

Amendments to the Commission Regulation (EU) Regulation 2015/1222 of 24/07/15 establishing a guideline on Capacity Allocation and Congestion Management

A Eurelectric response paper

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

Dépôt légal: D/2022/12.105/12

Targeted Stakeholder Consultation Paper

Amendments to the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management

Background

The Regulation establishing a Guideline on Capacity Allocation and Congestion Management ('CACM Regulation') is the cornerstone of the European single market for electricity. The CACM Regulation sets the rules for electricity exchanges across EU bidding zones and rules for the market-based electricity wholesale price formation across the EU.

The CACM Regulation was the first EU electricity network code/guideline to be adopted, in 2015. It is now necessary to review it and update it in order to:

1. Align it with new provisions introduced in the Electricity Regulation (EU) 2019/943 through the Clean Energy Package;
2. Address some issues identified during the implementation of the guideline so far, with the aim of improving the functioning of the pan-EU electricity market (single day-ahead coupling and single intraday coupling) and the current and future implementation process.

In order to keep consistency between the different electricity guidelines, the changes in the CACM Regulation also require to update some related articles in the Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation.

Following a request of the Commission, the European Union Agency for the Cooperation of Energy Regulators (ACER) has issued a recommendation¹ on reasoned proposals for amendments to the CACM Regulation, addressing the issues above. The Commission will prepare a proposal for a recast of the CACM Regulation based on ACER recommendation and its own analysis.

The objective of this consultation is therefore to gather factual information, knowledge and perception about the ACER proposal, in order to decide if some of the points of the proposal need to be modified, or additional requirements need to be included/update

¹ RECOMMENDATION No 02/2021 OF THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS of 17 December 2021 on reasoned proposals for amendments to the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management

Please provide feedback only on the questions that are relevant for you; questions can be left blank.

The questions follow the structure of the new CACM draft text as proposed by ACER in its recommendation (and the numbering of articles in this proposal) and target some specific points.

Title I – General provisions

1. While in the original CACM the market coupling was based on exchange of electricity across bidding zones, ACER proposal is based on exchanges of electricity between Nominated Electricity Market Operator (NEMO) trading hubs. ACER concludes that this would make it easier for individual NEMOs in the market to get access to market coupling as they would no longer need to agree on separate multi-NEMO arrangements (MNA) with existing NEMOs/TSOs in a bidding zone. Do you agree with this approach and the stated benefits? If not, why?

Main goal of any cooperation between NEMOs and TSOs in market coupling shall be efficient capacity allocation. We are not sure how this proposal would lead to any improvement in this regard. Benefits are actually unclear to us. More explanation and discussion on this are needed (we miss an explanation in the ACER reasoning document).

2. Publication of information and transparency: do you consider the new article 8 sufficient to address current transparency concerns? Would you see further aspects to tackle or data to be published?

Eurelectric welcomes the addition of Article 8 dedicated to the publication of information, which is an improvement in terms of transparency in CACM GL. However, we regret that some information has been removed from paragraph (3) with respect to ACER's proposal of April 2021.

We ask for the following modifications in Article 8(3):

- Add a point in (3)(a): "capacity calculation inputs and for common grid models at least on a representative set of market time units"
- Add a point in (3)(a): "planned and ordered costly and non-costly remedial actions"
- Modify (3)(b)(iv): "aggregated bid/offer order curves with executed volumes and prices, including all executed orders (including blocks, both simple and complex), for each bidding zone"
- Modify (3)(b)(v): "aggregated information on the volume and the price of the paradoxically accepted and paradoxically rejected orders for each bidding zones"
- Add a point (3)(b)(vi): "after the orders are matched, all the blocks with their status of execution and prices and all their characteristics".

In addition, to be more precise, we ask for the addition of a paragraph in Article 8 saying that: “All these information provided should be made available in an easily accessible format for at least 5 years”.

It should be considered whether the publication of aggregated bid/offer curves and of information on executed orders in some bidding zones is likely to cause competition issues. If this leads to a reduced level of transparency, Eurelectric highlights that this may have an impact in terms of efficiency and should be considered as a criterion of the bidding zone review.

3. Do you have any other comments on Title I – General Provisions?

a. Comments on Whereas

In line with our position to **consider the continuous trading as the main solution and the target model for intraday market**, Eurelectric would prefer that Whereas (9) uses the same formulation as the one in Article 16(5) of Electricity Regulation for the introduction of intraday auctions (“For intraday trade, continuous trading, which may be complemented by auctions, shall be used.”). Hence, we ask for the following change in Whereas (9): “for the intraday coupling, the process consists of continuous process trading which may be complemented by ~~several auctions throughout the day~~”.

Related to our concerns related to a missing stakeholder involvement in the MCO governance, **we request the addition of a Whereas on the objectives to be pursued by the MCO function with respect to market participants’ needs in the context of increasing challenges to be dealt by the market coupling algorithms:** “The MCO function must enforce all available resources and solutions to meet the needs of market participants in terms of functionalities and necessary products to be accommodated by market coupling algorithms in order to ensure an efficient price formation. This adequacy with the needs of the market must be done to the extent that this does not limit the performance of the algorithm. Decisions on prioritization or non-implementation of functionalities must be justified in a transparent manner and the needs and opinions of market participants must be taken into account through the establishment of a permanent forum dedicated to market coupling”.

In addition, following our request on the accommodation of products by the market coupling algorithms, we ask for the following change in Whereas (8): “8. [...] Single day-ahead and intraday coupling ensures that electricity flows from low- price to high- price areas and should be designed in a manner that allows for its application or extension across the entire Union, for the mandatory accommodation of existing, both simple and complex, products when traded in a sufficient number of Members States and for the development of future new product types.”

Finally, we propose to introduce a Whereas to frame the key principles of CACM GL applicable concerning third countries.

