**Network code on Capacity Allocation & Congestion Management (CACM)**

**An explanation of the changes to the network code included in the July 16th updated draft**



European Network of
Transmission System Operators
for Electricity

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## Purpose of the document

This document is provided alongside the updated network code on capacity allocation and congestion management circulated on 16 July 2012. It seeks to outline the changes which have been made to the document in light of comments from stakeholders made as part of the web based consultation which took place between 23 March and 23 May 2012 and views expressed during workshops and meetings. The document is intended to provide interested parties with an explanation of the most significant changes which have been made to the code; recognising that the document is still under development and that a more comprehensive explanatory document will accompany the network code which is delivered to ACER on or before 30 September 2012.

## Summary of comments received

The web based public consultation requested comments via the ENTSO-E consultation tool. This requires parties to link their comments to a particular aspect of the network code and to submit individual comments. A total of 2098 comments were received via the tool. All comments, unless marked as confidential by the provider, are visible via the ENTSO-E consultation portal. The breakdown of comments by section of the document is shown in the graph below.

*Figure 1: Breakdown of comments by section of the code*

The comments demonstrate that interest was concentrated on the sections on capacity calculation and bidding zones and that the definitions, whereas section and section on firmness attracted a large number of comments (relative to their length). The next sections outline the steps we’ve taken to improve the code in light of suggestions from stakeholders.

## Structural Changes to the network code in light of comments

Many of the comments we received focused on the need to increase clarity and avoid duplication within the network code. We have carefully considered these changes and made the following structural changes in the updated version:

* *A new section dealing with common issues –* As we discuss below, we agree with respondents who felt that we needed to address several issues consistently across the network code. To do this we have expanded the section at the start of the document (Articles 3 – 8) covering issues which apply to all parts of the network code. We hope that this section enhances readability and aids consistency.
* *One section on algorithm development & amendment –* Several respondents pointed out relatively small, but important, differences between the sections on algorithm development and amendment of the Price Coupling Algorithm and Continuous Trading Matching Algorithm. To avoid these inconsistencies, we have created a common section covering both algorithms. This appears in a new section including Articles 45-47.
* *A new section on Governance –* As we discuss further in section 2.5 we have also taken steps to try and ensure consistency between the European Commission’s guideline on governance and the CACM network code. In particular, this involves including parts of the governance guideline within the network code. These elements are included in Articles 9-13 (shown in grey in the text to indicate the fact they are direct inclusions from the Governance Guideline).

In addition, structural changes have been made to the capacity calculation section in light of the content related changes discussed below and our efforts to consolidate the number of methodologies required and to ensure the regional approval (at a minimum) of inputs. A table at the end of this document provides a comparison of the article numbers in the previous code relative to this code (and vice versa).

## Enhancing consistency

In this section, we outline the steps which we’ve taken to enhance the consistency of the network code. Much of these issues are covered in a new section on common issues which we discussed in the previous section.

* *Stakeholder Engagement –* Perhaps the comment we received most often related to the need for adequate stakeholder engagement in the processes set out in the network code. Parties noted that we dealt with engagement inconsistently – sometimes including a role and sometimes not doing so. We consider it vital that stakeholders have a role in implementing the target model and requirements of the network code. We have therefore sought to take steps to ensure engagement is consistent. The Governance guideline, discussed in detail below, creates several committees; tasked with providing advice. We have given these committees a role in overseeing consultation on aspects of the code. We have also made it clearer that there is a presumption that stakeholders will be involved. This is covered in Article 5.

* *Transparency and publication –* We received a very large number of comments asking us to take a more systematic and open approach to the publication of information. In general, people thought we were publishing by exception when it should be the rule and called on us to improve this aspect of the code. A new article (Article 6) has been inserted at the start of the network code to cover this subject.
* *Regulatory Approvals –* Several respondents and the regulatory authorities pointed out that we took a somewhat haphazard approach to regulatory approvals in the draft network code. In particular, there were inconsistencies in what was approved, in the timings in which approvals took place and in the powers to, for example, approve, reject or amend which were given to regulators. Several parties also pointed out that these powers are set out in law (Directive 2009/72/EC, Articles 36 and 37). Given this concern we have developed a new article in the first section of the network code (Articles 8). This directly refer to the powers of regulators from Directive 2009/72/EC and ACER’s dispute resolution powers which come from the third package. It also presents a consistent set of timings and make it clear where regulatory authorities have a role.
* *Definitions –* Many respondents raised comments that the draft CACM network code was neither internally consistent (i.e. the same terms being used in the same way) or consistent with the wider suite of network codes. In particular, parties noted a risk that the definitions in the CACM network code, if not carefully considered, may complicate other codes, such as forwards and balancing, by being too narrow in scope. Consistency across network codes being developed over a period of years is a considerable challenge. Nevertheless, we recognize the importance of consistency and have taken steps to improve definitions and to try and think about wider interactions. This is a piece of work which will continue until final submission.
* *Recitals/ whereas section –* While not legally binding, several respondents pointed out that thewhereas section is important to understanding the code and may be used in the event of a dispute. As such, we were urged to focus more on this section, to explain the code within the framework of European legislation, such as the congestion management guidelines, third package etc. We have taken many of the proposals made by stakeholders and created a modified recitals/whereas section which seeks to address these points and to ensure the link to the relevant legislation is included. However, we consider that more information is needed in this area to ensure this section is comprehensive.

