



DELIBERATION NO. 2020-140

Deliberation of the French Energy Regulatory Commission of 18 June 2020 on the allocation of a derogation from the minimum levels of available capacity for exchanges between zones in the Core capacity calculation region.

Present: Jean-François CARENCO, chair, Christine CHAUVET, Catherine EDWIGE, Ivan FAUCHEUX et Jean-Laurent LASTELLE, commissioners.

1. CONTEXT, COMPETENCE AND REFERRAL TO CRE

1.1 Introduction and legal context on the minimum capacity levels available for exchanges between zones and the possibility of derogation from those levels.

Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (hereinafter "regulation on the internal market for electricity") entered into force on 5 July 2019. It lays down, in particular, the rules for ensuring a smooth functioning of the internal market for electricity. Chapter III of the regulations defines the conditions for network access and congestion management.

In particular, Article 16(8) of the regulation on the internal market for electricity provides that *"transmission system operators shall not limit the volume of interconnection capacity to be made available to market players as a means of solving congestion inside their own bidding zone or as a means of managing flows resulting from transactions internal to bidding zones [...], this paragraph shall be considered to be complied with where the following minimum levels of available capacity for cross-zonal trade are reached:*

- a) *for borders using a coordinated net transmission capacity approach, the minimum capacity shall be 70 % of the transmission capacity respecting operational security limits after deduction of contingencies [...];*
- b) *for borders using a flow-based approach, the minimum capacity shall be a margin set in the capacity calculation process as available for flows induced by cross-zonal exchange. The margin shall be 70 % of the capacity respecting operational security limits of internal and cross-zonal critical network elements, taking into account contingencies [...].*

The total amount of 30 % can be used for the reliability margins, loop flows and internal flows on each critical network element."

In accordance with Article 71 of the regulation on the internal market for electricity, transmission system operators (hereinafter "TSO") must make the minimum levels of capacity available for exchanges between zones (hereinafter "minimum capacity levels") available to market players from 1 January 2020.

However, article 16(9) of the regulation on the internal market for electricity, introduces the possibility for TSOs, within a capacity calculation region¹ defined in accordance with the provisions of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (hereinafter "CACM regulation"), to be exempted from minimum capacity levels. It provides that these derogations can be formulated by the TSOs if they judge that operational security cannot be maintained for foreseeable reasons if minimum capacity levels are applied. It specifies that *"the extent of such derogations shall be strictly limited to what*

¹Decision No. 06/2016 of the Agency for the Cooperation of Energy Regulators (ACER), of 17 November 2016, defining the capacity calculation regions. This decision underwent a first amendment on 18 September 2017 (integration of the NEMO Link cable connecting BE to GB in the Manche region) and a second amendment on 1 April 2019 (integration of the Cobra cable connecting NL to DK in the Hansa region).

is necessary to maintain operational security and they shall avoid discrimination between internal and cross-zonal exchanges".

Pursuant to the aforementioned article, the derogation granted to the TSO of a Member State is allocated by the regulatory authority of that State. When the regulatory authority receives a request for a derogation from its TSO, it is required to consult "the regulatory authorities of other Member States forming part of the affected capacity calculation regions". Where a regulatory authority disagrees with the proposed derogation, the Agency for the Cooperation of Energy Regulators (hereinafter "ACER") becomes competent to decide whether the derogation should be granted. The regulatory authorities may grant a derogation for "no more than one-year at a time, or, provided that the extent of the derogation decreases significantly after the first year, up to a maximum of two years".

On 12 December 2020, the French Energy Regulatory Commission (hereinafter "CRE") has adopted a deliberation granting a derogation to the minimum capacity level available for exchanges between zones in the Core region for six months, starting from 1 January to 30 June 2020². This derogation was necessary for the French TSO, Réseau de Transport d'Electricité (hereinafter "RTE"), to be able to develop and test the tools necessary for the implementation of the capacity levels required by Article 16(8) of the regulation on the internal market for electricity.

1.2 Competence and referral to CRE

Pursuant to the provisions of Article 16(9) of the regulation on the internal market for electricity, CRE has the authority to grant derogations to the minimum capacity levels available for exchanges between zones formulated by RTE in the different capacity calculation regions of which it takes part in.