“Capacity calculation for the day-ahead and intraday market timeframes in the Union and capacity calculation at the borders with third countries mutually influence each other. The Union, Member States and TSOs of a capacity calculation region should therefore aim for a coordinated capacity calculation, allocation and congestion management process with third countries, in particular for third countries with a high level of physical interconnection with EU countries and/or belonging to a same synchronous area as EU countries. ENTSO for Electricity should facilitate cooperation between Union TSOs and third country TSOs in this regard.”

b. Comments on Article 2 (Definitions)

In general, we would like to note that we are very skeptical regarding the possibility to introduce non-uniform pricing in the algorithms, cf. our answer to question 21. Yet, should it be introduced, we ask for the following changes regarding the definitions related to non-uniform pricing:

- Clear definitions of uniform and non-uniform pricing – should it be introduced – are needed. Indeed, those concepts are not yet defined in any other EU regulations or methodologies. Whereas we understand that uniform pricing only uses the principle of marginal pricing according to which all accepted bids received the same price; it should be clarified that under the non-uniform mechanism, paradoxically accepted bids will be remunerated in pay-as-bid while all other bids will be remunerated with the marginal price. **The pricing mechanism is the cornerstone of the EU DA and ID market coupling resulting in price formation, so a absence of definition it is not acceptable.**
- We request a change in the new definition of the “reference clearing price”: “‘reference clearing price’ means a single price per bidding zone determined by matching the highest accepted selling order and the lowest accepted buying order ~~and if orders are paradoxically accepted they shall be excluded from this determination~~”. Indeed, following our best understanding, the reference price should be determined including the paradoxically accepted orders as well, if there are some. It should be the output of the algorithm and not obtained through a second determination phase. Otherwise, this definition, which is linked to the introduction of non-uniform pricing, requires further clarifications.
- We request a clarification in the new definition of the “side payment” linked to the introduction of non-uniform pricing: “‘side payment’ means a payment paid by the MCO function to a market participant for a matched order which is paradoxically accepted given the reference clearing price to ensure that it does not incur losses.”

Title II – Organisation of market coupling and of capacity calculation

Chapter 1 – designation of NEMOs

4. Do you consider the review of national legal monopolies proposed in article 11 a necessary/sufficient measure? Which alternatives would you see?

We believe that the measures suggested by ACER are sufficient at this stage.

Chapter 2 – Market coupling governance and organisation

5. The article 13 sets that NEMOs together with TSOs shall establish a joint decision-making body, taking decisions related to the management of the integrated single day- ahead and intraday coupling based on the qualified majority voting rules set in article
4. Do you see any risks or inadequacies to this proposal? If so, what alternative/improvement would you suggest?

Eurelectric welcomes the proposal for a decision based on qualified majority in MCO governance, that will probably facilitate the decision making and avoid blocking votes as it may happen when it is a decision on the basis on unanimity. Joint decision-making body shall take due account also (in addition to the feedback received via public consultation) of suggestions and needs of market participants made via the permanent forum established pursuant to Article 5.

6. The article 14 provides for the establishment of a single legal entity performing the MCO tasks. In your view, what would be the challenges and conditions for a successful set-up? Do you have any suggestions to improve the current proposal (for example in terms of accountability/liability of the entity, regulatory oversight, efficient and effective decision making, etc.)?

We take note that the option with the centralized MCO single entity is proposed by ACER and that the deadline for implementation has been set five years after the entry into force of new CACM GL. Eurelectric considers this as the most disruptive option.

We would like to stress that the ACER public consultation in 2021 has shown major disagreements from all stakeholders and very low interest for this topic.

There is a high risk that the required changes jeopardize the existing processes and the CACM development/implementation projects for the coming years. Some principles in the options proposed by ACER on unbundling of entities in the MCO function can require structural changes, which could mobilize the resources that are needed to deliver the improvements in market coupling scheduled in the very next years. Our main priority is that any change of governance should not delay further the implementation in progress of the algorithms used by the MCO and lead not to any step back of MCO functionalities for market parties.

In addition, the associated transition costs would weigh on market participants and end-consumers, which is highly undesirable.

7. If no single legal entity were set up, would you have further proposals to improve the current governance framework (including current voluntary set up), and strengthen effectiveness of the decision making process?

As mentioned before, we favor to put efforts on the improvement of the current governance framework, rather than implementing a fully new governance set-up.

a. Improvements on stakeholder involvement

Eurelectric recalls that market participants have been so far excluded from the MCO governance. **CACM GL should mandate that the interests and constraints of all users of the electricity system should be considered in the decisions related with the MCO function**, which should not favor some stakeholders to the detriment of others.

Even though the MCO organization already involves stakeholders in terms of reporting and information, e.g. through the regular Market European Stakeholder Committees (MESCC) meetings, it is necessary to go further with the participation of representatives of the market participants in the MCO governance.

The establishment of the NEMOs and TSOs joint decision-making body should be complemented by more transparency on MCO topics and a proper involvement of market participants. Representatives of market participants should be associated to strategic decisions related with the MCO function given the challenge due to algorithm performance and the choices that all NEMOs and TSOs might have to make for purposes of simplification or prioritization.

The establishment of the Market Coupling Consultative Group by all NEMOs and TSOs planned to be launched in 2022 in support to their Market Coupling Steering Committee, is already a good initiative in this direction.

On this subject, Eurelectric welcomes the addition of paragraph 2 in Article 5 (Stakeholder involvement) but requests some modifications to better represent market participants' needs and responsibilities with respect to market coupling operations. We ask the following change in paragraph 2 of Article 5: "All NEMOs and all TSOs shall establish a permanent forum to involving stakeholders and market participants in issues related dedicated to the design, implementation, development and operation of the single day-ahead and intraday coupling having direct impact on them. This shall not replace the stakeholder consultations in accordance with Article 6. All NEMOs and all TSOs shall duly take into account market participants views, inputs and needs expressed during these forums in addition to the stakeholder consultations."

b. Improvements on transparency

Eurelectric globally welcomes ACER's proposals on transparency requirements towards the joint decision-making body foreseen to Article 13(3) and Article 17 (Annual work program) but believes provisions could be improved:

- Detailed and explanatory minutes (and not only a summary) of the joint decision-making body meetings and also of the permanent forums shall be published.

