

ACER public consultation on cross- border participation in capacity mechanisms

A Eurelectric response paper

August 2020

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.

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Methodology for calculating the maximum entry capacity

1. Do you agree with the proposed methodology for calculating the maximum entry capacity for cross-border participation? If not, please explain which elements of the methodology should be changed or otherwise improved.

As said in the Eurelectric answer to ENTSO-E consultation, we believe that the proposal from ENTSO-E to refer to the average of imports during scarcity events could result in setting maximum entry capacities at a level that overestimate the actual contribution of foreign capacities, hence impairing the sole purpose of capacity mechanisms to ensure the security of supply.

In order to fully take into account both Electricity Regulation provisions as well as the purpose of capacity mechanisms and the technical limitations, **Eurelectric proposes to follow a more bespoke approach:**

This maximum entry capacity should reflect the minimum between:

- **The level of net transfer capacity** that is expected to be available during all stress events;
- **The level of foreign export margin** that could be expected to be relied upon during all stress events.

Acknowledging that the choice of a minimum value over all these situations may be too extreme , since a single unfavourable scenario could lead to setting a very low value, **Eurelectric recommends that TSOs/NRAs are able to determine the maximum entry capacity on the basis of extensive information**, i.e. the distribution of import/export balance during all scarcity events, in which they can choose an adequate percentile in line with their risk appetite, it being understood that TSOs should be hold responsible in case the entry capacity is not actually available during stress situations (cf. below). As exemplified in the explanatory note, the likelihood of single country scarcity (which gives an indication of the probability of saturated transmission capacities and therefore of the scarcity of these assets), the likelihood of concurrent system stresses (during which transmission capacities do not have a contribution) and the likelihood of no scarcity are all important metrics that should be provided next to the maximum entry capacities.

Moreover, we would like to reiterate that there is no final methodology for ERAA available yet and that **full consistency is needed between the ERAA methodology and this methodology under consultation**. It is crucial to ensure that ERAA outcomes are as reliable as possible, are based on careful hypotheses since security of supply is at stake and reflect the reality of the physical flows and market functioning in order to allow for a straight forward definition of “maximum entry capacity”.

As said in our initial answer to ENTSO-E, **we believe that our pragmatic proposal is in line with our understanding of co-legislator’s purpose, presented especially in art. 26 (7) of IEM Regulation**, stating that: *“That calculation shall take into account the expected availability of interconnection and the **likely concurrence of system stress** in the system where the mechanism is applied and the system in which the foreign capacity is located.”*

2. Should the methodology allow for calculating capacity contributions from Member States with no direct network connection with the Member State applying the capacity mechanism?

Eurelectric would like to remind ACER that Article 26(2) of the Electricity Regulation gives Member States the prerogative to restrict cross-border participation in CRMs to directly connected neighbours. Eurelectric acknowledges that the methodology should theoretically cover the most general case, i.e. foresee the calculation of a maximum entry capacity for assets located in Member States with no direct network connection with the Member State applying the CRM; however, the priority should be set on enabling cross-border participation from Member States with direct network connection. The inclusion of Member States with no direct network connection could then follow at a later stage and provided that a robust methodology is set up for these foreign participations, as suggested by ENTSO-E, since the indirect adequacy contribution can be strongly impacted by network constraints or other issues of the bidding zones between the MS and the CM bidding zone.

In Eurelectric's view, the contribution of imports to security of supply in the Member State applying the capacity mechanism is to be assessed as a single value per border, representing its own maximum entry capacity on this border, no matter whether this capacity is used by assets located in directly or indirectly connected foreign countries. The question 2 refers rather to a different market design dimension: how the maximum entry capacity of the Member State is to be shared among the other Member States eligible for cross-border participation, be they directly or indirectly connected. Actually, the most effective solution might not be to define a rigid sharing of the maximum entry capacity on a given border, but to define an additional set of entry capacities for the other borders, based on the exports of indirectly connected Member States in the scarcity situations of the Member State applying the capacity mechanism, which could then be combined as are ATCs in the energy market (with the caveat that there may be interdependencies between the entry capacities calculated for different capacity mechanisms).

