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# HAR Review 2023 Explanatory note

1 March 2023

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## **Disclaimer**

This explanatory document is submitted by all TSOs to the Agency for the Cooperation of Energy Regulators for information and clarification purposes only accompanying the “All TSOs’ proposal for amendment of the Harmonised allocation rules for Long Term Transmission Rights in accordance with Article 51 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation.

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## I. Introduction

The Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (hereinafter “FCA Regulation”) was published in the official Journal of the European Union on 27 September 2016 and entered into force on 17 October 2016. The FCA Regulation sets out rules regarding the type of Long-Term Transmission Rights that can be allocated via explicit auction, and the way holders of transmission rights are compensated in case their right is curtailed. The overarching goal is to promote the development of liquid and competitive forward markets in a coordinated way across Europe and provide market participants with the ability to hedge their risk associated with cross-border electricity trading. In order to deliver these objectives, a number of steps are required.

One of these steps is the introduction of harmonised rules for Long Term Transmission Rights at Union level. In accordance with Article 51 of the FCA Regulation, 6 months after the entry into force of the FCA Regulation, all TSOs shall develop a proposal for the harmonised allocation rules for Long Term Transmission Rights (hereinafter “HAR”). The proposal for the HAR was submitted to all National Regulatory Authorities on 18 April 2017 and was approved by ACER on 2 October 2017.

According to Article 68(5) of HAR “the Allocation Rules and the border and/or regional specific annexes included thereto shall be periodically reviewed by the Allocation Platform and the relevant TSOs at least every two years involving the Registered Participants.”. By email of 15 July 2019, ENTSO-E submitted, ‘on behalf of all TSOs’, the amended ‘Harmonised allocation rules for Long Term Transmission Rights’ for approval pursuant to Article 5(2) of Regulation (EU) 2019/942, and it was approved by ACER on 29 October 2019.

Based on the above, following the periodical review, all TSOs have elaborated on a draft reviewed HAR where they proposed additional needs for adjustments that resulted from experience. In addition with the introduction of LT FBA, the HAR have been reviewed to accommodate changes required.

## II. Main changes

### 1 15 min MTU

With the introduction of 15 min MTU in DA, HAR has been reviewed and updated to accommodate changes needed. The update to tackle the 15 min MTU in DA required few and small changes of the Harmonised Allocation Rules.

### 2 Maintenance period

It is still uncertain how the maintenance period will be impacted by LT FBA. Therefore this topic will not be tackled in the current submission.

TSOs plan to use Reduction periods for HVDC cables for LT FBA, thus the possibility to do this as per Article 30 is preserved. In line with previous discussions with ACER during the amendment of the SAP, Core TSOs plan to amend the Core LTCCM in order to allow maintenance periods for HVDC cross-border links within Core region and avoid providing 0 capacities for these links for the yearly allocations and thus increasing the offered capacity.

### 3 LT FBA related changes

#### **Auction specifications (Article 29)**

In the Provisional Auction Specification file one of the items included is : deadline for return of the Long Term Transmission Rights allocated in previous Auctions for the respective Bidding Zone border(s). For the LTFB capacity calculation process the Returns have to be submitted to the RCCs 5-6 WDs before the opening of the auction.

Since the LTFBA auction timings are more congested, Market Participants will only have under normal circumstances 3 to 4 WDs to submit their Returns. The provisional AS has to go out before the Return submission is enabled.

The approximate timeline would be as follows:

- Monthly auctions are opened for 2 WDs
- Return submission ends 5 to 6 WDs before the opening of the Monthly auction
- Return submission is opened for 3 to 4 WDs
- Before the Return submission is opened the provisional Auction specifications have to be generated.

These altogether add up to the 12 days proposed in the HAR. It was changed for consistency purposes for the ATC based auctions as well.

In LTFB the capacity calculation takes a longer amount of time than for the ATC based auctions. Therefore especially at the end of the year, when both the Yearly and the January monthly auctions have to be run, as well as enough time has to be allocated to be able to rerun both, certain compromises had to be made to accommodate this tight timeline. One of these is that the yearly and monthly auction might be run for a shorter amount of time compared to their usual length. Additionally, the FB parameters will only be received two working hours before the opening of the auctions. It is safer to link the publishing of the final Auction Specification (which will contain the OC) to the opening of the auctions.