- The annual work program of the joint decision-making body should be published for consultation to market parties (while protecting sensitive business information).
- ACER's request to amend this annual work program shall take into account the views of market participants expressed in this consultation as well as in the permanent forum established pursuant to Article 5(2).

c. Other comment

Eurelectric agrees that NEMOs' competitive activities should not interfere with MCO activities and expects a better cooperation among NEMOs for the benefit of the efficient functioning of the market.

8. Article 16 proposes a framework for a NEMO of last resort in case no NEMO is operating in a bidding zone: Would you suggest other alternatives?

According to Eurelectric, MCO performing the role of last resort NEMO is not appropriate since MCO function should be targeted on the regulated activities and should not develop and operate NEMO functions which are to be managed in a competitive framework. From a global welfare perspective, the solution with an entity selected through a competitive tender is the right option for choosing the last resort service provider.

9. Do you have any suggestions on how regulatory oversight can be further improved, in order to ensure a smooth and efficient development of the market coupling?

No additional comment

Chapter 3 – MCO tasks and responsibilities

10. Do you agree with the proposed definition of tasks and responsibilities, and their assignment to the different entities? If not, what would you change and why?

Globally, Eurelectric welcomes the improvements made in CACM GL in the definition of tasks for MCO(s), NEMOs and TSOs, as well as the details provided for MCO plan, development, and organization.

In addition, we would like to stress that in any case:

- MCO tasks are to be covered by TSOs (RCCs) and regulated activities of NEMOs;
- competitive activities of NEMOs should not interfere with MCO tasks.

In Article 18 (MCO tasks), we do not agree with MCO performing the co-optimized allocation process pursuant to Article 40 of Electricity Balancing GL. This process has not been approved for implementation and its benefits remain unclear, in particular the willingness of TSOs' to use it. Given the level of complexity it introduces

as well as major impacts it might have on the SDAC, it should be conditioned to a positive cost-benefit analysis. It may be left as an option, but not as a compulsory requirement. Hence, we propose the following modification on Article 18(2)(i): “Performing the co-optimized allocation process pursuant to Article 40 of the Regulation (EU) 2017/2195, conditioned to a positive cost-benefit analysis to be published for consultation of market participants.”.

Chapter 4 – Costs

11. Do you consider the new methodology on eligible costs of MCO and joint decision making body will increase transparency and help to improve the current cost sharing/cost recovery process? Do you have suggestions for improvement?

No comment

12. Do you detect any risks in the current cost sharing/recovery provisions, or have any suggestions for improvement?

No comment

13. Do you have any other comments on Title II- Organisation of market coupling and of capacity calculation?

No additional comment

Title III – Capacity calculation

Chapter 1 – General requirements

14. Do you agree with ACER’s reasoning and necessity for allowing some specific bidding zone borders to be in two Capacity Calculation Regions (CCRs)? If not, why and which alternative do you propose to solve the underlying problems?

No comment

Chapter 2 – Capacity calculation methodologies and Chapter 3 – Capacity calculation process

15. The Electricity Regulation 2019/943 (article 16(8)) requires that a minimum target apply to capacity calculation timeframes covered by CACM Regulation, which means day-ahead and intraday market coupling: Which

solution do you propose to solve any issue related to the implementation of this target across these timeframes?

In ACER proposal, Article 26(3) of CACM GL related to Article 16(8) of Electricity Regulation reads: “The capacity calculation methodology shall transpose the requirements regarding the minimum level of available capacity for cross-zonal trade pursuant to Article 16(8) of Regulation 2019/943, without prejudice to the action plans pursuant to Article 15 of Regulation 2019/943 or the derogations granted by the regulatory authorities pursuant to Article 16(9) of Regulation 2019/943.”

Eurelectric accepts this formulation which simply refers to Electricity Regulation.

Concerning the application of the 70% MACZT in a mandatory way in the ID timeframe in addition to the application for the DA market coupling, Eurelectric would like to stress that the starting point of our concern is that the application of 70% MACZT may lead to situations where TSOs need to implement countertrading or cross-border redispatching as remedial actions to secure system operations. Yet, there are multiple ways to manage such remedial actions in ID, that is after the DA market clearing. Eurelectric supports the two following principles.

a. On the time when TSOs should order RDCT

Eurelectric stresses that this principle of compliance with Article 16(8) of Regulation 2019/943 introduced in CACM should not impede TSOs to trigger the remedial actions necessary to maintain the transmission system efficiently within operational security limits.

b. On the consideration of RDCT in capacity calculation versus the application of 70% in intraday

After the Regional Operational Security Coordination process, there might be an ID calculation of cross-zonal capacity, in which there are different ways to consider planned and ordered RDCT. From Eurelectric’s perspective, we should avoid a “ping pong” effect, where the exchange schedules set based on the DA market clearing point would be rescheduled thanks to the application of RDCT, and subsequently the cross-zonal capacity re-allocated during the ID market timeframe. In this regard, Eurelectric calls for a consistent approach across the main steps of capacity process in ID:

- Common Grid Model definition;
- NTC (or FB domain) calculation;
- ATC calculation

In the framework of CACM revision, Eurelectric supports the inclusion in the CGM of the remedial actions planned and ordered in order to meet with the 70% threshold in Article 26(3) of the amended CACM regulation. This is also useful to capacity calculation on other borders. However, this inclusion should not lead to “new” capacity made available to commercial trades that would create the same congestion as in DA for which remedial actions have been planned and ordered (cf. “ping-pong” effect). If the ID capacity calculation includes a measure to force 70%

MACZT, then the ordered RDCT should be discarded at the stage of the available cross-zonal exchange capacity calculation.

