

Deliberation of the Energy Regulatory Commission of 15 October 2015 approving the rules on long-term capacity allocation by explicit auctions

Present: Catherine Edwige, Helene Gassin, Yann Padova, Commissioners.

In application of Article 30 of concession type specification of the public electricity transmission network as approved by Decree No. 2006-1731 of 23 December 2006, the Energy Regulatory Commission (CRE) approves the rules for calculating and allocating cross-border electricity exchange capacities.

By letters received on 28 July 2015, 10 September 2015, 5 October 2015 and 8 October 2015, the French Transmission System Operator Réseau de transport d'Electricité (RTE) wrote to the French Energy Regulatory Commission (CRE) requesting approval of a proposal for Allocation Rules for Forward Capacity Allocation (hereinafter "HAR", *Harmonised Allocation Rules*), as well as of the following texts:

- Shadow allocation rules version 1.2
- Daily Capacity Allocation on Swiss Borders and Italy – Greece Border version 1.0
- IFA Access rules V10
- Access Rules for Imports and Exports on the French Public Power Transmission System version 3.7
- Allocation Rules for Intraday Capacity Allocation on France-Spanish interconnection (IFE Rules) version 4.1.
- Allocation Rules for Intraday Capacity Allocation on North Italian Borders version 01
- Structure of the Allocation of Capacity among different Timeframes on France-Italian interconnection version 2.0

RTE has also submitted for approval to the CRE, in its letter dated 28 July 2015, the intraday capacity allocation rules on the France-Switzerland interconnection as well as the intraday capacity allocation rules on the France-Germany interconnection. RTE has incorporated to these rules the changes associated with the introduction of 30-minutes products, which are currently the subject of a public consultation by the CRE. Consequently, these rules will be the subject of a subsequent deliberation by the CRE.

1. Context

1.1. Network code on long-term capacity harmonised allocation rules

In application of Article 8 of Regulation (EC) No. 714/2009 of the European Parliament and Council of 13 July 2009 on the access conditions to the network for cross-border electricity exchanges, the European Network of Transmission System Operators for Electricity (hereinafter "ENTSOE"), develops network codes on capacity allocation and congestion management. Once adopted, the network codes take the form of European regulations, compulsory in all their elements and directly applicable in Member States.

In this framework, ENTSOE has developed a network code on the allocation of long-term products ("Forward Capacity Allocation" code, hereinafter "FCA code"). This network code aims to promote the integration of the electricity markets, by harmonising the rules for allocating long-term products on a European scale. Long-term products correspond to the set of products allocated before the daily deadline (annual, quarterly, monthly... etc.). Following the recommendation of adoption of this code made by the Agency for the Cooperation of Energy Regulators (hereinafter "the Agency") on 22 May 2014, the FCA code

should be adopted by the Member States during the comitology in the coming months. In accordance with ENTSOE's proposal and the Agency's recommendation, the code provides, six months after its entry into force, the submission by transmission network operators (TSOs) of a proposal for Harmonised Allocation Rules (HAR).

1.2. Early application of the provisions of the FCA code

At the request of the regulators, the TSOs of twenty-two¹ European countries (countries allocating transmission rights), including RTE, have undertaken to implement in advance these FCA code provisions, as included in the version submitted in April 2014 by ENTSOE to the Agency in application of Article 6 (9) of Article 8 of Regulation (EC) No. 714/2009. These TSOs, after conducting a public consultation from 2 to 30 March 2015, submitted the rules for approval to their regulators between the months of July and September 2015. It is a coordinated approval, all of the regulators must approve the rules by the end of October 2015, so that they can be implemented for the allocation of products with delivery from 1 January 2016. The proposal for the long-term capacity allocation rules by explicit auctions "HAR" submitted by RTE to the CRE on 28 July 2015 and supplemented on 5 October 2015, falls within this context.

As regards France, these so-called "HAR" rules are intended to replace the rules on the allocation of long-term transmission rights currently in force, namely the Harmonised Rules v2.0 (hereinafter the "CASC rules") applied by the "*Capacity Allocation Service Company*" (CASC) platform² for all borders, with the exception of the France-England interconnection, operated by the "*Capacity Management System*" (CMS) platform governed by the IFA Access Rules version 9.

