

EFET response to all TSOs' proposal for amendments of the methodology for Harmonized Allocation Rules for long-term transmission rights

13 January 2023

The European Federation of Energy Traders (EFET) welcomes the opportunity to provide comments to All TSOs' proposal for amendments of the methodology for Harmonized Allocation Rules for long-term transmission rights (HAR).

EFET acknowledges that the proposed amendments to HAR are needed in order to facilitate the implementation of flow-based cross-zonal capacity allocation. However, as stated in our previous responses, we consider that a fundamental review of the general approach is needed.

Key messages

1. The review of the EU HAR should not be the occasion for TSOs to default on their obligation to guarantee the financial firmness of transmission rights according to the FCA Guideline. Caps on the remuneration of long-term transmission rights are reserved to cases of curtailment. No specific cap should and can legally be added in cases of day-ahead market decoupling with the existing legal framework.
2. We continue to challenge the value-added of flow-based allocation of transmission capacity in the forward timeframe. Above all, such substantial shift requires a proper assessment of benefits, which still has not been made publicly available.
3. The flow-based allocation approach significantly increases collateral requirements. The general approach to collateral requirement seems to be disproportionate to the risk exposure of the TSOs.
4. The existing proposal does not seem to support the allocation of calendar yearly products, earlier than year ahead, which is crucial for hedging on longer-term basis. TSOs should assess the level of capacity they can make available to the market two to five years ahead of delivery as yearly calendar products.
5. Transparency by the TSOs in the capacity calculation process is key for the flow-based allocation. HAR should ensure consistency with the requirements for data publication under the Long-term capacity calculation methodology of the Core CCR.

General comments

The financial firmness of LLTRs should be maintained even in case of day-ahead market decoupling

As noted in our response dated 27 August 2021 to ACER consultation on the HAR, a modification of the EU HAR to allow caps on the remuneration of LLTRs in case of decoupling would require amendments to the FCA GL, which forms the legislative basis of the EU HAR. Like art. 48 EU HAR, art. 35 FCA GL foresees that LLTRs are remunerated at the DA market spread when DA market coupling is in place at a given border, whether the allocation actually occurred implicitly or via a fallback process. This principle does not suffer any exception in the FCA GL. Art. 54 FCA GL, which foresees the possibility for TSOs to established caps on compensation, only applies to curtailed LLTRs and can therefore not be used to amend art. 59 EU HAR in the direction pursued by the TSOs¹.

A review of the general approach about flow-based implementation is needed

The implementation of flow-based capacity calculation and allocation creates a major change in forward market design and deserves a thorough assessment of benefits. We have expressed this view at several occasions, pointing out at the downsides of the flow-based approach. We draw your attention to the EFET response to the ACER consultation on the SAP, CID and FRC amendments for long-term flow-based allocation submitted to ACER on 23 November 2022, which summarizes our reservations related to the implementation of flow-based capacity allocation².

The allocation of LLTRs earlier than one year before delivery is key for long-term hedging

Even though the HAR is neutral regarding the products to be allocated, the existing processes in place do not support the allocation of transmission rights as yearly products beyond one year ahead of delivery, i.e. year+1, year+2, ..., year+5. So far TSOs do not perform any assessment of the available capacity in timeframes beyond one year ahead, limiting by default the allocation of forward rights to one year ahead of delivery at best. Forward hedging is becoming crucial in the current market circumstances, and LLTRs

¹ [EFET response to ACER consultation on the harmonised allocation rules for long-term transmission rights, August 2021](#)

² [EFET response to ACER consultation on Flow based capacity calculation and allocation amendments, November 2022](#)

issued earlier than one year before delivery could support well-needed cross-border hedging and PPAs over longer time horizons.

Specific comments to HAR

1. Article 9 outlines that ‘...bank account should be from European Union, United Kingdom, European Economic Area or a country in which the Single Allocation Platform performs cross border auction services.’

