

**APPROVAL BY ALL REGULATORY AUTHORITIES
AGREED AT THE ENERGY REGULATORS' FORUM**

OF

**THE ALL TSO PROPOSAL FOR
DAY AHEAD FIRMNESS DEADLINE**

15 May 2017

I. Introduction and legal context

This document elaborates an opinion of All Regulatory Authorities, agreed by the Energy Regulators' Forum on 15 May 2017, on the **All TSO Proposal for the Day Ahead Firmness Deadline (DAFD proposal) submitted in accordance with Article 9.6(l) of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management (Regulation 2015/1222).**

This agreed opinion of All Regulatory Authorities shall provide evidence that a decision on the DAFD does not, at this stage, need to be adopted by ACER pursuant to Article 9.11 of the Regulation 2015/1222. It is intended to constitute the basis on which All Regulatory Authorities will each subsequently make national decisions pursuant to Article 9.10 to approve the DAFD proposal, submitted by TSOs.

The legal provisions that lie at the basis of the DAFD, and this All Regulatory Authority agreed opinion of the DAFD proposal, can be found in Article 2, 3, 8, 9, 69 and 70 of Regulation 2015/1222. They are set out here for reference.

Article 2 of Regulation 2015/1222:

For the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 714/2009, Article 2 of Commission Regulation (EU) No 543/2013 (1) and Article 2 of Directive 2009/72/EC of the European Parliament and of the Council (2) shall apply. In addition, the following definitions shall apply:

(...)

(35) 'day-ahead firmness deadline' means the point in time after which cross-zonal capacity becomes firm;

Article 3 of Regulation 2015/1222:

This Regulation aims at:

- (a) Promoting effective competition in the generation, trading and supply of electricity;*
- (b) Ensuring optimal use of the transmission infrastructure;*
- (c) Ensuring operational security;*
- (d) Optimising the calculation and allocation of cross-zonal capacity;*
- (e) Ensuring fair and non-discriminatory treatment of TSOs, NEMOs, the Agency, regulatory authorities and market participants;*
- (f) Ensuring and enhancing the transparency and reliability of information;*
- (g) Contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union;*
- (h) Respecting the need for a fair and orderly market and fair and orderly price formation;*
- (i) Creating a level playing field for NEMOs;*
- (j) Providing non-discriminatory access to cross-zonal capacity.*

Article 70 of Regulation 2015/1222:

- 1. Prior to the day-ahead firmness deadline, each coordinated capacity calculator may adjust cross-zonal capacity and allocation constraints provided to relevant NEMOs.*

2. *After the day-ahead firmness deadline, all cross-zonal capacity and allocation constraints shall be firm for day-ahead capacity allocation unless the requirements of Article 46(2) are met, in which case cross-zonal capacity and allocation constraints shall be firm as soon as they are submitted to relevant NEMOs.*
3. *After the day-ahead firmness deadline, cross-zonal capacity which has not been allocated may be adjusted for subsequent allocations.*

Article 8 of Regulation 2015/1222 / TSOs' tasks related to single day-ahead and intraday coupling:

1. *In Member States electrically connected to another Member State all TSOs shall participate in the single day-ahead and intraday coupling.*
2. *TSOs shall:*
 - (a) (...)
 - (b) (...)
 - (c) *establish and perform capacity calculation in accordance with Articles 14 to 30;*
 - (d) (...)
 - (e) *calculate and send cross zonal capacities and allocation constraints in accordance with Articles 46 and 58;*
 - (f) *verify single day-ahead coupling results in terms of validated cross-zonal capacities and allocation constraints in accordance with Articles 48(2) and 52;*
 - (g) (...)
 - (h) *respect the results from single day-ahead and intraday coupling calculated in accordance with Article 39 and Article 52;*
 - (i) (...)
 - (j) (...)
 - (k) (...)
 - (l) (...)

Article 9 of Regulation 2015/1222:

1. *TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the competent regulatory authorities within the respective deadlines set out in this Regulation. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO or NEMO, the participating TSOs and NEMOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, and all NEMOs shall regularly inform the competent regulatory authorities and the Agency about the progress of developing these terms and conditions or methodologies.*
2. (...)
3. (...)
4. (...)
5. *Each regulatory authority shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6, 7 and 8.*
6. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities:*
 - (a) (...)

(b) (...)

(c) (...)

(d) (...)

(e) (...)

(f) (...)

(g) (...)

(h) (...)

(i) (...)

(j) (...)

(k) (...)

(l) *the day-ahead firmness deadline in accordance with Article 69;*

(m)(...)

7. (...)

8. (...)

9. *The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by several or all regulatory authorities shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.*

10. *Where the approval of the terms and conditions or methodologies requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, within six months following the receipt of the terms and conditions or methodologies by the regulatory authority or, where applicable, by the last regulatory authority concerned.*

11. (...)

12. (...)

13. (...)

14. *TSOs and NEMOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 13.*

Article 69 of Regulation 2015/1222:

By 16 months after the entry into force of this Regulation, all TSOs shall develop a common proposal for a single day- ahead firmness deadline, which shall not be shorter than half an hour before the day-ahead market gate closure time. The proposal shall be subject to consultation in accordance with Article 12.

II. The All TSO proposal

The DAFD draft proposal was consulted on by All TSOs through ENTSO-e for one month from 18 April 2016 to 18 May 2016 in line with Article 69.1 and Article 12 of Regulation 2015/1222.¹ The final All TSO DAFD proposal, dated 27 October 2016, was received by the last Regulatory Authority on 19 December 2016, together with an explanatory note. Both of these documents are publically available on the ENTSO-e website.² The proposal includes proposed timescales for its implementation and a description of its expected impact on the objectives of Regulation 2015/1222, in line with Article 9.9 of Regulation 2015/1222.

