



* as according to ACER Decision No 04/2024 (of 19 March 2024) Art. 5. (CCR Core)

AGREEMENT OF THE CORE REGULATORY AUTHORITIES

on

**Third amendment of the fallback procedures including
the shadow allocation rules of the Core Capacity
Calculation Region 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 as amended by Commission implementing
regulation (EU) 2021/280 of 22 February 2021**

24 December 2024

1. INTRODUCTION AND LEGAL CONTEXT

This document elaborates an agreement of the Core Regulatory Authorities (hereafter: “Core NRAs”), agreed on 24 December 2024 at the Core Energy Regulators’ Regional Forum (hereafter: “CERRF”) on the Core Transmission System Operators’ (hereafter: “Core TSOs”) proposal for the third amendment of the fallback procedures (hereafter “third amendment of the Core fallback procedures), including the Shadow Allocation Rules (hereafter “SAR”), 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 as modified by Commission Implementing Regulation (EU) 2021/280 of 22 February 2021* (hereafter “CACM Regulation”).

All Core TSOs submitted the third amendment of the Core fallback procedures, including SAR, in accordance with Article 9(7) of the CACM Regulation to NRAs until 4th July 2024.

Article 9(10) of the CACM Regulation requires Core NRAs to consult and closely cooperate and coordinate with each other in order to reach an agreement and make a decision within six months following receipt of submission of the proposal to the last Core NRA. A decision is therefore required to be made by Core NRAs by 6 January 2025 at the latest.

This agreement of the Core NRAs shall provide evidence that a decision on the third amendment of the Core fallback procedures, including the SAR, does not, at this stage, need to be adopted by ACER pursuant to Article 9(11) of the CACM Regulation. It is intended to constitute the basis on which the Core NRAs will each subsequently issue a national decision to approve the third amendment of the Core fallback procedures, including the SAR, pursuant to Article 9(10) of the CACM Regulation.

The legal provisions that lie at the basis of the third amendment of the Core fallback procedures, including the SAR, and this Core NRAs’ agreement on the methodology can be found in Articles 3, 8, 9 and 44 of the CACM Regulation, 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 (hereafter: “ACER Regulation”). These articles are set out below for reference.

1.1 CACM Regulation

Article 3

Objectives of capacity allocation and congestion management cooperation

This Regulation aims at:

- (a) promoting effective competition in the generation, trading and supply of electricity;*
- (b) ensuring optimal use of the transmission infrastructure;*
- (c) ensuring operational security;*
- (d) optimising the calculation and allocation of cross-zonal capacity;*
- (e) ensuring fair and non-discriminatory treatment of TSOs, NEMOs, the Agency, regulatory authorities and market participants;*
- (f) ensuring and enhancing the transparency and reliability of information;*
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union;*
- (h) respecting the need for a fair and orderly market and fair and orderly price formation;*
- (i) creating a level playing field for NEMOs;*
- (j) providing non-discriminatory access to cross-zonal capacity.*

Article 8

TSOs' tasks related to single day-ahead and intraday coupling

(...)

2. TSOs shall:

(...)

(i) establish and operate fallback procedures as appropriate for capacity allocation in accordance with Article 44;

(...)

Article 9 as amended by Regulation 2021/280

Adoption of terms and conditions or methodologies

1. TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs or NEMOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to paragraph 6, jointly by all competent regulatory authorities in procedures pursuant to paragraph 7, and by the competent regulatory authority in procedures pursuant to paragraph 8.

(...)

5. Each regulatory authority or where applicable the Agency, as the case may be, shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6, 7 and 8. Before approving the terms and conditions or methodologies, the Agency or the competent regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs or NEMOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

(...)

7. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

(...)

(e) the fallback procedures in accordance with Article 44;

(...)

