Contribution ID: 749db2d7-9f94-4053-9f92-5fd853581c21
Date: 31/07/2020 11:13:08

# 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

## Consultation objective and background

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)

- 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)
- 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)
- 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)
- 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)

## Contact details

*Name and surname

Carlos Arruego

*Company

Naturgy

*Address

Avenida San Luis 77, Edif. E pl. 04, 28033 Madrid

*Country

Spain

*Phone

+34 915896464

* Email

carruego@naturgy.com

## Privacy and confidentiality

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) 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

## Consultation questions

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.

We have some concerns related to the calculation of the maximum entry capacity.

In Article 7, the methodology refers to the statistical availability during (single/simultaneous) scarcity events. The contribution of the cross border capacity is calculated as the mere average of single and simultaneous scarcity hours. An average value may result in setting maximum entry capacities at a level that will be technically not available during at least some of simultaneous scarcity hours impairing the sole purpose of capacity mechanisms to ensure the security of supply. The use of an average contribution doesn't factor the situations where scarcity situations are more severe.

The maximum entry capacity should not be a theoretical average value based on a modelling exercise as it could have a substantial impact on the economy of the Member States. Ideally, it should always be physically available along with the transmission capacities and therefore set at the minimum level of observed import during stress events. In order to fully take into account both Electricity Regulation provisions as well as the purpose of capacity mechanisms and the technical limitations, we propose to determine the maximum entry capacity as the average of the import/export balance during all simultaneous scarcity events, considering the curtailment sharing rule within the market coupling algorithm.

MESSAGE 1: Thus we propose that the maximum entry capacity should be set at the level of technically possible imports during stress events that reflects:
• a level of net transfer capacity that is expected to be available during stress events;
• a level of foreign export margin that could be expected to be relied upon during stress events.
Additionally, the maximum entry capacity should factor more those situations where scarcity situations are more severe.

Article 10 states that assumptions of transmission capacity "shall be consistent with the assumptions used in the ERAA assessment and hence incorporate the relevant grid modifications applicable to the different target time horizons considered in the assessment". The Electricity Regulation provisions require to "takes into account real network development". The use of average contributions of maximum entry capacity based on transmission projects not materialized is too risky, especially for medium to long term Delivery Periods of CRMs (where new facilities tend to participate, adding the risk of infrastructure development to the existing risk of construction of new plants). The inclusion of transmission projects in the TYNDP is thus not sufficient to foresee real network development as required by the EU Law. Just to mention an example, the last interconnector built between Spain and France –an overhead line crossing the Pyrenees- took ~17 years from its first references, suffering from different delays until its start.

MESSAGE 2: As mentioned in the response to the ERAA consultation, and in order to achieve consistency with real network development as required by the Electricity Regulation, ENTSOE should consider transmission projects in development phase only.

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?

No for the moment being. Member States should require proof of physical import of electricity from capacity providers, considering the political sensitiveness of security of supply –in case of disruption and to determine and to set responsibilities-. To that end, participation in the national capacity mechanisms should be limited to producers located in Member States with which there is a direct connection via interconnectors (similar to what the RED II allows for the opening of support schemes for RES).

MESSAGE: A methodology applicable to neighboring MS only seems pertinent to facilitate cross border participation, monitoring and control.

**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.

Article 12 considers that congestion rents should provide incentives for the development of transmission capacity, not being clear how capacity market congestion rents are determined to be a consequence of scarce transmission capacity.

MESSAGE 1: If clearly determined by regulatory authorities that shared revenues should have place:

- Eventual shared revenues between countries should be dedicated to reduce the overall costs of national capacity mechanisms.
- If shared revenues between TSOs are determined, these revenues should be rather deducted from the income planned by the TSOs in tariff for objectives similar to the ones provided in art. 19 of IEM Regulation. Otherwise there may be a situation in which the TSO has obtained significant income from both the tariff, the wholesale energy market congestion rent and "the capacity market congestion rent" for the same purpose, impairing any potential economic benefits for final electricity consumers

When there are concurring system stress situations, ENTSOE suggests considering the existence of congestion rents because of the transmission capacity (considered a scarce resource limiting the participation). However, in concurring system stress situations, it should be expected that generation/demand resources are limiting the participation rather than transmission capacity.

MESSAGE 2: Contrary to what it's suggested in Art.12.5 no shared revenue should be considered in case of concurring system stress events. As mentioned before, if an eventual rent is to be shared between Member States in these situations, it should be dedicated to cover costs of national capacity mechanisms.

Article 13 determines the total revenue considered for sharing. In case of implicit capacity allocation, the revenue considered for sharing is calculated as the difference between the price offered in the capacity mechanism by last contracted capacity and the last contracted foreign capacity. As the number of offers from capacity providers located in neighboring countries might be limited, an important price difference may exist between them, unduly rising the congestion rents dedicated to transmission capacity. As for Article 13.1, we would suggest that the price of the first non-contracted bid of foreign capacity (if any) should be used (instead of the last contracted foreign capacity).

Moreover, the article seems to assume uniform pricing of the capacity markets, which is not necessarily the case (decentralized markets, strategic reserves, pay-as-bid, etc…). The methodology wouldn't cope with an eventual variety of designs in capacity mechanisms and clearing principles. For instance, if a pay-as-bid clearing principle were to be applied, there wouldn't exist any 'congestion revenue' for the interconnections, as cross-border capacities could earn more or less that capacities located in the 'home' country being impossible to assess 'congestion revenue'.