16. In article 27 and 32, option 1 seeks to better align flow-based and coordinated NTC methodologies. ACER concludes that this would improve transparency, reporting and monitoring of 70% requirements. Do you see any risk in this approach?

ACER provides a good understanding of the two options (see CACM GL reasoning in the Appendix, the Table 2 detailing the cNTC based approach with option 1 or 2). These options are about the way 70% threshold is taken in the cNTC-based calculation procedure.

In Article 27 (Reliability margin methodology), we prefer option 2 by keeping the existing way of representing the reliability margin (calculation of reliability margin per border for the cNTC approach, and per critical network element for the flow-based approach).

In Article 32 (Regional calculation of cross-zonal capacity), Eurelectric finds that option 1 aims at providing a very high level of transparency and oversight over internal network management in CCRs with cNTC (that could make sense in view of capacity calculation harmonization), but we believe that the level of analysis might be too detailed. Eurelectric prefers option 2 since it is like a status quo with a reference to the 70% rule and this allows capacity calculation to remain adapted to regional specifics.

Third countries

17. Under which conditions the flows resulting from capacity calculation and allocation with third countries could be counted within the 70% of minimum capacity of critical network elements that needs to be offered to the market? Please motivate your response: why and under which conditions?

We recommend both ACER and EC to grasp the reality of a network not bound by EU borders, in particular for countries with a high level of physical interconnection with EU countries and/or which are part of the same synchronous area as EU countries and whose transmission networks may be used as physical power corridors for EU Member States, such as Switzerland.

We agree with the ACER's request to EC on this topic, cf. CACM GL reasoning points (106), (107) and (112). Beyond political issues and as matter of market efficiency and operational security, we call for the definition of a dedicated framework for third countries in the frame of the CACM Regulation revision, notably regarding coordinated capacity calculation process and congestion management.

Eurelectric asks the European Commission to

- ensure that the flows between third countries and EU countries are taken into account in a non-discriminatory way in the cross-zonal capacity calculation process and recognize flows resulting from exchanges with third countries as counting towards the 70% target for capacity available for cross-border trade in the Electricity Regulation Art. 16(8);
- ensure that the limiting elements from third countries are taken into account in the capacity calculation with adjacent capacity calculation regions.

If flows are not taken into account, this would make it even more difficult to respect the 70% threshold on the borders with third countries. Indeed, more virtual capacity would be needed to respect the 70% threshold because cross-border flows with those countries would not be taken in the MACZT, and this would require the use of more corrective measures to ensure the physical feasibility of these commercial flows.

In addition, in case of third countries with a high level of interconnections with EU countries, third country flows which are not taken into account could lead to social welfare losses for EU Member States (in the case of capacity reductions used to ensure 70% compliance but affecting transit flows). A cost benefit analysis on this matter could lay a common quantitative ground in order to assess the social welfare variation on EU Member States. Finally, scenarios of exclusion of third country flows could also lead to introduce a risk on security of supply for specific EU Member States, and this risk should be quantitatively assessed.

Finally, Eurelectric would like to point out that according to the Electricity Regulation Article 16 (8), 70 % of the transmission capacity (NTC approach) or a margin of 70% set in the capacity calculation process (flow-based approach) respecting operational security limits after deduction of contingencies should be available for flows induced by cross-zonal exchange, whereas 30% can be used for reliability margins, loop flows and internal flows. Within this conclusive list, flows resulting from transactions between an EU member state and a third country belong to the category of cross-zonal flows and should therefore be counted within the 70% MACZT. In contrast, these flows can neither be considered as reliability margin, loop flows nor internal flows.

18. How to ensure proper coordination of capacity calculation and allocation on borders with third countries and that there is no discrimination towards internal EU trade?

According to Eurelectric, the activities to be covered by a proper coordination are:

- i. the consideration of internal network constraints of the third countries for intra-EU capacity calculation,
- ii. the calculation of cross-zonal capacities and congestion rent allocation at borders with third countries,
- iii. the implementation of remedial actions.

A legal basis should be set up for any coordination.

CACM GL should mandate ENTSOE and EU TSOs to coordinate capacity calculation, allocation and congestion management with third countries:

- This is necessary at least for countries in the same synchronous area as EU countries – in consistency with SO GL provisions for a secure system operation – see SO GL Whereas (15) and Article 13, and with Electricity Regulation Whereas (70) and Article 30(d) calling for a close cooperation aiming at the integration of electricity markets and security of supply.
- When a CCR has common borders with a third country, EU Member States' TSOs of this CCR should be mandated to develop and propose agreements setting the basis for their cooperation concerning secure system operation, capacity calculation, allocation and congestion management.
- In line with the existing process for EU CCMs, the corresponding NRAs in the EU should be entitled to approve the requested amendments and agreements and in case of disagreement escalate the decision to ACER.

Eurelectric requests that CACM GL include provisions for the borders with third countries in the capacity calculation and coordinated congestion management process, based on:

- Option 1: a CCR(-like) concept – that is integrating borders between EU countries with third countries in existing CCRs,
- Option 2: bilateral or multi-lateral agreements for borders with third countries.

As a concrete proposal we propose to add directly in Article 26 (Capacity calculation methodology):

“Each capacity calculation region shall consider adjacent third countries in the coordinated capacity calculation process and operational security assessment:

- Option 1: include borders with third countries in existing CCRs;
- Option 2: capacity calculation methodologies to consider third countries critical network element contingencies and flows stemming from third countries.”