To this end, RTE submitted a request for derogation to CRE, which was received by mail on 20 May 2020 for the Core capacity calculation region (covering, in particular, the perimeter of the historic region of *Central Western Europe*, hereinafter "CWE")³.

In order to ensure the coordination of derogation requests within the capacity calculation regions and to facilitate the consultation of such requests made by the TSOs, the regulatory authorities of the interconnected Member States of the European Union have agreed to share the derogation requests they have received in the ACER *All Regulatory Authorities Working Group* (hereinafter "ARAWG"). The regulatory authorities were thus able to express their concerns, to comments and may disagree with one or more derogation requests.

The Core region derogation request filed by RTE was reviewed in the frame the ARAWG between the 18th May and the 5th June 2020. The regulatory authorities made no comments and raised no concerns towards this request.

2. THE DEROGATION REQUEST SUBMITTED BY RTE

2.1 RTE's work progress on the French borders of the Core region

During the first six months of 2020, RTE has developed a tool to monitor automatically the margins allocated to cross-border exchanges in the Core region on all critical network elements, as defined by ACER's recommendation No. 01/2019⁴.

RTE has also pursued the development of the validation tool to ensure the margin offered for cross-border exchanges using topological and / or costly remedial actions. This tool is currently in the testing phase, so an additional period will be required for its implementation in the operational process.

2.2 Content of the derogation request

2.2.1 Reasons for the derogation request

Several reasons likely to jeopardize the operational security of the network in the event of the application of the minimum capacity levels provided for in article 16(8) of the regulation on the internal market for electricity are put forward by RTE to justify the extension of its request for derogation in the Core region for the second semester of 2020.

First, to make the interconnection capacity greater than or equal to the minimum capacity levels provided for in Article 16(8) of the regulation on the internal market for electricity available to markets is likely, in certain circumstances, to require a greater use of remedial actions, including costly actions, to maintain the operational security

² <https://www.cre.fr/Documents/Deliberations/Decision/derogations-aux-niveaux-minimaux-de-capacite-disponible-pour-les-echanges-entre-zones-dans-les-regions-de-calcul-de-capacite-core-italie-nord-et-e>

³ The Core capacity calculation region includes Austria, Belgium, Croatia, Czech Republic, France, Germany, Hungary, Luxembourg, the Netherlands, Poland, Romania, Slovakia and Slovenia. It covers the perimeter of the historic CWE region, which includes Austria, Belgium, France, Germany, Luxembourg and the Netherlands.

⁴ https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Recommendations/ACER%20Recommendation%2001-2019.pdf

of the network. However, RTE currently has limited operational experience with regard to the use of a large volume of remedial actions, or even very limited experience with regard to costly remedial actions given the low congestion levels observed on the French network.

Second, due to the consequences of the health crisis caused by the Covid-19 pandemic, during which RTE has had to reorganize its workforce to ensure operational security in an uncertain situation for European electricity networks, RTE has not been able to finalize the development of the necessary tools for the evaluation and validation of the availability of remedial actions to guarantee operational security, as provided for in article 16 (3) of the aforementioned regulation. The project is currently in the implementation phase, but a six-month period for further testing is necessary to stabilize the tools and thus to guarantee the quality of the results.

Furthermore, the lack of coordination for the Core capacity calculation region with the borders of adjacent capacity calculation regions or with non-EU member countries makes it difficult to forecast the flows coming from these areas, referred to as "external flows". Consequently, the margin of reliability to be taken by RTE to cope with the uncertainty related to those external flows is likely to exceed the level authorized by article 16(8) of the regulation on the internal market for electricity - i.e. 30% of the thermal capacity of the network elements taken into account for the capacity calculation.

2.2.2 Scope and duration of the derogation request

The derogation for the Core region is requested for a period of six months, from 1 July 2020 to 31 December 2020. RTE undertakes to continue to guarantee the level of 20% minRAM implemented in the CWE region since April 2018.