The FB algorithm will be a more complex one than the one used for the ATC based borders. JAO would like to ensure enough time to verify the results coming from the algorithm (as much as possible- method is still under discussion/design) as well as allow enough time in case there are any issues with the algorithm to fix them. This would be especially relevant around the project go-live, when the algorithms will be used for the first time on production. The proposal is that under normal circumstances JAO will have two hours to provide the provisional Auction Results, but if during those two hours the need is identified for additional time, an extension will be feasible with a maximum 6 hours. With such a step the risk of auction cancellation would be mitigated.

#### **Fallback procedures for auctions (Article 52)**

The addition in Article 52 was made in order to clarify that the timings as described under Article 29 of the Auction specifications might not be respected in case auctions have to be rerun. If they should be that would mean there will not be enough time to rerun the auctions within one month.

Regarding the possibility of auction evaluation extension: As complexity is lower and no issues have been experienced with the auction result calculation in the past, we do not feel the need to apply the backup solution for ATC based allocations.

#### **Auction cancellation (Article 53)**

In the past events occurred where wrong input data led to incorrect offered capacity. For example, it occurred that too much capacity was given (instead of 50MW -> 500MW due to an error) and then based on the rules there is no disposition arranging such a scenario. Therefore, this addition was proposed.

#### **Invoicing and payment conditions (Article 66)**

We noted in the past that erroneous invoices can occur due to different reasons. An erroneous invoice can occur due to an IT bug in the auction tool Article 66(14)(c). An erroneous invoice can occur due to incorrect data provided by a third party as referred to in Article 66(14)(b). A TSO could be a third party.

#### **Liability (Article 70)**

The current liability wording in Article 70 already foresees that the SAP is only liable in the event of gross negligence and fraud i.e. technical issues are already excluded unless they are linked to gross negligence and/or fraud. This implies that the market participants needs to demonstrate that gross negligence and/or fraud is the source of the technical issues.

Gross negligence and/or fraud imply that the SAP has not provided its best efforts, diligence and care in performing its obligations and therefore we deemed it adequate to make this addition. Furthermore, the concept of ‘best efforts’ is present in industry standard rules (example: power exchanges) and therefore we do not see why SAP cannot have it in its rules.

## **4 General changes**

For article 69 we take note of the comments made in terms of lighter approval process for certain aspects of HAR. We consider that certain disposition specific on the operations of the SAP could go through a lighter approval process. For example – the introduction of electronic signatures for MPs – such changes which ease the market and bring digital progress should be able to be applied faster.

### **III. Changes in relation to the remuneration of the Long-Term Transmission Rights: addition of article 49, CAP for the Remuneration of Long Term Transmission Rights holders for non-nominated Physical Transmission Rights and Financial Transmission Rights**

FCA Article 35(3) stipulates “*where the cross-zonal capacity is allocated through implicit allocation or another method resulting from a fallback situation in the day-ahead time frame, the remuneration of long-term transmission rights shall be equal to the market spread.*”

To ensure fairness and a level playing field both for market participants and for tariff payers in the case of fallback allocation (triggered by a decoupling of the day-ahead market), TSOs believe that a structural solution is to be found in an update of the FCA regulation. As there is no consensus (yet) on this amongst European stakeholders and legislators, TSOs pragmatically propose a change to the HAR as a first improvement.

Concretely, TSOs have added article 49. The TSOs are of the belief that article 49 of the amended HAR shall apply in case of decoupling events.