Methodology for sharing the revenues from the allocation of entry capacity

3. Do you agree with the proposed methodology for sharing the revenues from allocating entry capacity? If not, please explain which elements of the methodology should be changed or otherwise improved.

As explained in Q8, Eurelectric reiterates its concerns regarding **the total revenue considered for sharing**, as proposed Art.13). For the implicit allocation, this article seems to assume uniform pricing of the capacity market, which is not necessarily the case (decentralized markets, strategic reserves, pay-as-bid, etc...).

Common rules for the carrying out of availability checks

4. Do you agree with the proposed common rules for the carrying out of availability checks? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

Eurelectric believes that the new methodology proposal allows for an efficient operation of availability checks.

According to Article 18, "contracted capacity is deemed to be available when (...) it has commitments related to the DA/ID or the ancillary services market but is not able to actually deliver

due to national or supranational requirements including but not limited to congestion management". Capacity providers shouldn't be penalised due to such external constraints. However, we should avoid that the system may incentivise the surge of national grid constraints in particular in the actual occurrence of simultaneous scarcity situations.

Congestion remedy actions to maximise the availability of interconnection capacity and foreign capacity, post-check analysis of the unavailability of foreign capacity scarcity events or other equivalent measures could be defined. The methodology might have to consider liabilities of TSOs, including post-check analysis which may lead to eventual penalties or compensation costs, in case of non-delivery of contracted capacity in neighboring countries due to grid constraints (e.g. due to insufficient congestion management).

Common rules for determining when a non-availability payment is due

5. Do you agree with the proposed common rules for determining when a non-availability payment is due? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

As underlined in our answer to ENTSO-E, Eurelectric believes that the principle of exclusivity is key and therefore welcomes the objective of the methodology to "ensure that capacity providers are able to meet the sum of capacity commitments undertaken and for which they are remunerated." (Art. 20). We also consider the application of non-availability penalties as relevant.

However, we would like to reiterate that the rules for determining when a non-availability payment is due should be holistic and developed in a framework wider than the implementation of capacity mechanisms. Indeed, this is crucial to avoid discrimination between capacity providers in an energy-only market and capacity providers in a market with capacity mechanisms. Indeed, the case of a capacity provider in an energy-only market overcommitting itself is not tackled in the proposed rules.

Eurelectric also considers that **not only capacity providers should be subject to non-availability payments, but also TSOs** in case the cross-border capacity they offer on the energy market during the Reference periods is lower than the entry capacity that has been allocated for cross-border participation in the CM. This would incentivise TSOs to follow a careful approach in their calculation of the maximum entry capacity, so that cross-border participation in CMs does not lead to a decrease of the actual level of security of supply. These non-availability payments for TSOs should constitute a real financial penalty for them, and not be passed on to final consumers through the network tariff.

Terms of the operation of the ENTSO-E registry

6. Do you agree with the proposed terms of the operation of the ENTSO-E registry? If not, please explain which elements of the proposed terms should be changed or otherwise improved.

As said in our answer to ENTSO-E, the interaction between the registry and other databases (REMIT, national capacity registries ...) should be clarified to avoid multiple submissions of the same data to different databases (e.g. double reporting obligations). This would lead to increased workload and risk of inconsistent data.

Common rules for identifying capacity eligible to participate in the capacity mechanism

7. Do you agree with the proposed common rules for identifying capacity eligible to participate in the capacity mechanism? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

We would like to emphasise the need to apply eligibility criteria for foreign capacity providers that would be as close as possible to the ones that are applicable to the domestic ones, also in terms of de-rating of different types of assets (per technology and country) by including their expected effective contribution to reliability of the Member State applying the capacity mechanism. Only such an approach may ensure the non-discrimination principle, provided in art. 26 IEM Regulation.

