

**DECISION OF THE ITALY NORTH REGULATORY
AUTHORITIES**

ON

**SPLITTING LONG-TERM CROSS-ZONAL CAPACITY
FOR ITALY NORTH CCR IN ACCORDANCE WITH
ARTICLE 16 OF THE COMMISSION REGULATION (EU)
2016/1719 OF 26 SEPTEMBER 2016 ESTABLISHING A
GUIDELINE ON FORWARD CAPACITY ALLOCATION**

15 December 2020

I. Introduction and legal context

This document elaborates an agreement of the Italy North Regulatory Authorities (hereinafter: IN NRAs), agreed on 15 December 2020 at Italy North Energy Regulators' Regional forum, on the proposal for splitting the long term cross-zonal capacity (hereinafter: IN FCA Splitting) submitted by the Italy North Transmission System Operators (hereinafter: IN TSOs) as required by Article 16 of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation (hereinafter: FCA)

This agreement of the IN NRAs shall provide evidence that a decision on the IN FCA Splitting does not, at this stage, need to be adopted by ACER pursuant to Article 4(10) of FCA. It is intended to constitute the basis on which the IN NRAs will each subsequently issue a national decision to approve the IN FCA Splitting pursuant to Article 4(9) of FCA.

The legal provisions that lie at the basis of the IN FCA Splitting, and this IN NRAs agreement on the above mentioned methodology, can be found in Articles 3, 4, 9, 16, 19, 21, 23 and 24 of FCA and in Article 5 of the Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (recast) (in the following: Regulation 2019/942). They are set out here for reference.

FCA

Article 3

Objectives of forward capacity allocation

This Regulation aims at:

- (a) promoting effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants;*
- (b) optimising the calculation and allocation of long-term cross-zonal capacity;*
- (c) providing non-discriminatory access to long-term cross-zonal capacity;*
- (d) ensuring fair and non-discriminatory treatment of TSOs, the Agency, regulatory authorities and market participants;*
- (e) respecting the need for a fair and orderly forward capacity allocation and orderly price formation;*
- (f) ensuring and enhancing the transparency and reliability of information on forward capacity allocation;*
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union.*

Article 4

Adoption of terms and conditions or methodologies

- 1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the competent regulatory authorities within the respective deadlines set out in this Regulation. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of these terms and conditions or methodologies.*

[...]

- 5. Each regulatory authority shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7.*
- 6. (...)*
- 7. The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:*

- a. (...)
- b. the methodology for splitting cross-zonal capacity pursuant to Article 16;

[...]

8. *The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by several or all regulatory authorities shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.*
9. *Where the approval of the terms and conditions or methodologies requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6 and 7, within six months following the receipt of the terms and conditions or methodologies by the regulatory authority or, where applicable, by the last regulatory authority concerned.*
10. *Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 9, or upon their joint request, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within six months, in accordance with Article 8(1) of Regulation (EC) No 713/2009.*
11. *In the event that one or several regulatory authorities request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6 and 7, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the regulatory authorities. The competent regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraphs 6 and 7 within the two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within six months, in accordance with Article 8(1) of Regulation (EC) No 713/2009. (...)*
12. (...)
13. *TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 7.*

Article 16

Methodology for splitting long-term cross-zonal capacity

1. *No later than the submission of the capacity calculation methodology referred to in Article 10, the TSOs of each capacity calculation region shall jointly develop a proposal for a methodology for splitting long-term cross-zonal capacity in a coordinated manner between different long-term time frames within the respective region. The proposal shall be subject to consultation in accordance with Article 6.*
2. *The methodology for splitting long-term cross-zonal capacity shall comply with the following conditions:*
 - (a) *it shall meet the hedging needs of market participants;*
 - (b) *it shall be coherent with the capacity calculation methodology;*
 - (c) *it shall not lead to restrictions in competition, in particular for access to long-term transmission rights.*

Regulation 2019/942

Article 5

Tasks of ACER as regards the development and implementation of network codes and guidelines

[...]