Article 9.10 of Regulation 2015/1222 requires All Regulatory Authorities to consult and closely cooperate and coordinate with each other in order to reach an agreement, and subsequently take national decisions within six months following the receipt of the DAFD proposal by the last Regulatory Authority. A national decision based on the agreement reached between All Regulatory Authorities is therefore required by each Regulatory Authority by 19 June 2017.

The main elements of the DAFD proposal submitted by ENTSO-e on behalf of All TSOs are summarized here for reference.

- The DAFD shall be sixty (60) minutes before the day-ahead market gate closure time (DAMGCT), without prejudice to the application of Article 70(2) of the CACM Regulation.
- The TSOs shall implement the DAFD on a bidding zone border immediately when both the capacity calculation methodology developed in accordance with Article 20 of the CACM Regulation and the day-ahead market coupling operator function developed in accordance with Article 7(3) of the CACM Regulation are implemented on this bidding zone border.

III. All Regulatory Authority position

On the draft DAFD proposal

Regulatory Authorities did have concerns with the version consulted on by TSOs in April and May 2016. In particular, according to this draft version All TSOs foresaw the day-ahead firmness deadline (DAFD) to be set half an hour before the day-ahead market gate closure time (DAMGCT).

Article 69 requires that the day-ahead firmness deadline shall *not be shorter* than half an hour before the day-ahead market gate closure time.

However, Regulatory Authorities acknowledge that a longer time interval would allow market participants to better adapt their bidding behavior to the information on available capacity. In particular, as it was highlighted in the public consultation and reported by All TSOs in the explanatory note: “stakeholders indicated that a DAFD of thirty (30) minutes before the day ahead market gate closure time (DAMGCT) leaves insufficient time for market participants: a) to adjust their bids and position in case of curtailment; and b) to efficiently react on curtailment of long-term rights (e.g. nominated physical transmission rights (“PTRs”)). Furthermore they highlight that a re-calculation of their assets portfolio within 30 minutes will lead to unavoidable mistakes and accordingly costs”.

Therefore, there is no doubt that an earlier setting of the DAFD benefits market participants and fosters the achievement of objective (f) set out in Article 3 CACM GL: Ensuring and enhancing the transparency and reliability of information.

¹ The public consultation held from 18 April to 18 May 2016 is available on the ENTSO-e website: <https://consultations.entsoe.eu/markets/all-tsos-proposal-for-the-day-ahead-firmness-deadl>

² The DAFD and the explanatory note are publically available on the ENTSO-e website: https://www.entsoe.eu/Documents/Network%20codes%20documents/Implementation/cacm/161214_Attch7_DAFD_Final_Proposal_all%20TSOs_approved_final.pdf#search=day%20ahead%20firmness%20deadline%20proposal

On the other hand, Regulatory Authorities understand that setting the DAFD too early might create additional risks and costs for TSOs, and thereby it might hamper the achievement of objective (c) set out in Article 3 CACM GL: Ensuring operational security.

Taking into consideration the potential trade-off between the two objectives set out by CACM GL, Regulatory Authorities requested All TSOs to propose the DAFD as early as possible and, in any case, at least one hour before the DAMGCT, unless the costs incurred by TSOs to allow this option would overcome the benefits achievable by market participants. It was also requested to TSOs to well explain and support by reasoning the DAFD final proposal.

Furthermore, in the draft version, All TSOs consulted upon the single day ahead market coupling (SDAMC) as the milestone for implementation, which cannot be considered as a tangible deadline. Indeed, it is not possible to uniquely assess when the SDAMC is implemented as there is not one specific moment in time for this.

Therefore, Regulatory Authorities requested TSOs to propose an implementation timeline to be justified either based on the interactions with other TSO proposals or based on the length of time to make any necessary changes to implement this particular proposal.

On the final DAFD proposal as submitted for approval

All Regulatory Authorities acknowledge that the final DAFD proposal as submitted by All TSO has been significantly improved upon; especially in the parts All Regulatory Authorities suggested improvements through informal feedback.

In particular, the final proposal foresees a DAFD of one hour before the DAMGCT. Moreover, the DAFD has been duly justified in the explanatory note by All TSOs. Finally, the implementation timeline of the DAFD proposal foresees an immediate implementation of the DAFD on a bidding zone border when the capacity calculation methodology and the day-ahead market coupling operator function have been implemented. The proposal therefore is in line with the Regulatory Authorities' informal feedback

All Regulatory Authorities consider the DAFD of 60 minutes prior to the DAMGCT as sufficient for market participants to adapt their bidding behavior to the information on available capacity. All Regulatory Authorities are of the opinion that the proposed implementation timeline which foresees an immediate implementation after necessary conditions prior to the application of the DAFD are fulfilled is in line with the provision of Art. 9(9).

All Regulatory Authorities therefore consider that the DAFD proposal meets the requirements of Regulation 2015/1222.

Conclusions

All Regulatory Authorities welcome the submitted DAFD proposal and the significant improvements adopted by All TSOs. All Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to reach an agreement about the DAFD proposal which meets the requirements of Regulation 2015/1222 and as such can be approved by All Regulatory Authorities.

All Regulatory Authorities therefore will issue their national decisions, on the basis of this agreement, by 19 June 2017.

Following national decisions by All Regulatory Authorities, All TSOs will be required to publish the DAFD on the internet in line with Article 9.14 of Regulation 2015/1222, and must meet the implementation deadlines required by Article 4 of the DAFD proposal.