

**APPROVAL BY THE SOUTH-WEST EUROPE
REGULATORY AUTHORITIES AGREED AT THE
SOUTH-WEST EUROPE ENERGY REGULATORS'
REGIONAL FORUM**

ON

**THE SOUTH-WEST EUROPE TSO's PROPOSAL FOR
DAY AHEAD FALLBACK PROCEDURES**

18.06.2018

I. Introduction and legal context

This document elaborates an agreed opinion of the South-west Europe (SWE) Regulatory Authorities on the SWE TSOs' proposal for Day Ahead Fallback Procedures in accordance with Article 44 of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management (Regulation 2015/1222).

This agreement of the SWE Regulatory Authorities shall provide evidence that a decision does not need, at this stage, to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 9(11) of the Regulation 2015/1222. This agreement is intended to constitute the basis on which SWE Regulatory Authorities will each subsequently make national decisions to approve the **Day Ahead Fallback Procedures methodology (FPM)** proposal pursuant to Article 9(10) of Regulation 2015/1222.

The legal provisions relevant to the submission and approval of the FPM proposal and this SWE Regulatory Authority agreement on the FPM proposal, can be found in Articles 3, 9, and 44 of the Regulation 2015/1222. They are set out here for reference.

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) *Optimizing 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 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. (...)
7. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:*
 - (..) (...)
 - (e) *the fallback procedures in accordance with Article 44;*
 - (..) (...)
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. *In the event that one or several regulatory authorities request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6, 7 and 8, the relevant TSOs or NEMOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the regulatory authorities. The competent regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraphs (6) and (7) within the two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within six months, in accordance with Article 8(1) of Regulation (EC) No 719/2009. If the relevant TSOs or NEMOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 of this Article shall apply.*

1. *By 16 months after the entry into force of this Regulation, each TSO, in coordination with all the other TSOs in the capacity calculation region, shall develop a proposal for robust and timely fallback procedures to ensure efficient, transparent and non-discriminatory capacity allocation in the event that the single day-ahead coupling process is unable to produce results. The proposal for the establishment of fallback procedures shall be subject to consultation in accordance with Article 12.*

The Regulation 2015/1222 has been published in the European Journal on 25 July 2015, and entry into force of this Regulation was on 14 August 2015 (20 days after publication). The FPM proposals had therefore to be submitted by 14 December 2016. However, taking into account that the determination of Capacity Calculation Regions (CCRs), required by Article 15 of the Regulation 2015/1222 and necessary for the submission of regional FPM proposals, was approved by ACER only on 17 November 2016, and that, according to Articles 44 and 12(1) of the Regulation 2015/1222, the FPM proposals shall be subject to a public consultation which lasts for a period of not less than one month, several FPM proposals, including the SWE proposal, were submitted with a slight delay.

According to Article 9(7)(e) of the Regulation 2015/1222 these proposals must be subject to the approval of all Regulatory Authorities (NRAs) of the concerned region.

In line with Article 9(9) of the Regulation 2015/1222 the proposal must include a proposed timescale for its implementation and a description of the expected impact on the objectives of the Regulation 2015/1222.

The SWE TSOs' draft proposal was published on 18 November 2016 and publically consulted between 18 November 2016 and 19 December 2016, as provided by Article 12 of the Regulation 2015/1222.

On 20 December 2016, SWE NRAs issued a Shadow Opinion on the SWE TSOs' draft FPM proposal.

The FPM proposal developed by the SWE TSOs, dated on 24 March 2017, was received by the last SWE NRA on the 30 March 2017. On 2 October 2017, all SWE agreed, at the South-West Europe Energy Regulators' Forum, to request an amendment of this first proposal, pursuant to Article 9(12) of the Regulation 2015/1222. An amended FPM proposal dated on 30 November 2017, was jointly submitted by all SWE TSOs to all SWE NRAs, and received by the last Regulatory Authority on 19 December 2017. A second request for amendment was agreed by SWE NRAs by 5 February 2018 asking for a simplification of the description of the logic triggering the unique fallback procedure (consisting of a local coupling process for the Portuguese and Spanish bidding zones and an explicit auction (shadow auction) for the French-Spanish border), and asking also for some clarification on the bids used for the second attempt of ES-PT coupling with SIOM algorithm.

A second amended FPM proposal was jointly submitted by all SWE TSOs to all SWE NRAs, and received by the last Regulatory Authority on 31 May 2018.

According to 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 on this new proposal, and subsequently take national decisions within two 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 31 July 2018.

II. The SWE TSOs Proposal

The amended SWE TSO FPM proposal, submitted on May 2018, defines a unique procedure to be launched in case of inability of single day-ahead market coupling to produce results affects any of the Bidding Zones borders in the SWE CCR.

The main elements of the FPM proposal are summarized here for reference:

The Fallback Procedures for SWE Region consist in the execution of Shadow Auctions in the France-Spain interconnection as soon as risk that single day-ahead coupling process may be unable to produce results is known by TSOs. Once NEMOs confirm an effective unavailability, results of the shadow auction will be published and a market coupling process will take place in the bidding zones of Spain and Portugal decoupled from the rest of Europe. For this regional coupling process, order books will be reopened and the EUPHEMIA algorithm will be used (SIOM algorithm if a second attempt is needed).

In case this process is unable to allocate capacity in any of the two borders, the capacity for the border affected will be offered in the intraday allocation processes.

The TSOs shall implement this methodology immediately after approval by Regulatory Authorities.

III. SWE Regulatory Authorities' position

The SWE Regulatory Authorities acknowledge that the final FPM proposal as submitted by SWE TSO has been significantly improved upon; especially in the simplification of the description of the process in Article 3(2), as a unique process consisting of two steps: a shadow Auction in the French-Spanish border and a coupling process in the Portuguese-Spanish border.

SWE Regulatory Authorities therefore consider that the FPM proposal meets the requirements of Regulation 2015/1222.

SWE Regulatory Authorities consider however, that, by way of interim derogation from Articles 3(3), the applicable version of the Shadow Allocation Rules should be the version 1.3 until 1 January 2019.

As for the applicable version of the Iberian Market Rules SWE TSOs should replace in the published version the current reference to the Iberian market rules: '*version dated on XX XXX 2018*', by '*dated on 9 May 2018 and modified by Orden TEC/625/2018 dated on 11 June 2018*'

IV. Conclusions

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

SWE Regulatory Authorities therefore will issue their national decisions, on the basis of this agreement, before 31 July 2018.

Following national decisions by SWE Regulatory Authorities, SWE TSOs will be required to publish the FPM on the internet in line with Article 9.14 of Regulation 2015/1222, and must meet the implementation deadlines required by Article 6 of the FPM proposal.