

**AGREEMENT BETWEEN
AUTORITÀ PER L'ENERGIA ELETTRICA E IL GAS
AND
COMMISSION DE REGULATION DE L'ENERGIE
ON
TRANSFER CAPACITY ALLOCATION OVER THE GRID
INTERCONNECTING ITALY WITH FRANCE
FOR THE YEAR 2004**

Introduction

The present document contains the general outlines adopted by the *Autorità per l'energia elettrica e il gas* (hereafter AEEG) and the *Commission de Regulation de l'Energie* (hereafter CRE) with respect to terms and conditions for allocating the transfer capacity over the interconnected grid between Italy and France for the year 2004.

The general outlines for the year 2004 have been built over the current agreement between AEEG and CRE on the same subject for the year 2003 (hereafter: AEEG-CRE 2003 agreement), taking also into account:

- a) forthcoming modifications of the Italian electricity framework;
- b) the needs arisen following the events occurred on 28 September 2003;
- c) the entry into force on July 1st, 2004, of the Regulation (EC) No 1228/2003 of the European Parliament and of the Council on conditions for access to the network for cross-border exchanges in electricity (hereafter: Regulation No 1228/2003).

AEEG and CRE recall that electricity transits aimed to the Italian customers over the network of the neighbouring Countries to Italy shall be possible and non discriminatory and that transit conditions (tariff) shall be determined according to ETSO enforced CBT agreement. They also recall that the conditions of allocation of the interconnection capacities between Italy and all neighbouring Countries shall be public, transparent and non discriminatory.

In this document, "the TSOs" refers surely to GRTN and RTE and, depending on their agreement to participate in the joint allocation procedure, to the Swiss grid operators.

The TSOs jointly perform the allocations. They are jointly and severally responsible for the management of the joint allocation procedure.

A Determination of the yearly transfer capacity for the year 2004 on the NW border

1. TSOs will propose for approval of AEEG and CRE, the transfer capacities for the year 2004 on the NW border, for each electrical border (France-Italy and Switzerland-Italy). The value of proposed transfer capacities can be differentiated among seasons (winter, summer and August periods). Such figures will be obtained by the TSOs by the use of a general scheme for the calculation of the total transfer capacity and the transmission reliability margin based upon the electrical and physical features of the network elaborated and proposed to AEEG and CRE for approval, as per article 5, point 2, of Regulation No 1228/2003. These transfer capacities will be yearly allocated.
2. Should not the TSOs reach an agreement on the values of transfer capacity for the year 2004, or should not the regulators approve the TSOs proposal, the figures valid for the year 2003 on the French-Italian interconnection will be used for the allocation in the year 2004.

3. In case the Swiss TSOs do not participate in the joint allocation procedure and organise an autonomous allocation, 50% of the transfer capacity on the Swiss electrical border remaining after deduction of the capacity allocated according to para A7 will be autonomously allocated by them. This allocation shall comply with the legislation of the European Union and notably follow the principles listed in the introduction of this agreement. The remaining 50% of the transfer capacity on the Swiss electrical border will be allocated by GRTN according to the transfer capacity allocation for the year 2004 on the NW border described below.
4. The events occurred on 28 September 2003 entailed the introduction of safety measures for the secure operation of the interconnected power systems, including new technical rules and improved operation practices. Such measures will be implemented in the year 2004 by TSOs.
5. Operations of interruptible loads in Italy shall not have any external effect on the operation of the interconnected networks, but transient effects.
6. Before the implementation of the abovementioned safety measures, all rights assigned in the capacity allocation for the year 2004 on the NW border, that is all capacities on the NW border, including the capacity autonomously allocated by the Swiss TSOs, except the rights assigned as per para 7 and 8, will be reduced by security scaling coefficients (differentiated between night and day, and by electrical border if necessary) proposed by TSOs to AEEG and CRE for approval.
7. To the existing long-term contracts (signed before entering into force of the European directive 96/92/EC), a transfer capacity equal to the power profile stated in the contracts is allocated, provided that these contracts are devoted to supply the Italian franchised market. Namely:
 - a) 1400 MW France to Italy;
 - b) 600 MW Switzerland to Italy.

To the existing French long term contract dedicated to Corsica, a transfer capacity equal to the power profile stated in this contract (max 55 MW) is allocated on the French electrical border for electricity transit through the Italian grid.
8. In the determination of the available capacities of NW border, pre-allocated capacities to third States embedded into the Italian territory are foreseen, namely:
 - a) for electricity import into the Republic of San Marino: max 50 MW (the final figure will be fixed by GRTN according to Italian Government directives; this final figure will in any case be below 50 MW);
 - b) for electricity import into the State of Città del Vaticano-Santa Sede: max 50 MW;

are considered as already allocated capacities for the year 2004, on the electrical border elected by the third States.
9. Interruptible capacity rights allocated in the 2003 and 2002 allocations can be released by their beneficiaries before the annual allocation. Such release is definitive.
10. A share not greater than 50% of the released capacity as per para A9 might be allocated for supplying Italian franchised market. In such a case, this capacity allocated for supplying Italian franchised market will be split between the French and Swiss electrical border pro rata to the total winter transfer capacities for the year 2004 on each electrical border.
11. The remaining of the capacity released as per para A9 will be part of the Capacities allocated in the annual allocation described below.

12. The allocation process shall ensure that whenever the corresponding right of access to the interconnection is not exploited, the unused capacities shall be made available for the short term allocation to other users.
13. Included in the NW border capacity for 2004, a capacity of 550 MW will be separately allocated to Italian eligible customers with “interruptible loads” (additional with respect to capacity already allocated until 2004 to interruptible loads in the NW border and equal to 950 MW). The corresponding rights can be released according to the previous para A9 before the annual allocation will take place. Not released rights will be reduced under the same conditions as all capacities allocated in the annual allocation being the interruptible commitment kept the same.
14. The same provision as per para A10 applies to capacities released as per para A13.

