Contribution ID: 20d5ae63-e849-475d-ae9b-e1ec525d7734
Date: 09/08/2020 18:43:09

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

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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)

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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) 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.

In relation to the methodology for assessing the maximum entry capacity (MEC), as commented in our response to the ENTSO-E consultation (see our response under question 9), we believe that the definition of system stress periods should be broader than defined by ENTSO-E and include periods where the Loss of Load Probability is material, or otherwise near-scarcity situations. In light of the current state of the European Resource Adequacy Assessment (ERAA), as per ENTSO-E's submission to ACER, we feel that the narrower definition as proposed by ENTSO-E, whereby system stress periods are defined as periods of involuntary customer disconnections (i.e., periods when the energy not served in the ERAA modelling is greater than zero), is a reasonable assumption for the short term. At the same time, we believe this is a point that should be further explored as the ERAA methodology and the markets themselves evolve, for example, through the phasing-out of price formation obstacles (e.g., price caps) and scarcity pricing is enabled in the market.

MEC implementation under Flow-Based (FB) and Net Transfer Capacity (NTC): It is our understanding that the proposed methodologies under FB and NTC diverge. More specifically, in the case of bidding zones under FB, the consideration of net positions implies that there will be imports from non-directly interconnected systems that aren't being considered when setting the MEC. The net position of a bidding zone will only consider the flows that are attributed from that bidding zone to the Member State with a capacity mechanism (CM). As a consequence of this, transmission system operators (TSOs) would procure more than is needed, since a part of imports to the country with a CM is ignored, and therefore impose higher costs to the consumers of the Member State with a CM than necessary. On the contrary, under the NTC methodology, all imports from a directly connected bidding zone to the county with a CM will be taken into consideration when setting the MEC.

We foresee two potential solutions to dealing with this divergence, both of which relate to the methodology under FB. The first would be to use the commercial exchanges between the Member with a CM and its directly interconnected Member State/bidding zone instead of the net positions. In this way, the full extent of imports to the country with a CM would be used (this alternative would effectively be equivalent to the methodology under NTC). The second option would be to use the net positions under the FB and also consider the imports attributed to non-directly interconnected systems when estimating the amount to procure; this would have to be prescribed in the methodology. In the latter case, the foreign capacity in the non-directly connected systems wouldn't be able to participate in the CM auctions, but their contribution to security of supply to the Member State with a CM will be taken into consideration, thus avoiding to unnecessarily inflate the amount to procure.

CM vs non-CM scenario: As suggested in our response to the ENTSO-E consultation, we are of the opinion that the consideration of the scenario with CM for estimating the MEC is problematic. According to articles 7 and 8 of the present ENTSO-E proposed methodology, national TSOs will consider the scenario with CM when estimating the MEC. ENTSO-E foresees a process whereby national TSOs will amend the capacities in the scenario with CM when this scenario doesn't comply with the reliability standard in the ERAA. (Note: It is unclear why the national TSO would remove capacities from a country if the level of security of supply exceeds the established reliability standard in the ERAA, that is, Loss of Load Expectation [LOLE] lower than the reliability standard. In such a case, the Regulation stipulates there should not be a capacity market auction [article 21, paragraph 6; this decision will also depend on the results of the provisional national assessment]. The removal of capacities from the scenario in such a case from the national assessment appears unreasonable and illogical.)

[Continued under question 2]

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?

[Continued from question 1]

Given that the ERAA doesn't model the CM, it appears likely this process will be followed frequently for future auctions and when the CM revenues for capacity providers are unknown. The proposal further states that "this calibration shall happen by adding or removing capacities in the considered bidding zone until its targeted reliability standard is met." This means that national TSOs will only consider domestic capacities for reaching the reliability standard where this isn't the case. This exercise will directly affect the outcomes of the MEC calculation however. Adding domestic capacities in the case where the LOLE is higher than the established reliability standard, which is the case of interest by default, would likely result in a lower MEC. We expect that the proportion of simultaneous scarcity periods in the whole of system stress periods to increase by exclusively adding domestic generation. At the same time, where the MEC for two interconnected systems is lower than the available margin on an interconnector/interface (or otherwise the maximum potential physical flow between them), there is scope for increasing exports from the neighbouring bidding zone to the market with the CM. This could take the form of existing capacity that is (marginally) loss-making remaining in the market through the extra revenues from the CM. This could also be a lower-cost option than, for example, building new capacity in the country with a CM. Hence, the additional capacity could be located in the neighbouring bidding zone. (Note: If the MEC is equal to the available margin on an interconnector/interface, then increasing foreign capacity wouldn't help to improve security of supply in the country with a CM, as the interconnector would in this case be the scarce resource; as a result, assuming the addition of domestic capacity in this case would be reasonable.) We believe this point requires further investigation from ENTSO-E and ACER.

