
HAR Review 2025 Explanatory Note

16 January 2025

Disclaimer

This explanatory document is submitted by All TSOs to the Agency for the Cooperation of Energy Regulators for information and clarification purposes only accompanying the “All TSOs’ proposal for amendment of the Harmonised Allocation Rules for Long Term Transmission Rights in accordance with Article 51 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation.

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I. Introduction

The Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (hereinafter “FCA Regulation”) was published in the official Journal of the European Union on 27 September 2016 and entered into force on 17 October 2016. The FCA Regulation sets out rules regarding the type of Long-Term Transmission Rights that can be allocated via explicit auction, and the way holders of transmission rights are compensated in case their right is curtailed. The overarching goal is to promote the development of liquid and competitive forward markets in a coordinated way across Europe and provide market participants with the ability to hedge their risk associated with cross-border electricity trading. In order to deliver these objectives, a number of steps are required.

One of these steps is the introduction of harmonised rules for Long Term Transmission Rights at Union level. In accordance with Article 51 of the FCA Regulation, 6 months after the entry into force of the FCA Regulation, all TSOs shall develop a proposal for the harmonised allocation rules for Long Term Transmission Rights (hereinafter “HAR”). The proposal for the HAR was submitted to all National Regulatory Authorities on 18 April 2017 and was approved by ACER on 2 October 2017.

According to Article 68(5) of HAR “the Allocation Rules and the border and/or regional specific annexes included thereto shall be periodically reviewed by the Allocation Platform and the relevant TSOs at least every two years involving the Registered Participants.”. By email of 15 July 2019, ENTSO-E submitted, ‘on behalf of all TSOs’, the amended ‘Harmonised allocation rules for Long Term Transmission Rights’ for approval pursuant to Article 5(2) of Regulation (EU) 2019/942, and it was approved by ACER on 29 October 2019.

Based on the above, following the periodical review, all TSOs have elaborated on a draft reviewed HAR where they proposed additional needs for adjustments that resulted from experience. In addition, with the introduction of LT FBA, the HAR have been reviewed to accommodate changes required.

II. Main changes

1 MTU related changes

The term ‘MTU’ was introduced in the HAR during its previous amendment, in order to make the rules future proof. To enhance clarity, we propose the following changes:

Unit consistency for bid price and marginal price:

Specify that, irrespective of the MTU, both the bid price and the marginal price remain expressed in EUR/MWh. Consequently, the definitions of ‘bid price’ and ‘marginal price’ in *Article 2(2)* have been updated.

Differentiation of MTU by timeframe:

Avoid confusion by clearly distinguishing between MTUs for long-term (MTU) and day-ahead timeframes (day-ahead MTU), as these horizons may use different MTUs. Accordingly, it is proposed to add clarification in *Article 2(2)*.

Market spread calculation:

Address the impact of MTU changes in SDAC on the market spread calculation. To this end, *Articles 48(1)(a)* and *59(1)(a)* have been revised to detail the calculation method.

Adjustments to compensation/remuneration calculations:

Compensation/remuneration calculation descriptions currently reference hourly resolution, which has

become outdated following the introduction of MTU. We propose removing references to "hour" and including a multiplication factor for MTU expressed in hours.

The affected articles are: *Article 40(1)*, *Articles 48(1–2)*, *Article 59(1)*, *Article 60(1)*, and *Article 63(1)*.

The below aims to clarify the calculation method for long-term transmission rights remuneration/compensation in cases where the Market Time Unit (MTU) of the long-term product and the MTU of the product that provides the prices for the remuneration/compensation (e.g. market spread, marginal price of the daily explicit auction, etc.), according to the relevant allocation rules) differ.

In such cases, the following formula is used to determine the hourly remuneration/compensation of long-term transmission rights per oriented Bidding zone border direction by averaging the prices for all MTUs within the given hour:

$$LT\ Remuneration_H = Quantity * \sum_{i=1}^n Price_{HMTU_i} * \frac{1}{n}$$

Where:

LT Remuneration_H: long-term remuneration/compensation for a given hour on a Bidding zone border direction [EUR]

Price_{HMTU_i}: market spread or marginal price of the daily auction the price for the i-th MTU within the given hour on an oriented Bidding zone border direction (e.g. market spread, marginal price of the daily auction) [EUR/MWh]

n: the number of MTUs within the hour (e.g., 4 for 15-minute MTU, 2 for 30-minute MTU, etc.) [1/h]

Quantity: the compensated energy long-term allocated quantity [MWh]

2 Registration

Clarifications in Article 7

Paragraph 1 of this article was amended to clarify the deadlines and signature options. In particular, the deadline of 9 working days was removed as the single allocation platform is not subject to any obligation in this regard.

