



Agreement of the relevant Regulatory Authorities

on

the amended Proposal for nomination rules for Physical Transmission Rights for the bidding zone border(s) between Austria, Croatia, Czech Republic, Germany, Hungary, Poland, Slovakia, and Slovenia

in accordance with Article 36 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation

7 April 2022

I. Introduction and legal context

The Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (hereinafter Regulation 2016/1719) entered into force on 17 October 2016.¹ Regulation 2016/1719 sets out detailed rules on cross-zonal capacity allocation in the forward markets, on the establishment of a common methodology to determine long-term cross-zonal capacity, on the establishment of a single allocation platform at European level offering long-term transmission rights, and on the possibility to return long-term transmission rights for subsequent forward capacity allocation or transfer long-term transmission rights between market participants.

According to Article 36 of Regulation 2016/1719, the proposals for the nomination rules for PTRs had to be submitted by TSOs issuing the PTRs on a bidding zone border to the relevant Regulatory Authorities for approval by 12 months after the entry into force of the Regulation 2016/1719. In 2017 TSOs of Austria, Croatia, Czech Republic, Germany², Hungary, Poland, Slovakia, and Slovenia (hereinafter: relevant TSOs) submitted the nomination rules for PTRs on their common bidding zone borders level which were approved by Regulatory Authorities.

In 2021, the relevant TSOs submitted an amendment of the PTR nomination rules. The implementation of the ICP (Interim Coupling Project) and the harmonisation of local with the European (MRC) processes caused several changes.

The relevant Regulatory Authorities requested an amendment of the PTR Rules by 21 February 2022 in line with their position paper agreed on 3 December 2021. The relevant TSOs resubmitted the amended PTR Rules to the relevant Regulatory Authorities by 7 March 2022.

This agreement document of relevant Regulatory Authorities shall provide evidence that a decision on the amended PTR Rules does not, at this stage, need to be adopted by ACER pursuant to Article 4 (10) of Regulation 2016/1719. Therefore, this agreement is intended to constitute the basis upon which all Regulatory Authorities will each subsequently adopt a national decision on the amended PTR Rules pursuant to Article 36 (2) of Regulation 2016/1719..

The legal provisions relevant to the submission and approval of the PTR Rules can be found in Articles 3, 4, 36 of Regulation 2016/1719.

Article 3 of Regulation 2016/1719:

This Regulation aims at:

(a) promoting effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants;

(b) optimising the calculation and allocation of long-term cross-zonal capacity;

¹ COMMISSION IMPLEMENTING REGULATION (EU) 2021/280 of 22 February 2021 amending Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 in order to align them with Regulation (EU) 2019/943 modifies certain provisions of Regulation 2016/1719 that are taken into account when referring to Regulation 2016/1719 in this document

² 50Hertz & TenneT DE.

- (c) providing non-discriminatory access to long-term cross-zonal capacity;*
- (d) ensuring fair and non-discriminatory treatment of TSOs, the Agency, regulatory authorities and market participants;*
- (e) respecting the need for a fair and orderly forward capacity allocation and orderly price formation;*
- (f) ensuring and enhancing the transparency and reliability of information on forward capacity allocation;*
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union.*

Article 4 of Regulation 2016/1719:

- 1. TSOs 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, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to paragraph 6, and jointly by all competent regulatory authorities in procedures pursuant to paragraph 7. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of those terms and conditions or methodologies.*
- 2. (...)*
- 3. (...)*
- 4. (...)*
- 5. (...)*
- 6. (...)*
- 7. (...)*
- 8. 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 or all regulatory authorities in accordance with paragraph 7 shall be submitted to the Agency within 1 week of their submission to the regulatory authorities. 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.*
- 9. Where the approval of the terms and conditions or methodologies in accordance with paragraph 7 or the amendment in accordance with paragraph 11 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. (...)