The harmonisation of the Allocation Rules for Forward Capacity Allocation means a change in line in other rules. Thus, the rules that cover the daily or intraday timeframe were, up to now, included in the CASC rules and will now be the subject of *ad hoc* rules. In addition, some rules, such as, for example, import-export rules, must be aligned with the HAR rules. With regard to the France-Italy interconnection, the implementation of the HAR allows an evolution of the firmness of the long-term products which is accompanied by a new definition of the structure of the allocation of capacity among different timeframes on the French-Italian border.

1.3. Public consultations carried out during the development of the HAR rules

The proposed changes have been the subject of several consultations, at European and French level. Thus, the harmonised rules HAR, drafted by the transmission system operators and ENTSOE were the subject of a wide consultation organised by ENTSOE from 2 to 30 March 2015. RTE has, for its part, proceeded with the following public consultations:

- the draft IFA Access rules V10 was submitted for consultation from 2 to 30 March 2015 by RTE and National Grid Interconnectors (NGIC);
- the draft Shadow allocation rules version 1.2 and the draft Daily Capacity Allocation on Swiss Borders and Italy – Greece Border version 1.0 were submitted for consultation from 8 May to 8 June 2015;
- the draft Allocation Rules for Intraday Capacity Allocation on North Italian Borders version 01 was submitted for consultation from 15 June to 15 July 2015;
- the draft Access Rules for Imports and Exports on the French Public Power Transmission System version 3.7 was submitted for consultation from 24 July to 3 August 2015;
- the draft Structure of the Allocation of Capacity among different Timeframes on France-Italian interconnection version 2.0 was submitted for consultation from 18 to 29 September 2015.

¹ Twenty-one member States of the European Union and Switzerland

² The CASC platform proceeded with the allocation of cross-border capacities by explicit auctions for the Central Western region (France, Germany, Belgium, Netherlands, Luxembourg), the Central-South region (France, Germany, Austria, Italy, Slovenia, Greece), all of Swiss borders and the French-Spanish border, for different timeframes (annual, monthly, daily and intraday, depending on the borders).

In addition, changes to the characteristics of long-term transmission rights allocated at the France-Italy interconnection, as well as changes to the splitting rules at this border, were the subject of a public consultation by the CRE from 5 to 19 June 2015.

It should also be noted that the CRE has been working closely with its European counterparts in order to build a common position of regulators on the proposal by the TSOs.

2. Analysis of the CRE on the developments proposed by the TSOs

Unlike the CASC rules currently in force, which set out the special provisions for each timeframe and each country in each of its parts, the HAR rules only concern the long-term timeframe (mainly annual and monthly auctions) and comprise a common core which applies to all countries, supplemented by regional annexes that clarify any features specific to each interconnection. The set of rules submitted by RTE for the CRE's approval have five regional annexes:

- Central-Western Europe Region: Annex 2
- Italian borders: Annex 9
- France - Spain: Annex 6
- France - Switzerland: Annex 3
- France - Great Britain: Annex 14

This structure provides more readability for market players by giving them access to a large number of borders via the same rules and the same platform, and by clearly listing regional arrangements in the annexes.

The harmonisation of the firmness rules is one of the major issues of the European FCA network code. Although there are still regional exemptions in the HAR rules, they are bound to disappear in the framework of the implementation of the FCA code. A review of the annexes is provided for in the HAR rules at least every two years.

Moreover, the implementation of these rules will allow significant developments, particularly on the firmness rules, the possibility of using bank guarantees and the possibility of using financial transmission rights (hereinafter "FTR"). These points are detailed below.

2.1. Firmness of long-term transmission rights

In describing a single firmness scheme in a dedicated chapter, the HAR rules show a very clear desire for harmonisation and constitute a significant step forward compared to the scheme as it was described in the CASC rules, where the provisions relating to firmness are contained in various chapters within which there are specific national features. In the HAR rules, when such specific features remain, they are described in the regional annexes.

With regard to French borders, the firmness level, which was already close to the target model on most of our borders, remains broadly the same. Developments are occurring on the fringes, with the exception of products allocated to the France - Italy interconnection whose firmness evolves towards the target model, i.e. compensation for right-holders at the differential between the spot prices in case of capacity curtailment.