In addition, the wording in *paragraph 4* regarding the list of MPs eligible to transfer was adjusted to clarify that the list is not published on JAO website as implied with the current wording, but available in the allocation tool.

VAT number

A clarification was added to *Article 9(1)(e)* to emphasize the requirement for the VAT number to correspond with the country of the market participant's registered address.

Qualified electronic signature

The apposition of any electronic signature should comply with the standards required by the eIDAS Regulation No. 910/2104 to be qualified as qualified electronic signature in order to grant its effectiveness towards parties of different states.

We suggest making a specific reference to the eIDAS Regulation No. 910/2104 since different levels of protection/ standards can be requested by different national legislation in order to recognize an electronic signature as a qualified electronic signature.

3 Refusal of application, suspension, termination

Based on actual cases, we propose to add additional grounds for refusing an application or suspending/terminating a registered participant in *Article 15(1)*, *Article 71(1)* and *Article 72(5)*.

Non-compliance with REMIT requirements

Regulation (EU) 1227/2011 requires that a third-country market participant has a representative in an EU member state. To address any future obligations that this new condition may impose on the single allocation platform (which are not yet fully clear), we propose explicitly mentioning this regulation.

Reasonable grounds

With the inclusion of the possibility for the single allocation platform to refuse or suspend a market participant for reasonable grounds we are targeting the two following situations, which we encountered in the past:

- Rejection by the single allocation platform's banking partner(s)

Although an applicant/registered participant fulfills the conditions to become/be a registered participant, the single allocation platform's banking partner(s) can use their discretionary power to refuse to put a dedicated business account at the disposal of the market participant, which is necessary to trade with the single allocation platform.

- Affiliate company

In a specific case, an MP who had been suspended from the allocation platform created a new entity with the same Ultimate Beneficial Owner (UBO) to circumvent the suspension and continue trading. Since there were no grounds to refuse the application, the single allocation platform was obliged to accept it. In response to this situation, we seek the prerogative to refuse an application from an entity that is affiliated with a suspended MP.

Financial sanctions

Due to recent developments in the international geopolitical situation, we deem there is a need for the addition of financial sanctions to the reasons for refusal of application. The SAP should have the possibility to refuse the application of any market participant affected by financial sanctions. Consequently, edits have been made to *Article 15(1)(e)* and *71(1)(e)*.

4 Clarification on prices

In light of the latest SDAC decoupling events, which have led to numerous questions and contestations, we propose a clarification regarding the prices to be used for market spread calculation in bidding zones with Multiple NEMOs Arrangement (MNA). As a result, definition of SDAC price to *Article 2(2)* and clarifications to *Article 48(1)(a)* and *59(1)(a)* have been added.

5 Price cap publication (LTFBA)

As market participants should have all the necessary information before the opening of the bidding period, we suggest amending the cap publication requirement from *Article 29.3(b)* to "at the latest one (1) hour before the start of the bidding period of the auction". This would allow MPs to calculate the collaterals before making their bids. This would also facilitate LTFBA implementation by minimizing tooling design changes.

6 Financial related changes

Bank guarantee amendment

To ensure consistency, we propose adding a clear deadline for the approval or refusal of bank guarantee renewals or amendments, similar to the deadline already defined for new bank guarantees. This update has been suggested for *Article 22(3)*.

Invoicing and payment conditions

The alternative payment solutions mentioned in *Article 65(10)* have been removed, as this process is not in use.

Payment dispute resolution

In certain cases, a more thorough analysis of the situation is required to address all arguments presented by the MP. To ensure sufficient time for this process, we propose aligning the deadline for the single allocation platform with that of market participants by setting a 15-day deadline in *Article 66(2)*.

7 Additional clarifications, corrections

Oriented bidding zone border

In the last HAR review, the term 'oriented bidding zone border' has been introduced to replace 'bidding zone border and direction'. However, some instances of the old term were overlooked. We propose updating the document to ensure consistent use of "oriented bidding zone border".

Suspension due to sanction

At the previous review, we removed JAO's obligation to pay UIOSI for market participants suspended due to sanction, as their bank accounts are frozen. Applying the same logic, we propose in *Article 71(3)(b)* removing the obligation to pay compensation or reimbursement for curtailment and auction cancellation in such cases.

Cancellation reimbursement

The auction cancellation article specifies that no compensation is paid if the cancellation occurs before the contestation period elapses. However, it does not address cases where cancellation occurs afterward. We propose clarifying this point in *Article 52(5)*.