- 10. Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 9, 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.*
- 11. In the event that the Agency or all competent regulatory authorities jointly request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6 and 7, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the regulatory authorities. The Agency or the competent regulatory authorities 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 fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 shall apply.*
- 12. The Agency or the regulatory authorities jointly, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 6 and 7, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs 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 6 and approved in accordance with the procedure set out in this Article.*
- 13. (...)*

Article 36 of Regulation 2016/1719

- 1. Where TSOs issue and apply physical transmission rights on bidding zone borders, they shall enable physical transmission rights holders and/or their counterparties to nominate their electricity exchange schedules. Physical transmission rights holders may authorise eligible third parties to nominate their electricity exchange schedules on their behalf in line with the nomination rules in accordance with paragraph 3.*
- 2. No later than 12 months after the entry into force of this Regulation, all TSOs issuing physical transmission rights on a bidding zone border shall submit to the relevant regulatory authorities' approval a proposal for nomination rules for electricity exchange schedules between bidding zones. The proposal shall be subject to consultation in accordance with Article 6. Nomination*

rules shall contain at least the following information: (a) the entitlement of a physical transmission rights holder to nominate electricity exchange schedules; (b) minimum technical requirements to nominate; (c) description of the nomination process; (d) nomination timings; (e) format of nomination and communication.

3. *All TSOs shall progressively harmonise the nomination rules on all bidding zone borders on which physical transmission rights are applied.*
4. *Physical transmission rights holders, their counterparties where applicable or an authorised third party acting on their behalf shall nominate all or part of their physical transmission rights between bidding zones in compliance with the nomination rules.*
5. *In case allocation constraints on interconnections between bidding zones have been included in the day-ahead capacity allocation process in accordance with Article 23(3) of Regulation (EU) 2015/1222, they shall be taken into account in the proposal for nomination rules referred to in paragraph 2.*

II. The PTR Rules amendment

The relevant TSOs claim on the consultation webpage of ENTSO-E³ that in 2021, with the launch of Interim Coupling Project (hereinafter: ICP), it became a necessity to update Annex 1 to the PTR Rules.

On behalf of the relevant TSOs, ENTSO-E organized, from 19 May 2021 until 19 June 2021, a public consultation on the draft amended PTR Rules, where the provisions in relation to the switch of the day-ahead gate closure time and the corresponding modified nomination deadlines due to the go-live of the ICP were consulted (Annex I to the PTR Rules).

By 17 September 2021 and in line with Article 36(2) Regulation 2016/1719, the relevant TSOs submitted the PTR Rules to their Regulatory Authorities. Within six months following the receipt of the PTR Rules by the last Regulatory Authority concerned, on 17 March 2022, each Regulatory Authority shall take a decision concerning the PTR Rules.

Relevant Regulatory Authorities requested for amendment of the PTR Rules by 21 February 2022 in line with their position paper agreed on 3 December 2021, whereas relevant TSOs resubmitted the amended PTR Rules to relevant Regulatory Authorities by 7 March 2022.

The amended PTR Rules include, in line with Article 4(8) of Regulation 2016/1719, the date of entry into force in accordance with the applicable national regulatory regimes with application on the earliest possible date following the approval of the respective Regulatory Authorities in Accordance with Article 4 of the Regulation 2016/1719. The description of the expected impact on the objectives of Regulation 2016/1719 is explained in the whereas section of the amended PTR Rules.

The amended PTR Rules and Annex I to the amended PTR Rules (also referred as The User's Guide to Scheduling Trader's Manual, hereinafter "Annex I") include general provisions, nomination rules

³ Please find the relevant link: https://consultations.entsoe.eu/markets/nom_proposal/

detailing the entitlement of a physical transmission rights holder to nominate Scheduled Exchanges; minimum technical requirements to nominate; description of the nomination process; nomination timings and the format of nomination and communication. The amended PTR Rules include provisions of general definitions for the business process, on communication to TSO and AO (Allocation Office), basic rules for nomination, TSO's reactions, and timelines for long term and day-ahead timeframes (the latter case both for standard market coupling procedure – implicit allocation and full or partial decoupling – explicit allocation via Shadow auction), long term and daily nomination and correction cycle and curtailment of nomination.

