

# HAR Principles and Foreseen Structure of the HAR

*HAR Stakeholder Advisory Group  
Kick-off meeting 18 November 2014*



Reliable Sustainable Connected

# Recommendations on 8 principles

Accession principles

Legal principles

Capacity Products and Allocation Process principles

Allocation Algorithm principles

Transfer, Return and UIOSI principles

Credit Cover and Invoice principles

Curtailment principles

Capacity Usage principles

# Accession principles – recommendations I

## Registration is an explicit sequence

- MP provides information
- Allocation Platform accepts/asks for further info within a given time period – lead time should be kept minimum
- No multiple registrations

## ID information

- EIC, bank account, authorised person, extract CR
- recommended **not to** require company capital info

## Secondary trading/Fallback

- Separate registration process in case MP is only interested in registration of secondary trading/fallback

# Accession principles – recommendations II

## Contract

- Signed by both parties
- Specification of registered borders or services only if needed due to different registration requirements – should be eliminated in the future

## Additional requirements

- **No** need to be a BRP for long term
- long term solution – all additional req. should be removed (general principles of nomination)
- Usage of capacity is regulated on TSOs side

## Separate financial agreement/IS rules

- Gives more flexibility in case of changes in operation

# Legal principles – recommendations I

## Governing law, counterparty & form of contract

- Allocation Platform locations law likely to be applied
- Allocation Platform = single point of contact and counterparty to the contract with market participants
- contract to be signed by both parties (Platform operator and MP)

## Transfer of rights & obligations for both parties

- For Allocation Platform in line with any regulatory and competition law rules
- for MP under prior written consent by Platform operator

## Confidentiality and IP rights

- Confidential information to be respected
- Disclosure exemptions to be foreseen (e.g. disclosure of already public info, upon regulatory request etc.)



# Legal principles – recommendations II

## Force majeure & emergency situation

- Definitions as in NC CACM for TSOs to be extended to MP & Allocation Platform
- Legal consequences to be defined in the HAR: e.g. reimbursement for allocated capacity; right to terminate the contract for long force majeure cases; capacity reallocation if force majeure claimed by MP

## Liability

- General liability rules for breach of HAR
- Liability limitations/exclusions to be defined in the HAR (in case of negligence; of MP fault; compensation cap; exclusion of liability for consequential & indirect losses)
- No liability exclusion in case of gross negligence and wilful misconduct

## Dispute resolution

- Three level dispute resolution:
  - Friendly settlement
  - Escalation to senior managers
  - Arbitration: rules followed to be defined in the HAR

# Legal principles – recommendations III

## Transparency

- No specific rules in the HAR
- Reference to compliance with EU legal framework (Transparency Regulation)

## Suspension / Termination

- Suspension in 2 ways:
  - with former notice and remedial period
  - with immediate effect
- Termination in 4 ways:
  - upon MP's request (i) without reason or (ii) with a reason
  - upon notice by Allocation Platform (iii) with a reason or (iv) due to APA termination
- Event, Processes and consequences to be defined in the HAR

# Legal principles – recommendations IV

## Amendments

- Amendment process as defined in NC FCA: more detailed rules to be included in the HAR ensuring MPs involvement and a clear process

## Notices


- Rules to be included on the means for sending notices (registered mail, email, fax), acknowledgment of receipt and deadlines
- Registered mail, courier or personal delivery for registration, suspension and termination

## Boilerplate clauses

- Applicable language to be defined in the HAR
- Other clauses for contract interpretation



# Capacity products – recommendations I



## PTR with UIOSI

- Minimum yearly/monthly products on all borders
- Additional products on specific borders
- Reduction period is optional (e.g. maintenance)

## Review of type of LTRs

- Process to include to the HAR
- All NRAs competent on each BZ border or
- All NRAs based upon recommendation of ACER or all TSOs of the concerned BZ border

## Auction Calendar

- Allocation Platform to publish it - not in the HAR
- HAR to describe how to take into account its changes – if needed

