

DELIBERATION

Deliberation by the French Energy Regulatory Commission of 27 October 2016 approving the allocation rules for forward capacity allocation

Present: Philippe de LADOUCETTE, Chairman, Christine CHAUVET, Catherine EDWIGE, Hélène GASSIN, commissioners.

In application of Article 37(6) of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity, and the provisions of Article 30 of the standard specifications for the concession of the public electricity transmission network as approved by French Decree No 2006-1731 of 23 December 2006, the French Energy Regulatory Commission (CRE) is vested with the power to approve the rules for calculating and allocating cross-border electricity exchange capacities.

In a letter received on 19 October 2016, the French electricity transmission system operator (RTE), submitted for CRE's approval a proposal to amend the allocation rules for forward capacity allocation (Harmonised Allocation Rules, hereinafter HAR). In order to bring them in line with the new version of the HAR, RTE also submitted the following texts for CRE's approval:

- version 1.3 of the Shadow Allocation Rules (in the case of market coupling unavailability for daily capacity allocation);
- version 1.3 of the rules for Daily Capacity Allocation on Swiss Borders and Italy-Greece Border (which address in particular the France – Switzerland border);
- version 03 of the Allocation Rules for Intraday Capacity Allocation on France – Italy, Switzerland – Italy and Austria – Italy Borders;
- version 11 of the IFA Access Rules (which address the France – Great Britain border).

1. BACKGROUND

1.1 Forward capacity allocation regulation for cross-border capacity at long-term timeframes

In application of the provisions of Article 18 of Regulation (EC) No. 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity, the European Commission adopted, on 26 September 2016, Regulation (EU) 2016/1719 establishing a guideline on forward capacity allocation (FCA Regulation). Published in the Official Journal of the European Union on 27 September 2016, the FCA Regulation entered into effect on 17 October 2016. It covers the allocation of long-term products, which include all interconnection capacity allocated before the day-ahead timeframe (annual, quarterly, monthly products, etc.). These products enable market participants to secure their cross-border energy exchanges and to hedge against price spreads between zones resulting from the functioning of day-ahead markets. The FCA Regulation aims to promote electricity market integration by harmonising the allocation rules for long-term products at European level.

1.2 Early implementation of the harmonised allocation rules set out by the FCA Regulation

Article 51 of the FCA Regulation states that, within six months after the entry into force of the Regulation, the European transmission system operators (TSOs) shall jointly develop a proposal for harmonised allocation rules

(HAR) outlining the practical terms for the allocation of long-term transmission rights¹. This proposal shall be subject to approval by all relevant national regulatory authorities after the holding of a public consultation, in accordance with the provisions of Article 4, paragraph 6 and of Article 6 of the FCA Regulation.

However, at the request of regulatory authorities, in 2013 the TSOs of 22 European countries², including RTE, worked to implement the harmonised allocation rules ahead of schedule. They drafted an initial version of the HAR which was approved by the relevant national regulatory authorities³ and implemented for allocation of products to be delivered as from 1 January 2016. Following the favourable opinion delivered on 30 October 2015 by European Union Member States on the draft FCA Regulation, the TSOs wished to revise these rules for allocation of products with delivery as from 1 January 2017. Therefore, they developed a new version of the HAR which was submitted for public consultation by the European Network of Transmission System Operators for Electricity (ENTSO-E) from 18 April to 18 May 2016. This new version is now subject to CRE's approval and the approval of the other relevant national regulatory authorities⁴.

Amendment of the HAR also implies subsequently changing the four other sets of rules mentioned in the introductory paragraph of the present deliberation; therefore, these are also submitted by RTE for CRE's approval. The first two were covered in a public consultation held by the TSOs from 6 to 20 July 2016, the third in another public consultation from 1 August to 15 August 2016, and the last in a public consultation from 19 May to 16 June 2016. No response to these consultations was received from market participants.

2. AMENDMENTS MADE TO FORWARD CAPACITY ALLOCATION RULES

The HAR are comprised of a main body which applies to all European Union Member States allocating long-term transmission rights, and regional annexes which complete them and may include derogations adapted to the specificities of each interconnection. The set of rules submitted by RTE for CRE's approval has four regional annexes:

- France – Switzerland (Annex 2)
- France – Spain (Annex 5)
- Italian borders (Annex 6)
- France – Great Britain (Annex 13)

2.1 Amendments to the main body of the allocation rules

The amendments to the main body of the HAR are limited: apart from the editorial amendments specifying certain rules or aimed at making the HAR consistent with the FCA Regulation or with Regulation (EU) No 2015/1222 of the Commission of 24 July 2015 establishing a guideline on Capacity Allocation and Congestion Management (CACM Regulation), they cover the main elements analysed below.

