DECISION BY THE ITALY NORTH REGULATORY AUTHORITIES

OF

THE ITALY NORTH TSOs PROPOSAL FOR METHODOLOGY FOR REDISPATCHING AND COUNTERTRADING COST-SHARING IN ACCORDANCE WITH ARTICLE 74 OF THE COMMISSION REGULATION (EU) 2015/1222 OF 24 JULY 2015 ESTABLISHING A GUIDELINE ON CAPACITY ALLOCATION AND CONGESTION MANAGEMENT

16 December 2021

I. Introduction and legal context

This document elaborates an agreement of the Italy North Regulatory Authorities (in the following: IN NRAs), agreed on 16 December 2021 at Italy North Energy Regulators' Regional forum, on the Italy North TSOs proposal for the methodology for redispatching and countertrading cost-sharing (in the following: IN cost sharing) submitted in accordance with Article 74 of Commission Regulation 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management (in the following: CACM).

This agreement of the IN NRAs shall provide evidence that a decision on the IN cost sharing does not, at this stage, need to be adopted by ACER pursuant to Article 9(12) of CACM. It is intended to constitute the basis on which the IN NRAs will each subsequently issue a national decision to approve the IN CCM pursuant to Article 9(12) of CACM.

The legal provisions that lie at the basis of the IN cost sharing, and this IN NRAs agreement on the above mentioned methodology, can be found in Articles 3, 8, 9 and 74 of CACM and in Article 76 of Commission Regulation 2017/1485 of 2 August 2017 establishing a Guideline on Electricity Transmission System Operation (in the following: SOGL) both as amended by Commission Implementing Regulation (EU) 2021/280 of 22 February 2021 (in the following Regulation 2021/280).

II. The Italy North TSOs proposal and the process

The IN cost sharing is not subject to public consultation according to Article 12 of CACM Regulation, but it shall be directly submitted to the IN NRAs according to Article 9 of CACM.

The first version of the IN cost sharing was received by the last Regulatory Authority of the Italy North Capacity Calculation Region on 24 May 2018. The proposed cost sharing was based on congestion rent sharing keys.

On 23 November 2018 the IN NRAs issued a request for amendment, mandating the IN TSOs to develop a methodology based on polluter pays principle since the congestion rent sharing keys couldn't be accepted because not identifying the TSO(s) responsible for the congestions. The last Regulatory Authority sent this request on 18 December 2018.

On 18 February 2019 the IN TSOs informed IN NRAs and ACER that they weren't able to reach an agreement on the cost sharing and, that, thus, Article 9(4) of CACM ruling the case a submission is missed should be invoked. According to the formulation of Article 9(4) in force at that time, ACER informed the European Commission that should take all the appropriate steps to make possible the adoption of the required terms and conditions or methodologies.

Based on further discussions with the Commission and the NRAs, IN TSOs worked on a temporary version of the IN cost sharing, in strict cooperation with IN NRAs. This led to a second version that was submitted to the IN NRAs in 2021: the last Regulatory Authority received it on 18 October 2021. This version shall be considered as an amended version submitted in reply to the request for amendment issued by the IN NRAs on 23 November 2018: it shall thus be treated according to Article 9(12) of CACM and a relevant decision is therefore required by 18 December 2021.

The new version of IN cost sharing foresees the usage of congestion rent sharing keys determined for year Y proportionally to the congestion rent attributed to each TSO in year Y-1. The costs eligible for being shared are the ones associated to redispatching and countertrading measures activated based on the Pentalateral Agreement currently in force between the IN TSOs pending the implementation of the methodology for regional operational security analysis (in the following: ROSC methodology) developed pursuant to Article 76 of SOGL. However, only the cost for solving the constraints on critical network elements (in the following: CNEs) considered relevant for the capacity calculation process are eligible for being shared, all the other costs being borne by the requesting TSO.

The methodology will be implemented starting on 1 January 2022 and it will remain into force till the implementation of the ROSC methodology, when it shall be replaced by the enduring cost sharing solution.

The proposal includes also a process for monitoring: a report for IN NRAs about remedial actions and associated costs and a yearly review for improvement with the assessment of the effectiveness of the costly remedial actions and of the quality of the general coordination process and the associated cost sharing are envisaged.

III. The Italy North Regulatory Authorities position

NRAs position

IN NRAs welcome the submission of the IN cost sharing, as a significant step forward towards the full implementation of the CACM in the Italy North CCR: this methodology represents the last piece of the overall puzzle and its approval will allow a better and better cooperation among TSOs and Technical Counterparties.

IN NRAs are fine with the final compromise reached by IN TSOs, taking into account all the comments and suggestions shared during the last two years. In particular considering only the costs associated with CNECs ensures the consistency with the capacity calculation process and with the 70% adjustment that has recently entered into force.

Unfortunately, the IN cost sharing as proposed by the IN TSOs doesn't specify any relevant timeline for the submission of the reporting and of the yearly review for improvement. The IN NRAs intend thus to exploit the provision included in the Article 9(5) of CACM, as amended pursuant to Regulation 2021/280 in order to revise the proposal to specify the timeline for the reporting with the aim to enhance the transparency and to improve the cooperation between the TSOs and the competent regulatory authorities.

NRAs amendments

IN NRAs include a number of amendments.

The main substantial modifications are:

a) Inclusion of a proper deadline for the submission of the report about remedial actions: 10 working days after the end of each quarter;
b) Inclusion of a proper deadline for the submission of the yearly review for improvement: 31 March each year;
c) Changes to the implementation plan deleting the reference to the approval of the ROSC methodology, since this IN cost sharing applies to remedial actions activated pursuant to the Pentalateral procedures and not pursuant to the ROSC one; and
d) Clarification that the enduring solution shall be developed taking into account also Article 16(13) of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity.

IN NRAs introduce also some editorial changes as:

a) Removal of the word proposal since the methodology is directly changed by the NRAs and can no longer be considered as a TSO proposal;
b) Addition of some definitions to help the overall readability of the document;
c) Clarification of the formulas for the determination of the congestion rent sharing keys, in order to avoid misunderstandings and to clarify that only the congestion rent on borders belonging to Italy North CCR or considered from technical point of view within it shall be considered; and
d) Inclusion in the whereas of a summary of the discussion occurred with European Commission following the invocation of Article 9(4) of CACM.

The amendments were scrutinised by IN TSOs that suggest postponing the submission of the quarterly report to 60 calendar days after the end of each quarter in order to complete the settlement cycle. IN NRAs favour this change.

Conclusions

IN NRAs have consulted, closely cooperated and coordinated to jointly agree that they amend and adopt the IN cost sharing submitted by IN TSOs pursuant to Article 74 of CACM: the legal basis for the direct amendments by IN NRAs lies on Article 9(5) of CACM as amended by Regulation 2021/280.