# Capacity products – recommendations II

## Auction specification

- HAR to specify when to publish it on Allocation Platform website
- Information to include is based on Article 43 of NC FCA

## Auction results

- HAR defines when the Allocation Platform shall notify TSOs, MP and holders of LT PTRs
- Allocation Platform to inform MPs on the execution status of bids
- Contestation period is applicable

## Market information after allocation

- Allocation Platform to publish information listed in Article 51 of NC FCA including:
  - Auction Specifications; Indicative Auction Calendar; Capacity Allocation results; MPs per Auction; list of MPs eligible for Secondary Trading;
  - Allocation Platform contact details
- Allocation Platform to publish: Offered/requested/allocated capacity; price; bid curve; list of MPs who received long term PTRs

# Allocation Algorithm – recommendations I



## Algorithm capabilities

- Algorithm will be capable of handling at least all features of currently existing algorithms
- Algorithm should select winning bids in such a way that sum of the MPs surplus and Congestion Income generated by the winning bids is maximized
- Capabilities:
  - single and multiple constraints per border;
  - constraints affecting one or more border(s); and
  - reserve prices.

## Pricing mechanism

- Marginal price, i.e. price to be paid by market participant will be created by the last accepted (winning) bid

## Bids with same bid price

- If bids cannot be fully accepted the capacity will be allocated with an improved pro-rata approach
- Other options can be considered if preferred by market participants: simple pro-rata or first-come-first-served

# Allocation Algorithm – recommendations II

## Payment securities

- 1: Securities checked at time of bidding. Warning issued when highest possible payment obligation isn't met.
- 2: Securities checked when the bidding is closed. Bids with the lowest prices are rejected where insufficient payment securities are identified.
- Securities are checked considering the highest possible payment obligations of market participants, considering the full amount of its bids.

## Type of bids

- Current type of bidding maintained, i.e. divisible bids

## Fall-back procedures

- Postponement of the allocation process
- Default bids for LT allocation could be considered after a cost-benefit analysis for use when time constraints do not allow postponement of the final LT Auction

# Transfer, Return & UIOSI – recommendations I

## Platforms to facilitate the transfer

- Bulletin/notice board
- Secondary markets can be organised by third parties
- Allocation Platform to be notified about the transfer
- Transfer complete when notification is acknowledged by the Allocation Platform

## Requirements for transfer

- MPs are registered, not suspended or terminated;
- Transmission rights are paid for or at least secured – payment obligations remain
- Contestation period has expired and final results of relevant allocation are published
- Minimum volume is 1 MW over 1 hour
- Deadlines for notification are met

## Additional information

- Transfer cannot be withdrawn once accepted by transferee (but can be transferred back by transferor)
- No financial compensation in case of unexpected breakdown of IT or failure of communication
- Fall-back procedure is foreseen (could be manual)

# Transfer, Return & UIOSI – recommendations II

## Platforms facilitating returns

- Transmission rights can be returned to a subsequent **long term** allocation auction

## Requirements for returns

- Returns must be initiated on the Allocation Platform
- Contestation period must have expired and final results of relevant allocation published
- Minimum volume is 1 MW
- Deadlines for notification are met
- Allocation Platform provides an acknowledgement
- Financial obligations fulfilled by the holder of rights

## Additional information

- No financial compensation in case of unexpected breakdown of IT or failure of communication
- Fall-back procedure is foreseen (could be manual)
- Remuneration: marginal price of the subsequent auction multiplied by the MWh volume returned



# Transfer, Return & UIOSI – recommendations III

## Use It or Sell It

- Non-nominated PTRs are by default subject to UIOSI, i.e. to be allocated on the day-ahead timeframe
- FTRs are not subject to this mechanism

## Calculation of remuneration

- For implicit daily allocation = the positive market spread when valid for the direction of the flow
- For explicit daily allocation = the marginal price of the daily auction
- For Fall-back daily allocation = the marginal price of the Fall-back auction
- In specific cases other than where implicit or explicit daily allocation takes place, the remuneration is based on the income from that allocation