III. Relevant Regulatory Authorities' position

a) On the amendment and approval process

The relevant Regulatory Authorities note that the title "Proposal for Amendment of the..." is erroneous and should instead be "Amendment of the ...". Nevertheless, relevant Regulatory Authorities consider that this minor clarification is not of the nature that it shall lead to the need for a referral or a resubmission of the amendment proposal.

Whereas (7) as well as Article 9 of the amended PTR Rules include provisions on the amendment and approval process.

Whereas (7) states that "TSOs on the bidding zone border(s) between Austria, Croatia, Czech Republic, Germany, Hungary, Poland, Slovakia, and Slovenia consider that the FCA Regulation allows the submission of this Proposal on bidding zone border level, since proposals for nomination rules for Scheduled Exchanges between bidding zones are not listed in Article 4 of the FCA Regulation."

Article 9 states that "Any change of the rules related to nomination of PTRs for a bidding zone border between related TSOs shall lead to an amendment of the present nomination rules Proposal in accordance with Article 4(12) of Regulation (EU) 2016/1719."

The relevant Regulatory Authorities, agreeing that proposals for nomination rules for Scheduled Exchanges between bidding zones are not listed in Article 4 of Regulation 2016/1719 enabling the submission of this Proposal on bidding zone border level, acknowledge application of Article 4(11) of Regulation (EU) 2016/1719 among them for approval of the present amended PTR Rules.

b) On the nomination process

Article 6 of the amended PTR Rules states that "The technical requirements and specific rules for scheduling are described in Annex I to this Proposal, which constitutes an integral part of this Proposal. The latest version of regional nomination rules shall be published on the websites of concerned TSOs and/or the relevant Allocation Platform".

The relevant TSOs have revised the Annex I in order to reflect the differentiated nomination process and timings for explicit and implicit allocation, as well as the potential delay scenarios in case of decoupling. Although the amended PTR Rules should cover only the long-term timeframe, due to market parties' obligation to nominate PTRs, the Annex I is also applicable to the day-ahead processes.

Therefore it was updated accordingly to reflect the correct process and timings on the borders where PTR are used after ICP go-live.

Changes in Annex I include new definitions (BZB, CZC, FTR, ICP, JAO, Shadow auction). The chapter 2.5 “Timeline” is now separated in subchapters that determine tasks and main timestamps of long term timeframe (basically remained unchanged) and day-ahead timeframe (standard market coupling procedure – implicit allocation and process in case of Full or Partial decoupling – explicit allocation via Shadow auction). Standard market coupling timings are fully aligned with MRC timings (except few exceptions on HU-SK, SK-CZ borders), for the decoupling situations several “delay” timestamps, including further exceptions on the both above borders, are added.

Annex I on long term nomination (Article 2(5)(4)) clarifies that it only applies to explicitly allocated long-term Physical transmission rights (LT PTRs). In the case of allocation of long-term financial transmission rights (LT FTRs), the process of nomination and matching as described in the document does not apply. Annex I Article 2(5)(7) (Correction Cycle Daily) fourth paragraph refers now to daily nominations using the rights allocated explicitly via Shadow auction instead of nominations.

The relevant Regulatory Authorities take note and acknowledge the changes in Annex I to the amended PTR Rules with regards to differentiated nomination process and timings for explicit and implicit allocation, as well as the potential delay scenarios in case of decoupling. Relevant Regulatory Authorities find the proposed changes necessary in order to ensure the secure operation of ICP and consistent with the objective of the Regulation 2016/1719.

c) On the implementation timeline

Article 3 of the amended PTR Rules states that “This nomination rules Proposal shall enter into force in accordance with the applicable national regulatory regimes. The rules described in this Proposal shall apply on the earliest possible date following the approval of the respective Regulatory Authorities in Accordance with Article 4 of the Regulation 2016/1719. This date will be published for the bidding zone border(s) of the related TSOs on their website.”