And to modify Art. 26(2) as follows: “(b) a detailed description of the capacity calculation approach which shall include the following: [...]

ii. rules for avoiding undue discrimination between internal and cross-zonal exchanges to comply with Article 16(8) of the Regulation 2019/943 taking into account principles set in Article 14(1) and 16(1) of the Regulation 2019/943

iii. rules for avoiding undue discrimination of cross-zonal exchanges on different borders within the same CCR, in different CCR or with third countries”.

On the second part of the question about “discrimination”, Eurelectric would like to stress that:

- These provisions are to be taken without prejudice to EU internal trades;
- On the contrary, not taking into account the flows between third countries and EU countries would have a negative impact on some EU countries as explained above (in particular in link with the application of the 70% target).

19. Do you have any other comments on Title III– capacity calculation?

Under Article 31 (Methodology for remedial actions in capacity calculation), it may be difficult to prove which remedial actions are “indispensable to ensure operational security in real time operation” (cf. point (1)(b)), and which kind of metric will be used to prove this. More transparency and clarity on this provision (which was not present in the first proposal from ACER in 2021) is needed. If it is not further clarified, we do not agree introducing this new provision in Article 31(1)(b).

With regards to Article 29 (Allocation Constraints), Eurelectric calls for an EU methodology to perform the cost-benefit analysis complementing the justification of allocation constraints, as well as an approval by ACER. This methodology, supposed to show that allocation constraints are the economically most efficient measure among all alternatives to address operational security issues should be made available to all market participants of the concerned CCRs.

Hence, we ask for the following addition at the end of Article 29(2): “The cost-benefit analysis methodology has to be based on a generic European methodology validated by the Agency. In addition, the methodology as well as all the prepared CBAs shall be made available to all market participants of the concerned CCRs.”

Title IV – Market coupling

Chapter 1 – Market coupling development

20. Regarding the SDAC and SIDC algorithm, do you agree that the algorithms’ source codes should be published²? Which benefits in particular would you see in the algorithm code publication? Which risks? Do you have any alternative proposals?

Eurelectric welcomes the update of the article dedicated to the Algorithm methodology (Article 41), in particular Eurelectric is very satisfied of the new provision in Article 41(2) concerning the publication of “the source code of each of these algorithms [...] by no later than 3 years after the approval publication of the methodology”. This publication was long overdue by Eurelectric.

This solution will contribute to more transparency on the algorithm that should be auditable, well-documented, fully specified and at the state of the art of available technologies.

However, Eurelectric regrets that the publication of the continuous trading algorithm is conditioned to a positive cost-benefit analysis, which makes no sense. Eurelectric asks to delete this specific condition for the publication of the source code of the continuous trading algorithm (delete the last sentence of Article 41(2)).

21. Regarding algorithm objectives, what are your views on the possibility to introduce non-uniform pricing? Which benefits and drawbacks?

² Subject to a cost-benefit analysis in the case of intraday

Changing the pricing methodology is a critical and a key topic, for which all stakeholders should have been consulted before/separately CACM GL revision. We regret the lack of visibility and market participants' involvement on the topic of non-uniform pricing. Since the ACER consultation on CACM GL in 2021, we have been requesting a dedicated workshop together with a more informed debate and asking for a complete description of the design of this pricing mechanism (which is not defined in any EU regulation or methodology) in particular the way the side-payments would be calibrated and financed and for a state of play of works performed so far (assessment studies with the impact on algorithm performance, on market prices and levels of side-payments). We regret that we have not had any concrete feedback or seen any improvement in terms of transparency on this subject for almost one year now.

Hence, this is very difficult to precisely assess the benefits and drawbacks of non-uniform pricing. Our answer is based on our best understanding based on relevant academic literature and our knowledges about these kinds of mechanisms existing for example in the US markets.

a. On non-uniform pricing as a solution to improve algorithm performance

Eurelectric recognizes of course the challenges raised by SDAC and SIDC algorithm performance in a context where it will have to deal with an increasing complexity. We are thus open to alternative pricing methodologies that would help handling such a complexity while keeping a limited computation time. However:

- Among alternative pricing methodologies, non-uniform pricing model is not the only solution. Other alternative solutions should not be ruled out too rapidly, as for example uniform pricing models with divisible blocks with different acceptance ratio.
- Eurelectric would like to stress that allowing more time for the algorithm runs is another or complementary solution that should be considered too.
- It should be considered to differentiate the solutions chosen for the SDAC and SIDC algorithms, since the algorithm performance (computational time) is a priori much constraining in ID than in DA.
- Guarantees in terms of algorithm performance should be provided if the non-uniform pricing solution were to be developed, in particular, Eurelectric requests the insurance that it will handle an increasing diversity and complexity of products, allowing a better representation, pricing and trading of assets on DA and ID markets.

b. Conditions if non-uniform pricing would be introduced

Should non-uniform pricing be introduced in CACM GL, we ask for some additions and modifications in Article 2 (Definitions): definition of uniform and non-uniform pricing with a link to the marginal pricing principle and modifications in the definition of “reference clearing price” and of “side payment”.

In addition, it should be specified explicitly that side-payments would be financed by the MCO budget, amending Article 38 (1)(d) and (3)(d) as follows “(d) ii. non-uniform pricing mechanism

- a. allowing paradoxically rejected orders; or

- b. allowing paradoxically accepted orders; and
- c. allowing minimal use of side payments paid by the MCO function to compensate the losses of market participants whose orders have been paradoxically accepted.”

Finally, we require that the introduction of non-uniform pricing is explicitly conditioned to a positive cost-benefit analysis and a public consultation having in hand all relevant documents (in particular, assessment studies performed so far).

22. Regarding the suspension of intraday continuous trading during intraday auctions, would you favour suspending all continuous trading (national and cross-zonal) or only cross-zonal continuous trading? Why? Do you have further views on the introduction of intraday auctions?

a. On the interruption duration of ID continuous trading

Eurelectric welcomes the initiative to limit the continuous trading interruptions and to make the distinction between the interruption time dedicated to cross-zonal capacity allocation and ID market coupling. Eurelectric requests a 10-minute maximum interruption dedicated to cross-zonal capacity allocation.