## IV. Annex 1 – Public consultation responses

Organization	EDF
Any views on the proposals are welcomed together with more specific questions related to each topic of the proposal	<p>EDF welcomes this ENTSO-E consultation and would like to recall some key messages:</p> <ul style="list-style-type: none"> <li>• first, the importance of ensuring the financial firmness of Long-Term Transmission Rights (LTTRs) (see more details in response to question 9). TSOs should not default on their obligation to guarantee the financial firmness of transmission rights pursuant to the FCA Guideline;</li> <li>• second, the added value of the Flow Based (FB) allocation has not been sufficiently demonstrated compared to foreseeable negative impacts; The implementation of FB capacity calculation and allocation creates a major change in forward market design and deserves a thorough assessment of benefits;</li> <li>• third, the introduction of FB has negative effects on collaterals, increasing them to a level disproportionate to the risk exposure of TSOs (see response to question 8);</li> <li>• fourth, LTTRs beyond the one year ahead horizon are also needed, as the maturities of LTTRs should be aligned with the maturities of forward products in the market. So far TSOs do not perform any assessment of the available capacity in timeframes beyond one year ahead, limiting by default the allocation of forward rights to one year ahead of delivery at best. Forward hedging is becoming crucial in the current market circumstances, and LTTRs issued earlier than one year before delivery could support well-needed cross-border hedging and PPAs over longer time horizons.</li> <li>• Finally, on the last slide summarizing the amendments, in the part “Amendment article/General”, we do not understand what ENTSSOE means by “possibility to amend certain aspects of the HAR without regulatory approval”. We believe HAR changes must always require regulatory approval.</li> </ul>
Please provide your views on provisions related to collaterals requirements	<p>The move towards FB Allocation implies significant impacts for collateral requirements. The FB approach for capacity allocation implies one single auction for each region where it applies. In the CORE CCR for example, this translates into one auction for more than 20 borders. This demands significant top-up in collateral requirements for market participants, increasing the costs of hedging and trading in general. This major drawback is not addressed in the HAR. The filtering which is foreseen to reject bids that would not be covered by the provided collateral, is seriously challenging the benefit of the FB Allocation.</p> <p>Finally, the required collateral (for both Flow Based and ATC) seems disproportionate compared to the risks TSOs are bearing. We suggest that the validity of the collateral should end right after the payment of the acquired rights.</p>
Please provide your views on contestation of auction results and fallback procedures and articles affected by these	<p>TSOs are introducing in article 49 a cap to be applied for the remuneration of the non-nominated/financial LTTRs in case of Day-Ahead market decoupling. As already mentioned in the EDF response to the ACER consultation on HAR in 2021, EDF would like to recall that a cap on LTTRs remuneration is neither permitted by the FCA Regulation, nor economically justified.</p> <p>First, EDF would like to remind that the main objective of financial firmness of LT capacity allocation (LTTR remuneration at day ahead market spread) is to allow the market participants to hedge position across borders.</p> <p>Second, even if EDF understands TSOs concerns regarding the remuneration of LTTRs in case of decoupling (day ahead market spread VS day ahead shadow auction prices), the recent decoupling events do not corroborate this concern. Indeed, on the recent decoupling events (2019, 2020, 2021), the total amount compensated by TSOs to market participants (as LTTRs) represents a very small part of the total revenue incomes for the TSOs across the whole year (coming from the allocation of cross zonal capacity on Long Term auctions). Furthermore, caps on the remuneration of long-term transmission rights are reserved to cases of curtailment.</p> <p>Third, EDF shares ACER’s Decision 15-2021 where ACER ruled out such a proposal underlining that there is no legal basis to implement a remuneration cap in case of decoupling and that a modification of EU HAR would imply a change to the FCA Regulation. Article 35 of the FCA Regulation lays down rules for the remuneration of LTTRs. It requires the remuneration to be equal to the market spread for implicit auctions or their fallback in day-ahead. We therefore do not understand why and disagree with the fact that this point is being brought again in the debate.</p> <p>Finally, EDF would like to remind that market participants are not responsible when a decoupling occurs, it is not in market participant’s hands, and they are suffering from it. While there were several decoupling cases since 2019, the focus of TSOs and NEMOs should be on the robustness of the algorithm and the whole day ahead market coupling process. Instead of changing the EU HAR, the focus has to be on the reinforcement of the testing/improvements of the SDAC process to avoid any decoupling event in the future. But in case it happens, shadow auctions should be maintained, and training sessions like the ones organized in 2022 should be maintained (these sessions however duly require the presence of all TSOs). By the way, communication towards market participants in case of (a risk of) decoupling should also be improved.</p>