The relevant Regulatory Authorities understand that with the go-live date of the ICP as of 17 June 2021 (with first delivery date of 18 June 2021) the switch of the day-ahead gate closure time and the corresponding modified nomination deadlines as proposed in Annex I are already in effect. The concerned Regulatory Authorities of the ICP were already informed ahead of the go-live on the necessary change of nomination deadlines. Such early implementation of the modified nomination deadlines is considered as the responsibility of the respective TSOs and will be not considered as having any detrimental or advantageous effect on the coordinated approval of the PTR Rules by the relevant Regulatory Authorities. Nevertheless, the relevant Regulatory Authorities would like to highlight and warn TSOs in general and with due care to the present approval process of PTR Rules that timely submission of terms, conditions and methodologies in advance of their implementation and application is a fundamental prerequisite for legal compliance of TSOs with the applicable EU and national legislation.

In line with their position paper agreed on 3 December 2021, the relevant Regulatory Authorities requested an amendment of the PTR Rules. Due to late submission of the PTR rules by relevant TSOs and possible overlaps and conflicts between national approvals of PTR rules and go-live of the Core DA FB MC (that will trigger immediate application of FTRs on most borders listed in PTR rules and application of different day-ahead processes), relevant Regulatory Authorities asked TSOs to clarify

that application of PTR Rules shall be aligned with the Core regional design of long-term transmission rights pursuant to Article 31 for all timeframes. The respective design foresees FTRs to be introduced on the bidding zone border(s) between Austria, Croatia, Czech Republic, Germany, Hungary, Poland, Slovakia, and Slovenia as the target solution (except for SI-HR).

Therefore, the Regulatory Authorities asked TSOs to adopt the Article 3 in the PTR Rules as follows (**bold**):

Article 3 Effective date and application

*This nomination rules Proposal shall enter into force in accordance with the applicable national regulatory regimes. The rules described in this Proposal shall apply on the earliest possible date following the approval of the respective NRAs in Accordance with Article 4 of the FCA Regulation. This date will be published for the bidding zone border(s) of the related TSOs on their website. **In the event of conflict between the nomination rules Proposal and provisions of the Core CCR TSOs' regional design of long-term transmission rights based on article 4(12) of Commission Regulation (EU) 2016/1719, the latter shall prevail.***

The relevant Regulatory Authorities deem the amendments made by relevant TSOs as being compliant with their request for amendment.

Further on – and for the same reason – the Regulatory Authorities asked TSOs to additionally address in the whereas section of the PTR Rules the fact that, after the go-live of the Core FB MC, the amended PTR Rules and its Annex(es) will not be further applicable on all except HR-SI border, first for monthly, then for yearly auction, as foreseen in the Core CCR TSOs' regional design of long-term transmission rights based on Article 4(12) of Regulation (EU) 2016/1719.⁴

Also, for the sake of efficiency, relevant Regulatory Authorities agreed that it would be advantageous if TSOs would now submit a document which would remain applicable for HR-SI after the Core DA CCM go-live. However, in a joint letter of relevant TSOs received by relevant Regulatory Authorities on 11 October 2021 TSOs stated that *HOPS and ELES representatives confirmed that they are bilaterally working on a version of PTR nomination rules that they are going to send to relevant NRAs for approval once finalized*. The relevant Regulatory Authorities are asking TSOs to incorporate and address this issue in the whereas section of the PTR Rules in line with the provided information by TSOs.