9. 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 for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 7 shall be submitted to the Agency within 1 week of their submission to regulatory authorities. Proposals for terms and conditions or methodologies subject to the approval by one regulatory authority in accordance with paragraph 8 may be submitted to the Agency within 1 month of their submission at the discretion of the regulatory authority while they shall be submitted upon the Agency's request for information purposes in accordance with Article 3 paragraph 2 of the Regulation (EU) 2019/942 if the Agency considers the proposal to have a cross-border impact. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

10. Where the approval of the terms and conditions or methodologies in accordance with paragraph 7 or the amendment in accordance with paragraph 12 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 to reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities or, where competent, the Agency shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, within 6 months following the receipt of the terms and conditions or methodologies by the Agency or the regulatory authority or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 6, to the last regulatory authority concerned in accordance with paragraph 7 or, where applicable, to the regulatory authority in accordance with paragraph 8.

11. Where the regulatory authorities have not been able to reach agreement within the period referred to in paragraph 10, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

12. In the event that the Agency, or all competent regulatory authorities jointly, or the competent regulatory authority request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6, 7 and 8 respectively, the relevant TSOs or NEMOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the competent regulatory authorities or the competent regulatory authority. The Agency or the competent regulatory authorities or the competent regulatory authority shall decide on the amended terms and conditions or methodologies within 2 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 paragraph 7 within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs or NEMOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 of this Article shall apply.

13. The Agency, or all competent regulatory authorities jointly, or the competent regulatory authority, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs or NEMOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency.

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 12 and approved in accordance with the procedure set out in this Article.

14. TSOs and NEMOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the Agency or 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 13.'

Article 44

Establishment of fallback procedures

By 16 months after the entry into force of this Regulation, each TSO, in coordination with all the other TSOs in the capacity calculation region, shall develop a proposal for robust and timely fallback procedures to ensure

efficient, transparent and non-discriminatory capacity allocation in the event that the single day-ahead coupling process is unable to produce results.

The proposal for the establishment of fallback procedures shall be subject to consultation in accordance with Article 12.

1.2 ACER Regulation

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.

(...)

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.

2. The Core TSOs' proposal

Through the third amendment of the Core fallback procedures, including the SAR, the Core TSOs aimed at introducing several amendments to the second amendment of the Core fallback procedures, including the SAR, established through the Core NRAs national decisions in 2022.

The main amendments proposed by Core TSOs on the Shadow Allocation Rules annexed to the Core fallback procedures are the following:

- *Art. 1 Subject-matter and scope* – The Shadow Allocation Rules shall include the related regional and/or border specific annexes;
- *Art. 4 Regional specificities* – Regional specificities may be introduced for one or more bidding zones borders;
 - A new Regional Specific Annex for the Core CCR to the Shadow Allocation Rules was included as annex 6 to the SAR;
- *Art. 7 Participation Agreement conclusion* – The Participation agreement shall be signed with handwritten signatures or qualified electronic signatures;
- *Art. 9 Submission of information* – The required information was complemented;

- Art. 18 *General provisions for Shadow Auctions* – The provisions regarding performing shadow auctions on the Slovenia-Italy Border in case of market coupling unavailability only in the case where it is known that the single day-ahead coupling will not be available for the next sessions were removed;
- Art. 21 *Default Bid* – The provisions concerning additional criteria and rules for the Allocation Platform to decide which bid shall be rejected in case where the Information System Rules allows submission of Bids with the same bid price by one registered participant were removed;
- Art. 26 *Notification of Shadow Auction results* – The timing to publish shadow auction results, previously set in the Core fallback approved documents, was explicitly mentioned to be 2:20 pm;
- Art. 32 *TSO Designation* – The TSOs by these provisions are now listed in the related regional annexes to SAR;
- Art. 41 *General principles* on invoicing and payment – New provisions for the registered participant to inform the Allocation Platform of any local, intra-community or extra-community taxes and levies which are in line with the legislation of the Registered Participant's country of establishment, were added.

The SAR in its version of 23 January 2023 with its new annex 6 was consulted from 06 February 2023 until 09 March 2023 in accordance with the requirements of Article 12 of the CACM Regulation. This public consultation was organized via the online Joint Allocation Office (hereafter "JAO") Consultation hub.