B Transfer capacity allocation for the year 2004 on the NW border

Annual allocation

1. “Capacities allocated in the annual allocation” hereafter refer to the annual available capacities remaining after deduction of the existing long-term contracts according to para A7, of pre-allocated capacities to third States embedded into the Italian territory according to para A8, of the capacity allocated to Italian eligible customers with “interruptible loads” according to para A9 and para A13 which have not been released, of the released capacities according to para A9 that have been allocated for supplying Italian franchised market according to para A10, and of the capacity autonomously allocated by the Swiss TSOs, in case they do not participate in the joint allocation procedure and organize an autonomous allocation.
2. The Capacities allocated in the annual allocation are allocated for a one-year-long period through a pro-rata mechanism with an exit threshold of 1 MW (winter day values). Lower capacities after the pro-rata application are disregarded. A detailed description of this mechanism will be submitted to AEEG and CRE by the TSOs for approval.
3. The annual allocation is performed only for the year 2004.
4. The allocation is open to all final eligible customers and all operators, which have license in EU to trade electricity on behalf of final customers.
5. Appropriate clauses on capacity requests should be foreseen in order to assess the final use of energy exchanged through requested capacity and to limit the requests to the average annually withdrawal from the network of the corresponding eligible consumers.
6. If, during the year 2004, the TSOs are in a position to make available additional capacity on the NW border, they shall propose for approval of AEEG and CRE the corresponding power quantities for each electrical border (France- Italy and Switzerland-Italy). The portion of these additional transfer capacities to be jointly allocated by GRTN and RTE on each electrical border will be allocated to the beneficiaries of the Capacities allocated in the annual allocation for the year 2004, proportionally to the rights assigned in this allocation, provided the total of the rights which is allocated to each of them not greater than their request.

Conditions relating to the use of the allocated capacities

7. The TSOs can specify when the Capacities allocated in the annual allocation and the capacities allocated to Italian eligible customers with “interruptible loads” are reduced in order to take into account the operational constraints of the grids. This may happen for example during specific periods such as maintenance or construction periods. In this case, all Capacities allocated in the annual allocation, all capacities allocated to Italian eligible customers with “interruptible loads” and all capacities allocated for supplying Italian franchised market will be reduced by the same multiplying factor. This multiplying factor may depend on the electrical border. Such reduction shall be part of the detailed description of the mechanism submitted to AEEG and CRE by the TSOs for approval.
8. In order to improve the knowledge of market methods for allocating cross-border capacities and to promote the adoption of such methods according to the Regulation No1228/2003, it will be enforced a negotiation mechanism through which reallocate yearly allocated capacity (market mechanism for the negotiation of allocated transfer capacity on yearly basis). Such negotiation mechanism should be must be ran on a monthly basis and the yearly allocated capacity is released for the months of the year that follow the month of negotiation.
9. No company or group of companies can hold capacity rights above 10% of total NW border capacity. The 10% threshold is also valid for the autonomous allocation, if any.
10. Allocated capacity – if resulting a scarce resource - must be used to import electricity at least 80% of the equivalent hours of the period (month). Use of the allocated capacity will be verified taking into account the exchange program at the Italian border. Violations of the above mentioned constraint (monthly verified) determines the disruption of the allocated rights to the single operator for the entire duration of the annual allocation. Released capacity will be reallocated in the short-term allocation mechanisms.

Short-term allocation of available capacities on the NW border

11. Short-term allocation refers to daily allocation and, possibly, weekly allocation. The capacities allocated on the NW border in the short-term allocation will be jointly determined by the TSOs under the control of AEEG and CRE.
12. In cooperation with the market operators (PowerNext in France and *Gestore del mercato elettrico Spa* in Italy if operating), the TSOs shall submit to the regulators a short-term allocation based on implicit auction mechanism. For the mean time, they shall submit a short term allocation based on pro rata ensuring the maximum rate of utilisation of the daily capacity.
13. Such mechanism will take into account the necessity to re-allocate all unused capacity, including the capacity unused by the long term contracts, to re-allocate released capacities and to allocate further capacities which might be declared by the TSOs for a period shorter than the year.

Rights and obligations of the transfer capacity holders

14. Grid users holding rights on transfer capacity shall establish transit contracts with the TSOs included in the NW border and shall refer to the relevant TSO in order to settle energy unbalances against the exchange programs at the electrical border. The same provision is also valid in Italy. They may be subject to the payment of the congestion costs incurred by their electricity transits on the transmission grid of origin and/or destination, according to procedures approved by the relevant regulator.

Regulations of the allocations

15. General regulations for the annual and short-term allocation procedures are jointly proposed by the TSOs. The regulations enter into operation once approved by AEEG and CRE.
16. The regulation for the annual allocation and short term allocation has to be proposed by the TSOs by December 22, 2003.

Organisation of the joint allocation by the TSOs

17. The allocation will be organised by a joint Committee established by the TSOs assuring transparency of the allocation process towards the TSOs. Terms and conditions to foster the transparency on allocation will be proposed by the TSOs and subject to a further agreement between regulators.
18. The Committee shall propose a regulation for the NW border allocation and it will execute the NW border allocation once the regulation has been approved by AEEG and CRE. The above regulation shall be drawn according to AEEG and CRE deliberations in the matter and shall be notified to the respective regulator.

Agreement on future cooperation among AEEG and CRE

19. AEEG and CRE agree to cooperate in the year 2004 with the aim:
 - a) to promote the efficiency of the transmission system management being aware, in particular, of system security;
 - b) to investigate enhanced methods for the application of Regulation No1228/2003 in the year 2005.