

Joint Opinion of the Commission de régulation de l'énergie (France) and the Gas and Electricity Markets Authority (Great Britain) on the Access Rules for the Interconnexion France-Angleterre in the event that Great Britain no longer participates in single day-ahead market coupling

This document sets out the Joint Opinion (the “Joint Opinion”) of the National Regulatory Authorities (“NRAs”) in France and Great Britain (“GB”) on the Access Rules for the Interconnexion France-Angleterre (“IFA”) in the event that GB no longer participates in single day-ahead market coupling as a result of the United Kingdom (UK) leaving the European Union (EU) without a withdrawal agreement (thereafter “GB decoupling”). The concerned NRA in France is the Commission de régulation de l'énergie (“CRE”) and the concerned NRA in GB is the Gas and Electricity Markets Authority (“the Authority”), whose administrative functions are carried out by the Office of Gas and Electricity Markets (“Ofgem”).

IFA is a 2,000MW direct current cable connecting the French and GB transmission systems between Les Mandarins in France and Sellindge in GB, operated by the French and British transmission system operators (“TSOs”), Réseau de transport d'électricité (“RTE”) and National Grid Interconnectors Limited (“NGIC”), respectively (thereafter “IFA TSOs”).

On 29 March 2017, the UK notified its intention to leave the EU, pursuant to Article 50 of the Treaty on European Union, thus officially initiating the process of withdrawal from the EU (hereafter “Brexit”). Changes on the legislative and regulatory frameworks governing the operation of IFA should be expected in the event that the UK leaves the EU without a withdrawal agreement. CRE and Ofgem emphasise the need for the continued operation of IFA to allow for trades in all timeframes between France and the UK to continue, regardless of the Brexit outcome.

As a contingency measure, IFA TSOs have prepared, consulted on and submitted proposed modifications to the IFA Access Rules to the NRAs for their approval. The main modifications are as follows:

- IFA TSOs propose to continue to allocate long-term capacity on IFA in the form of physical transmission rights *via* explicit auctions on the CMS IFA platform. However, the PTR sell-it regime and firmness provisions in case of capacity curtailment are adapted to take account of decoupling impacts, in particular the absence of a reference day-ahead price spread between GB and France.
- IFA TSOs propose to allocate day-ahead capacity *via* explicit auctions on the CMS IFA platform.
- IFA TSOs propose to continue to allocate intraday capacity *via* explicit auctions on the CMS IFA platform.

The present document forms the basis for the NRAs’ national approval processes on the proposed IFA Access Rules in case of GB decoupling. It is divided in three chapters:

1. Chapter 1: General context
2. Chapter 2: IFA Access Rules in the event of GB decoupling
3. Chapter 3: NRAs’ decision on IFA Access Rules in the event of GB decoupling

1. CHAPTER 1: GENERAL CONTEXT

1.1 Potential impacts of Brexit on IFA allocation mechanisms

On 29 March 2017, the UK notified its intention to leave the EU, pursuant to Article 50 of the Treaty on European Union. Consequently, the UK is scheduled to leave the EU on 29 March 2019 (24:00 CET). As part of the UK government's preparations for the withdrawal from the EU, the European Union (Withdrawal) Act 2018 was granted Royal Assent on 26 June 2018¹. The Act will serve to convert EU law that the UK is subject to at the moment, into UK law.

The UK government has agreed the full legal text of the withdrawal agreement, concluded on 13 November 2018 with the EU², and remains confident that this will provide the basis for a smooth and orderly exit. If the withdrawal agreement is implemented, an implementation period will run until 31 December 2020. During this time, CRE and Ofgem's assumption is that EU law would continue to apply to the UK and that the consequential changes to the IFA Access Rules, as described in this Joint Opinion, would not be required nor implemented by the involved TSOs.

