eurelectric
ELECTRICITY FOR EUROPE

MAIN ISSUES WITH ENTSO-E Draft Allocation Rules for Forward Capacity Allocation (version of 03/12/2014)

I. Firmness regime

- **The draft rule provisions would constitute a significant step-back on many borders**

The harmonisation of allocation and nomination rules as
well as associated processes should be a shared objective in order to facilitate cross-border and thus foster competition. However, this should not lead to any regression on existing standards.

We understand that the discussions over the future Forward Capacity Allocation Guideline are not over and, therefore, these allocation rules could simply be considered as an intermediate step in the right direction until ACER recommendations are taken into consideration in the future FCA Guideline. However it is absolutely not acceptable that these Allocation rules imply a step back on many borders.

- **Long Term Firmness Deadline**

The notion of « Long Term Firmness Deadline » (LTFD) separating a first period from a second one where rights would be « more firm » seems inadequate.

The framework guidelines clearly specify that « Capacities shall be firm ». The introduction of sub-periods where LTTR are more or less firm does therefore not respect the framework Guidelines and is detrimental to the usefulness of hedging instruments. The only distinction that could be acceptable is a separation between financial firmness (before LTFD) and physical firmness (afterwards). In such a case the LTFD should be the nomination deadline. Under no circumstances should the LTFD mark the limit between a normal and a lower level of financial firmness.

We disagree with the idea that physical firmness after nomination deadline could be detrimental to the system in case of emergency situation. All actions that could be taken by market players in reaction to an emergency situation could also be taken by TSOs through redispatch measures. However, only TSOs have a real-time vision of the grid and are therefore able to call for the best set of redispatching measures. If the TSOs have no time for redispatch, it is most likely that market players will not have time either, hence the "curtailment" of allocated capacity will have no physical impact but will simply act as a financial penalty on market players who will be considered imbalanced. Furthermore, there are other potential remedial actions at TSOs hands to handle the emergency, like modifications to grid topology or change in PST settings.

It is important to note that such provisions (no curtailment after nomination deadline even in case of Force Majeure or Security of the system and no reduction of exchange programs even for reasons linked to the safety of the system) already exist on many borders and are therefore fully workable.

- **Force Majeure Vs Emergency situation**

Financial firmness provisions should not be the same in case of Force Majeure and Emergency Situations

Article 59 proposes a similarly low level of financial firmness in case of Force Majeure and Emergency situations. This goes against the prescriptions of the Framework Guidelines and is recalled in ACER's opinion. Emergency situation is much broader and less clearly defined from a legal point of view than Force Majeure, going against the Framework guidelines on this issue would induce significant level of risk in the capacity rights. We therefore believe that compensation at the initial auction price (or the weighted average of the auctions referring to that period) should only be the rule in case of Force Majeure.

The provisions of article 60 should be removed altogether. As Explained earlier, we believe that LTTR should be financially firm ahead of nomination deadline and physically firm afterwards, as is currently the case on many borders. Therefore there should be no provisions for financial firmness after day-ahead firmness deadline (we should have long term firmness deadline = day ahead firmness deadline = nomination deadline).

Provisions of article 58 should be amended accordingly.

II. Nomination rules

The draft Allocation rules refer to individual nomination rules. We believe these rules should also be progressively harmonised as much as reasonably possible.

III. Bank guarantees

Article 21 sets too restrictive rating criteria for bank guarantees. The rating criteria for bank guarantees is too restrictive. The requirement for the guarantor bank to have such high credit ratings as A (S&P; Fitch) or A2 (Moody's) may limit the range of banks useable by parties which might exclude smaller market participants. Those banks that parties can use to provide credit cover in their national energy markets/ currently for interconnector trading, should be considered as qualifying banks.

IV. Products

Reduction periods should be progressively removed, so that the products auctioned become standard, easier to price, to return and transfer, fostering liquidity in a secondary market. Transferring a monthly product with a reduction period currently means transferring 3 baseload products (one for the period with reduced capacity plus the periods before and after), what makes difficult any secondary trading.

V. Compensation

All rights reduced should be compensated, regardless of whether they have been nominated or not (not nominating does not mean that the product is not needed, it means the holder wants to sell the product at the market spread). All compensations should be at the full market spread and the monthly cap should be removed or, at least, be replaced by a yearly cap.

Only in the case of force majeure before the day-ahead nomination deadline, a compensation based on costs can be acceptable. In this case, it should be considered that it will be generally impossible to trace back any capacity to its "original auction", because transfers may not refer to full months or years (it will particularly be impossible in the presence of reduction periods) and because the amount transferred may have been gathered along several auctions / transfers. Compensations, when the market spread do not apply, should always be based on the weighted average of the auction prices for a particular period.

ooOoo