In the whereas section (3) of the amended PTR Rules TSOs describe that the application of this Proposal shall be aligned to and limited until the go-live of Core Flow-Based Day-Ahead Market Coupling Project. Following the implementation of the Core Day-ahead Capacity Calculation Methodology (hereafter referred to as "Core DA CCM") and according to the Core Capacity Calculation Region TSOs' (hereafter referred to as "Core CCR TSOs") regional design of long-term transmission rights pursuant to Article 31 of the FCA Regulation FTRs options shall be introduced for all long term timeframes on the bidding zone border(s) between Austria, Croatia, Czech Republic, Germany, Hungary, Poland, Slovakia, and Slovenia as the target solution (except for SI-HR). For SI-HR bidding zone border, where PTR nomination rules shall remain applicable after the implementation of Core DA CCM, the two relevant TSOs shall

⁴ This means that rules for PTR Nomination remain in effect until the end of the last delivery day of an allocated yearly or monthly PTR product on a given bidding zone border – in line with Core CCR TSOs' regional design of long-term transmission rights based on article 4 (12) of Regulation (EU) 2016/1719

develop a PTR nomination proposal and submit for approval to relevant regulatory authorities in accordance with Article 36 of FCA Regulation.

The relevant Regulatory Authorities deem the amendments made by relevant TSOs as being compliant with their request for amendment.

d) On the expected impact on the objectives of the Regulation

Whereas (8) (9) (10) (11) and (12) include the description of the expected impact of the amended PTR Rules on the objectives of Regulation 2016/1719 in terms of non-discrimination, transparency, and contribution to the general objectives of Regulation 2016/1719. The relevant Regulatory Authorities find this description appropriate.

e) On the progressive harmonisation of the nomination rules on all bidding zone borders on which physical transmission rights are applied

The relevant Regulatory Authorities acknowledge that majority of TSOs applying PTRs in Core CCR are progressing with the harmonization of the nomination rules and have agreed upon a joint proposal and common Annex using a common approach. Nevertheless, many elements of the minimum technical requirements are still rather individual that could be still aligned once feasible in order to move further towards one harmonized approach.

f) On the allocation constraints in the proposal for nomination rules

In line with their position paper agreed on 3 December 2021 the relevant Regulatory Authorities requested an amendment of the PTR Rules. The relevant Regulatory Authorities reminded TSOs of the requirement of Article 36(5) of Regulation 2016/1719 which states that *"In case allocation constraints on interconnections between bidding zones have been included in the day-ahead capacity allocation process in accordance with Article 23(3) of Regulation (EU) 2015/1222, they shall be taken into account in the proposal for nomination rules..."*. The relevant Regulatory Authorities requested TSOs to modify at least the whereas section of the PTR Rules to reflect in detail with necessary justification how requirements of Article 36(5) of Regulation 2016/1719, namely allocation constraints, were taken into account in the proposed PTR Rules. This shall also include a short description of the different relevant processes (e.g. capacity calculation, capacity allocation, scheduling process) and how they are interlinked (or not) on the matter of allocation constraints.

In the whereas section (4) of the amended PTR Rules the TSOs describe that *"According to Article 36 (5) of FCA Regulation, allocation constraints (AC) included in the day-ahead capacity allocation process should be taken into account in the proposal for nomination rules. Relevant TSOs agreed that AC are considered in the capacity allocation process, so eventually AC are reflected in the allocation results. Therefore, the application of AC is already taken into account and does not affect the subsequent scheduling processes where the procedure is the same regardless of whether AC were triggered."*

The relevant Regulatory Authorities deem the amendments made by relevant TSOs as being compliant with their request for amendment, also being in line with Article 36(5) of Regulation 2016/1719.

IV. Conclusion

The relevant Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to jointly agree that the amended PTR Rules meet the requirements of Regulation 2016/1719 and as such shall be approved by the relevant Regulatory Authorities.

The relevant Regulatory Authorities must therefore take their national decisions, on the basis of this agreement, by 7 May 2022. The amended PTR Rules will be adopted upon the decision of the last relevant Regulatory Authority concerned. Following the national decisions by the relevant Regulatory Authorities, relevant TSOs are required to publish the amended PTR Rules as approved, in line with Article 4(13) of Regulation 2016/1719.