3. *Where one of the following legal acts provides for the development of proposals for terms and conditions or methodologies for the implementation of network codes and guidelines which require the approval of all the regulatory authorities of the region concerned, those regulatory authorities shall agree unanimously on the common terms and conditions or methodologies to be approved by each of those regulatory authorities:*

- (a) a legislative act of the Union adopted under the ordinary legislative procedure;*
- (b) network codes and guidelines that were adopted before 4 July 2019 and subsequent revisions of those network codes and guidelines; or*
- (c) network codes and guidelines adopted as implementing acts pursuant to Article 5 of Regulation (EU) No 182/2011.*

The proposals referred to in the first subparagraph shall be notified to ACER within one week of their submission to those regulatory authorities. The regulatory authorities may refer the proposals to ACER for approval pursuant to point (b) of the second subparagraph of Article 6(10) and shall do so pursuant to point (a) of the second subparagraph of Article 6(10) where there is no unanimous agreement as referred to in the first subparagraph.

The Director or the Board of Regulators, acting on its own initiative or on a proposal from one or more of its members, may require the regulatory authorities of the region concerned to refer the proposal to ACER for approval. Such a request shall be limited to cases in which the regionally agreed proposal would have a tangible impact on the internal energy market or on security of supply beyond the region.

[...]

6. *Before approving the terms and conditions or methodologies referred to in paragraphs 2 and 3, the regulatory authorities, or, where competent, ACER, shall revise them where necessary, after consulting the ENTSO for Electricity, the ENTSO for Gas or the EU DSO entity, in order to ensure that they are in line with the purpose of the network code or guideline and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market. ACER shall take a decision on the approval within the period specified in the relevant network codes and guidelines. That period shall begin on the day following that on which the proposal was referred to ACER.*

II. The Italy North TSOs proposals

The IN FCA Splitting was consulted by the IN TSOs through the website of ENTSO-E for one month from 10 February 2020 to 13 March 2020, in line with Article 16 and Article 6 of FCA¹. The proposal was received by the last Regulatory Authority of the Italy North Capacity Calculation Region on 1 July 2020. Article 4(9) of FCA requires IN NRAs to consult and closely cooperate and coordinate with each other in order to reach an agreement and take a decision within six months following receipt of submissions of the last Regulatory Authority concerned. A decision is therefore required by 1 January 2021.

¹ The public consultation is available on the ENTSO-e website: https://consultations.entsoe.eu/markets/art-16_fca_ccr_italy_north/

IN FCA Splitting applies to EU borders only and foresees the definition of the maximum volume of capacity for each timeframe according to the following requirements:

- a) the offered capacity shall not exceed, in each market time unit, the available capacity equal to the difference between the long term cross-zonal capacity and the capacity allocated in the previous timeframe;
- b) each product shall be valid (i.e. entirely available) for at least 80% of the hours of the delivery period and cannot encompass more than 25 reductions for yearly products and more than 5 reductions for monthly products; if the resulting volume is less than 10 MW, the 80% threshold for validity may be reduced till 50% in order to maximize the volume offered to the market;
- c) the offered capacity in import direction of Italy on the yearly timeframe shall not exceed 85% of the average capacity resulting from the yearly long term capacity calculation;
- d) on Italy-France border, the offered capacity in export direction of Italy on the yearly timeframe shall not exceed 85% of the average capacity resulting from the yearly long term capacity calculation;
- e) for Italy-Slovenia and Italy-Austria borders, the offered capacity in the export direction of Italy on the yearly timeframe shall not exceed 20% of the average capacity resulting from the yearly long term capacity calculation;
- f) for Italy-Slovenia and Italy-Austria borders, the sum of the offered capacity in the export direction of Italy on the monthly timeframe and the already allocated capacities on yearly timeframe shall not exceed 50% of the average capacity resulting from the yearly long term capacity calculation;
- g) the offered capacity in the monthly timeframe shall include capacity returned from the yearly timeframe according to the provisions of EU Harmonized Allocation Rules for long term transmission rights.

IN TSOs commit to publish on Single Allocation Platform website:

- a) for yearly auctions, the amount of the yearly product along with information on the reduction periods and the validity percentage and the estimation of the volume of monthly products for the delivery year;
- b) for monthly auctions, the amount of the monthly products with the reduction periods and a comparison between the effective product and the one estimated before the yearly auction.