Organization	<b>EFET</b>
Any views on the proposals are welcomed together with more specific questions related to each topic of the proposal	<p>EFET response to all TSOs’ proposal for amendments of the methodology for Harmonized Allocation Rules for long-term transmission rights</p> <p>The European Federation of Energy Traders (EFET) welcomes the opportunity to provide comments to All TSOs’ proposal for amendments of the methodology for Harmonized Allocation Rules for long-term transmission rights (HAR).</p> <p>EFET acknowledges that the proposed amendments to HAR are needed in order to facilitate the implementation of flow-based cross-zonal capacity allocation. However, as stated in our previous responses, we consider that a fundamental review of the general approach is needed.</p> <p><b>Key messages</b></p> <ol style="list-style-type: none"> <li>1. The review of the EU HAR should not be the occasion for TSOs to default on their obligation to guarantee the financial firmness of transmission rights according to the FCA Guideline. Caps on the remuneration of long-term transmission rights are reserved to cases of curtailment. No specific cap should and can legally be added in cases of day-ahead market decoupling with the existing legal framework.</li> <li>2. We continue to challenge the value-added of flow-based allocation of transmission capacity in the forward timeframe. Above all, such substantial shift requires a proper assessment of benefits, which still has not been made publicly available.</li> <li>3. The flow-based allocation approach significantly increases collateral requirements. The general approach to collateral requirement seems to be disproportionate to the risk exposure of the TSOs.</li> <li>4. The existing proposal does not seem to support the allocation of calendar yearly products, earlier than year ahead, which is crucial for hedging on longer-term basis. TSOs should assess the level of capacity they can make available to the market two to five years ahead of delivery as yearly calendar products.</li> <li>5. Transparency by the TSOs in the capacity calculation process is key for the flow-based allocation. HAR should ensure consistency with the requirements for data publication under the Long-term capacity calculation methodology of the Core CCR.</li> </ol> <p><b>General comments</b></p> <p>The financial firmness of LLTRs should be maintained even in case of day-ahead market decoupling</p> <p>As noted in our response dated 27 August 2021 to ACER consultation on the HAR, a modification of the EU HAR to allow caps on the remuneration of LTTRs in case of decoupling would require amendments to the FCA GL, which forms the legislative basis of the EU HAR. Like art. 48 EU HAR, art. 35 FCA GL foresees that LTTRs are remunerated at the DA market spread when DA market coupling is in place at a given border, whether the allocation actually occurred implicitly or via a fallback process. This principle does not suffer any exception in the FCA GL. Art. 54 FCA GL, which foresees the possibility for TSOs to established caps on compensation, only applies to curtailed LTTRs and can therefore not be used to amend art. 59 EU HAR in the direction pursued by the TSOs (footnote 1 link: <a href="https://efet.org/files/documents/210827%20Electricity%20Committee%20CR%20LTTR%20remuneration.pdf">https://efet.org/files/documents/210827%20Electricity%20Committee%20CR%20LTTR%20remuneration.pdf</a>).</p> <p>A review of the general approach about flow-based implementation is needed</p> <p>The implementation of flow-based capacity calculation and allocation creates a major change in forward market design and deserves a thorough assessment of benefits. We have expressed this view at several occasions, pointing out at the downsides of the flow-based approach. We draw your attention to the EFET response to the ACER consultation on the SAP, CID and FRC amendments for long-term flow-based allocation submitted to ACER on 23 November 2022, which summarizes our reservations related to the implementation of flow-based capacity allocation (footnote 2 link: <a href="https://www.efet.org/files/documents/221124%20Electricity%20Committee%20CR%20ACER%20FB%20forward%20allocation.pdf">https://www.efet.org/files/documents/221124%20Electricity%20Committee%20CR%20ACER%20FB%20forward%20allocation.pdf</a>).</p> <p>The allocation of LTTRs earlier than one year before delivery is key for long-term hedging</p> <p>Even though the HAR is neutral regarding the products to be allocated, the existing processes in place do not support the allocation of transmission rights as yearly products beyond one year ahead of delivery, i.e. year+1, year+2, ..., year+5. So far TSOs do not perform any assessment of the available capacity in timeframes beyond one year ahead, limiting by default the allocation of forward rights to one year ahead of delivery at best. Forward hedging is becoming crucial in the current market circumstances, and LTTRs issued earlier than one year before delivery could support well-needed cross-border hedging and PPAs over longer time horizons.</p> <p><b>Specific comments to HAR</b></p> <ol style="list-style-type: none"> <li>1. Article 9 outlines that ‘...bank account should be from European Union, United Kingdom, European Economic Area or a country in which the Single Allocation Platform performs cross border auction services.’ It is not clear if it is meant a country to which Single Allocation Platform provides services or country where SAP performs service, i.e. Luxembourg. We propose the following formulation, ‘...a country where entities which are serviced by the SAP are registered and licensed as TSOs’. Similar remark is also valid for Article 20.1 (a).</li> <li>2. It is noted in the EFET response (footnote 2), November 2022’ but we consider important to emphasize it here as well. The flow-based approach for capacity allocation implies one single auction for each region where it applies. In the CORE CCR, this translates into one auction for more than 20 borders. This demands significant top-up in collateral requirements for market participants, increasing the costs of hedging and trading in general. This is a major drawback of the flow-based approach and unfortunately it is not addressed in the HAR. We invite TSOs to provide clear explanations of the collateral requirements and their interaction with submitted bids under the flow-based allocation approach so that market participants understand it and are able to adjust their bidding strategy. Moreover, the validity of the collateral requirements as outlined in the HAR, regardless of the flow-based or ATC approach, seem to be disproportionate to the risk exposure of the TSOs.             <ul style="list-style-type: none"> <li>- Article 22 sets the validity of the collateral requirements for yearly and monthly products to at least 30 calendar days after the end of the Product Period(s).</li> <li>- Article 66 outlines that the payments for long-term rights shall be settled before the start of the Product Period.</li> </ul> </li> </ol>