## Most significant content related changes to the network code

* *More detailed explanations of capacity calculation methods –* We received lots of comments which suggested that the capacity calculation section was insufficiently clear. People asked for more details on how the flow based or NTC based capacity calculation would actually work and for more detail to be included in the code. While maintaining the view that we do not want to either provide a tutorial in a regulation or provide detail which could constrain the further evolution of the code, we accept that clarity was lacking. As such, we have restructured the section of capacity calculation to try and aid clarity and provide more details.
* *Consolidation of methodologies for capacity calculation –* Our draft version included over 15 separate methodologies to determine aspects of the capacity calculation process. Parties frequently requested that more detail should be in the network code and that far less should be dealt with outside the document. They also asked that, if this needed to happen, it should be done in a much more structured manner. As a consequence, we have merged the various methodologies into 4 parts.
* *Regional approvals of capacity calculation methodologies –* A repeated criticism of the code was that it was not sufficiently pan European or ambitious in scope. In particular, parties pointed out that there was no coordination of capacity calculation at regional level and no coordination between regions. As such, they questioned whether it really added value. In light of this valid concern, we have sought to ensure that capacity calculation is coordinated at regional level at a minimum. It is now clear that a single European Common Grid Model, based on best estimates, will be used and that capacity calculation will be coordinated at Capacity Calculation Region level. We also clarify the need to coordinate effectively between regions and make it clearer that the intention is to merge capacity calculation regions (particularly those using flow based capacity calculation) over time.
* *Clearer criteria regarding the use of flow based/NTC based capacity calculation –* We received several comments which suggested that our criteria for determining whether flow based or NTC capacity calculation should be used were either unclear or were not compliant with the framework guideline. In particular people suggested that our criteria were biased towards maintaining the NTC approach because they were so hard to fulfill. They suggested it should be clear that flow based is the rule rather than the exception. We accept this criticism and have updated the criteria and made it clear that it is for those which use NTC based capacity calculation to justify the use of NTC.
* *More market focus in bidding zone criteria –* Comments via consultation and workshops raised a concern about the lack of market focus in the bidding zone definition criteria. Parties expressed concern that bidding zone changes could be used to solve only system security issues without sufficient consideration of the impact of changes on the market (e.g. existing contracts, market liquidity, risk for new generation investment etc). We recognize this concern and have tried to make it clearer in our criteria that there is a need to balance system security and market efficiency concerns. We have also tried to make it clearer that reviews of bidding zone configurations will not automatically take place every two years, but that the two yearly report will provide only an assessment of the existing situation.
* *Clarification of the process for reviewing bidding zones –* A large number of comments suggested that our proposals for reviewing and, if appropriate, amending bidding zones were confusing and/or overly complex. We have sought to make it clear that:
	+ The initial review (first biennial report) done within 6 months of the code entering into force establishes a baseline for future analysis;
	+ Afterwards the biennial reports update this baseline;
	+ If a problem is identified, further analysis in the form of review of bidding zone configuration can be undertaken;
	+ Stakeholders must have a role in review process before changes in bidding zone configuration are proposed; and
	+ Bidding zone changes should be subject to regulatory approval.

We hope these changes and greater clarity on checks and balances reduce the fear that bidding zones can be changed without due consideration of the consequences for all market players.