As a contingency measure however, IFA TSOs have submitted proposed modifications to the IFA Access Rules to CRE and Ofgem, as the relevant NRAs, for their approval. The aim of the proposed modifications is to:

- a) ensure that the current allocation mechanisms evolve to remain operable; and
- b) take into account the scenario where the UK leaves the EU without the entry into force of a withdrawal agreement and consequently the scenario of GB decoupling.

This Joint Opinion therefore elaborates the NRAs' position on the set of Access Rules that would apply in the event of GB decoupling (thereafter "IFA Access Rules in case of GB decoupling").

1.2 In case of Brexit without the entry into force of a withdrawal agreement, EU legislation shall no longer be applicable to the UK and the basis for decisions on IFA Access Rules shall lie within national legislation

In the event that the UK leaves the EU without the entry into force of a withdrawal agreement, EU legislation such as Commission Regulation (EU) 2015/1222 of 24 July 2015 on capacity allocation and congestion management ("the CACM guideline") and Commission Regulation (EU) 2016/1719 of 26 September 2016 on establishing a guideline on forward capacity allocation ("the FCA guideline") will cease to apply to the UK. Even though these regulations are retained by application of the European Union (Withdrawal) Act 2018, in the event that no withdrawal agreement has entered into force on 29 March 2019, these regulations will be revoked by application of subsequent regulations³.

The CACM guideline sets out the legal framework that underpins GB's participation in the single day-ahead market coupling ("SDAC") and in the single intraday market coupling. The FCA guideline sets out the legal

¹ See the EU Withdrawal Act available here: <http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>

² See the Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators' level on 14 November 2018 and see the Political Declaration setting out the framework for the future relationship between the European and the United Kingdom, available respectively at: https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf and <https://www.consilium.europa.eu/media/37059/20181121-cover-political-declaration.pdf>

³ Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019

framework for the harmonised allocation of cross-zonal capacity in the forward electricity markets and the participation in a single allocation platform.

The current Access Rules must therefore evolve to take into account that the CACM guideline and the FCA guideline will cease to apply to the infrastructure connecting France to the UK. In case of GB decoupling, the IFA Access Rules will hence constitute the new regulatory framework applicable to the allocation of capacity between France and GB. The IFA Access Rules have been developed according to well-known processes already identified in the CACM and FCA guidelines, mostly as a fallback procedure for the normal SDAC.

The IFA Access Rules in case of GB decoupling will be adopted on the basis of national legislation, namely Article 30 of the standard specifications for the concession of the public electricity transmission network approved by Decree No. 2006-1731 of 23 December 2006⁴ for France and the Standard Licence Condition 11A of the GB electricity interconnector licence⁵ for GB.

1.3 IFA Access Rules in case of GB decoupling have been consulted and similar processes have been conducted on other interconnected borders

In accordance with the applicable legal and regulatory framework, IFA TSOs organised a public consultation on the proposed amendments to IFA Access Rules, which took place between 19 December 2018 and 25 January 2019⁶.

The interconnectors between the UK and Belgium (Nemo Link) and between the UK and the Netherlands (BritNed) similarly organised a public consultation on a set of amendments to their own set of Access Rules to take into account the scenario of GB decoupling.

⁴ Article 30 du cahier des charges type de concession du réseau public de transport d'électricité approuvé par le décret n° 2006-1731 du 23 décembre 2006.

⁵ Standard Licence Condition 11A of the GB Electricity Interconnector Licence:
https://epr.ofgem.gov.uk//Content/Documents/Electricity_Interconnector_Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf

⁶ IFA's consultation page can be accessed here: <http://ifa1interconnector.com/notices/consultation/>

2. CHAPTER 2: IFA ACCESS RULES IN THE EVENT OF GB DECOUPLING

2.1 Current allocation mechanisms on IFA

Currently, interconnection capacity on IFA is allocated by IFA TSOs along three timeframes: long-term (explicit allocation), day-ahead (implicit allocation) and intraday (explicit allocation)⁷. The underlying allocation mechanisms, which are based on European or national legislation, are described in the following paragraphs.

