

New TSOs amendments to the methodology for Harmonised Allocation Rules for long-term transmission rights

Brussels, 11 May 2023 – The EU Harmonised Allocation rules are going through a series of amendment proposals in the context of their adaptation to future flow-based capacity allocation. We thank ENTSO-E for this new consultation, though we reiterate our request for a review of the flow-based approach to capacity allocation.

While we support the objective to ease collateral requirements in a flow-based context, a consultation on an actual text (with support elements in an Explanatory Document) is required to comply with the TSOs' consultation obligation according to article 6 of the Regulation of Forward Capacity Allocation (FCA Regulation 2016/1719).

Key messages

1. We continue to challenge the value-added of flow-based allocation of transmission capacity in the forward timeframe. Above all, such substantial shift requires a proper assessment of benefits, which still has not been made publicly available.
2. The flow-based allocation approach significantly increases collateral requirements. We welcome the willingness of TSOs to find a solution to decrease this burden and avoid a de-optimisation of the auctions.
3. Without an actual text proposal in the methodology, or an assessment of the practical ability of a cap (and its level) in reducing the collateral burden, we reserve our opinion as to the benefits of this solution. We request the TSOs to come back to market participants with an actual text proposal and assessment.
4. The review of the EU HAR should not be the occasion for TSOs to default on their obligation to guarantee the financial firmness of transmission rights according to the FCA Regulation. Caps on the remuneration of long-term transmission rights (LTTRs) are reserved to cases of curtailment. No specific cap to the remuneration of LTTRs can be legally added for cases of day-ahead market decoupling with the existing legal framework. We also believe this would not make sense economically.

Detailed comments

A review of the flow-based approach to LTTRs allocation is necessary

The implementation of flow-based capacity calculation and allocation creates a major change in forward market design and deserves a thorough assessment of benefits. We have expressed this view on several occasions, pointing out at the downsides of the flow-based approach.

We draw your attention to the EFET response to the ACER consultation on the SAP, CID and FRC amendments for long-term flow-based allocation submitted to ACER on 23 November 2022, which summarises our reservations related to the implementation of flow-based capacity allocation¹.

Reducing the collateral burden in case of flow-based allocation would be essential, but we need an actual text proposal and an assessment of the cap proposal

We thank ENTSO-E for making a proposal on the question of collateral for LTTR auctions. We note, however, that the formalised text proposal on this matter was not included in the new proposed version of the EU HAR dated 1 March, nor that explanation or an assessment were included in the Explanatory Document.

Reducing the collateral burden for market participants will be more than necessary should the flow-based auction go ahead. As a reminder, the risk here is that, with a single pan-European (or regional) auction, bidding is de-optimised because of collateral constraints, which would not be acceptable.

While we are positive about the intention of ENTSO-E to find a solution to reduce the collateral burden brought about by the flow-based auction, it is unclear:

- what the benefits and drawbacks of **a cap** on the existing collateral requirements are
- what the effects of **the cap methodology** (incl. its level) will be in actually reducing the collateral burden.

Some thoughts on the current proposal, still: it seems clear that looking at day-ahead spreads as a basis for the cap does not make much sense. The cap should be set according to forward spreads observed as close to the auction as possible.

¹ [EFET response to ACER consultation on Flow based capacity calculation and allocation amendments, November 2022](#)

We are also concerned about the stricter rules dealing with the case of one market participant defaulting. Market participants should not be held liable for the default of another JAO user, since they cannot control the defaulting party's behaviour.

In any case, EFET reserves its opinion on the ENTSO-E questions until:

1. **ENTSO-E provides an assessment** of how the proposed cap and methodology would effectively decrease collateral volumes for market participants, and
2. **ENTSO-E provides an actual text proposal** to market participants and consults them on it before submitting their new methodology to ACER

This will be necessary for us to provide a clear view on the proposal – and for ENTSO-E to truly comply with their consultation obligations under the FCA Regulation.

Altered auction timings still need fine-tuning

We welcome the extended time between the publication of provisional auction specification and the end of the bidding period for monthly auctions in article 29.3.I, from 2 working days at a minimum now to 12 minimum in the future. The explanatory document mentions that this change has been proposed for ATC as well, but this is not reflected on the text of article 29.2.I.

Article 29.3.III outlines the information on the offered capacity that will be made public before the auction in the flow-based approach. This is limited to Min/Max Exchanges (MinBex/MaxBex), and Min/Max Net Positions. There is no clear definition of these parameters nor a reference to the methodology that defines them, in particular with respect to the flow-based allocation approach. It is not clear if such information is provided per border, or per source-sink.

EFET considers that the full list of required data (as listed in the CORE LT CCM, article 20.1, referring to article 3f of the FCA regulation) should be published prior to the auction. Clarity should be given on how this information will be published and where. We consider that the provisions in the HAR on transparency should at least refer to the list of parameters defined in the relevant CCMs.