* *Dynamic bidding zones –* The draft network code contained a provision which allowed bidding zone reviews to be accelerated in cases where there was no impact on other countries. As we outlined in the supporting document, this was an attempt to avoid removing mechanisms which exist in Norway and Italy which could, if removed, have negative unintended consequences. Parties were concerned that this loophole could be used in other countries to circumvent the process in the rest of the code and asked for it to be clarified or removed. We have tried to clarify and narrow down the cases where such process should be allowed.
* *Proportionality of algorithm development –* Several comments stated that our algorithm development and amendment processes were disproportionate because they would treat a very minor change (say a font size or screen colour alteration) in the same way as a huge change (say, changing the objective function). They asked that a line was drawn so that normal changes could take place without excessive bureaucracy. We accept the point in principle, though have struggled to identify the best way of drawing the line between significant and non-significant. The current drafting contains the words “directly and significant impact on efficient capacity allocation”, which draws on words in the third package and seeks to make it clear that less material changes do not need the same level of rigour.
* *Cost recovery section –* Comments on the cost recovery section suggested either that: the section isn’t in the framework guideline and shouldn’t be in the network code or that the section should not be so prescriptive about the decisions national regulators make. In relation to the first point, we consider that, were the issue of the recovery of costs arising from the obligations set out in the code not covered, the additional risk may create disincentives to comply or to deliver the arrangements as soon as practicable. As such, we see them as vital. We do, however, accept that the previous draft was too prescriptive. We have stripped back detail and tried to make it clear that it is for regulators to determine the recovery mechanisms that are appropriate.

## Additions since the previous version

There are two areas which were not included in the previous version and which we would particularly like to draw parties’ attention to. Neither of th*e*se sections appears in the framework guideline and has been included as a result of discussions with the European Commission & Regulatory Authorities.

* *Inclusion of aspects of the EC’s Governance Guideline –* As we explained in the document supporting the draft network code, the CACM code is being developed in parallel with a Governance Guideline; being led by the Commission. The network code, broadly speaking, outlines the obligations of parties undertaking various functions, while the governance guideline determines which party will perform that function. Several parties told us that the overlap created unnecessary confusion. In light of advice that the two documents may be submitted to the Comitology procedure together, and in light of discussions with the European Commission, a new section on governance has been included in the network code. This section allocates functions in the same manner as the governance guideline (allowing us to consolidate the sections of the previous draft covering this section into one place) and outlines the role of NEMOs, MCOs and TSOs. We have not sought to make any material changes to the text of the governance guideline and the only changes are to ensure consistency in the drafting approach. This new section of the document is shown in grey.
* *A new section on the sharing of the costs of cross-border redispatching or countertrading –* The last Florence Forum saw a discussion on the need for coordination on the use of costly remedial actions and led to the establishment of an ENTSO-E/ACER task force to investigate the issue. The task force has yet to report and an update will be provided to the next forum. However, a new section, will include principles which should govern the sharing of these costs. The work on these articles continues still and we aim to discuss these articles at the latest at ENTSO-E stakeholder group meeting on the 7th August.

## Upcoming workshops

We are not formally consulting on the updated network code and we ask parties not to provide formal submissions in response to it. However, we recognize that parties will wish to provide feedback.

For this reason we have scheduled two meetings of the ENTSO-E stakeholder group during August. The stakeholder group, comprised of European associations and put together following an open call for candidates, has met throughout the process of developing the CACM code and has provided useful advice and guidance; which we appreciate. Meetings will be held at the ENTSO-E premises on the 7th and 29th August. We would ask interested parties to liaise with their associations to ensure their views are represented. We would also ask associations to stress their key outstanding concerns, as opposed to seeking to comment on every element of the code.

## Internal Approvals

ENTSO-E has 41 member TSOs from 34 countries, all of whom need to approve the network code. The version provided to stakeholders has also been submitted to all ENTSO-E members on the 16 July and those members have been asked to provide feedback. That feedback is limited to key points which would prevent the TSO from recommending approval of the network code. During August the drafting teams and Secretariat will work to try and resolve issues raised by members and stakeholders (to the extent possible). The final code will need to be approved by the ENTSO-E Assembly at their September meeting.

## Submission to ACER

The final network code and explanatory document will be submitted to ACER on or before the 30 September, consistent with the mandate letter received from the European Commission. ACER will then have a 3 month period in which to provide an opinion on the network code. If positive, the European Commission will kick off the process of turning the code into a European Regulation via the Comitology process.