For paragraph (8) in Article 43 (Intraday timings and procedures), Eurelectric thus prefers option 2 since option 1 is too constraining for the continuous trading. Option 2 leaves the possibility for continuous trading in local markets (without cross border exchanges). In case option 2 is retained, it is crucial to adopt the same model in all bidding zones coupled in the intraday timeframe (i.e. all bidding zones allowing national trading).

In addition, Eurelectric requests a change in Article 43(8) to specify the maximum time for interruption: “In order to accommodate intraday auctions, the cross-zonal capacity allocation within the continuous trading for a given market time unit shall be suspended for a limited time period of no more than 10 minutes to prevent parallel cross-zonal capacity allocation in the continuous trading and intraday auctions.”

b. Comments on the introduction of ID auctions

Eurelectric would like to recall that ID auctions have been initially introduced due to an article in CACM GL requiring the pricing of intraday capacity. **In CACM GL, an alternative solution should have been to delete the possibility to price capacity in ID, instead of confirming the possibility of ID auctions.**

Eurelectric still considers continuous trading to be the main solution and the target model for intraday market. Shall ID auctions be introduced, Eurelectric requests that:

- the design of ID auctions preserves continuous ID market liquidity, typically by shortening as much as possible the interruptions of the continuous market.
- the number of ID auctions remains limited and that CACM GL mentions explicitly that there will not be more than three ID auctions at 3 p.m. D-1, 10 p.m. D-1 and 10 a.m. delivery day.

- the same formulation as in Article 16(5) of Electricity Regulation is used.

In Article 36 (General provisions in the Chapter Market coupling development) paragraph 1(b), we ask for the following modification: “single intraday coupling for the intraday timeframe, consisting of:

- i. intraday continuous trading,
- ii. which may be complemented by intraday auctions, with no more than three auctions per day at 3 p.m. D-1, 10 p.m. D-1 and 10 a.m. delivery day”.

Either in Article 36 or in Article 60 (Biennial report on market coupling), Eurelectric requests to add the obligation for a regular review/assessment of the implementation of ID auctions. Such a review should analyze the effects of IDAs in terms of efficiency, cross-zonal capacity allocated, and impact on the liquidity of the continuous SIDC. The assessment should result in the publication of an annual report based on relevant indicators to demonstrate improvements in congestion management and capacity allocation; as well as to challenge the number of auctions. We propose the addition in Article 36: “2. The Agency shall publish an annual monitoring report assessing the implementation and impacts of ID auctions. Such a report shall analyze the effects of IDAs in terms of efficiency, cross-zonal capacity allocated, and impact on the liquidity of the continuous SIDC. The assessment shall result in the publication of a report based on relevant indicators to demonstrate improvements in congestion management and capacity allocation; as well as to challenge the number of auctions. Based on this monitoring report, the Agency may decide to reduce the number of ID auctions or revise the timings of ID auctions.”

Lastly, Eurelectric agrees that in case ID auctions are implemented, complementary regional ID auctions should be prohibited.

23. Would you find it useful to centralize clearing and settlement between NEMO trading hubs (even if there is no single legal entity) and why/why not?(Please note that this refers to clearing and settlement between NEMOs or NEMOs and MCO and not to clearing and settlement between NEMOs and its clients).

No comment

24. Do you have any other comments on Title IV– market coupling?

In Article 38 (Algorithm objectives), Eurelectric welcomes the addition of key principles for DA auctions, continuous trading and ID auctions algorithms but requests more ambitious provisions.

Eurelectric is very concerned of possible step backs on functionalities and services of the algorithms, especially regarding those used in a limited number of Member States (three or more, see below). The priority should be to keep an efficient pricing and trading of the products/assets in the European target models available, providing thus an efficient DA and ID market price formation. In particular, in the self-dispatch model widely used in Europe, optimization under the portfolio-based approach implies the use of complex products as linked, exclusive and loop

block products to provide a good representation of the assets. Their accommodation should remain possible in the future.

Eurelectric considers that the set of complex products already handled by the algorithms is necessary to allow for an efficient price formation, while complying with all specific rules at national level. If current national rules applying to the day-ahead auctions remain, any step back in terms of complex products can harm significantly price formation across Europe and the efficiency of investment and dispatch decisions. On the other hand, we understand that a trade-off has to be found between, on one side a growing complexity to be handled by the algorithms (e.g. 15 minutes ISP) and on the other side, overall simplification allowing to decrease computational time but altering the efficiency of the market to a large extent.

In particular, in Article 38:

- We prefer keeping the initial formulation for algorithm objectives: “The algorithm shall reach ~~have~~ the objective of an optimum solution in terms of maximization of ~~to maximize~~ the economic surplus (...)”
- Eurelectric proposes the following amendment for the scalability principle in (1)(c)(ii) for SDAC, (2)(d)(ii) for continuous trading and (3)(c)(ii) for intraday auctions:
- “respect the [principle of] scalability, meaning that [the algorithms are] able to accommodate all existing and future legally binding requirements while its performance in normal operation is not endangered taking into account all available solutions for improving algorithm performance and/or increasing time dedicated to algorithm runs. Among those requirements, the ability to accommodate any functionality or service when it is used in more than three Member States should be respected.” Indeed, one can either expect better computational resources in the future and/or think about an extension of the time dedicated to the algorithm runs (which is today around 10 minutes for SDAC).
- Eurelectric requests that the algorithms implementation and the development of new functionalities should be conditioned to the demonstration that new releases do not lead to a step back in terms of products traded by more than three Member States. Eurelectric proposes to explicitly introduce this provision in CACM GL by introducing an additional principle of adequacy with market needs for the three algorithms in Article 38:
- “adequacy with market needs, meaning that the new releases of [the algorithms are] able to keep accommodating any functionality or service when it is used in more than three Member States.”

