

# ENTSO-E FCA Network Code

Date: 26 November 2012

Time: 11h00 – 16h30

Place: ENTSO-G premises, Brussels

## Stakeholder Advisory Group meeting Minutes

### Participants:

Chairman	Christian Dobelke	ENTSO-E
DT Convenor	Mark Lane	ENTSO-E
Member	Antonio Lopez-Nicolas	ENTSO-E
Member	Marco Foresti	ENTSO-E
Member	Márk Csete	ENTSO-E
Member	Ritva Hirvonen	ENTSO-E
Member	Kirk-Wilson William	ENTSO-E
Member	Charles Verhaeghe	ACER
Member	Martin Povh	ACER
Member	Cristian Lanfranconi	CEER/AEEG
Member	Alain Marien	CEER/CREG
Member	Johan Roupe	CEER/EI
Observer	Matti Supponen	EC
Observer	András Hujber	EC
Member	Petter Longva	IFIEC
Member	Mukund Bhagwat	IFIEC
Member	Marcel Cailliau	EURELECTRIC
Member	Håkan Feuk	EURELECTRIC
Member	William Webster	EFET
Member	Nicolas Barbannaud	EFET
Member	Set Persson	Vattenfall
Member	Rickard Nilson	EuroPEX

## 1. Welcome and Introduction

Christian Dobelke gives a welcome speech and thanks the Stakeholder Advisory Group members for submitting their feedback on the preliminary draft Forward Capacity Allocation Network Code (hereafter FCA NC). Everybody agrees with a minor change in the agenda to start with ACER's slides on its public consultation on long-term Forward Risk-Hedging Products and Harmonisation of Long-Term Capacity Allocation Rules as the outcome of this consultation is vital for the drafting team to highlight market participants' needs.

## 2. ACER Consultation on Long-Term Forward Risk-Hedging Products and Harmonisation of Long-Term Capacity Allocation Rules

ACER gives a presentation (see slides) on the responses to its public consultation and summarizes the key issues. ACER conclusions will be published in January 2013 since the work to process the 28 responses submitted is time consuming. For the time being it seems there is no clear agreement on the products between the different European stakeholders: Nordic associations are generally advocating CfDs, while FTRs are supported in continental Europe in case of liquid DA markets. Other stakeholders believe that PTRs allow for more flexibility. On a number of other consultation points, some preliminary conclusions could be drawn. TSO buy back in secondary markets needs to be analysed, the harmonization of the nomination rules is not highly prioritized, the establishment of a single platform for primary allocation is supported but the process should ideally follow a voluntary approach. ACER believes that if there is no volunteer, ENTSO-E could organise a tender for this purpose. Together with the conclusions of the consultation, in January ACER intends to list which issues need to be studied further and also propose some recommendations to the FCA NC.

## 3. Stakeholders general feedback on preliminary draft NC

**ACER:** (see slides) notes that detailed comments have not been given by ACER but it will be done in due course. The overview can be seen on the slides which highlight the main points of the Framework Guidelines on Capacity Allocation and Congestion Management relevant for the FCA NC. These include the different products to be issued long-term, harmonized rules for PTR/FTR, greater harmonized nomination rules, firmness of long-term transmission rights and a single platform for primary allocation.

**EuroPEX:** welcomes the opportunity to comment at this very early stage, however, they believe that the network code is premature especially considering that some sections of the code e.g. definitions were not provided. As a general remark EuroPEX notes that the network code should contain much more detail on specific rules and methodologies instead of saying these will be developed after the entry into force of the network code. Other articles of the code, on the other hand, are too prescriptive or unclear. Further comments on mainly, but not only, Articles 45-72 will be given in early December.