Before the final submission of the documents for Core NRAs approval, Core TSOs looked for feedback on the process for the approval of the amended SAR with its new annex 6 that are annexed to the Core fallback procedures. Core NRAs have assessed the documents and reached the conclusion that the TSOs could submit these amended documents as discussed at Core CCR level and also in CACM TF; an additional consultation of the main document of the third amendment of the Core fallback procedures was considered not relevant as all the changes had targeted the SAR and its annex 6 which were already consulted by JAO and where no comments were received.

3. The Core NRAs' position

Core NRAs have analysed the third amendment of the Core fallback procedures, including the SAR, and have reached the following conclusions:

- a) Some elements from the submitted documents were not clear and are described as follows:
 - References to Article 9(8) of the CACM Regulation were not the right ones as this article refers to national approval, whereas these documents should go through a regional approval process and thus Article 9(7) of the CACM Regulation should have been considered;
 - The article about language was missing;
 - TSOs should have clearer reflected the changes related to the content in comparison with the previous approved version (additions, suppressions and adjustments) should have been mentioned and justified;
 - The references to Core DA CCM go-live and to 4MMC borders were not necessary anymore.
- b) Currently there are three versions in force for the "*The Core fallback procedures*":
 - ACER's Decision no. 10/2018 on the Core Capacity Calculation Region Transmission System Operators' Proposal for Fallback Procedures;
 - ACER's Decision no. 02/2021 on the Amendment of the Fallback Procedures of the Core Capacity Calculation Region;
 - The Second Amendment of the Fallback Procedures of the Core Capacity Calculation Region – approved by each NRA from Core CCR in accordance with Article 9(10) of the CACM Regulation;

which makes it difficult for market parties to follow all the provisions in force.

For these reasons, Core NRAs decided to elaborate the consolidated version of all the three approved versions mentioned above.

- In preparing the consolidated version, Core NRAs decided to also make some wording improvements, to correct some typos, to replace the reference to Article 9 (8) of the CACM Regulation by the reference to Article 9 (7) of the CACM Regulation which is the correct one in case of regional approvals, to remove the references to Core DA CCM go-live and to 4MMC borders (which were not applicable anymore) and to include the short history with all the previous decisions given for the Core fallback procedures, including the SAR.
- No modifications were necessary for the SAR except some typos on the Regional Specific Annex for the Core CCR.

Core NRAs unanimously decided to introduce those changes themselves. The way forward was discussed during a dedicated meeting among Core NRAs on 10 September 2024 and also with Core TSOs representatives in dedicated meetings on 09 October 2024 and on 11 November 2024. The draft version of the Consolidated Core fallback procedures, including SAR, was consulted with the Core TSOs representatives starting on 18 September 2024 with a reminder on 20 November 2024 to provide feedback on the proposed changes. Core TSOs confirmed the draft consolidated version and the improvements made by Core NRAs on 21 November 2024. This draft version of the consolidated Core fallback procedures, including SAR, was consulted among Core NRAs from 18 November 2024 to 29 November 2024. These changes were also presented at the IG meeting on 03 December 2024.

4. Conclusions

Core NRAs have consulted, closely cooperated and coordinated to jointly agree that they shall revise the proposal of the Core fallback procedures, including the SAR, in accordance with the concrete modifications as presented in the document attached to this position paper before approving it. The legal basis for the direct amendments by Core NRAs lies in Article 5(6) of the ACER Regulation and in Article 9(5) of the CACM Regulation. Core NRAs will issue their national decisions to approve the revised Core fallback procedures, including the SAR, on the basis of this agreement.

Following the approval by NRAs, Core TSOs and JAO shall without any delay publish consolidated versions of Core Fallback methodology and SAR.

For the future amendments of Fallback Procedures and SAR, Core NRAs request TSOs to refer to and provide full package of the methodology, i.e. especially track change and clean versions of the consolidated documents that are going to be subsequently published.

5. Annex

Fallback Procedures of the Core Capacity Calculation Region 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 as amended by Commission implementing regulation (EU) 2021/280 of 22 February 2021 – 24 December 2024 (track changes)