation result. etc. must be harmonised.

- **Auction rules**

It must be clearly stated that the harmonised set of rules are the unique document dealing with long-term transmission rights allocation and only NRAs acting in a coordinated way with the support of the Agency have the power to modify them.

- **Entry into force and consequences**

The European set of rules should enter into force in 2014.

<u>Section II</u>

- **Definitions**

Definitions shall be harmonised. In particular definitions of terms such as “Force Majeure” must be harmonised and in line with the Capacity Allocation and Congestion Management Network Codes. Moreover, a clear distinction with “Emergency situation” must be set.

- **Firmness of held capacity**

In line with the CACM Framework Guidelines, the European set of rules should not discriminate between long-term products when curtailing. Capacity holders shall be compensated for any curtailment except in case of force majeure.

- **Firmness of exchange programs**

According to the CACM Framework Guidelines, the capacity is firm for market participants. It is also stated that after the nomination deadline, the physical firmness is the preferred approach. The harmonised set of rules should define when held capacity, whether PTRs or FTRs option, becomes fully firm and which firmness applies.

- **Fallback**

Where NRAs at regional level so agree, explicit auctions may constitute a fallback solution in case market coupling cannot take place as usual. Shadow auctions described in HAR constitute an example. Where applied, this fallback solution should be harmonised.

<u>Section III</u>

- **Entitlement**

There must be a single process with the same requirements to get participants entitled to participate in the Auctions and/or in the Secondary Market.

The process must also describe the requirements for market participants only interested in secondary market (transfer) or in fallback mode (explicit auctions in day-ahead)

- **Secondary trading**

The concept of Notice Board within CAO rules (allowing for market parties to express and publish their interest to buy or sell capacity rights) could be extended to other regions as a mean to facilitate transfer between market participants.

- **Suspension and withdrawal of the entitlement**

There must be only one procedure for suspension and for withdrawal. In the same way, consequences of suspension or withdrawal must be harmonised.

<u>Section IV</u>

- **Fallback mode of yearly and monthly auctions**

It is important to harmonise existing fallback mechanisms already in place when auctions cannot take place under standard conditions.

<u>Section V</u>

- **Contestation period**

A contestation period should be included in the harmonised set of rules in order to allow market participants to check auction results.

<u>Section VI</u>

- **Resale**

The harmonised set of rules must implement all existing resale possibilities to facilitate secondary trading, such as the possibility for a market player to sell back at a monthly auction all or part of its yearly product, unless this is proven not to be necessary.

It is also important that a fallback solution exists for the secondary trading.

<u>Section VII</u>

- **Nomination agents**

The possibility for a capacity holder to delegate the nomination task to another entity must be part of the harmonised set of rules where nominations rules do not enable it.

Section VIII

- **Characteristics of unused Programming Authorisations**

In line with the CACM Framework Guidelines, PTRs should be defined as options and subject to UIOSI.

Section IX

- **Valuation of Reductions in Held Capacities and of Cancellation of an Auction after the end of the Contestation Period**

The CACM Framework Guidelines state that, except in the case of Force Majeure, capacity holders shall be compensated for any curtailment. Compensation shall generally be equal to the price difference between the concerned zones in the relevant time frame. As a derogation to the general compensation rule, caps could be introduced. Moreover, until the introduction of market coupling, alternative compensation arrangements may apply as a transitional measure.

Finally, in case of an auction cancellation after the end of the contestation period, a compensation scheme such as the one described in HAR must be implemented.

- **Issuance of invoice and self-billing**

The self-billing principle as described in article 9.03 of the Harmonised Auction Rules appears as an improvement for market participants and therefore it should be included in the harmonised set of rules.

- **Payment deposit**

The concept of payment deposits is in place in some regions, but the way to compute the credit limit may differ such as taking into account taxes or UIOSI payment. A single way to compute this value must be described.

- **Recovery of payments**

According to market players' complaints, the current system in place within HAR may be detrimental when buying yearly products, due to the requirements for bank account deposits. Hence, for buying yearly products, the harmonised set of rules should either require 1/12th of the total amount or a bank guarantee of the 2/12th total amount. [Note to the public consultation contributor: your view on these two options is of utmost importance]

In parallel to this change, a dedicated bank account becomes a necessity to participate in auctions. Therefore the concept of "promise of PTRs" currently in place in CAO is no longer needed.

Section X

- **Liability**

One single description of TSOs, auction platform and market participant's liabilities must be set in the European LT rules.

- **Duration and Amendment of Auction Rules**

A single process to amend the harmonised set of rules must be described. However, this process must distinguish between amendments on core issues, i.e. impacting all borders and on extension purpose, i.e. implementation of the rules to new border/region.

ACER

Agency for the Cooperation of Energy Regulators

Publishing date: 29/08/2012

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