RTE will make use of this period to finalize the dedicated tool to monitor margins on the network elements used in the capacity calculation and will keep developing and testing the tools necessary for the assessment and validation of the availability of remedial actions. This period will also enable RTE to continue the training of its operators for the use of these new tools and to gain experience on potential new practices for the use of remedial actions to be able to keep ensuring the operational security of its network.

RTE will extend the parallel run by six months to assess the impact on operational security of higher minimum capacities than in the past.

RTE has specified that it could make a new derogation request to CRE if the above concerns are still unresolved at the end of this derogation period.

3. CRE'S ANALYSIS AND CONCLUSIONS

Article 16(9) of the regulation on the internal market for electricity provides that TSOs may request derogations from compliance with the minimum capacity levels available for exchanges between zones if foreseeable reasons mean that these levels cannot be achieved while maintaining operational security. The scope of those derogations must be strictly limited to what is necessary to maintain operational security.

CRE notes that the implementation deadlines provided for in CRE resolution of 12 December 2020 have proved to be insufficient, although progress on the margin monitoring tool have been made. Thus, RTE is currently unable to confirm the availability of corrective actions in sufficient quantity to enable it to reach the minimum capacity levels. Accordingly, making the minimum capacity levels provided for in Article 16(8) of the regulation on the internal market for electricity available to the markets from 1 July 2020 would be likely to jeopardize the operational security of the network.

CRE approves RTE's commitment to continue to apply the capacity calculation principles implemented to date and, in all cases, to respect the minimum threshold established in its request for derogation, referred to in point 2.2.2 of this decision. CRE considers that this commitment will tend to limit the derogation to what is strictly necessary by ensuring, at a minimum, continuity in the levels of capacity made available by RTE. CRE will ensure the proper implementation of this principle.

Given all those elements, CRE considers that the derogation request submitted by RTE is based on foreseeable grounds, justified by an operational and proportionate security risk.

CRE will closely monitor the progress of the work performed by RTE as well as the capacity levels made available by RTE for exchanges between zones in the Core region. CRE asks RTE to provide a report outlining these elements at the end of the derogation period covered by this decision. Should RTE make further derogation requests at the end of this period, the report should also present the proposed measures to keep improving the capacity levels made available for exchanges between zones in the Core region.

DECISION

Pursuant to the provisions of article 16(9) of the regulation on the internal market for electricity, the national regulatory authorities are empowered to grant derogations to their transmission system operator from the minimum capacity levels available for exchanges between zones in the capacity calculation regions introduced by article 16(8) of the aforementioned regulation.

On 12 December 2020, CRE adopted a resolution granting a derogation from the minimum capacity level available for exchanges between zones in the Core region for six months, from 1 January to 30 June 2020.

On 20 May 2020, RTE submitted a new derogation request to CRE for the Core capacity calculation region (covering in particular the perimeter of the historic region of Central West Europe) for a period of six months, from 1 July 2020 to 31 December 2020. RTE undertakes to continue, during this period, to guarantee the level of 20% minRAM implemented in the CWE region since April 2018.

The CRE has consulted the regulatory authorities concerned regarding this request. There were no specific comments or objections to it.

CRE judges that this derogation is necessary for RTE to be able to continue to develop the tools necessary for implementing the capacity levels required by Article 16(8) of the regulation on the internal market for electricity. CRE also considers that the derogation request submitted by RTE is based on foreseeable grounds, justified by an operational and proportionate security risk.

Consequently, the CRE grants the derogation requested by RTE. This derogation, attached to this resolution, will come into effect on 1 July 2020.

CRE will closely monitor the progress of the work performed by RTE as well as the capacity levels made available by RTE for exchanges between zones in the Core region. CRE asks RTE to provide a report outlining these elements at the end of the derogation period covered by this decision. Should RTE make further derogation requests at the end of this period, the report should also present the measures proposed to keep improving the capacity levels made available for exchanges between zones in the Core region.

This resolution is published on CRE's website and has been sent to the Minister for the Ecological and Inclusive Transition.

This decision has been notified to RTE as well as to the Agency for Cooperation of Energy Regulators.

**Deliberated in Paris on 18 June 2020.
For the Energy Regulatory Commission,
Chairman**

Jean-François CARENCO

ANNEX

The derogation for the Core capacity calculation region is attached to the present deliberation.