2.1.1 Process for lowering the credit rating required by the allocation platform for banks issuing bank guarantees

The current version of the HAR states, in Article 21, paragraph 1(h), that the long-term transmission rights allocation platform can, in the event of an industry-wide downgrade of financial institutions, decrease, for a limited period of time and "at its own discretion", the required rating for banks issuing bank guarantees for auction participants.

The new version of the HAR introduces a requirement to inform the TSOs, which must in turn report the lowering of the rating required to national regulatory authorities. CRE is in favour of this change.

The implementation of the FCA Regulation will give rise to a new revision of the HAR and the submission by TSOs of the revised version to their respective regulators for approval. Within this framework, CRE considers that regulatory authorities' level of control over the process for lowering the credit rating required for banks issuing bank guarantees should be increased.

2.1.2 Elimination of the long-term firmness deadline in the allocation process

The day-ahead firmness deadline is the point in time beyond which the physical firmness of long-term transmission rights must be guaranteed except in the event of force majeure or emergency situations. The current version

¹ In particular: type of rights that may be allocated; process of allocation through explicit auctions; the principles of use, return and transfer of rights; firmness of products allocated and the associated compensation principles; financial requirements vis-à-vis auction participants.

² Twenty-one European Member States and Switzerland, which allocate long-term transmission rights.

³ CRE approved the version submitted to it by RTE in a deliberation dated 15 October 2015.

⁴ Although the FCA Regulation is now in effect, the rules submitted here for approval still fall within the early implementation of the Regulation, and definitive rules fulfilling the provisions of Article 51 of the Regulation shall be proposed at a later time by the TSOs, and shall take into account discussions still in progress concerning certain points.

of the HAR also provides for a "long-term firmness deadline", before the day-ahead firmness deadline. The two sub-periods delineated by this long-term firmness deadline (before this deadline on the one hand; and between this deadline and the day-ahead firmness deadline on the other hand) were subject to different compensation caps in the event of a curtailment in capacity allocated. The long-term firmness deadline is eliminated in the new version of the HAR.

This elimination is in line with the simplification of the compensation mechanism for curtailments in capacity allocated. CRE is in favour of this modification.

2.1.3 Elimination of the notion of emergency situation before the day-ahead firmness deadline

The current version of the HAR specifies that the long-term rights allocated could be curtailed in emergency situations occurring before the day-ahead firmness deadline; curtailed rights are in that case subject to compensation based on the daily price spread between market zones, subject to compliance with a cap. The new version of the HAR makes reference to emergency situations only for the time period after the day-ahead firmness deadline, and refers to the provisions of the CACM Regulation for the compensation principles in that event.

This modification is justified since emergency situations, as described in Article 16, paragraph 2 of Regulation (EC) No 714/2009⁵, cannot realistically be envisaged before a timeframe as far ahead of real time as the day-ahead firmness deadline. CRE is in favour of this modification.

2.1.4 Modification of the compensation caps applicable in the event of a reduction in capacity allocated before the day-ahead firmness deadline

The current version of the HAR specifies that compensation for capacity reductions before the day-ahead firmness deadline is subject to a monthly cap on each border, calculated based on the congestion income from the allocation of long-term transmission rights, and, in the event of a curtailment occurring after the long-term firmness deadline, from daily allocations⁶. The new version of the HAR states that compensation for capacity reductions before the day-ahead firmness deadline is subject to, unless otherwise determined by the relevant regulatory authorities, an annual cap on each border, calculated based on the total congestion income collected at that border during the year. Direct-current interconnections are treated specifically and remain subject to a monthly compensation cap.

This change, which amends the current version of the HAR to take into account the provisions of Article 54 of the FCA Regulation, improves the firmness of products offered to market participants while differentiating TSOs' risk of effectively reaching the compensation caps as a function of interconnection type. The analysis of the record of costs associated with compensation of capacity reductions shows that the risk of reaching the cap is very low for alternating-current interconnections, whether the cap is monthly or annual; however, for direct-current interconnections, for which all of the interconnection capacity is often concentrated on a small number of cables whose availability may be significantly affected by maintenance, the implementation of an annual cap could generate significant financial risks for the TSOs. CRE is in favour of this modification.

2.2 Modifications to regional annexes to the allocation rules

The annex relating to the Central West Europe region is eliminated because it no longer features any differences compared to the main body of the HAR. The only derogations that it contained concerned the definition of the long-term firmness deadline and the compensation principles associated with this deadline, which is eliminated in the new version of the HAR. This modification is in line with the harmonisation of the allocation rules.