The concept of "emergency situation" has been introduced into the HAR rules. In this situation, i.e. in "a situation where the transmission system operator must act in an expeditious manner and redispatching or countertrading is not possible", the TSO may proceed to capacity curtailments beyond the day ahead firmness deadline, which it could do before now only in case of force majeure. In fact, in all other cases beyond the day ahead firmness deadline (and the case of force majeure), physical firmness must be ensured. In this specific case, stakeholders will be compensated at the price differential (and not just the initial auction price as is the case for a force majeure).

Finally, the HAR rules stipulate that the amounts of compensation paid by the TSOs in case of curtailments are capped on the basis of the monthly congestion income (for the TSO) related to the interconnection, before the day ahead firmness deadline (after, there is no cap on the compensation paid by the TSO).

The Agency, in its recommendation of adoption of the FCA code of 22 May 2014, considers that this cap should be applied to the entire annual congestion rent. The CRE supports a change towards this annual cap over time.

The CRE welcomes the proposed amendments which permit greater harmonisation of the firmness regimes, as well as a significant advance in firmness on the French-Italian border.

2.2. Bank guarantees

The HAR rules enable market players wishing to participate in the auctions to use bank guarantees or cash deposit in a dedicated bank account. Currently, only the IFA Access rules permit them, whereas the CASC rules require stakeholders to open a bank account on which the platform can directly collect the amounts related to allocated capacities in case of a payment default. This development therefore represents a significant progress for stakeholders who trade on the CASC platform.

In addition, while the IFA Access rules currently require that the rating of the banks issuing these guarantees is not less than A according to Standard and Poor's Corporation or Moody's, the HAR rules require that the bank issuing the bank guarantee, or the financial group it belongs to, has a long-term credit rating of BBB+ from Standard and Poor's Corporation, BBB+ from Fitch or Baa1 from Moody's Investors Service Inc. The HAR annex on the France-England interconnection requires a long-term credit rating of at least A- by Standard and Poor's Corporation and Fitch (A3 by Moody's Investors Service Inc.).

The CRE considers that this recourse to a bank guarantee is an important progress for market players, for which the obligation to give cash deposit is expensive. This development also allows new entrants to access the market more easily.

2.3. Opening up to financial transmission rights

The HAR rules allow the allocation of Physical Transmission Rights, called PTRs or Financial Transmission Rights, called FTRs. This constitutes a significant change compared to the CASC rules which only offered PTRs. There will be no change in this respect on the French borders, with the exception of the Belgian border on which FTRs are proposed by RTE for products delivered on 1 January 2016.

FTRs, unlike PTRs, are only financial products. They do not allow physical nomination. Stakeholders who have purchased a FTR systematically receive the differential between spot prices (if the latter is positive). The entire capacity is therefore allocated to the daily market, which allows greater liquidity on the D-1 market.

The CRE considers this to be a positive development, it has been supported by regulators and the Agency in its Framework Guidelines of 29 July 2011. The implementation of FTR on the France - Belgium interconnection will be an interesting first step.

3. Analysis of the CRE on regional annexes and other rules to approve

3.1. Annex 1: type of products allocated

Annex 1 sets out the list of interconnections to which the HAR rules apply. It includes information on the type of long-term transmission rights allocated for each border.

Until now, only PTRs were allocated to French borders. Annex 1 opens up the possibility of allocating FTRs to the France-Germany interconnection. Nevertheless, the products allocated to the French-German border will remain PTRs. Any shift to FTRs will require prior approval from the CRE.

The CRE, in its deliberation of 26 March 2015 on the approval of the flow-based market coupling, asked RTE to set up financial transmission rights at the Belgian border, for delivery on 1 January 2016. The *Flow-*

Based, by better using the system's available margin, may, if the nominations of long-term products rates are significant, have an effect on the liquidity of the markets. The FTRs, which cover market actors against the price differential at the border while making the entire capacity available for the daily market, allow this problem to be remedied.

The CRE therefore welcomes this development.

3.2. Specific annex to Italian borders (Annex 9)

The long-term products allocated to the France - Italy interconnection are currently subject to special firmness rules. In case of curtailments of the transmission rights, users are compensated at 110 % of the initial auction price and not at the price differential. The CRE, in its deliberation of 23 October 2014, reiterated the importance it attaches to the full implementation of the target model for the long-term timeframe, particularly in terms of firmness of transmission rights on the French-Italian border. In the context of the development of the HAR, the CRE has thus asked, with the Italian regulator (AEEGSI), the TSOs involved to change the firmness rules on the French-Italian border.