## Transmission losses

- Where losses have been included in the day-ahead allocation, they need to be taken into account for the calculation of the remuneration to be paid due to UIOSI

# Credit Cover and Invoice – recommendations I

## Type of collaterals

- Bank guarantee/letter of credit and/or deposit in a dedicated deposit account opened at the bank selected by Allocation Platform will be accepted

## Validity period and changes of credit cover

- Required validity: from the date of the respective auction bidding gate-closure extending until at least one month after the (first) payment (of instalment) due date
- Credit cover shall be renewed to secure at least the next respective-installment plus on-going bids and acquired capacities with the required validity

## Utilisation level and credit cover management

- Credit cover minus the aggregate amount of (potential) debts payable shall be greater than or equal to zero
- Products shorter than one month duration shall be 100% covered
- Products longer than one month shall be covered for 1 or 2 instalments (depending on payment due date)

# Credit Cover and Invoice – recommendations II

## Tax

- Relevant taxes and levies should be applied to amounts invoiced and also whenever the credit cover is blocked or validated.

## Amount due

- Amount due is equal to marginal price multiplied by the duration in hours of the corresponding product multiplied by the volume of allocated capacity (including maintenance periods where applicable).
- In case of products covering a period longer than one month, equal monthly instalments over the delivery period will be calculated and charged.

## Invoicing timeline

- One invoice to the relevant MP issued no later than the 10<sup>th</sup> Working Day of the month
- For payment by MP invoice due 10 calendar days after the date of issuance
- For payment of credits by Allocation Platform timeframe will be defined

# Credit Cover and Invoice – recommendations III

## Content of invoice

- All amounts due to long term auctions, curtailments amounts, UIOSI, return etc. to be invoiced using separate line items for each product, border and direction
- Invoice should include all relevant taxes and levies
- Bank charges related to settlement of the invoice should be borne by market participants

## Currency

- All financial information, prices and payments shall be expressed in Euro

## Payment process

- Invoice shall be paid even if all or a part of the charged capacity has been returned or transferred or even if the MP does not use capacity
- Collection of payments via the bank account(s) on which the deposits are stored should be allowed if possible under the applicable legislation

# Credit cover and Invoice – recommendations IV

## Self-billing

- A self-billing process should be used by the Auction Platform Administrator for sums it owes to MPs as a mandatory mechanism.
- Self-billing should be carried out by the Auction Platform Administrator only.

## Payment Incident

- If payment not settled by the MP within a fixed period after the due date, the Allocation Platform Administrator registers a Payment Incident and informs the MP by formal notice.
- Consequences: Credit cover may be invoked, suspension and in specific cases also termination of the contract of the MP apply

## Payment Dispute/Claim

- Period for claim notification and response time of the Allocation Platform will be defined.
- A claim should in no way relieve the MP from the obligation to pay the invoice.

## Late Payments

- A creditor is entitled to charge interest on the amount due in accordance with the governing law
- Allocation Rules will provide interest rate and minimum amount per incident, compliant with valid legislation



# Curtailment principles – recommendations I

Conditional  
application

**Disclaimer:** Since NC FCA has not entered into force the findings are not final. The document contains recommendations according to the resubmitted version of NC FCA by ENTSO-E in April 2014. They will be supported by TSOs and proposed for NRA approval under the condition that NC FCA enters into force in this version especially regarding the cost recovery provisions.

