



Mr Alberto Pototschnig,  
Director  
ACER

CC:  
Dr Klaus-Dieter Borchardt,  
Director  
Internal Energy Market  
DG ENER  
European Commission

Mr Carsten Pflanz,  
Core TSOs Chairman  
Tennet

27 March 2018,

Dear Mr Pototschnig,

I am writing to you on behalf of National Regulatory Authorities of the Core Region (Core NRAs) with regard to fallback procedures, developed and submitted by Transmission System Operators of the Core Region (Core TSOs) in accordance with Article 44 of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on capacity allocation and congestion management (CACM Regulation 2015/1222).

After first submission of the fallback procedures proposal and a request for amendment by Core NRAs, Core TSOs submitted an amended proposal, received by the last NRA on 14 February 2018. The proposal foresees in case of the event that the single day-ahead market coupling process is unable to produce results – the execution of shadow auctions. These are laid down in shadow allocation rules (SARs). For the sake of completeness and consistency, relevant SARs are annexed to the submitted proposal.

On 21 March 2018, after having consulted, closely cooperated and coordinated with each other, Core NRAs agreed to request the Agency to adopt a decision on the fallback procedures pursuant to Article 9(11) of Regulation 2015/1222. The reason for this request is that NRAs have not been able to agree on the approval of the fallback procedures if the **complete** current SAR documents are annexed to it. This is opposed by one NRA stating that is not possible to approve documents that have the characteristics of terms and conditions under private law and defining liability rules.

All Core NRAs are ready to assist the Agency to develop and adopt its decision.

Please note that it is a common understanding of Core NRAs that the proposed fallback procedures, in case enforced and implemented, shall be in place for a limited period of time. The reason for that

is that currently a regional Core wide single day-ahead market coupling (DA MC) is not in place yet and not all Core borders are currently coupled in one system. Thus, the proposed fallback mechanism is limited to a subset of eleven bidding zone borders where either DA MC is in place or where its go-live is already foreseen<sup>1</sup> (MRC/4MMC). Analogously, on the eight borders with no DA MC operator in function<sup>2</sup>, Core TSOs currently do not foresee any fallback mechanisms. However – once and at the latest when capacity calculation methodology (CCM) developed and implemented in accordance with Article 20 of the CACM Regulation and the DA MC operator function implemented in accordance with Article 7(3) of the CACM Regulation will be available - Core TSOs commit themselves in the Article 5(4) of the proposal to, in due time ahead of the implementation of Core FBMC, submit for Core NRAs approval one common, fully harmonized regional set of Core CCR TSOs' fallback procedures. Under these circumstances, all Core NRAs consider *this approach* as pragmatic, acceptable and approvable.

Following the principle of efficiency and the principle of “effet utile” during this transitional period, the majority of Core NRAs understand that annexing of SARs “as is”, inter alia, avoids disassembling of SARs into sub-documents. We do kindly ask you to facilitate an Agency decision on the respective proposal and are happy to engage in the process to achieve that. Do not hesitate to come back with any further questions.

Yours sincerely,

Was signed.

Mathieu Fransen  
Chair of the Core Energy Regional Regulatory Forum

Annex: Additional areas that all Core NRAs agree ACER may consider when reaching a decision

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<sup>1</sup> France-Belgium, Belgium-The Netherlands, France-Germany/Luxembourg, Austria-Slovenia, Hungary-Slovak Republic, Czech Republic- Slovak Republic, The Netherlands-Germany/Luxembourg, Belgium-Germany/Luxembourg, Croatia-Slovenia, Romania-Hungary, Germany/Luxembourg-Austria

<sup>2</sup> Germany/Luxembourg-Poland, Germany/Luxembourg-Czech Republic, Austria-Czech Republic, Austria-Hungary, Czech Republic-Poland, Poland-Slovak Republic, Croatia-Hungary and Hungary-Slovenia

## Additional areas that all Core NRAs agree ACER may consider when reaching a decision

Core NRAs agree that, although they have no concerns on the elements of the proposed fallback procedures, the following issues of the proposal could also be addressed, if this does not hinder reaching a decision on time for legal or process related reasons:

1. Following chapter to be inserted into Article 5 (“Publication and implementation of the Fallback Procedures”):

*The Core CCR TSOs’ Fallback Procedures and all its Annexes are subject to the legislation prevailing at the time at which they take effect. In the event of any inconsistency between Annexes of this document and CACM Regulation, provisions in CACM Regulation take precedence. In the event of changes that have an effect on this document and/or any of its Annexes, the Core CCR TSOs’ Fallback Procedures and all its Annexes shall be amended accordingly and pursuant to the Article 9, paragraph 13 of CACM Regulation.*

2. In the Article 1 (“Subject matter and scope”), list of bidding zone borders on which day-ahead market coupling operator (DA MC) is/is not in place yet and therefore Core CCR TSOs’ Fallback Procedures does/does not yet apply (with the mention of the applicable annexed rules if the Fallback Procedures apply).