Eurelectric welcomes the update of the article dedicated to the day-ahead and intraday products to be accommodated by the SDAC, continuous trading and ID auction algorithms (Article 39). However, we believe that provisions of Article 39(1) are not sufficient and shall be improved/complemented.

Eurelectric requests the following amendments in Article 39(1): “The day-ahead and intraday products that can be accommodated by the algorithms shall:

- (a) include at least the products covering one market time unit and multiple market time units; and

- (b) cover the needs of market participants to the extent that it does not limit the algorithm performance ensures proper functioning of the algorithms ; and
- (c) include any simple or complex product, when it is traded in more than three Member States".

Title V – Bidding zone review process

In the Commission's view, some further adaptations are needed to this chapter to fully align the CACM text with the bidding zone review process defined in the Electricity regulation.

25. In addition, further clarification could be provided on the process when one Member State intends to review its internal bidding zones or establish a new bidding zone to improve locational price signals. Do you agree and what are the most important considerations in these cases?

Eurelectric does not agree. Electricity Regulation Article 14 and the new version of CACM GL are sufficiently clear concerning the process (launching a bidding zone review and the decision-making process in place). However, some improvements can still be made in terms of implementation timeline, transparency and stakeholder involvement (see as well as our answer to question 27).

First, we would like to recall that Member States prerogative – pursuant to Electricity Regulation – to decide for their bidding zones' configuration is of upmost importance for Eurelectric. European Commission decision to change bidding zone configuration must be limited to the cases mentioned in the Article 14(8) and new borders (if any) should be within the respective Member States. Moreover, before any Member State decision, there must be a public consultation involving all stakeholders of the concerned Member State and an independent study on impacts of such decision. In addition, when reviewing internal bidding zones, the Electricity Regulation foresees that a Member State has to ensure there is no "negligible impact" on its neighbors. One thing that could be precise is the notion of "negligible" impact. It shall be assessed through a quantitative impact study and after a public consultation involving all stakeholders at least of neighboring countries.

In addition, it is needed to ensure a sufficient time for implementation of any bidding zone delineation changes. A minimum five years implementation timeline shall be set (and we would prefer even longer horizon, e.g. seven years). Five years is usually the period in which market parties make their investment decisions.

26. In order to reach the decarbonisation targets, a significant rollout of offshore renewable energy is expected, and the TEN-E Regulation sets out the process for developing integrated offshore network development plans for each sea-basin. Do you agree that these plans should be used as a basis for establishing or reviewing offshore bidding zones, instead of doing so

on an ad-hoc basis as projects are developed? If not, why not and what alternatives do you propose?

First, we would like to stress that the formulation of the question is not clear to us, since to our best knowledge the choice for the so-called model of “offshore bidding zones” (instead of the “home market” solution) for the development of offshore renewable energy has not been acted so far.

Eurelectric recall that there is a need for long term visibility, notably with respect to bidding zones, in order to foster investments. If network plans exist, then they should be used as input for the already existing bidding zone review process. By the way, Eurelectric has always believed that the primary focus of the bidding zone review should be longer term time horizon (we still regret this choice for a 3-year horizon).

In line with previous Eurelectric paper on market arrangements for offshore hybrid projects, one should not prejudge the best bidding zone delineation (being the creation of an offshore bidding zone or a reconfiguration/extension of an existing onshore bidding zone). We do not agree with saying that “these plans should be used as a basis for establishing or reviewing offshore bidding zones”. We prefer the following formulation not pre-judging the choice for such a design: “integrated offshore network development plans created in the context of TEN-E have to be used when defining bidding zones’ delineation in those areas (new offshore bidding zone or reconfiguration of existing bidding zones).”

Hence, we see no reason to change the bidding zone review process in CACM GL in relation to the development of offshore hybrid projects. A parallel mode for hybrid offshore wind projects should be avoided and any new bidding zone delineation shall be the result of the existing processes for the bidding zone review currently described in Electricity Regulation and CACM GL.

27. Do you have any other comments on Title V– Bidding zone review process?

We welcome the general call for stakeholder involvement considering the high risks associated to and far reaching impacts of any change in bidding zone configuration. We however regret that the “two tier” approach explained by ACER in fact only materializes into a single public consultation at the end of the bidding zone review process and not into additional interactions with stakeholders.

We therefore call for a dedicated forum as well as consultations all along the process, and propose the following amendments:

- We welcome the addition of paragraph (6) on stakeholder involvement, but the provisions require an addition to guarantee the needed level of implication of impacted stakeholders: “6. During the whole review process the participating TSOs shall organise a regular involvement of stakeholders in the process. TSOs shall consult a dedicated advisory stakeholder committee including representatives of concerned stakeholders, market participants and Member

States for each critical decision in the process. After submission of the report the concerned Member States with the support of the concerned TSOs shall organize a public consultation on the draft report and proposal”.

- We have additional requests in terms of public consultation that should be mandatory. We ask for adding a mandatory public consultation in paragraph (4): “When launching the review, pursuant to paragraph 1, the entities launching the review may provide guidance on how to identify the alternative bidding zone configurations to be considered. The participating TSOs shall take into account the guidance when developing the proposal for the alternative bidding zone configurations pursuant to paragraph (5)(a)(ii) and submit their proposal to a public consultation.”
- We ask as well for a public consultation in the first step in paragraph (5)(a)(iii) on proposals on methodology and assumptions and alternative bidding zone configurations submitted to regulatory authorities. We request following improvement: “(5)(a)(iii) the proposals on methodology and assumptions and alternative bidding zone configurations shall be submitted to the relevant regulatory authorities, no later than three months after the launch of the review and a consultation open to all concerned stakeholders has to be held.”