Long-term allocation process

Under Article 31(3) of the FCA guideline, TSOs that are part of a capacity calculation region (“CCR”) were required to develop a proposal for the regional design of long-term transmission rights (“LTTR”) to be issued on each bidding zone border within six months after entry into force of the FCA guideline.

In line with the Channel LTTR regional design⁸, long-term capacity on IFA is allocated in the form of physical transmission rights (“PTR”) with a Use-It-Or-Sell-It (“UIOSI”) regime *via* explicit auctions. IFA long-term PTRs are base load products offered to auctions in the annual, seasonal, quarterly, monthly and weekend timeframes. In the event that PTR holders do not nominate their PTR ahead of the day-ahead firmness deadline, they are entitled to a compensation based on the day-ahead reference price differential between the two bidding zones’ prices (thereafter “price spread”).

Under Chapter 5 of the FCA guideline, all TSOs were required to develop within six months after entry into force of the FCA guideline:

- Harmonised Allocation Rules (“HAR”) describing the allocation procedure for LTTR as well as outlining the contractual obligations of market participants⁹; and if relevant
- Regional or bidding zone border specific requirements (Border Specific Annex, “BSA”) developed by TSOs of each CCR.

IFA BSA (GB-FR border) was developed by Channel TSOs and approved by CRE and Ofgem¹⁰ based on a Channel NRAs’ common position paper.

⁷ Implicit allocation involves the sale of the transmission capacity (i.e. the right to flow electricity) and of electrical energy as a single product. In contrast, transmission capacity and electrical energy are sold separately and independently from each other in explicit allocation. For example, a GB market participant wishing to import 10MW of electricity from France for instance needs to buy i) the right to transmit 10MW over the IFA interconnector in the appropriate direction and ii) 10MW of electricity from a generator in France.

⁸ Ofgem’s decision to approve the Channel regional design of the LTTRs proposal under the FCA Guideline is available here: <https://www.ofgem.gov.uk/publications-and-updates/ofgem-decision-approve-channel-regional-design-long-term-transmission-rights-proposal-under-fca>. CRE’s decision is “Délibération de la Commission de régulation de l’énergie du 15 février 2018 portant approbation de la proposition des gestionnaires de réseau de transport de la région Manche relative à la conception régionale des droits de transport à long terme”.

⁹ Decision of the Agency for the Cooperation of Energy Regulators No 03/2017 of the electricity Transmission System Operators’ proposal for Harmonised Allocation Rules for Long-Term Transmission Rights, available at: https://acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2003-2017%20on%20HAR.pdf

¹⁰ Ofgem approved the HAR regional Annexes for the FR-GB bidding zone border on 13 October 2017. The decision letter can be found here: <https://www.ofgem.gov.uk/publications-and-updates/ofgem-decisions-iu-and-channel-regions-har-annexes-regional-design-lttrs-and-pan-european-sap-and-sap-cost-sharing-methodologies-under-fca>. CRE’s decision is “Délibération de la CRE du 12 octobre 2017 portant approbation des propositions des gestionnaires de réseau de transport des régions Manche, Europe du Sud-

Long-term capacity allocation has historically been conducted on the IFA Capacity Management System (“CMS IFA”).

Under Chapter 4 of the FCA guidelines, all TSOs were required to develop a proposal for a common set of requirements and for the establishment of a single allocation platform (“SAP”). The All TSOs’ proposal establishing the Joint Allocation Office (“JAO”) as SAP was approved by CRE and Ofgem¹¹ based on an all EU NRAs’ common position paper. Allocation of long-term rights on direct current interconnectors should take place on JAO at latest 24 months after the approval.

Pursuant to the requirement of establishing a SAP, IFA TSOs have initiated technical and regulatory developments to transfer IFA long-term capacity allocation from CMS IFA to JAO.

Day-ahead allocation process

The “IFA Access Rules V12”¹² presently governs capacity allocation at the day-ahead and intraday stages.