Provisions of article 29.6 and 29.7 should not prevent capacities awarded in capacity mechanisms and requiring participation in aggregated form from participating in foreign capacity mechanisms requiring a unit-based participation if availability checks in the former CMs are performed on a unit-based basis. The current definition of “Capacity Market Unit” included in Article 2 let.(c) of the current proposal seems to be in line with our request since it indicates “the single unit or group of aggregated units used by the capacity provider to fulfil its capacity commitment and upon which availability is checked”.

General provisions and other comments

8. Do you agree with the general provisions of the ENTSO-E proposals (Title 1)? If not, please specify which provisions should be changed or otherwise improved, and explain why.

Implementation Period

The proposed Art.4 does not provide enough visibility on the expected timeline for enabling cross-border participation with a consistent approach. On the contrary, it gives the impression to redefine the timelines of entry into force mentioned in the Electricity Market Design Regulation.

Regarding the first condition, the Electricity Market Design Regulation specifies in Art.26(15) that the Registry must be set up and operated by 5 July 2021. This is a clear deadline for implementing a specific aspect of the proposed methodology.

Regarding the second condition, recently approved capacity mechanisms are either exempted from cross-border participation (e.g. strategic reserves in Belgium) or are subject to commitments/obligations by Member States towards the European Commission (in the context of the state aid approval process). So the capacity mechanism operators should already be subject to strong commitments and clear deadlines for implementation and conclusion of bilateral agreements with neighbouring TSOs. Regarding the third condition, the current formulation aims at avoiding some form of retroactivity, but it is far too imprecise. Indeed, the existence of multi-year capacity contracts (> 10 years) in some capacity mechanisms imply that Delivery Periods beyond year 2030 could already be engaged under another legal, regulatory or contractual

framework. This condition would therefore prevent any concrete implementation in the short term.

Eurelectric would like ACER to define a clear date for entry into force in practice of the current proposal. Although enabling cross-border participation in capacity mechanisms is challenging, we suggest that ACER enforces the practical application of this framework methodology for cross-border participation two/three years after the date of approval and that, in the meantime, a clear timeline for concrete milestones is communicated to all stakeholders. A focus on the concrete implementation of cross-border participation by TSOs could also be included in the annual Market Monitoring Report by ACER,.

Revenue sharing:

Eurelectric reiterates its concerns regarding **the total revenue considered for sharing**, as proposed Art.13). For the implicit allocation, this article seems to assume uniform pricing of the capacity market, which is not necessarily the case (decentralised markets, strategic reserves, pay-as-bid, etc...). The methodology should cover all types of pricing of the capacity market otherwise the determination of the revenue from XB participation becomes very dubious. When determining the total revenue considered for sharing in case of implicit allocation, article 12 establishes that it should be calculated as the difference between the price offered in the capacity mechanism by last contracted capacity and the last contracted foreign capacity. Contrary to the response of ENTSO-E (see response to Eurelectric pp. 9-10), it is crystal clear that the current proposal does not cope with the variety of clearing principles in capacity mechanisms and is therefore not fit for purpose. For instance, if a pay-as-bid clearing principle is applied for contracted capacities (generation, demand response, storage), there does not exist any 'congestion revenues' for the interconnections. All capacities are potentially earning different capacity revenues: cross-border capacities could earn more or less than capacities located in the 'home' country and it would be impossible to assess 'congestion revenue'. In other words, in a pay-as-bid setting, the proposal of ENTSO-E is completely artificial: it would create a money flow towards interconnections with money that "does not exist" in the underlying capacity market design.

9. Do you have any other comments on the ENTSO-E proposals that we should take into account in our assessment?
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The proposed methodology should specify that foreign assets participating to cross-border capacity mechanisms should also include the assets in interconnected third countries that are part of the synchronous grid of Continental Europe as long as they can provide a comparable contribution to security of supply.

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



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