One potential short-term solution would be to base the MEC on the scenarios with and without CMs, for example, by using a simple average of the MEC in the two scenarios. Another potential solution could be to use different configurations about where the additional capacity would be located in the scenario with CMs.

We would also like to draw ACER's attention to the proposed use of national assessments. As we have commented in our response to ENTSO-E's consultation, the national assessments should not override the results of the ERAA and the recommendation of the RCCs.

[Response to question 2]

According to the Electricity Regulation (article 26, paragraph 2), "Member States may require foreign capacity to be located in a Member State that has a direct network connection with the Member State applying the mechanism." The ENTSO-E proposal is inconsistent with Electricity Regulation on this point, whereby it states that "the methodology shall determine, for each bidding zone border, the expected contribution of imports that a country or bidding zone, where the mechanism is applied, can rely upon in moments of stress from the direct neighbouring country or bidding zone, at the other end of the corresponding border and where the foreign capacity is located." While the European legislation stipulates that foreign capacity from Member States that aren't directly interconnected to the Member State with a capacity mechanism could participate in their capacity mechanism, the ENTSO-E methodology appears to prohibit this possibility. The Electricity Regulation further states that "for the purposes of providing a recommendation to transmission system operators, regional coordination centres established pursuant to Article 35

shall calculate on an annual basis the maximum entry capacity available for the participation of foreign capacity. … Such a calculation shall be required for each bidding zone border.” Once again, the Regulation doesn’t limit the methodology to only directly interconnected systems, but rather requires that the methodology should apply on every bidding zone border. This could presumably consider both directly interconnected and non-directly interconnected systems. In this sense, we believe that the methodology should be able to assess the contribution from systems with no direct network connection to the Member State with a CM. Eventually, it is a decision for a Member State applying a CM on whether to permit foreign capacity in non-directly interconnected member states to participate in their CM.

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 per our response to the ENTSO-E consultation, we disagree with the idea that TSOs should receive revenues through the selling of capacity tickets on interconnectors. We have outlined the reasons in detail in the aforementioned response. This includes amongst others the fact that if foreign capacity providers have to pay for capacity tickets, that would be at a disadvantage to domestic capacity providers and amount to discrimination among different market players. This appears at odds with provision 8 of Article 26 of the Electricity Regulation. We believe that the legality of this should be further investigated by the European institutions.

In relation to article 13, we note that under the implicit allocation process, the price for the capacity tickets is set exogenously. Under the proposed ENTSO-E construct, the capacity ticket is determined as the "positive price difference between the price offered in the capacity mechanism by last contracted (based on the offered price) capacity and the last contracted (based on the offered price) foreign capacity." While the methodology doesn't clarify which party would be responsible for paying this price, it would presumably be the foreign capacity. In effect, the revenues of the foreign capacity would be lower (or the same with domestic capacity under a scenario where the marginal capacity clearing the CM is foreign capacity) than those for domestic capacity providers. Article 26 of the Electricity Regulation states that "any revenues arising through the allocation referred to in paragraph 8 shall accrue to the transmission system operators concerned and shall be shared between them in accordance with the methodology referred in point (b) of paragraph 11 of this Article or in accordance with a common methodology approved by both relevant regulatory authorities." The regulation does not require that revenues have to arise, whilst the proposed ENTSO-E methodology appears to do so. Unless a Member State has an explicit auction for the allocation of the MEC, we believe that foreign capacity providers should not pay for any capacity tickets. It should be in the discretion of a Member State to decide whether to run an explicit auction for the allocation of capacity tickets on interconnectors between Member States with CMs.