We ask for a clearer formulation in (5)(a)(i) so that the methodology and assumptions are in line with the methodology foreseen in Electricity Regulation Article 14(5): “The participating TSOs shall develop a proposal for the methodology and assumptions to be used for the specific bidding zone review. Such a proposal shall be in line with the methodology foreseen ~~take into duly account the methodology and assumptions developed according to~~ in Article 14(5) of Regulation 2019/943.”

We welcome the paragraph (10) on transparency but ask for the following change to be more precise: “The initiative for the review of the bidding zones configuration, the methodology the assumptions, and the relevant input data used for the bidding zone review, the alternative bidding zone configurations, the results of the simulations and the proposal to the relevant Member States or to their designated competent authorities shall be published by the participating TSOs stepwise as soon as they are produced.”

Title VI – Reporting and implementation monitoring

28. In article 62 detailing the regular reporting on current bidding zone configuration by ENTSO-E, it is envisaged to introduce an objective criterion for reporting purposes. Do you agree with the proposal to define a threshold for frequency of occurrence when reporting on structural congestion, to ensure consistency in reporting among Member States? If not, why and which alternative do you propose?

In Article 62 (Regular reporting on current bidding zone configuration by ENTSO for Electricity), Eurelectric does not agree with the option to add “For the purpose of this report, a frequency of occurrence of at least two percent shall be used.” when talking about congestions that occur with significant frequency.

We recognize that a threshold might be useful to define a structural congestion. However, we believe that CACM GL is not the right place to determine the level of a threshold. In case a threshold is to be defined, a detailed methodology should be developed and made public, to assess the adequate level of the threshold. At this stage, we think it is more cautious to keep some latitude to determine this threshold in the frame of a subsequent methodology to be developed.

29. Do you have any other comments on Title VI- Reporting and implementation monitoring?

European Commission should consider introduction of possibility to table amendments to biennial report on market coupling by market participants, to improve transparency and market coupling operations.

Provisions moved to Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation

30. The new article 76 “Proposal for regional operational security coordination” envisages two options for sharing of costs of remedial actions, one simply referring to article 16(13) of the Electricity Regulation, the other providing more detail in its interpretation. Which option do you favour and why?

Eurelectric does not express any opinion among option 1 or 2 about RDCT cost-sharing in Article 76.

Other comments:

31. Do you find any gaps in the current ACER proposal (for example, due to existing provisions in the original CACM that are not reflected in the current text following its restructuration). If so, which ones?

a. On the RDCT provisions moved from CACM GL to SO GL

Whereas ACER explains that all provisions on RDCT have been moved from CACM to SO GL, we do not find all the necessary principles that were in CACM 1.0 Article 35 (Coordinated redispatching and countertrading).

Eurelectric does not agree deleting completely the mention of RDCT from CACM, while the Electricity Regulation calls for market-based congestion management. If it is not in a shortened article, Eurelectric proposes at least to add a Whereas in CACM explicitly mentioning:

- remedial actions have to be optimized and determined according to the provisions for regional operational security coordination pursuant to Articles 75-78 of SO GL;

- the use of redispatching and countertrading resources shall take into account their impact on operational security and economic efficiency while granting the needed level of transparency.

In addition, we propose to introduce point (4) of CACM 1.0 Article 35 directly in Article 76 of SO GL as follows:

“2. Regional operational security coordination shall be able to modify any cross-border relevant remedial actions resulting from previous coordinated or uncoordinated use of cross-border relevant remedial actions, except those which have already been ordered.

3. Each TSO shall be able to redispatch or modify the settings of all resources not owned by TSOs that are impacted by the remedial actions identified according to paragraph 1(b)(iv) in accordance with the appropriate mechanisms and agreements applicable to its control area, including interconnectors. The relevant resource owners shall provide TSOs ex ante all the information necessary for deciding on whether their resources can and/or need to be committed for redispatch measures. This information shall be shared on request between the relevant TSOs for regional operational security coordination purposes only.

4. Each TSO shall abstain from unilateral or uncoordinated redispatching and countertrading measures of cross-border relevance. Each TSO shall coordinate the use of redispatching and countertrading resources taking into account their impact on operational security and economic efficiency.”

b. Comments on the new provisions in SO GL

We don't see the need to extend the scope of application of SO GL to type A (existing and new) power generating modules (cf. Article 1(1)). These are usually small units and shall be left upon national discretion. Hence, we are rather skeptical about changes in Article 51 (Data exchange between TSOs and DSOs concerning significant power generating modules), which would retroactively demand type A power generating modules to provide forecasted / scheduled data to DSOs (so that DSOs could forward them to TSOs in an aggregated way).

- We regret the absence of justification of this new provision (which was not present in the initial ACER proposal in 2021). We request an analysis of the benefits of such extension, for congestion management and security of operations.
- Most of these (existing) modules do not provide these data; and this requirement would need additional investment with limited added value. Type A also encompass rooftop solar – additional obligations for these small units could significantly demotivate them from further development and had a negative impact on energy transition.
- Possible compromise could be to demand this only from new modules (cf. RfG network code approach), but as explained, we see it as an additional burden.

Article 46 (Scheduled data exchange) of the SO GL shall clarify that forecasted / scheduled data are not firm and represent the best available data from significant grid users (SGUs) at the moment of their submission (they may change with network and market conditions).

On common grid models, Eurelectric requests more transparency for concerned market participants. A paragraph shall be added to highlight this in Article 64 of SO GL: “9. All TSOs shall make available to concerned market participants a representative set of common grid models, as referred in CACM Article 8.”

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability



Union of the Electricity Industry - Eurelectric aisbl
Boulevard de l'Impératrice, 66 – bte 2 - 1000 Brussels, Belgium
Tel: + 32 2 515 10 00 - VAT: BE 0462 679 112 • www.eurelectric.org
EU Transparency Register number: [4271427696-87](https://ec.europa.eu/transparency/regexpert/?s=details&id=4271427696-87)