MESSAGE 3: The revenues calculation and allocation and the conditions of equivalence between foreign and national resources are tasks to be rather left to the NRAs, which should consider differences in capacity market design and clearing principles among other aspects

**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.

> 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". Indeed capacity providers shouldn't be penalized due to such external constraints. However, we should avoid that the system may incentivize the surge of national grid constraints (in particular in the actual occurrence of simultaneous scarcity situations).
>
> MESSAGE: Congestion remedy actions to maximize 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.

> Verifying that foreign capacity providers are effectively providing the capacity service is essential, avoiding free riders at expenses of the national capacity providers. Non availability penalties are expected to be applicable only when capacity providers are not available in times of system stress. However, all capacity providers should be incentivized to be available and to be controlled during the delivery period of capacity contracts, in particular during peak times (or usually defined peak times) as mentioned in Article 18. Considering that capacity providers may have left other non-cleared participants out of the system, it's of particular importance to check if capacity bidders are regularly providing the service for which they have been contracted. It should be noticed that national CMs may consider that non-available capacity providers shouldn't be rewarded under the CRM due to non-delivery reasons. If this is the case, foreign capacity providers should be subject to the same regime of reward and penalties than national capacity providers based on similar availability checks.
>
> MESSAGE: Beyond penalties for non-delivery in case of system stress, foreign capacity providers might be subject to the same system of reward/penalties than national capacity providers over the Delivery Period contracted

**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.

> ACER may have to consider the interaction between the ENTSO-E registry and other databases (e.g. REMIT, national capacity registries) 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 emphasize 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 by including their individual per technology reliability standard (if
applied for domestic resources). Only such approach may ensure the non-
discrimination principle, provided in art. 26 IEM Regulation
```

### 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.

We have serious doubts on whether Article 3 (Costs incurred by the implementation of cross-border participation) would go against the principles set in the Regulation 2019/943 requiring TSOs to cooperate on cross-border participation in CRMs similar to the cooperation it's required in other activities as part of their tasks and duties. If this is the case, Article 3 should not be part of the methodology. On the other hand, the proposed cost sharing mechanism could lead to an inefficient operation of CRMs if allowing cross border participation doesn't look for the minimal cost for consumers. We would only consider two options available, which aren't compatible with ENTSOE proposal:

a) All related costs in neighboring countries are not passed to the country implementing where the CRM is implemented. One could interpret that inherent obligations emanating from Directive 2019/944 and Regulation (EU) 2019/943 are a mandate to TSOs. TSOs should meet their tasks and obligations related to the participation of capacity connected to their system into a neighboring CRM without transferring the costs to other TSOs. In our opinion, this should be the case. Remuneration of the interconnections participating in the capacity mechanisms helps today to reduce the actual compliance costs passed on the TSOs for enabling cross-border participation. In the future, increased cross-border flow should compensate the TSOs costs for their inherent administrative costs.

b) If administrative costs were going to be (totally or partially) covered by the country where the CRM is implemented, foreign administrative costs should be considered as part of foreign bids during the bid selection process. Cross border participation aims at increasing competition and reducing the overall cost of CRM. However, the participation of foreign capacity in the national CRMs might also induce more or less important administrative costs. The higher the number of specific TSO tasks are required for enabling cross border participation, the higher the administrative costs should be expected. Eventually, cross border capacity participation could lead to (much) higher total costs of CRMs in case the foreign administrative costs are higher than the local administrative costs or if many electrical neighbors participate. In this case, foreign administrative costs would then be additional to the inherent administrative costs of the national CRM. In order to run the CRM at the lowest cost possible, and for minimizing the overall cost of CRMs imposed onto consumers, foreign administrative costs should be taken into consideration when selecting foreign capacity bids. These costs should be internalized as part of the foreign bids during the selection/clearing process. It should be made clear that foreign capacity bidders are not liable to these costs. Alternatively, and to avoid limiting cross-border participation due to administrative costs, it could be deemed that administrative costs above a certain baseline level should be covered by the country implementing the CRM (for instance if administrative costs are considered particularly high due to frequent availability checks, stringent requirements, etc).

MESSAGE 1: Article 3 should not be part of the methodology, as this is not established in the IEM Regulation. If costs incurred by the implementation of cross-border participation are finally mentioned in the methodology:

- Either it should be made clear that each TSOs should bear the inherent costs related to the fulfillment of the tasks related to the present methodology, as required by the IEM Regulation.
- Or foreign administrative costs should be considered as part of foreign bids during the bid selection process, to run the capacity mechanism at the lowest cost posible

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

The Article 4 (Implementation Period) doesn’t provide a clear visibility on the expected timeline for enabling cross-border participation, in particular regarding recently approved capacity mechanisms. These 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). The capacity mechanism operators should already be subject to strong commitments and clear deadlines for implementation and conclusion of bilateral agreements with neighbouring TSOs.

MESSAGE: For clarity sake, we would appreciate the definition of a date for entry into force in practice of the current proposal, with regards to the approval date of this methodology.

## Contact

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