

# Public consultation on the ENTSO-E proposals for technical specifications for cross-border participation in capacity mechanisms

Fields marked with \* are mandatory.

## Public Consultation

### ENTSO-E proposals for technical specifications for cross-border participation in capacity mechanisms

This consultation is addressed to all interested stakeholders.

Stakeholders are invited to fill out this online survey by **9 August 2020, 23:59 hrs (CEST)**.

For questions, please contact ACER at: [ACER-ELE-2020-014@acer.europa.eu](mailto:ACER-ELE-2020-014@acer.europa.eu)

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## Consultation objective and background

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This consultation aims to gather stakeholder views on the proposed technical specifications for cross-border participation in capacity mechanisms.

On 3 July 2020, the European Network of Transmission System Operators for Electricity (ENTSO-E) submitted to ACER their proposals for technical specifications for cross-border participation in capacity mechanisms pursuant to Article 26(11) of Regulation (EU) 2019/943, and consisting of:

- a methodology for calculating the maximum entry capacity for cross-border participation;
- a methodology for sharing the revenues;
- common rules for the carrying out of availability checks;
- common rules for determining when a non-availability payment is due;
- terms of operation of the ENTSO-E registry; and
- common rules for identifying capacity eligible to participate in the capacity mechanism.

According to Article 26(11), ACER shall approve these proposals based on the procedure set out in Article 27 of Regulation (EU) 2019/943, amending them where required. In order to inform its assessment and if required, identify areas for amendment, ACER invites all interested third parties to submit their views on the proposals by responding to this online survey during a consultation period of 4 weeks.

Following this consultation, ACER will consider stakeholder feedback and expects to take a decision on the proposals, including potential amendments, within the next three months as required by Article 27 of Regulation (EU) 2019/943, i.e. by 5 October 2020.

### Related documents

- ENTSO-E, Cross-border participation in capacity mechanisms: Proposed methodologies, common rules and terms of operation in accordance with Article 26 of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), version of 3 July 2020

([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Single%20document%20for%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Single%20document%20for%20XB%20CM%20methodologies.pdf))

- ENTSO-E proposed methodologies, common rules and terms of reference related to cross-border participation in capacity mechanisms: Explanatory document, version of 3 July 2020 ([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Explanatory%20document%20for%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Explanatory%20document%20for%20XB%20CM%20methodologies.pdf))
- ENTSO-E, Public consultation on draft methodologies and common rules for cross-border participation in capacity mechanisms: Response to public consultation comments received during the consultation held from 31 January to 13 March 2020, version of 3 July 2020 ([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Response%20to%20public%20consultation%20on%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Response%20to%20public%20consultation%20on%20XB%20CM%20methodologies.pdf))
- Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (recast) (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32019R0942>)
- Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0943>)
- ACER Guidance Note on Consultations ([https://www.acer.europa.eu/Official\\_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf](https://www.acer.europa.eu/Official_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf))
- ACER Rules of Procedure (AB Decision No 19/2019) ([https://www.acer.europa.eu/en/The\\_agency/Organisation/Administrative\\_Board/Administrative%20Board%20Decision/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf](https://www.acer.europa.eu/en/The_agency/Organisation/Administrative_Board/Administrative%20Board%20Decision/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf))

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## Privacy and confidentiality

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ACER will publish all non-confidential responses, including the names of the respondents, unless they should be considered as confidential, and it will process personal data of the respondents in accordance with Regulation (EU) 2018/1725 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725>) of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, taking into account that this processing is necessary for performing ACER's consultation task. For more details on how the contributions and the personal data of the respondents will be dealt with, please see ACER's Guidance Note on Consultations ([https://www.acer.europa.eu/Official\\_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf](https://www.acer.europa.eu/Official_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf)) and the specific privacy statement attached to this consultation.

Article 7(4) of ACER's Rules of Procedure (RoP) (<https://s-intranet/Drive/Departments/Electricity/ED%20Deliverables/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf#search=rules%20of%20procedures>) requires that a party participating in an ACER public consultation explicitly indicates whether its submission contains confidential information.

**\* Is your submission to this consultation confidential?**

- YES  
 NO

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## Consultation questions

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ACER seeks the opinion of stakeholders with respect to the following elements of the ENTSO-E proposal.

**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.

The sharing methodology places a strong incentive on TSOs operating capacity markets to lower the cross-border contribution. The TSO operating the capacity mechanism will have to estimate the likely concurrence of system stress. The higher this estimated value, the lower the maximum entry capacity and the greater the proportion of the revenues from cross-border trade goes back to that same TSO.

This introduces an inappropriate incentive given cross-border sharing of resources (energy and capacity) is at the heart of the EU Single Market.

The issue of perverse TSO incentives was raised by 13 of the 23 respondents to the ENTSO-E consultation\* (BritNed Development Ltd, ElecLink, Energie-Nederland, Energy Norway, ENGIE, Eurelectric, Great Britain Interconnector Forum, IFIEC Europe, Mutual Energy, National Grid Ventures, Naturgy, Nemo Link, Statkraft Energi).

Despite the strength of feedback, ENTSO-E have decided not to change the proposal to address this perceived conflict of interest.

\* ENTSO-E public consultation held from 31 January to 13 March 2020.

**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?**

ElecLink understands that article 21(2) of the Clean Energy Package requires Member states to consider at least its neighbouring Member States. Wider market participation (beyond just direct neighbouring Member States) is indeed preferable, both in terms of increased competition and increased diversity of resources that can contribute to security of supply. The ENTSO-E methodologies should not rule out this possibility.