In relation to article 14 of the methodology for the sharing of the revenues, we believe that the whole of the revenues should be based on the same rules as the sharing of congestion revenues under article 19 of the Electricity Regulation. This would imply that paragraph 2 of article 14 is redundant and that paragraph 3 of the same article applies for the entire sum of the revenues. ENTSO-E suggests that the shared revenues between two TSOs should be determined by the likelihood of simultaneous scarcity periods and all other revenues should be allocated to the TSO of the Member State applying the relevant CM. The ENTSO-E proposed methodology doesn't provide any justification about how allocating the rest of the revenues to the TSO of the Member State applying the relevant CM improves the security of supply situation in this country. We also note that the likelihood of simultaneous scarcity periods is already considered when assessing the MEC, hence considering it again when assessing how to split the revenues would amount to double-counting of this likelihood.

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.

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.

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.

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.

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.

In relation to the direct participation to a reliability option type of a capacity Mechanism (article 1, paragraph i), we have commented on our response to the ENTSO-E consultation. In addition to this comment, which remains valid, we would like to stress that any solution shouldn’t be sought at national level but rather be regional. When seeking a solution, the National Regulatory Authority (NRA) of the Member State with the capacity mechanism should organise a working group that involves the NRAs of all the Member States where foreign capacity is eligible for participation in the capacity mechanism. The principles that apply in such a situation should be the same across the interfaces of all interconnected systems, even though the details of the solution might be different because of different market configurations in the markets of foreign capacity. Over the longer term and as harmonisation of the markets progresses in line with European legislation (e.g., network codes, the Electricity Regulation), the solution would appear to be common across all borders.

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

Broadly speaking, our comments on ENTSO-E's consultation on the methodologies for cross-border participation in capacity mechanisms still stand. We would like to direct ACER to our response to this consultation, which is available here: https://www.raponline.org/knowledge-center/response-to-entso-e-public-consultation-on-cross-border-participation-in-capacity-mechanisms/.

Below we offer some observations on the implementation of the methodologies, in particular the MEC methodology.

In relation to the implementation of the MEC methodology, we disagree with ENTSO-E's assertion that the methodology for the MEC should only apply in the case of direct foreign capacity participation in a capacity mechanism, as suggested per paragraph 1 of article 5. Our interpretation of the Electricity Regulation is that it equates the two options, that is, the direct participation of foreign capacity and participation of interconnectors in the interim, for the purposes of the MEC (article 26, paragraph 2). It is also worth noting that according to the same paragraph, the Regulation stipulates that the participation of interconnectors is only possible in case of capacity mechanisms already in place as of July 2019. This implies that for any new CM, the direct participation of foreign capacity should be the default option, and therefore the MEC methodology should apply as soon as a new CM has been approved. In principle there is no reason why the same methodology could not apply in the case of interconnection participation in a capacity mechanism, as we have also commented in our response to the ENTSO-E consultation, and ENTSO-E hasn't provided any justification about it. Not following the proposed methodology could lead to diverging methodologies implemented in Member States with capacity mechanisms and lack of harmonisation, which would be an undesirable outcome.

In relation to this point, ENTSO-E proposes to allow for an implementation period for the present methodologies after approval of this proposal. According to the detailed proposal, a number of preconditions need to be in place, such as the Registry to be fully operational (article 4 of the general provisions). More specifically, for the MEC methodology, ENTSO-E suggests it should be implemented only after the full implementation of the economic viability check within the ERAA. ENTSO-E doesn't provide any further details about when this is to be expected, a significant omission in our view, nor any justification on why this approach is sensible. (Note: We understand that ENTSO-E has suggested this requires another couple of years before it is ready. This would imply that the MEC methodology would be ready for implementation from 2022 or 2023 for CM auctions that concern delivery after the mid-2020s. We believe this is a significantly unambitious implementation of the recently agreed Electricity Regulation.) It appears unnecessary to wait for the implementation of the economic viability check before implementing the MEC methodology. This is because in any case ENTSO-E suggests that each national TSO will be responsible for amending the scenario with CM exogenously until this reaches the predetermined reliability standard. This exercise wouldn't involve the economic viability modelling but be based on the subjective opinion of the relevant national TSO. It is unclear and appears unnecessary, therefore, that the economic viability model should be a prerequisite for the implementation of the MEC methodology. We believe that the proposed methodology for the MEC can be used as soon as 2021, when we understand that ENTSO-E will implement for the first time the ERAA methodology, even if this is not fully implemented.

Contact

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