	<p>The above freezes the collateral for more than 60 calendar days even though the specific rights related to the product period are required to be paid. Unnecessarily freezing collateral is a financial commitment for market participants which increases the costs of trading and hedging.</p> <p>3. Article 29.6 outlines the information on the offered capacity that is made public before the auction in the flow-based approach. This is limited to (a) Max Exchanges (MaxBex), and (b) Max Net Positions. There is no clear definition of these parameters nor a reference to the methodology that defines them, in particular with respect to the flow-based allocation approach. It is not clear if such information is provided per border, or per source-sink.</p> <p>EFET considers that the full list of required data (as listed in the CORE LT CCM, annex 1, article 20.1, referring to article 3f of the FCA regulation) should be published prior to the auction. Clarity should be given on how this information will be published and where. We consider that the provisions in the HAR on transparency should at least refer to the list of parameters defined in the relevant CCM.</p> <p>4. Additions in paragraphs 3 and 4 of Article 31 make these paragraphs applicable only to the ATC approach, however these seem to be overruled by paragraph 6 of the same Article, which states that the same process applies to ATC-based and flow-based allocation. Please clarify in order to avoid any ambiguity.</p> <p>5. Article 49 (new) sets the cap to be applied for the remuneration of the non-nominated/financial LTTRs in case of day-ahead market decoupling. It takes into account only the congestion incomes of the TSOs related to specific month (yearly, monthly, shadow auction) for a specific month.</p> <p>We consider this matter of crucial importance and as noted above, the legal basis for remuneration of the non-nominated/financial LTTRs in case of day-ahead market decoupling, are set in the FCA GL. Amending this principle in HAR creates legal ambiguity and raises compliance concerns. In addition, the firmness of the LTTRs is greatly affected beyond the day-ahead firmness deadline. In our response from August 2021 (link provided in footnote 1), we provided a detailed explanation on legal and economic viewpoint. The payout of the TSOs in the case of decoupling on the below outlined observed events suggests that such amendment is unnecessary and highly disproportionate to the exposure that the TSOs face in case of decoupling:</p> <p>EFET assessment:</p> <ul style="list-style-type: none"> <li>- on 07/06/2019: 2,8% of aggregated 2019 EU congestion rent (forward allocation only)</li> <li>- on 04/02/2020: 0,9% of aggregated 2020 EU congestion rent (forward allocation only)</li> <li>- on 13/01/2021: 2% of aggregated 2021 EU congestion rent (annual LTTRs allocation only)</li> </ul> <p>6. Article 66.14 outlines delays in invoicing and settlement due to erroneous data. Potential delays 90 up to 180 working days. In such cases, this Article shall state that in such cases, collaterals provided by auction participants are released and participants are not penalized due to late invoicing.</p> <p>7. Article 73.5 (e) states that JAO terminates of participation agreement in case of 15 months inactivity. It is not clear what inactivity means, but before termination JAO should check with the party, and only in case of no feedback for period of 20 days to terminate.</p> <p>Contact Arben Kllokoqi Director of Electricity Market Design a.kllokoqi@efet.org</p>
<p>Please provide your views on provisions related to collaterals requirements</p>	<p>(also mentioned above)</p> <p>It is noted in the EFET response (footnote 2), but we consider important to emphasize it here as well. The flow-based approach for capacity allocation implies one single auction for each region where it applies. In the CORE CCR, this translates into one auction for more than 20 borders. This demands significant top-up in collateral requirements for market participants, increasing the costs of hedging and trading in general. This is a major drawback of the flow-based approach and unfortunately it is not addressed in the HAR. We invite TSOs to provide clear explanations of the collateral requirements and their interaction with submitted bids under the flow-based allocation approach so that market participants understand it and are able to adjust their bidding strategy. Moreover, the validity of the collateral requirements as outlined in the HAR, regardless of the flow-based or ATC approach, seem to be disproportionate to the risk exposure of the TSOs.</p> <ul style="list-style-type: none"> <li>- Article 22 sets the validity of the collateral requirements for yearly and monthly products to at least 30 calendar days after the end of the Product Period(s).</li> <li>- Article 66 outlines that the payments for long-term rights shall be settled before the start of the Product Period.</li> </ul> <p>The above freezes the collateral for more than 60 calendar days even though the specific rights related to the product period are required to be paid. Unnecessarily freezing collateral is a financial commitment for market participants which increases the costs of trading and hedging.</p>
<p>Organization</p>	<p><b>EURELECTRIC</b></p>
<p>Any views on the proposals are welcomed together with more specific questions related to each topic of the proposal</p>	<p>Key messages:</p> <ul style="list-style-type: none"> <li>- Eurelectric continues to challenge the added value of Flow Based allocation which has not been sufficiently demonstrated and is hence not compliant to FCA guideline article 10. Most importantly, it has not been proved that FB allocation will lead to more cross-zonal capacities being allocated, which should be the ultimate goal given the need for long-term hedging under current circumstances.</li> <li>- Collateral: Eurelectric wants to highlight that the move to Flow Based Allocation implies a significant increase of collateral requirements which has so far not been addressed and is therefore seriously imperiling any benefits of the Flow Based Allocation.</li> </ul>