**IFIEC:** thanked ENTSO-E for the opportunity to provide feedback on the early draft network code and explains its views which consist of three main elements. First, IFIEC believes that the proposed approach to cross-zonal transmission risk hedging is the best solution for consumers. IFIEC would prefer a forward market solution based on a "hub" (system) price and CfDs for each price zone. This, IFIEC contends, would in the long term serve the consumer interest better than the proposed instruments in the draft network code. IFIEC considers that there should be cross-border instruments even in cases where there is a liquid market on both sides is inappropriate. Secondly, Article 27 should be rearranged; making a standard financial forward market based on a "hub" price and CfDs the preferred long-term solution. Such instruments would be financial and not described in this form of document. The Network Code would be seen as a transitory arrangement that would eventually be phased out. The conditions triggering requirement on the TSOs would have to be changed. The first requirement on TSOs would be to promote and enable financial markets to develop. Only if this is not successful, a number of actions creating cross-border instruments should be required. Last but not least a new article should be introduced about the creation of one or more virtual hubs for electricity in Europe: calculation of one or a number of unconstrained day-ahead prices for given market areas. This would serve as the basis for financial markets covering large trans-national areas.

**EURELECTRIC:** gives a presentation (see slides) in which they emphasize to the importance of including the rules and methodologies in the code and not postponing them after the entry into force of the network code. They note that the coordinated approval of National Regulatory Authorities is missing in some parts of the code, especially regarding the points under Article 8 Paragraph 4. They require more clarification on several concepts and definitions e.g. Revenue Adequacy, Allocation constraints in regards to the LTR capacity calculation process, liquid financial markets and netting of FTR Obligations. Moreover EURELECTRIC points out that stakeholder involvement should be higher and the two points under

Article 5 paragraph 2 should be consulted on as well. Furthermore, the NC should specify how the views of stakeholders are treated as a result of the consultation as well as defining general rules on how the Stakeholder Committee will operate. The Association suggests defining the criteria for assessment of “sufficient cross-zonal financial hedging” and of “liquidity”. EURELECTRIC also believes the NC should require that TSOs allocate most of the capacity on the long-term timeframe. In addition they highlight flow based capacity calculation should be introduced only if there is proven added value. On the product part, of the association believes that another option should be added: CfDs issued by the TSOs as synthetic FTRs. It was also highlighted that the Secondary trading platform should not be organized by TSOs but through exchanges or brokers and the compensation for curtailed capacity should be market spread based except in case of force majeure. In cases where TSOs have allocated too much capacity then they should organize a buy-back auction. EURELECTRIC notes that they are supportive of the ACER proposal to look into TSO buy-back in the secondary market.

**EFET:** (see slides) presents the slides highlighting their main concerns. EFET notes that the service (allocation of Forward PTRs/FTRs by coordinated TSOs, offering maximum available capacity for all timeframes) should be compulsory and not optional as currently proposed, also because no border meets the exemption criteria proposed in the Framework Guidelines and because exemptions would bring service instability. Also the service is needed to couple bidding zones even in case of high liquidity, and should certainly not stop when liquidity develops. To that extent, EFET believes that the proposed exemption from issuing TRs in cases where “appropriate cross-border financial hedging is offered in liquid financial market” constitutes a refusal from TSOs to provide the forward allocation service. Various other points of concerns include the fact that the draft network code contains a mix of well defined concepts and never consulted prototype ideas, as well as unacceptable binding restrictions to consultation and to transparency. Additionally, the current version of the Stakeholder Committee is not market oriented and it should be replaced by a proper user group. On the capacity calculation part EFET believes that flow-based is not appropriate for the forward timeframe. The Association also highlights that in this first FCA draft network code similar inadequate concepts as in the submitted CACM NC can be found. For instance, the reference to “allocation constraints” on a forward basis is even more inappropriate. EFET believes that inadequate objectives have also been introduced, such as revenue adequacy or reference to a complex optimisation criteria instead of maximisation of capacity volumes. They share the idea that the consultation part of the code is not extensive enough. Last but not least, they believe that the current version of the firmness regime is in clear contradiction of the FWGL text and that some well defined notions such as “Force Majeure” should be directly copied from the CACM allocation Rules in order to ensure immediate harmonisation. EFET thanks ENTSOE for having shared an early version of the draft NC and encourages ENTSOE to include in the next version all the obligations resulting from existing legal requirements or guidelines (such as maximization of capacity volumes, non-impact of capacity reduction, etc...) in order not to be obliged to comment on these elements once again.