It is not clear if it is meant a country to which Single Allocation Platform provides services or country where SAP performs service, i.e. Luxembourg. We propose the following formulation, ‘...a country where entities which are serviced by the SAP are registered and licensed as TSOs’. Similar remark is also valid for Article 20.1 (a).

2. It is noted in the EFET response (footnote 2), but we consider important to emphasize it here as well. The flow-based approach for capacity allocation implies one single auction for each region where it applies. In the CORE CCR, this translates into one auction for more than 20 borders. This demands significant top-up in collateral requirements for market participants, increasing the costs of hedging and trading in general. This is a major drawback of the flow-based approach and unfortunately it is not addressed in the HAR. We invite TSOs to provide clear explanations of the collateral requirements and their interaction with submitted bids under the flow-based allocation approach so that market participants understand it and are able to adjust their bidding strategy.

Moreover, the validity of the collateral requirements as outlined in the HAR, regardless of the flow-based or ATC approach, seem to be disproportionate to the risk exposure of the TSOs.

- Article 22 sets the validity of the collateral requirements for yearly and monthly products to at least 30 calendar days after the end of the Product Period(s).
- Article 66 outlines that the payments for long-term rights shall be settled before the start of the Product Period.

The above freezes the collateral for more than 60 calendar days even though the specific rights related to the product period are required to be paid. Unnecessarily freezing collateral is a financial commitment for market participants which increases the costs of trading and hedging.

3. Article 29.6 outlines the information on the offered capacity that is made public before the auction in the flow-based approach. This is limited to (a) Max Exchanges (MaxBex), and (b) Max Net Positions. There is no clear definition of these parameters nor a reference to the methodology that defines them, in particular with respect to the flow-based allocation approach. It is not clear if such information is provided per border, or per source-sink.

EFET considers that the full list of required data (as listed in the CORE LT CCM, annex 1, article 20.1, referring to article 3f of the FCA regulation) should be published prior to the auction. Clarity should be given on how this information will be published and where. We consider that the provisions in the HAR on transparency should at least refer to the list of parameters defined in the relevant CCM.

4. Additions in paragraphs 3 and 4 of Article 31 make these paragraphs applicable only to the ATC approach, however these seem to be overruled by paragraph 6 of the same Article, which states that the same process applies to ATC-based and flow-based allocation. Please clarify in order to avoid any ambiguity.
5. Article 49 (new) sets the cap to be applied for the remuneration of the non-nominated/financial LTTRs in case of day-ahead market decoupling. It takes into account only the congestion incomes of the TSOs related to specific month (yearly, monthly, shadow auction) for a specific month.

We consider this matter of crucial importance and as noted above, the legal basis for remuneration of the non-nominated/financial LTTRs in case of day-ahead market decoupling, are set in the FCA GL. Amending this principle in HAR creates legal ambiguity and raises compliance concerns. In addition, the firmness of the LTTRs is greatly affected beyond the day-ahead firmness deadline. In our response from

August 2021 (link provided in footnote 1), we provided a detailed explanation on legal and economic viewpoint. The payout of the TSOs in the case of decoupling on the below outlined observed events suggests that such amendment is unnecessary and highly disproportionate to the exposure that the TSOs face in case of decoupling:

EFET assessment:

- on 07/06/2019: 2,8% of aggregated 2019 EU congestion rent (forward allocation only)
 - on 04/02/2020: 0,9% of aggregated 2020 EU congestion rent (forward allocation only)
 - on 13/01/2021: 2% of aggregated 2021 EU congestion rent (annual LTTRs allocation only)
6. Article 66.14 outlines delays in invoicing and settlement due to erroneous data. Potential delays 90 up to 180 working days. In such cases, this Article shall state that in such cases, collaterals provided by auction participants are released and participants are not penalized due to late invoicing.
7. Article 73.5 (e) states that JAO terminates of participation agreement in case of 15 months inactivity. It is not clear what inactivity means, but before termination JAO should check with the party, and only in case of no feedback for period of 20 days to terminate.

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