The methodology will be implemented as soon as the long term capacity calculation for Italy North CCR is implemented. A reassessment of the main parameters ruling the IN FCA Splitting is performed every two years: a specific report shall be prepared and submitted to IN NRAs along with a proposal to change, where needed, the parameters.

The proposal includes a description of its expected impact on the objectives of FCA, in line with Article 4(8) of FCA.

III. The Italy North Regulatory Authorities position

NRAs shadow opinion

During the public consultation, IN NRAs issued a shadow opinion containing a number of suggestions and remarks:

- a) providing a more robust justification about capping the export capacity offered for the long-term timeframes to the 50% of the average capacity resulting from the yearly long-term capacity calculation, accompanied by an analysis about the underselling phenomenon;
- b) foreseeing a periodic report to be sent to the NRAs every second year by 30/06 assessing the main parameters ruling the IN FCA Splitting, along with a proposal to change them if needed; market participants shall be duly consulted before sending the report.

NRAs position

IN NRAs are fine with the IN FCA Splitting: a proper report for the reassessment was included in the proposal, with a proper consultation with market participants, and an analysis about the underselling phenomenon was provided in the explanatory note. The capping of export capacity for all the timeframes is limited only to Italy-Austria and Italy-Slovenia borders, while for Italy-France only a cap on the yearly product is envisaged.

In general the resulting splitting matches the requirements mentioned in Article 16 of FCA:

- a) the hedging needs of market participants that expressed a clear preference towards yearly products are met: the splitting favours yearly products by setting a very high cap (85%) but for the cases where a further limitation is needed to preserve a certain amount of capacity to be more efficiently priced in the day-ahead allocation;
- b) the splitting starts from the capacity resulting from the long term capacity calculation process, this ensures the consistency between the two methodologies;
- c) a wide competition is guaranteed with the possibility for market participants to always trade both a yearly and a monthly product (the 85% cap aims effectively to reserve at least 15% of the capacity for the monthly timeframe).

IN NRAs deem nonetheless opportune to better specify the timings for the reassessment of the IN FCA Splitting: the TSOs refer to a report every second year, but they missed mentioning the deadline of June, as explicitly requested by IN NRAs in their shadow opinion.

IN NRAs intend to thus directly amend the proposal by exploiting the provision included in Article 5(6) of Regulation 2019/942, about the duty for regulatory authorities to revise terms and conditions and methodologies where necessary, before approving them: issuing a standard RfA would take a lot of time, which is considered unnecessary due to very limited changes (a mere clarification on timings) required.

NRAs amendments

Along with the inclusion of a deadline at 30/06 every second year for the submission of the report about the reassessment of the parameters ruling the IN FCA Splitting, IN NRAs catch the occasion to include further amendments in order to:

- a) remove the word "proposal", since the methodology is directly changed by the NRAs and can no longer be considered as a TSO proposal;
- b) delete the provisions about the publication of a comparison between the NTC profiles computed in the yearly timeframe and the NTC profiles updated in the monthly timeframe; this provision is included in the long term capacity calculation methodology since related to the capacity calculation process;
- c) limit the scope of Article 6 to implementation and publication of the methodology;
- d) add a specific Article about the reassessment incorporating the 30/06 deadline and other minor clarifications

The amendments were scrutinised by IN TSOs that provided only a couple of editorial changes that IN NRAs intend to accommodate.

IV. Conclusions

IN NRAs have consulted, closely cooperated and coordinated to jointly agree that they amend and adopt the IN FCA Splitting submitted by IN TSOs pursuant to Article 16 of FCA: the legal basis for the direct amendments by IN NRAs lies on Article 5(6) of Regulation 2019/942. IN NRAs must make their national decisions to adopt IN FCA Splitting, on the basis of this agreement.

Moreover, IN NRAs remind that, while approving the second release of the capacity calculation methodology pursuant to Regulation 2015/1222, IN TSOs were required to create and organize a *Consultative Forum* open to all market participants, in which recent progress about developments and implementation having an impact in the Italy North CCR shall be shared with all the parties, as well as the way forward.

IN NRAs deem it useful that the scope of this *Consultative Forum* also includes this IN FCA Splitting.