At the day-ahead stage, capacity is allocated implicitly via the SDAC. The terms, conditions and methodologies that govern the SDAC are set out in or made under the CACM guideline.

Under Chapters 4 and 5 of the CACM guideline, the SDAC uses an algorithm called the ‘EU Pan-European Hybrid Electricity Market Integration Algorithm’ (“EUPHEMIA”) to match energy demand and supply for all the periods of a single day at once while taking into account the available network capacity. EUPHEMIA returns the market clearing prices, the matched volumes and the net position of each bidding zone.

Intraday allocation process

At the intraday stage, capacity is currently allocated explicitly on the CMS IFA platform.

The CACM guideline sets as an objective for the intraday allocation process to take place across borders on the basis of continuous energy trading with implicit capacity allocation. However, this form of intraday market coupling has not been implemented to date on the border between France and the UK.

2.2 IFA TSOs’ proposed IFA Access Rules in case of GB decoupling

As part of their preparation to ensure continued operation of IFA in case of GB decoupling, IFA TSOs have developed a set of IFA Access Rules covering all allocation timeframes (long-term, day-ahead and intraday) that would apply in the event of GB decoupling, pending approval from CRE and Ofgem. They formally submitted this set within a single document to CRE and Ofgem (“Access Rules for the Interconnexion France-

Ouest, Italie Nord et CORE relatives aux annexes régionales aux règles d’allocation harmonisées des droits de long terme”, available at: <https://www.cre.fr/Documents/Deliberations/Approbaton/approbation-annexes-regionales-aux-har>

¹¹ Ofgem approved the Single Allocation Platform on 13 October 2017. The decision letter can be found here:

https://www.ofgem.gov.uk/system/files/docs/2017/10/batch_9_decision_letter_har_sap_ltrr_final.pdf. CRE’s decision is

“Délibération de la CRE du 12 octobre 2017 portant approbation de la proposition de l’ensemble des gestionnaires de réseau de transport relative aux exigences fonctionnelles concernant la plate-forme d’allocation unique des droits de transport à long terme et à la méthodologie pour le partage des coûts entraînés par l’établissement et le fonctionnement de cette plate-forme”, available at: <https://www.cre.fr/Documents/Deliberations/Approbaton/approbation-des-exigences-fonctionnelles-de-la-sap>

¹² IFA Access Rules V12 can be found here: <http://ifa1interconnector.com/media/1061/ifa-access-rules-v12-live-from-1-jan-2018.pdf>

Angleterre”, or “IFA Access Rules”) on 1 March 2019 and 22 February 2019, respectively. The document is organised in three sections:

- General Provisions
- Part 1 IFA Day Ahead and Intraday Allocation Rules
- Part 2 IFA Long Term Allocation Rules

In the event that the UK leaves the EU without the entry into force of a withdrawal agreement, the CMS IFA platform will remain in use for allocation of capacity in all timeframes. However, existing plans to transition from CMS IFA to JAO remain unchanged, i.e. IFA will look to transition from CMS to JAO in second half of 2019.

The main changes introduced in the IFA Access Rules in case of GB decoupling compared to the current allocation mechanisms in each timeframe are described in the following paragraphs.

Long-term allocation process

IFA TSOs have drafted the IFA Long Term Allocation Rules in case of GB decoupling by adapting the provisions contained in the HAR, Channel LTTR regional design and IFA BSA methodologies for a situation of GB decoupling.

IFA TSOs propose to continue to allocate long-term capacity on IFA in the form of PTRs *via* explicit auctions on the CMS IFA platform. However, the PTR sell-it regime and firmness provisions in case of capacity curtailment are adapted to take account of decoupling impacts, in particular the absence of a reference day-ahead price spread between the UK and France.