In the **France – Switzerland** annex, the derogation concerning the deadline for sending the rights document is eliminated, which is in keeping with the harmonisation of the allocation rules. Reference to the long-term firmness deadline is also eliminated in line with the modification of the main body of the HAR; physical firmness of long-term transmission rights, previously implemented beyond that deadline, is now effective as from 8:00 p.m. two days before delivery, except for force majeure or emergency situations. The treatment of rights curtailments in emergency situations is aligned with that of force majeure, with compensation being based only on the price of the initial auction, without multiplication by a coefficient; however, this modification should have little consequence, since this circumstance in practice has never emerged in the past on this border.

In the **France – Spain** annex, the derogation concerning the deadline for sending the rights document is eliminated, which is in keeping with the harmonisation of the allocation rules. Reference to the long-term firmness deadline is also eliminated in line with the amendment of the main body of the HAR. In addition, the compensation cap for curtailments of transmission rights is calculated without including the portion of congestion income from intraday allocations; this derogation is justified by the fact that capacity at this border is allocated by different

⁵ The emergency situation is, under the terms of this article, a situation "where the transmission system operator must act in an expeditious manner and redispatching or countertrading is not possible".

⁶ The aim of these caps is to spare TSOs, in the event of capacity curtailments within an unfavourable market configuration, from compensation costs that are higher than their auction income.

platforms for the intraday timeframe and for the other timeframes. Inclusion of the intraday income in the calculation of the cap would involve costly IT developments in order to bridge the different platforms, with minimal benefit since the risk of reaching this cap is very low.

In the annex relating to the **Italian borders**, changes do not involve the France – Italy border.

There are only marginal changes to the **France – Great Britain** annex compared to the previous version. In the sole case of explicit shadow auctions held if market coupling is not available for daily allocation, a derogation is introduced concerning the remuneration of non-nominated physical transmission rights. The main body of the new version of the HAR specifies remuneration based on the daily price spread between market zones in this instance; however, the implementation of this provision would require significant IT developments in the current allocation platform, whereas it is scheduled to soon be replaced by the Single Allocation Platform. Pending the introduction of this single platform, it appears justified to keep remuneration based on the marginal price of the fall-back explicit auction for the France - Great Britain interconnection.

CRE is in favour of all of these modifications.

2.3 Amendments to the other rules to bring them in line with the amended allocation rules

The **Shadow Allocation Rules**, which concern daily allocation in the event of market coupling unavailability, have undergone editorial changes aimed at bringing them in line, in editorial terms, with those of the amended HAR. In addition, the description of the compensation terms for curtailment of rights due to force majeure or emergency situations is made consistent with the FCA and CACM Regulations: on the one hand, a day-ahead firmness deadline is introduced and defined 30 minutes before day-ahead market gate closure time; on the other hand, the compensation regime makes a distinction between curtailments occurring before and after this deadline, with curtailments after the deadline being subject to the CACM Regulation; lastly, emergency situations are now possible only after this deadline.

The **rules for Daily Capacity Allocation on Swiss Borders and Italy-Greece Border**, which also concern daily allocation, have mostly undergone editorial changes aimed at bringing them in line, in editorial terms, with those of the amended HAR, particularly as regards the legal notice in chapter 9. The procedure for informing TSOs and national regulatory authorities in the case of a lowering of the credit rating required for banks issuing bank guarantees is also introduced in the amended HAR model (see section 2.1.1. of the present deliberation).

The **Allocation Rules for Intraday Capacity Allocation on France – Italy, Switzerland – Italy and Austria – Italy Borders** have undergone mostly editorial changes aimed at making them consistent, in editorial terms, with those of the amended HAR. The procedure for informing TSOs and national regulatory authorities in the case of a lowering of the credit rating required for banks issuing bank guarantees is also introduced in the amended HAR model (see section 2.1.1. of the present deliberation).

The **IFA Access Rules** have undergone only editorial changes aimed at making them consistent, in editorial terms, with those of the amended HAR.

CRE is in favour of all of these modifications.

3. CRE'S DECISION

CRE is in favour of the changes proposed by RTE. It approves:

- the allocation rules for forward capacity allocation (amended HAR, including the regional annexes mentioned in section 2 of the present deliberation);
- version 1.3 of the Shadow Allocation Rules;
- version 1.3 of the rules for Daily Capacity Allocation on Swiss Borders and Italy-Greece Border;
- version 03 of the Allocation Rules for Intraday Capacity Allocation on France – Italy, Switzerland – Italy and Austria – Italy Borders;
- version 11 of the IFA Access Rules.

In addition, CRE is in favour of the greatest possible harmonised application of the long-term allocation rules on all French borders, in particular with regard to firmness of transmission rights. Therefore, it requests RTE, in collaboration with the other relevant TSOs, to continue its work in view of a complete harmonisation of these rules.

For the Energy Regulatory Commission,
The Chairman,
Philippe de LADOUCKETTE