**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.**

ElecLink has significant concerns regarding the duplicate de-rating within the maximum entry calculation and the methodology for sharing the revenues. Both methodologies currently apply a de-rating related to the likely concurrence of system stress events in the connecting markets. The maximum entry capacity calculation applies this de-rating to the interconnector capacity, whereas the sharing revenue methodology applies this de-rating to the resulting interconnector revenues. This "double de-rating" acts to discriminately undervalue the interconnectors contribution to the security of supply. To avoid the double de-rating, the sharing of revenues methodology should not consider the likely concurrence of system stress.

ElecLink believes that the sharing methodology should follow the principles set out within the approved CACM and FCA congestion income distribution methodologies (i.e. under Article 73 of CACM and Article 57 of FCA respectively). Both the CACM and FCA methodologies assume a 50%-50% sharing (with different sharing keys in the case of different ownership shares or investment costs).

This issue was raised by 14 of the 23 respondents to the ENTSO-E consultation (BritNed Development Ltd, ElecLink, Energy Norway, ENGIE, Eurelectric, European Federation of Energy Traders - EFET, FEBEG, Great Britain Interconnector Forum, IFIEC Europe, Mutual Energy, National Grid Ventures, Nemo Link, Statkraft Energi, WindEurope).

Despite the strength of feedback, ENTSO-E have decided not to change the proposal.

In response to the public consultation comments received during the consultation, ENTSO-E suggest that differences in European capacity market designs justify the revenue sharing proposal. ElecLink is concerned that ENTSO-E would use these differences as justification, rather than address them within the proposals for common rules for capacity eligibility and availability checks.

In addition, ENTSO-E draw a distinction between "market access right" value and "interconnector" value. This would imply that the capacity market operator intends to levy some sort of charge on foreign capacity providers in return for access to the capacity market. As this charge would only be levied on foreign capacity providers, they would face discriminatory market access as compared to national capacity providers. ElecLink believes such discriminatory practice is wholly inappropriate, and in conflict with the aims of the Clean Energy Package. For reference the relevant section of the ENTSO-E response to the consultation feedback (3 July 2020) is copied below:

"ENTSO-E diverges of opinion for the perceived 'double counting' issue raised by [see list above].

The existing capacity markets in the EU are not homogeneous: various designs (e.g. strategic reserves, capacity mechanism), differentiated eligibility rules (e.g. some technologies could be excluded in one CM and allowed in the other) or ways to check availability (e.g. differentiated delivery periods). This leads to different bidding behaviours from market participants and prices that reflect both a "market access right" value and the "interconnector" value. The following methodology proposed try to differentiate both of these values to deliver relevant incentives."

## 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.

The Proposal does not address availability checks for transmission infrastructure. ElecLink believes that participating interconnectors should be subject to the same availability checks as resource providers. This is already the case in the GB and French capacity mechanisms.

ENTSO-E responded to this issue within the consultation feedback: "Under the new model interconnectors will not participate directly in the capacity mechanism and thus will not be subject to availability obligations stemming from a capacity contract."

ElecLink does not follow the ENTSO-E justification and considers that when TSOs receive financial rewards for addressing scarcity concerns they should be subject to the same availability checks as other resource providers. ElecLink believes this is in line with the design principle set out in the Clean Energy Package article 22(1)(e) that the capacity mechanism shall "provide incentives for capacity providers to be available in times of expected system stress".

## 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.

The Proposal does not address non-availability penalties for transmission infrastructure. ElecLink believes that participating TSOs (including interconnectors) should be subject to the same non-availability penalties as resource providers. This is already the case in the GB and French capacity mechanisms.

Worryingly, the ElecLink response on this topic has not been included within the ENTSO-E consultation feedback documentation. However, in response to a similar question ENTSO-E state that "[i]t is to be noted that penalties are not considered as part of this defined scope".

ElecLink believes that including TSO non-availability penalties is in line with the design principle set out in the Clean Energy Package article 22(1)(e) that the capacity mechanism shall "provide incentives for capacity providers to be available in times of expected system stress".

## 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.

Where the TSO operating the capacity mechanism is not the same entity as the TSO operating the interconnector, there should be clarity on whether the TSO operating the interconnector will be part of the registry and able to trade obligations in a secondary market.

ENTSO-E responded that, “[t]he comment touched upon a point which is not in the scope of these methodologies. The methodologies apply only to direct cross border participation of foreign CMUs.”

ElecLink still considers that interconnectors should be listed within the registry, and be able to participate in the secondary market (to trade their obligations with other interconnectors on the same bidding zone border).

## **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.

The Proposal does not address the eligibility rules for transmission infrastructure. The eligibility rules for interconnectors should be included within the Proposal. This is already the case in the GB and French capacity mechanisms.

For reference, the ENTSO-E feedback was that “[t]he comment touched upon a point which is not in the scope of these methodologies. The methodologies apply only to direct cross border participation of foreign CMUs”.

ElecLink still considers that eligibility rules for transmission infrastructure would provide additional transparency, especially for new interconnectors that are not owned by an incumbent TSO.

## **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.

No additional comments.

9. Do you have any other comments on the ENTSO-E proposals that we should take into account in our assessment?

No additional comments.

## **Contact**

ACER-ELE-2020-014@acer.europa.eu

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