More specifically, Article 48 of the IFA Long Term Allocation Rules provide that PTR holders that have not nominated their PTR prior to the corresponding daily auction are entitled to a compensation equal to the marginal (clearing) price of the day-ahead explicit auction multiplied by the non-nominated amount. Articles 59, 60 and 61 provide that, in case of curtailment (respectively in case of curtailment to ensure operation remains within operational security limits before the firmness deadline, curtailment due to *force majeure* before the firmness deadline and curtailment due to *force majeure* after the firmness deadline), PTR holders are entitled to a compensation equal to the marginal (clearing) price of the initial auction multiplied by the amount curtailed.

Day-ahead allocation process

Upon entry into force, the IFA Day Ahead and Intraday Allocation Rules will require the explicit allocation of day-ahead capacity *via* explicit auctions on the CMS IFA platform.

More specifically, section 4 of Annex 1 of the proposed IFA Day Ahead and Intraday Allocation Rules details the procedural elements of the explicit allocation process. As such, one day-ahead auction (the explicit daily auction) shall take place between 09:40-10:00 on day D-1 (or at any other time specified by the allocation platform in the relevant auction specification or after publication of the auction specification). The final results of the explicit daily auction will be published as soon as reasonably practicable after the end of the bidding period. The allocation platform will notify each unit holder of its daily interconnector capacity rights in each direction for contract day D at 12:00 on the day D-1 (or at any other time specified in advance). Unit holders can submit daily mid-Channel nominations (“MCN”) of daily units for the contract day D, from

opening of the gate for daily MCNs at 12:05 on the day D-1 until daily MCNs gate-closure at 14:00 on day D-1 (or at any other time specified in advance by the allocation platform).

Intraday Allocation Process

There will be no change to the intraday allocation process in the event of GB decoupling.

Unlike at the day-ahead stage, explicit allocation at the intraday stage is not governed by terms, conditions and methodologies set out under the CACM guideline, therefore the current arrangements shall remain unchanged should the UK leave the EU without the entry into force of a withdrawal agreement.

2.3 Feedback of public consultation

IFA TSOs have submitted the draft IFA Access Rules in case of GB decoupling to public consultation *via* their dedicated websites between 19 December 2018 and 25 January 2019. A consultation report was included to the formal submission of the IFA Access Rules that summarises stakeholders' responses and details IFA TSOs' position on the points raised.

IFA TSOs have received three responses with comments covering four main issues (curtailment and compensation, timing of the day-ahead explicit auction, entry into force of the IFA Access Rules and future allocation platform) and a request for clarification on the UIOSI price.

As regards curtailment and compensation, two respondents opposed the change in compensation basis in case of curtailment and asked that the current scheme (compensation at spread) is kept. IFA TSOs have explained that in the event of GB decoupling, there is no certainty that a reference price would be available for the UK and they have recalled that compensation prior to the GB coupling to the Multi-Regional Coupling (MRC) region in February 2014 was based on the marginal (clearing) price of the initial auction.

As regards timing of the day-ahead explicit auction, two respondents suggested that the day-ahead auction timing should be harmonised on all interconnected borders (IFA, BritNed and Nemo Link) and that the day-ahead explicit auction results should be published at 9:00 CET instead of 9:35 CET. IFA TSOs have considered that this change cannot be securely accommodated within the timeframe leading to a potential GB decoupling but welcome the proposal and suggest to work on optimising auction timings at a later stage.

As regards entry into force of the IFA Access Rules, one respondent asked for more clarity on the potential timelines along which IFA Access Rules would enter into force. IFA TSOs have clarified that they plan to communicate to the most possible extent on the timing of entry into force of IFA Access Rules and associated operational processes, notably by involving CRE and Ofgem.

As regards the future allocation platform, one respondent expressed its preference for continuing the shift to JAO regardless of potential Brexit outcomes. IFA TSOs have confirmed that the shift is still relevant and should take place in the second half of 2019.

2.4 NRAs' analysis of proposed IFA Access Rules

CRE and Ofgem have thoroughly analysed and evaluated the proposed IFA Access Rules in case of GB decoupling, including responses to public consultation.