## Annex 1: Cross references between the consultation & updated version of the network code

The table below seeks to help parties understand where changes have been made between the consultation version and the updated version. This is a fairly rough and ready assessment and is not intended to provide a detailed overview of changes.

|  |  |  |  |
| --- | --- | --- | --- |
| Article in new code | Article in old code | Article in old code | Article in new code |
| 1 | **1** | **1** | **1** |
| 2 | **2** | **2** | **2** |
| 3 | **4** | **3** | **Deleted** |
| 4 | **Various** | **4** | **3** |
| 5 | **Various** | **5** | **Deleted** |
| 6 | **Various** | **6** | **In governance section** |
| 7 | **Part of 3** | **7** | **4**  |
| 8 | **Various** | **8** | **15** |
| 9 | **None** | **9** | **16** |
| 10 | **None** | **10** | **17** |
| 11 | **None** | **11** | **None** |
| 12 | **None** | **12** | **None** |
| 13 | **None** | **13** | **27** |
| 14 | **Various** | **14** | **28** |
| 15 | **8** | **15** | **29** |
| 16 | **9** | **16** | **18** |
| 17 | **10** | **17** | **19** |
| 18 | **16** | **18** | **merged to 35** |
| 19 | **17** | **19** | **22** |
| 20 | **None** | **20** | **23** |
| 21 | **None** | **21** | **32** |
| 22 | **19** | **22** | **44** |
| 23 | **20** | **23** | **26** |
| 24 | **None** | **24** |  **merged to 24** |
| 25 | **None** | **25** |  **merged to 24** |
| 26 | **23** | **26** | **Merged to 24** |
| 27 | **13**  | **27** | **34** |
| 28 | **14** | **28** | **35** |
| 29 | **15** | **29** | **36** |
| 30 | **None** | **30** | **37** |
| 31 | **None** | **31** | **38** |
| 32 | **21** | **32** | **38** |
| 33 | **None** | **33** | **39** |
| 34 | **27** | **34** | **40** |
| 35 | **28** | **35** | **41** |
| 36 | **29** | **36** | **42** |
| 37 | **30** | **37** | **None** |
| 38 | **32** | **38** | **43** |
| 39 | **33** | **39** | **Merged into Governance** |
| 40 | **34** | **40** | **Merged into Governance** |
| 41 | **35** | **41** | **8** |
| 42 | **36** | **42** | **45** |
| 43 | **38** | **43** | **48** |
| 44 | **22** | **44** | **46** |
| 45 | **42 &**  | **45** | **47** |
| 46 | **44 &** | **46** | **49** |
| 47 | **45 &** | **47** | **50** |
| 48 | **43** | **48** | **51** |
| 49 | **46** | **49** | **53** |
| 50 | **47** | **50** | **54** |
| 51 | **48** | **51** | **55** |
| 52 | **None** | **52** | **56** |
| 53 | **49** | **53** | **57** |
| 54 | **50** | **54** | **58** |
| 55 | **51** | **55** | **59** |
| 56 | **52** | **56** | **60** |
| 57 | **53** | **57** | **61** |
| 58 | **54** | **58** | **Merged into governance** |
| 59 | **55** | **59** | **Merged into governance** |
| 60 | **56** | **60** | **8** |
| 61 | **57** | **61** | **62** |
| 62 | **61** | **62** | **46** |
| 63 | **64** | **63** | **47** |
| 64 | **65** | **64** | **63** |
| 65 | **72** | **65** | **64** |
| 66 | **66** | **66** | **66** |
| 67 | **67** | **67** | **67** |
| 68 | **68** | **68** | **68** |
| 69 | **69** | **69** | **69** |
| 70 | **70** | **70** | **70** |
| 71 | **71** | **71** | **71** |
| 72 | **75** | **72** | **65** |
| 73 | **76** | **73** | **Merged into governance** |
| 74 | **77** | **74** | **Merged into governance** |
| 75 | **78** | **75** | **72** |
| 76 | **80** | **76** | **73** |
| 77 | **81** | **77** | **74** |
| 78 | **82** | **78** | **75** |
| 79 | **83** | **79** | **74** |
| 80 | **84** | **80** | **76** |
| 81 | **85** | **81** | **77** |
| 82 | **86** | **82** | **79** |
| 83 | **None** | **83** | **New (& unwritten)** |
| 84 | **None** | **84** | **New (& unwritten)** |
| 85 | **87** | **85** | **81** |
| 86 | **88 & 89** | **86** | **82** |
| 87 | **90** | **87** | **85** |
| 88 | **91** | **88** | **86** |
| 89 | **92** | **89** | **86** |
| 90 | **93** | **90** | **87** |
| 91 | **95** | **91** | **88** |
| 92 | **96** | **92** | **89** |
| 93 | **97** | **93** | **90** |
| 94 | **98** | **94** | **83 (when written)** |
| 95 | **99** | **95** | **91** |
| 96 | **100** | **96** | **92** |
| 97 | **101** | **97** | **93** |
|  |  | **98** | **94** |
|  |  | **99** | **95** |
|  |  | **100** | **96** |
|  |  | **101** | **97** |