**EC:** believes that the FCA NC has to reflect the outcome of the lengthy discussions held in the past on the Target Model. Not only the auction rules harmonisation but also the nomination part should be improved aiming at a higher level of harmonisation. The level of detail should be at least on the same level as requested by Stakeholders for CACM . With regards to secondary trading the Commission believe that the obligation to operate a platform bringing together buying and selling interest on secondary markets should not be imposed on TSOs.

**ENTSO-E:** after hearing the comments today ENTSO-E highlights that this is only an early preliminary draft version of the network code. The objective, in line with the wishes of stakeholders, was to circulate the code to stakeholders as soon as possible so that their views could be incorporated into the code at an early stage. In this context, ENTSO-E would welcome concrete text proposals as this would facilitate the understanding of what stakeholders would like to see written into the NC. The drafting team will make all possible efforts to address the key concerns raised by stakeholders today. However, it is considered that it will not be possible to accept some of the requests: for example it is inappropriate to include detailed Auction Rules in the code. Instead, the drafting team will look to include the required high level principles and procedures that need to be included in the harmonised allocation rules. As it was required by several stakeholders the consultation part will most likely be extended by including the two topics under Article 5 Paragraph 2. According to the feedback the drafting team will prepare a short document accompanying all subsequent drafts of the network code in which the difference between different versions of the code will be identified to make it easier for stakeholders to track changes. Stakeholders confirmed that their response to the ACER consultation could be shared with ENTSO-E. In addition ACER confirmed that early draft result of its public consultation will be circulated to ENTSO-E as it has relatively high implication on the FCA NC.

## 4. Impact of MiFID on FCA NC and FTR implementation

Marco Foresti explains the background of MiFID and the possible negative consequences on the joint Allocation of FTRs via central auction offices (like CASC, CAO and the future Single European Platform). The lack of an exemption for central auction offices in the current MiFID II text, as well as the inclusion of FTRs in the definition of financial instruments may constitute a disincentive for TSOs to implement FTRs and lead to further consolidation of auction offices. In addition,

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regardless of the outcome of the MiFID negotiations, it is clear that the operation of secondary market platforms for FTRs would have to be carried out by a MiFID licensed financial institution. All these potential consequences seem to contradict the objectives of the FWGL (i.e. issuance of FTRs, establishment of a single EU auction office, single secondary trading market platform operated by TSOs). ENTSO-E raises awareness with stakeholders that this uncertainty about the MiFID impacts on the evolution of European markets for long term transmission rights and may limit the effectiveness of the FCA NC. Since the Directive is still under negotiation ENTSO-E has been contacting the EP and the Council with the aim to exclude the activities of central auction offices from the application of MiFID. ACER and EC have also been contacted to seek their support and to ensure consistency between financial legislation and the Third Energy Package. Stakeholders share most of ENTSO-E concerns regarding the level of uncertainty and the potential impact on transmission rights markets.

## 5. Next steps and Any Other Business

The next (third) meeting of the FCA SAG is scheduled for 30 January 2013. Given the ENTSO-E constraints for the internal approval processes before consultation (planned for late March-beginning of April), the NC will have to be stabilised in mid-February. In order to give stakeholders sufficient opportunity to discuss and comment on the draft NC before the public consultation it is proposed that a fourth stakeholder meeting is scheduled shortly after the third one in the first half of February. ENTSO-E will check the feasibility of this option and get back to stakeholders with possible dates. Detailed comments on the next version of the network code (which will be sent on 14 January) from Stakeholders will be highly appreciated. ENTSO-E will look to deliver the missing parts of the early draft code (e.g. definitions) in mid-December to facilitate early feedback from stakeholders.