In order to limit the risks associated with a strengthening of the firmness for the Italian transmission system operator, this risk being linked to the strong price differential that exists between the two countries (around € 20/MWh on average in 2014), a decrease of the volumes allocated to the long-term timeframe was also decided. On 4 June 2015, the CRE launched a public consultation concerning changes to the characteristics of the transmission rights allocated to long-term at the France - Italy interconnection. This consultation was also about the quantities allocated to the long-term timeframe and proposed several scenarios as envisaged by the TSOs.

The following options were proposed:

	Firmness scheme		Capacity allocated to long-term
Option 1	Maintaining the current firmness	= Compensation equal to 110 % of the auction price	Maintaining volumes
Option 2	Change towards the target firmness	= Reimbursement at the price differential, with a monthly cap	Measured decrease of the volume allocated based on scenario B (-17 %)
Option 3	Complete alignment to the firmness of the target model	= Reimbursement at the price differential, with an annual cap	Significant decrease in the volume allocated based on scenario C (-45 %),

Summary of the results of the public consultation

The CRE received three replies, the stakeholders involved insisted on their desire to see the target model implemented in terms of firmness without calling into question the allocated capacities.

The CRE shared the opinion expressed by the actors according to which the implementation of a firmness scheme based on the daily price differential does not in itself justify decreasing the capacity auctioned to long-term. However, option 2 allows the firmness to significantly evolve towards the target model and the proposed reduction of capacity remains limited. The latter corresponds to the current practice on the other French borders, while Italy is the only border where almost all of the calculated capacity at the annual timeframe is offered to the long-term market (on the other French borders, these are generally 80 %³ of the capacity calculated at the annual timeframe which are allocated to long-term). In addition, the annual capacity on this border is calculated according to a coordinated process involving all the TSOs concerned, which is not the case on the other French borders.

³ The France-Spain interconnection is an exception to this
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As a result of the joint request of the CRE and the AEEGSI, the TSOs have proposed developments to regulators corresponding to option 2: reimbursement at the price differential and a measured decrease in the volumes allocated to long-term, based on scenario B, i.e. -17 %. The proposal for splitting allocation rules on the French-Italian border version 2.0, submitted to the CRE by RTE, is consistent with these guidelines.

For the French-Italian border, the firmness scheme applied will therefore be the general scheme defined in the harmonised body of the HAR.

The CRE considers that this change of firmness at the French-Italian border is a significant advance toward the target model.

To gain feedback from experience, the CRE and the AEEGSI have jointly asked the TSOs to review the splitting rules on the French-Italian border after the year 2016. They will therefore be revised based on the outcome.

3.3 Other annexes (2, 3, 6 and 14)

The long-term firmness deadline designates a defined point in time before the day ahead firmness deadline, which itself refers to the point in time after which cross zonal capacity becomes firm. The long-term firmness deadline corresponds to a change of firmness of the transmission right as real time approaches, and before the day ahead firmness deadline.

The annex for the Central Western Europe region (CWE) which concerns the borders between Germany, Belgium, France, Luxembourg and the Netherlands, sets the long-term firmness deadline for PTRs and FTRs at 8:30 a.m. on D-1. Compensation for curtailments aimed at ensuring system security are not subject to any cap between the long-term firmness deadline and the day ahead firmness deadline (the body of the rules provides a monthly cap on long-term and daily congestion incomes).

The France - Switzerland annex sets the long-term firmness deadline at the deadline for sending the rights document. Curtailments to ensure system security will not be possible after the long-term firmness deadline. Compensation remains equal to 110 % of the initial auction price in case of curtailment to ensure system security, or in an emergency situation. In case of force majeure, compensation will be at the initial auction price.

The France - Spain annex sets the long-term firmness deadline at the deadline for sending the rights document, i.e. at 4:00 p.m. on D-2 on this border. The compensation for the curtailments aimed at ensuring the security of the system after the long-term firmness deadline and before the day ahead firmness deadline are not subject to a cap. Finally, at the request of the CRE and the Spanish regulator, the curtailments due to an emergency situation will not be possible before the day ahead firmness deadline.

The France - England annex retains a large number of characteristics due to the technical features of the interconnection. The current access rules for the France - England interconnection (*IFA Access Rules*) cover all timeframes, from long-term to intraday. The IFA annex of the HAR retains the long-term part, which includes firmness, curtailment and billing rules.