	<ul style="list-style-type: none"> <li>- Hedging for longer term horizon is not sufficiently foreseen in the EU HAR. The proposal does not sufficiently support the possibility for allocation of FTR beyond the year-ahead horizon.</li> <li>- Transparency: the EU HAR lacks sufficiently detailed and effective transparency provisions with regards to the evolution of the Flow Based Calculation and Allocation;</li> <li>- we reiterate our opposition to Art. 49 which provides for a cap for the remuneration of LTTRs in case of decoupling event and would like to remind that it is not compliant with the FCA regulation (Art. 35);</li> <li>- on the last slide, in the part “Amendment article/General”, we don’t not understand what ENTSOE means by “possibility to amend certain aspects of the HAR without regulatory approval”. We believe HAR changes must always require regulatory approval.</li> </ul> <p>General comments Format of the consultation: We welcome the ppt explaining the main changes, this is pedagogical and useful.</p> <p>FTR obligations: Eurelectric would like to remind its opposition to the use of FTR obligations. As said in our answer to the consultation of ACER on the Forward Policy paper. We therefore reiterate our request to remove the FTR obligations in the EU HAR.</p> <p>LTTR beyond the one year ahead horizon: The maturities of LTTRs should be aligned with the maturities of forward products in the market. It would allow MPs to hedge their cross-border risk together with other risks in the market. We recommend the EU HAR to be adapted to accommodate such potential evolution, should a decision be taken to implement LTTR allocation beyond year-ahead.</p>
<p>Please provide your views on provisions related to collaterals requirements</p>	<p>Collateral issues: We understand in the background power point document that an update of EU HAR is needed in order to review how bids are assessed and rejected due to insufficient credit limit and TSOs to assess if the amount of credit limit required can be reduced. We fail to understand the following sentence and would welcome clarification: “Included as unsolved and open question for Shadow Opinion and PC”.</p> <p>Eurelectric wants to highlight that the move to Flow Based Allocation implies a significant impact for collateral requirements. We understand that the collateral requirement has not been adapted/modified to the allocation of more than 20 borders at the same time: therefore, Market Participants will have to provide at once the full amount of collateral corresponding to the “sum” of all the indivual borders they are bidding. This will drastically increase the cost of hedging and trading in general. This major drawback of the Flow Based allocation is not addressed in the EU HAR, contrary to what has been said during the LTFBA workshop in November 2022. The filtering which is foreseen to reject bids that would not be covered by the provided collateral, is seriously challenging the benefit of the Flow Based Allocation. Eurelectric called several times for a proper solution to address this problem, without success. Finally, the required collateral (for both Flow Based and ATC) seems disproportionate compared to the risks TSOs are bearing. Indeed: - article 22 mentions that the validity of the collateral requirements should be 30 days after the end of the Product Period; - Article 66 says that the payment for long term rights shall be settled before the start of the Product Period; We suggest that the validity of the collateral should end right after the payment of the acquired rights.</p>
<p>Please provide your views on contestation of auction results and fallback procedures and articles affected by these</p>	<p>Transparency (article 29): Article 29.2 states that in the event of FB, “final offered capacity” shall be published. It is also clarified that in the event of Flow based allocation, the “final Offered Capacity” shall consist of: “a) Max Exchanges (MaxBex) and; c)b)Max Net Positions” Feedback: First we want to point out that there is no definition of “Max Exchange” or “Max Net Positions”, neither a reference to the relevant capacity calculation methodologies. Second, we consider that publishing only “Max exchange and max net position” is not sufficient for “final offered capacity” in case of Flow Based Allocation. Indeed, the full list of required data (e.g. as published in the CORE LT CCM, annex 1, article 20.1, referring to article 3f of FCA regulation) shall be published prior to the auction; How will this be ensured ? where will this data be published ? Article 31: While article 31.3 and 31.4 refer exclusively to ATC allocation, article 31.6 mentions that all previous provisions refer to both ATC and Flow based. Could EntsoE clarify this ? Decoupling and cap on LTTR remuneration (article 49): TSOs once again exhibit a large need to stress the importance of the possibility to curtail the remuneration in case of the de-coupling in the DA, in our view beyond the magnitude of the actual issue. This is reflected in article 49 of the revised Harmonised Allocation Rules.</p>