## Triggering events for curtailment

- NC FCA provides for curtailment in the following situations (as defined by NC CACM):
  - System Security
  - Emergency Situation
  - Force Majeure
- Capacity Shortage on HVDC interconnectors also triggers curtailment and must be considered in the context of system security, emergency situation and/or force majeure

## Deadlines

- Long Term Firmness Deadline (LTFD): Respective nomination deadline at the Bidding Zone Border
- Day Ahead Firmness Deadline (DAFD): As long as there is no common DAFD: 30 minutes before respective DA GCT

# Curtailment principles – recommendations II

Conditional  
application

## Compensation System Security

- Before LTFD:
  - Market spread capped by congestion income from LT allocations of month/border/interconnector
- After LTFD and before DAFD:
  - Market spread capped by congestion income from LT and from daily allocation of respective month/border/interconnector concerned
- For Borders without Market Coupling (MC)
  - current rules continue to apply until MC is in place

## Reimbursement Force Majeure/ Emergency Situation

- TSOs reimburse the initial price paid (100% of marginal auction price)

# Curtailment principles – recommendations III

Conditional  
application

## Individual compensation rules

- TSOs can propose compensation rules subject to NRA approval for outages which last for a long period of time and for borders with one single interconnector

## Daily $ATC < LT_{nom}$

- If Daily DA capacities are lower than non-nominated LT rights, the latter will have to be curtailed and will be compensated as described (depending on triggering event System Security, Emergency Situation or Force Majeure)

## Curtailment methodology

- Pro rata curtailment
- Remaining capacity is rounded down to nearest MW

# Curtailment principles – recommendations IV

Conditional  
application

## Auction cancellation

- Cancellation of auctions without compensation possible before allocation results are final and contestation period is closed
- When allocation results are final and contestation is closed, cancellation is regarded as curtailment and respective compensation rules apply

## Notification

- Allocation Platform Administrator is obliged to publish information on curtailments asap within set timelines
- Reason for curtailment and estimated duration need to be explained

## Liability

- In case of curtailment or auction cancellation market participants are compensated
- no additional damage other than specified compensation can be claimed by market parties

# Capacity Usage – recommendations I



## Programming Authorisations (Rights Document/ICE)

- The deadline for sending information on the allocated PTRs that can be nominated to be harmonised.
- Detailed information might be harmonized with Nomination Rules Harmonization
- Programming Authorisations will continue to identify the PTR holder or eligible third party(is) upon appointment of PTR holder.

## Eligibility Criteria

- In order to be entitled to nominate an exchange schedule using the allocated PTRs a party shall respect relevant nomination rules.
- This shall be described in the Allocation Rules and has to be accepted by the MPs but will not be checked by Allocation Platform.

## Nomination Principles

- For each individual border applicable nomination principle (A to A, A to B, M to N...) shall be described on the Allocation Platform website.
- The Harmonised Allocation Rules shall refer to this publication.

# Capacity Usage – recommendations II



## TSO Designation

- Relevant for borders where bidding zone consist of several TSOs
- The Harmonised Allocation Rules will provide information for relevant borders on form and deadlines and possible options for notification of TSO designation

## Nomination Deadlines

- For each individual border applicable nomination deadline will be available on the Allocation Platform website.
- The Harmonised Allocation Rules will refer to this publication.



# Foreseen structure of Harmonized Allocation Rules

- **Allocation Rules structure is designed as follows**
  - considers in general the structure of the allocation rules principles as presented before
  - corresponds with the steps of the Market Participant to be taken when it is willing to take part in an auction, i.e. starting with conclusion of the agreement with the Allocation Platform, being followed with Auction process organization, and description of the return and transfer and other procedures including settlement process.

# Foreseen structure of Harmonized Allocation Rules

## GENERAL PROVISIONS

- subject matter, definitions...

## REQUIREMENTS FOR PARTICIPATION IN AUCTIONS

- agreement conclusion, additional requirements, additional declarations...

## CREDIT COVER

- form of credit cover, validity, credit limit...

## AUCTIONS

- auction specification, bid submission, auction results determination and notification...

## RETURN OF LTR

- process of notification and remuneration

## TRANSFER OF LTR

- process of notification and legal consequences

# Foreseen structure of Harmonized Allocation Rules

## Continuation...

### USE OF LTR WITH UIOSI

- nomination, TSO/ITR designation, remuneration of non-nominated rights

### FALLBACK PROCEDURES

- postponement, data exchange fallback...