Structure of IFA Access Rules

CRE and Ofgem consider the format of the submitted IFA Access Rules, which includes short-term and long-term rules in a single document with different sections, to be sufficiently clear and accessible.

IFA Long-Term Allocation Rules

CRE and Ofgem agree with the proposed adaptation of the provisions contained in the HAR, Channel LTTR regional design and IFA BSA methodologies for a situation of GB decoupling into the IFA Long Term Allocation Rules. Regarding PTR sell-it regime and firmness provisions in case of capacity curtailment, CRE and Ofgem understand the arguments brought forward by IFA TSOs to justify modified compensation bases. Furthermore, CRE and Ofgem consider that the firmness provisions in case of capacity curtailment should not be more favourable than the sell-it regime. However, CRE and Ofgem are of the opinion that in case a reference price would be available for GB, IFA TSOs should, at the earliest possible opportunity, evaluate the possibility of amending the Access Rules with the view of reinstating price spread-based compensation for the PTR sell-it regime and firmness provisions in case of capacity curtailment.

IFA Day-Ahead and Intraday Allocation Rules

CRE and Ofgem consider that the IFA Day-Ahead and Intraday Allocation Rules would implement the minimum necessary changes that ensure that day-ahead and intraday trading can continue across the IFA interconnector in the event that the UK leaves the EU without the entry into force of a withdrawal agreement. If the amended IFA Access Rules proposed are implemented, explicit allocation shall apply at the day-ahead stage (as was the case prior to the introduction of single day-ahead market coupling on the France-GB border in February 2014), replacing implicit allocation, and explicit allocation at the intraday stage would be retained.

3. CHAPTER 3: NRAS' DECISION ON IFA ACCESS RULES IN THE EVENT OF GB DECOUPLING

3.1 NRAs approve IFA Access Rules

Based on their common analysis and evaluation of the IFA Access Rules in case of GB decoupling, including responses to public consultation, CRE and Ofgem agree that they can be approved. This agreement is intended to constitute the basis on which CRE and Ofgem will each subsequently make national decisions.

Following national decisions by CRE and Ofgem, IFA TSOs will be required to publish the IFA Access Rules in case of GB decoupling on their respective websites and to ensure their entry into force according to the planning decided by the NRAs in Chapter 3.2 of this Joint Opinion.

3.2 Effectiveness date

The IFA Access Rules submitted by IFA TSOs to CRE and Ofgem on 1 March 2019 and 22 February 2019, respectively, shall apply in the event that GB no longer participates in single day-ahead market coupling as a result of the UK leaving the EU without a withdrawal agreement. In that case, these IFA Access Rules shall apply from the day following the UK's withdrawing from the EU.

Since the UK notified its intention to leave the EU on 29 March 2017, pursuant to Article 50 of the Treaty on European Union, the UK is scheduled to leave the EU on 29 March 2019 (24:00 CET), unless that period is extended by the European Council in agreement with the UK. As such, unless the period is extended or a withdrawal agreement enters into force, the first day-ahead explicit auction would take place on 30 March 2019 for delivery on 31 March 2019.

3.3 Further considerations

CRE and Ofgem express their common support for the migration of IFA's short-term and long-term capacity allocation processes from its current in-house CMS IFA platform to the JAO platform, as proposed by IFA TSOs. They consider that in the event that the UK leaves the EU without the entry into force of a withdrawal agreement, service contracts could be concluded between NGIC and JAO for the provision of allocation services.

CRE and Ofgem inform stakeholders that in the event that the UK leaves the EU without the entry into force of a withdrawal agreement, they will review the other provisions related to the operation of IFA, among others the day-ahead and intraday capacity calculation methodology.

Lastly, CRE and Ofgem ask IFA TSOs to continue to review their Access Rules. Any modifications required to improve the Access Rules should be submitted to the relevant NRAs.