	<p>Eurelectric feedback on article 49:</p> <p>As a first point, we would like to remind that we are strongly opposed to the approach that the remuneration of LTTR in case of decoupling is equal to the shadow capacity price, as explained in our answer to ACER consultation on EU HAR update in 2021 (1, see below), and as stated in our letter dated 6th April 2021 to the European Commission and ACER after this idea of altering the firmness of LTTR during decoupling events was presented by ENTSO-E at the MESC of 11th March 2021. This idea has already been proposed by ENTSOE in 2021 and rejected by ACER since it wouldn't be compliant with FCA Article 35. We therefore strongly disagree that it is brought again for discussion, without any new arguments that would justify the reopening of the issue. The letter clearly described the flaws in the rationale presented by ENTSO-E to reduce the firmness of LTTR in case of decoupling. Furthermore, the letter outlines a way forward and requests ENTSO-E to focus on the management of decoupling events and improving the competition in the shadow auctions. We request ENTSO-E to refer to this letter for more details on our concerns, and we reiterate a few major points presented in the letter below.</p> <p>The proposal of ENTSO-E that the remuneration of LTTR could be capped in the case of decoupling is claimed to be introduced to ensure fairness and a level playing field both for market participants and for tariff payers. However, challenging the firmness of LTTR could not only be detrimental to the holders of LTTR for the period of the decoupling, but could even be detrimental to network tariff payers, as the risk of a revenue loss in case of decoupling event would eventually be accounted for by bidders when they auction to buy the LTTRs. In other words, TSOs would permanently get less revenues from LTTR auctions if they make LTTR a less reliable – and thus less valuable – hedging solution.</p> <p>Moreover, we consider that the proposal is not appropriate to address the problem of limited competition in the shadow auctions, which induces a loss of congestion rents for TSOs during decoupling events. Penalizing only the LTTR holders in terms of LTTR remuneration will not solve this concern. Eurelectric supports the ambition to increase competition in shadow auctions, but consider that the facilitating measures should target all market participants and not only the LTTR holders.</p> <p>Finally, if a decoupling event has significant consequences in terms of congestion rents or price formation, Eurelectric considers that the economical compensation measures should rather be paid by the party that is responsible for the failure that caused the decoupling. As LTTR holders could by no means be considered responsible of the past decoupling events, their penalization provides incorrect incentives for minimizing decoupling events. It is the responsibility and operational performance of other stakeholders of the market coupling process that should rather be correctly incentivized.</p> <p>Therefore, we are strongly opposed to the idea that the remuneration of LTTR could be altered in the case of decoupling. This goes against the key principle that LTTR is a hedging product for market participants, who would then bear a risk that they have no means to mitigate. Last but not least, we would like to point out that the Market Coupling Steering Committee recently decided to increase the price threshold triggering a book reopening, with the argument that this would drastically reduce the risk of decoupling.</p> <p>As a second point, we are also strongly opposed to the modification to cap the remuneration to monthly revenues, instead of yearly revenues. TSOs are well protected for the remuneration of LTTR with a yearly approach, and there has been no justification of the reason for such change. We do not see what is justifying such limitation which seems disproportionate.</p> <p>(1) <a href="https://cdn.eurelectric.org/media/5278/letter_to_acer_remuneration_of_lttrs-2021-030-0157-01-e-h-14527037.pdf">https://cdn.eurelectric.org/media/5278/letter_to_acer_remuneration_of_lttrs-2021-030-0157-01-e-h-14527037.pdf</a></p>
<p>Organization</p>	<p><b>CEZ</b></p>
<p>Any views on the proposals are welcomed together with more specific questions related to each topic of the proposal</p>	<p>Many thanks for putting together a well-detailed proposal. However, we rather question the added value of Flow Based allocation which has not been sufficiently demonstrated and hence we do not find it compliant to FCA guideline article 10. Most importantly, it has not been proved that FB allocation will lead to more cross-zonal capacities being allocated, which should be the ultimate goal given the need for long-term hedging under current circumstances. Total amount of capacities decreased after full implementation of FB CORE (for M+1 and Y+1), we are worried implementation of FB for LTTRs would lead to further decrease in capacities.</p> <p>The maturities of LTTRs should be aligned with the maturities of forward products in the market. It would allow MP to hedge their cross-border risk together with other risks in the market.</p>

