



Mr Christian Zinglensen
Director
ACER

Cc: Dr Florian Ermacora
Head of Unit
Internal Energy Market DG ENER
European Commission

Cc: Mr Gheorghe Visan
Chairman
Core TSOs Steering Group

By email only

4 December 2020

Dear Mr Zinglensen,

I am writing to you on behalf of National Regulatory Authorities of the Core Region (Core NRAs) with regard to Core fallback procedures, developed and submitted by Transmission System Operators of the Core Region (Core TSOs) in accordance with Article 44 of the *Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on capacity allocation and congestion management (CACM Regulation)*.

In case of the event that the single day-ahead market coupling process is unable to produce results – the Core fallback procedures foresee the execution of shadow auctions. The procedures for these shadow auctions and the requirements for participation are laid down in shadow allocation rules (SARs). The currently applied Core fallback procedures became effective in 2018, by the *ACER Decision No 10-2018 of 27 September 2018 on the Core CCR TSO's proposal for fallback procedures*. This decision followed a coordinated and unanimous referral to ACER by Core NRAs.

In Summer 2020, Core TSOs have, in accordance with Article 9(13) CACM Regulation, proposed amendments to the Core fallback procedures. The main changes in this proposal relate to the harmonization of the procedures between JAO, TSOs and market participants on the one hand, and the change in operational timing for the publication of the shadow auction results from 13:50 D-1 to 14:00 D-1 in order to reduce the risk of decoupling. These changes were made by Core TSOs in cooperation with all other involved TSOs across Europe and are laid down partly in the Core fallback procedures itself as well as in the shadow allocation rules (SARs), which are annexed to the submitted proposal. In accordance with Articles 12(1) of CACM Regulation, Core TSOs held a consultation from 24 July 2020 to 24 August 2020 and, subsequently, submitted an amended proposal of Core fallback procedures. This was received by the last Core NRA on 20 October 2020.

After having consulted, closely cooperated and coordinated with each other, Core NRAs agreed to request ACER to adopt a decision on the fallback procedures pursuant to Article 9(11) of CACM Regulation. The reason for this request is that Core NRAs have not been able to agree on the approval of the fallback procedures if the complete current SARs document is annexed to it. This is opposed by one NRA stating

that is not possible to approve documents that have the characteristics of terms and conditions under private law and define liability rules.

All Core NRAs are ready to assist ACER to develop and adopt its decision.

Please note that it is still a common understanding of Core NRAs that the proposed fallback procedures, in case enforced and implemented, shall be in place for a limited period of time. The reason for that is that currently a regional Core wide single day-ahead market coupling (DA MC) is not in place yet and not all Core borders are currently coupled in one system. Thus, the proposed fallback mechanism is limited to a subset of bidding zone borders where DA MC is in place. On the borders with no DA MC operator in function, Core TSOs currently do not foresee any fallback mechanisms. However – once and at the latest when the region-wide capacity calculation methodology (CCM) is developed and implemented in accordance with Article 20 of the CACM Regulation and the DA MC operator function implemented in accordance with Article 7(3) of the CACM Regulation will be available - Core TSOs commit themselves in the Article 5(4) of the proposal to, in due time ahead of the implementation of Core flow based market coupling (FBMC), submit for Core NRAs approval one common, fully harmonized regional set of Core fallback procedures. Under these circumstances, all Core NRAs consider *this approach* as pragmatic, acceptable and approvable.

Following the principle of efficiency and the principle of “effet utile” during this transitional period, the majority of Core NRAs understand that annexing of SARs “as is”, inter alia, avoids disassembling of SARs into sub-documents.

Core NRAs anticipate that ACER will, when adopting its decision, give consideration on Core NRAs’ assessment of the proposal and are happy to engage in the process to achieve that. Do not hesitate to come back with any further questions.

Yours sincerely,

Sven Kaiser
Chair of the Core Energy Regional Regulatory Forum