The financial firmness of LTTRs should be maintained even in case of day-ahead market decoupling

We consider this matter of crucial importance. Amending the financial firmness of transmission rights in the EU HAR would require a legal basis in the FCA Regulation. However, article 35 FCA Regulation is crystal clear: LTTRs are remunerated at the DA market spread when day-ahead market coupling is in place at a given border, whether the allocation actually occurred implicitly or via a fallback process. The sole exemption to this

principle of financial firmness is in article 54 FCA Regulation, which allows caps on LTTR compensation – not remuneration – only applies to curtailed LTTRs.)

The case of decoupling being explicitly foreseen in the FCA Regulation, and still providing remuneration of LTTRs at DA market spread, **the new article 49 proposed by ENTSO-E is not compliant with the FCA Regulation.**

Aside from its unlawfulness, we also believe that this measure makes no economic sense, as mentioned at previous occasions. For such a significant departure from the well-established principle of financial firmness of LTTRs, we would expect the TSOs to properly assess and demonstrate:

- a) **the necessity of the proposed measure:** i.e. that the existing remuneration rules put an unsustainable financial burden on the TSOs even with a few rare days of decoupling;
- b) **the proportionality of the proposed measure:** i.e. that a modification of the remuneration rules does not have a detrimental impact on the allocation of LTTRs and their value, and eventually improves social welfare.

Regarding point (a) on the necessity of the measure, the TSOs changed their narrative on the remuneration of LTTR at the DA market spread in case of decoupling from a question of “overcompensation” (2022) to a question of “fairness and level-playing field between market participants and tariff payers”. A few thoughts around that:

- "Tariff payers" are consumers, which do not only pay tariffs, but also energy. The question of fairness should hence not only look at what could be saved on the tariffs part of an electricity bill from lower remuneration of transmission rights, but what could be lost on the energy part of the electricity bill from higher cost of trading linked to lower firmness of transmission rights (see point b).
- The discussion of tariffs themselves fundamentally boils down to the original argument of the TSOs claiming that full financial firmness of transmission rights even in case of decoupling leads to an unbearable financial burden for TSOs, that is then passed through tariffs onto consumers. As we are lacking information on TSOs congestion rent (either aggregated or per border) as well as on payouts to LTTR holders, the only numbers that we had at hand to perform some type of analysis – despite repeated requests – are those presented by the TSOs at the MESC and Florence Forum meetings of the spring of 2021. When reverse-engineering these numbers, we can observe that the LTTR payout on the decoupling event represented:
 - on 07/06/2019: 2,8% of aggregated 2019 EU congestion rent (yearly and monthly LTTRs allocation, excl. DA)
 - on 04/02/2020: 0,9% of aggregated 2020 EU congestion rent (yearly and monthly LTTRs allocation, excl. DA)
 - on 13/01/2021: 2% of aggregated 2021 EU congestion rent (annual LTTRs allocation only, excl. monthly LTTRs and DA)

The data presented by the TSOs shows that LTTR remuneration during days of decoupling was far from reaching the congestion rent they collect in each concerned year, even if looking only at forward allocation revenues (i.e. not taking account of additional transmission revenues from DA).

Regarding point (b) on the proportionality of the measure, we miss an assessment by the TSOs of the effect that their proposed measure may have on the allocation of LTTRs and their value, as well as on social welfare in general:

- The idea that firmness would only be affected in case of decoupling is also misleading: indeed, changing the rules of LTTR remuneration in case of decoupling effectively diminishes the firmness of all LTTRs at the time of allocation, whether or not they are redeemed on a day of decoupling at a later stage, since it cannot be known a year or a month in advance whether decoupling will happen in DA.
- Any change in the LTTR remuneration rules will be accounted for by market participants when they bid in long-term auctions. Hence, any reduction of firmness, in particular for events such as decoupling that market participants are unable to forecast or mitigate, will reduce the overall value they place in LTTRs, and are willing to pay for. This could significantly affect the revenues that TSOs capture from the sale of LTTRs all year round.
- In addition, lower firmness of LTTRs will translate into less ideal hedging opportunities for market participants. All things equal, a lower risk coverage would translate into directly higher costs to hedge a specific risk on the market, costs which will ultimately be passed on to consumers.

Since the start of this discussion in 2021, the TSOs failed to forecast the magnitude of both the loss of revenue from the allocation of diminished LTTRs for all delivery periods, and the increase in the cost of hedging for the market. Whether these side-effects could counteract the objective of the TSOs to reduce payouts to LTTR holders during days of decoupling for the benefit of consumers should have been properly analysed by the TSOs as part of their proportionality assessment.

In conclusion, and in addition to the unlawfulness of the proposal, the TSOs have still not demonstrated that their proposal is either justified or proportionate to the aim they pursue. We request the deletion of this proposed new article 49.

Contact

Arben Kllokoqi
Director for Electricity Market Design
a.kllokoqi@efet.org