<p>Please provide your views on contestation of auction results and fallback procedures and articles affected by these</p>	<p>We are strongly opposed the approach that the remuneration of LTTR in case of decoupling is equal to the shadow capacity price, which has already been rejected by ACER in the past. Challenging the firmness of LTTR could not only be detrimental to the holders of LTTR for the period of the decoupling, but could even be detrimental to network tariff payers, as the risk of a revenue loss in case of decoupling event would eventually be accounted for by bidders when they auction to buy the LTTRs. In other words, TSOs would permanently get less revenues from LTTR auctions if they make LTTR a less reliable – and thus less valuable – hedging solution. Moreover, we consider that the proposal is not appropriate to address the problem of limited competition in the shadow auctions, which induces a loss of congestion rents for TSOs during decoupling events. Penalizing only the LTTR holders in terms of LTTR remuneration will not solve this concern. LTTR holders could by no means be considered responsible of the past decoupling events, their penalization provides incorrect incentives for minimizing decoupling events. It is the responsibility and operational performance of other stakeholders of the market coupling process that should rather be correctly incentivized.</p>
<p>Organization</p>	<p><b>TIWAG</b></p>
<p>Any views on the proposals are welcomed together with more specific questions related to each topic of the proposal</p>	<p>We do not support the introduction of flow-based long-term transmission right (LTTR) allocation, since it introduces a lot of complexity and does not support the goal of improving the quality of the LTTR as a hedge. We argue that the LTTR need further improvement to fit better to how the forward market works (see next point).</p> <p>We call for a stronger alignment of the LTTR auctions and products with the habits of the forward market. That means direct support of a secondary market for LTTR making it easier to exchange LTTR between market participants, possibly on a platform that is already used in the forward market. To better fit to the forward market also means the introduction of Year+2/Year+3/quarterly products and eventually distributing the capacity to more frequent auction dates. The current rules, that is auctioning only one yearly product and just monthly product close before the delivery starts, are insufficient.</p> <p>Article 49: We do not understand why TSOs need to cap remunerations in the case of decoupling. TSOs, being part of SDAC process, can improve the reliability of the process such that decouplings are less likely to occur. TSOs can also manage the SDAC fallback process such that capacities are allocated purposefully and that extreme price events are avoided. To cap remuneration means a deterioration of the quality of FTRs as hedging products and stands in contrast to the objectives of the FCA Article 3 a). Deterioration of the quality of FTRs would also mean that the auction participants would price in the event of decoupling into their auction bids or even be shied away and not place bids at all and thus lead to less auction income.</p> <p>Article 70 Liability: We would like to know why the obligations of the Single Allocation Platform are restricted to “best efforts”. The Single Allocation Platform manages very important and critical processes. We think it would be in the common interest, if the entity responsible for these processes has a strong mandate to perform and not a “weak” mandate. If the obligations are only at “best efforts”, we argue that the quality of the services/obligations have to be specified in more detail, and in such a way that there are enough resources dedicated and that quality management systems for every process are in place etc.</p>