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Addressed to:

Agency for the Cooperation of Energy Regulators (ACER)

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(by e-mail only - originals will not be sent)

Response to ACER Consultation on the definition of capacity calculation regions

1. Do you consider both the commitment from the CWE and the CEE TSOs to cooperate towards a merger of the CWE and CEE CCRs and the MoU signed on 3 March 2016 as sufficient to ensure that the CWE and CEE regions will develop and implement a common congestion management procedure compliant with the requirements of the CACM Regulation, as well as of Regulation (EC) No 714/2009? Or should the definition of the CCRs provide for a CCR already merging the proposed CWE and CEE regions to ensure compliance with the required common congestion management procedure?

Commitment of CWE and CEE TSOs to cooperate towards the merger included in the CCR proposal, together with respective MoU signed by all CEE and CWE TSOs on that matter are an important step towards the necessary coordination between the CEE and CWE regions. By means of MoU, the TSOs committed themselves to develop a common capacity calculation methodology based on the flow-based capacity allocation approach (FBA) to be applied in the CEE and CWE regions, and implement it after obtaining the necessary regulatory approvals.

Although such approach, as included in the CCR proposal, should in principle effectively facilitate development and implementation of common FBA in CEE and CWE, there are a number of risks to this process:

- Legally speaking, separate CCRs imply separate legal obligations for each region. Hence, especially in case of disputes on the details of capacity calculation methodology, there might be tendency to minimize inter-regional coordination.
- Governance scheme of the CCR is clearly defined in the CACM Regulation, while governance of the common CEE-CWE project is voluntary. Additionally, the regional decision making schemes will be different than the cross-regional scheme applied in the CEE-CWE project. This could be an issue, especially in case of disputes.
- The MoU concerns the day-ahead capacity calculation methodology only, while the ultimate capacity calculation methodology to be developed should cover both the day-ahead and the intra-day timeframes.

Due to the above risks, we are of the opinion that the CCR configuration should foresee merged CEE-CWE regions already as initial starting point (i.e. common CEE-CWE region which includes the DE-AT border).

Such approach would give more legal clarity to the stakeholders and would offer better chances that the coordinated FBA is going to be effectively and simultaneously implemented across both the CEE and the CWE. This in turn would have a mitigating effect for some of the risks listed above.

2. Do you have comments on the description of the geographical evolution of the CCRs over time, as proposed by all TSOs in Annex 3 to the Explanatory document to the CCRs Proposal?

No.

3. Should the CEE region (or a merged region) include the bidding zone borders between Croatia and Slovenia, between Croatia and Hungary, and between Romania and Hungary?

Yes.

4. Should the CEE region (or a merged region) include a bidding zone border between Germany/Luxembourg and Austria?

Yes, any CCR configuration must include the DE-AT border. All necessary arguments why this needs to be the case have been delivered by the ACER in its Opinion 09/2015 from 23 September 2015. Moreover, when replying to the ACER Opinion, all the CEE TSOs and NRAs - with notable exception of the Austrian parties - fully backed the Agency's Opinion on this issue.

We are of the view that - since about 30-50% of commercial transactions between Germany and Austria is realized via neighbouring networks of Poland and the Czech Republic - the DE-AT has to be considered as having significant impact on the power flows in the region. Taking into account the fact that the DE-AT exchanges are by far the highest in the CEE region, this very border appears as the key element for any regional capacity coordination. This in turn urgently calls for a swift implementation of coordinated capacity calculation and allocation scheme covering the DE-AT border similarly to any other border between EU Member States in the CEE region.

5. Do you have comments on any other new element or development concerning the CCRs Proposal which occurred after the public consultation held by ENTSO-E from 24 August to 24 September 2015?

No.

Vice President
Tomasz Sikorski