Given the specific British platform, the English (National Grid Interconnectors Limited, hereinafter "NGIC") and French TSOs have indicated to the British regulator (Office of Gas and Electricity Markets, Ofgem) and to the CRE that their information systems will not be operational early enough to implement the HAR on 1 January 2016. The France - England annex therefore proposes an entry into force on 1 July 2016, while providing for the possibility of performing additional reports. In agreement with Ofgem, the CRE requests that this implementation is done no later than 1 July 2016.

The transfer of the provisions relating to the long-term timeframe in the France - England annex of the HAR requires to adopt a new version of the IFA access rules (version 10).

All of these annexes allow the existing provisions to be retained or to move them forward towards the firmness target model. The CRE is in favour of these evolutions.

3.4 Rules to approve with the HAR

The IFA Access Rules V10 retain the points not covered by the HAR and the IFA annex (daily, intraday auctions, fallback procedure, nomination, IS rules, etc.). The access rules are also aligned with the HAR (specification of auctions, guarantees, billing, etc.) and the pro rata curtailment rule between the nominated and not nominated transmission rights is adopted.

The Shadow Allocation Rules which are the fallback procedure for the allocation of cross zonal capacity in the day-ahead market timeframe in the event of unavailability of the multiregional price coupling, were previously included in the CASC rules. This new version allows an harmonisation with the legal provisions laid down in the HAR (definitions, requirements for participation in the auction). It also proposes an harmonisation of the dispute period to one and a half hours (in the CASC rules the duration was not specified), a development which provides greater clarity on the firmness of the auction results for market players. The *equal share* fallback procedure, which was provided for in the CASC rules in case of unavailability to perform shadow or daily auctions, and which consisted in sharing the capacity offered in equal shares among participants, has been removed. Finally, these auctions are implemented on the French-Spanish border (today the reallocation procedure on this interconnection is done through an intraday auction).

The Daily Capacity Allocation on Swiss Borders and Italy – Greece Border also relates to the daily allocation and were previously included in the CASC rules. This version allows an harmonisation with the legal provisions laid down in the HAR, an harmonisation at one and a half hours for the dispute period of the auction results by market participants, and the replacement of the equal share fallback procedure by default bids.

The Allocation Rules for Intraday Capacity Allocation on France-Spanish interconnection are updated to incorporate cases of curtailment due to an emergency situation, following the CACM regulation and the introduction of this provision in the HAR.

The Allocation Rules for Intraday Capacity Allocation on North Italian Borders are updated to incorporate the case of a curtailment due to an emergency situation, as well as the possibility for market actors to provide financial security in the form of bank guarantees, possibility which does not exist on this border now. The text has also been reworked to have a structure similar to the HAR.

Finally, **the Access Rules for Imports and Exports on the French Public Power Transmission System**, have been changed as a result of the establishment of FTR products on the France-Belgium border.

The CRE is in favour of these changes.

4. CRE's decision

On the basis of its analysis, the CRE approves:

- Allocation Rules for Forward Capacity Allocation (HAR)
- Shadow allocation rules version 1.2
- Daily Capacity Allocation on Swiss Borders and Italy – Greece Border version 1.0
- IFA access rules V10
- Access Rules for Imports and Exports on the French Public Power Transmission System version 3.7
- Allocation Rules for Intraday Capacity Allocation on France-Spanish interconnection (IFE Rules) version 4.1.
- Allocation Rules for Intraday Capacity Allocation on North Italian Borders version 01
- Structure of the Allocation of Capacity among different Timeframes on France-Italian interconnection version 2.0

With regard to Annex 1 of the Allocation Rules for Forward Capacity Allocation (HAR), the CRE precises that the possible shift to FTRs on the France-Germany interconnection should be submitted for its approval.

With regard to Annex 14 on the France-England interconnection of these same rules, the CRE specifies, in agreement with OFGEM, that the implementation of the HAR must take place no later than 1 July 2016.

The entry into force of the network code on the allocation of long-term products, once adopted, will offer the opportunity to completely harmonise the allocation rules. The CRE thus intends to apply the same rules to all French cross-border interconnections as soon as possible.

The CRE reiterates the importance it attaches to the full implementation of the long-term target model, particularly in terms of firmness of transmission rights.

Paris, on 15 October 2015,

For the Energy Regulatory Commission
A Commissioner,

Catherine Edwige