### CURTAILMENT

- triggering events, reimbursement / compensation calculation...

### INVOICING AND PAYMENT

- standard invoicing and payment regulations

### MISCELLANEOUS

- standard legal regulations

**Thank you for your attention!**

## Back-up slide: Improved Pro-rata

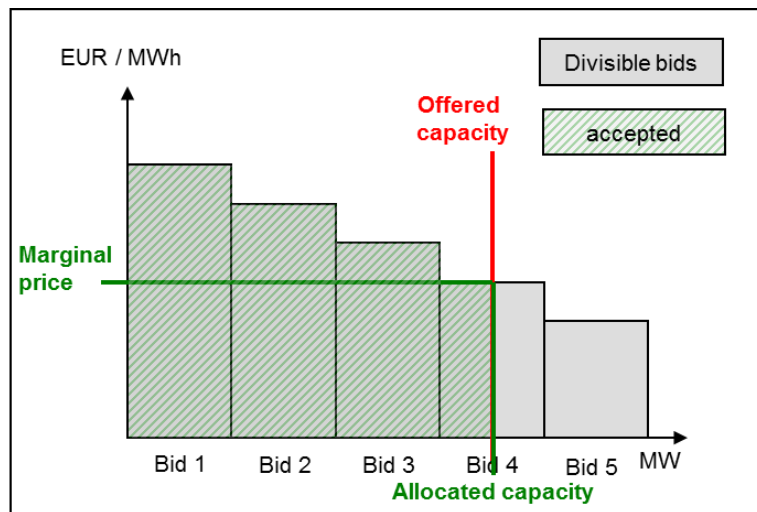


Applicable when there are two or more bids provided with the same bid price and these bids can be accepted only partially

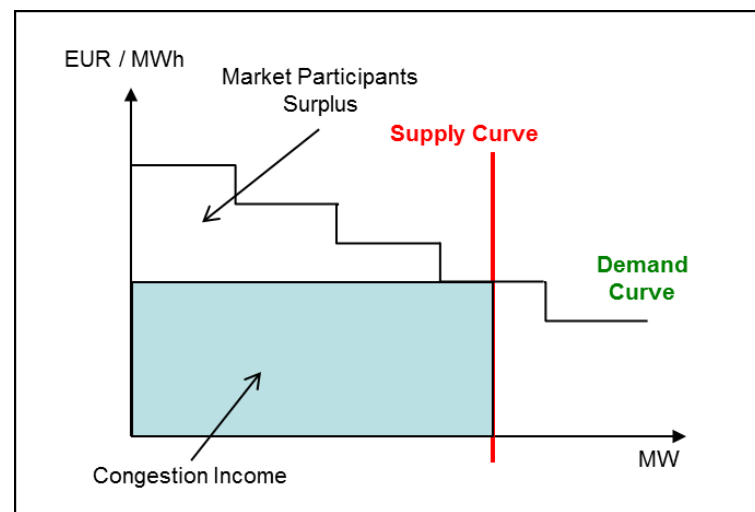
		1st iteration	2nd iteration	3d iteration	
Available Capacity (MW)		950	$(950-670)=280$	$(280-279)=1$	
Number of participants (providing a bid with the same price)		5	3	3	
Equal share (MW)		190	93	0	
	Request (MW)	Allocated Capacity (MW)	Allocated Capacity (MW)	Allocated Capacity (MW)	Total Allocated Capacity (MW)
Market Participant 1	25	25			25
Market Participant 2	75	75			75
Market Participant 3	500	190	93	0	283
Market Participant 4	500	190	93	0	283
Market Participant 5	500	190	93	0	283
Total	1600	670	279	0	949

## Back-up slide: Allocation Algorithm Capabilities

Individual representation of bids assessed in an auction



General representation of the supply and demand curve in an auction



Note: These pictures represent an explicit auction in case the requested capacity is higher than the offered capacity and a reserve price is not applied.