
**RESOLUCIÓN POR LA QUE SE APRUEBA LA EXCEPCIÓN TEMPORAL
PARA EL AÑO 2021 EN RELACIÓN CON LA APLICACIÓN DEL ARTÍCULO
16(8) DEL REGLAMENTO (UE) 2019/943 SOBRE CAPACIDAD DISPONIBLE
DE INTERCAMBIO TRANSFRONTERIZO**

DCOOR/DE/010/19

SALA DE SUPERVISIÓN REGULATORIA

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En Madrid, a 19 de noviembre de 2020

En cumplimiento de lo previsto en el apartado 9 del artículo 16 del Reglamento (UE) 2019/943, de 5 de junio de 2019, relativo al mercado interior de la electricidad, la Sala de Supervisión Regulatoria aprueba la siguiente resolución:

ANTECEDENTES DE HECHO

El 16 de octubre de 2020 ha tenido entrada en la CNMC escrito de Red Eléctrica de España, S.A.U. (REE), solicitando para el año 2021 una excepción temporal para el requerimiento establecido en el artículo 16 del Reglamento (UE) 2019/943, sobre la obligación de los gestores de la red de transporte a proporcionar, a partir del 1 de enero de 2020, al menos un 70% de la capacidad de intercambio disponible para el comercio transfronterizo, respetando los límites de seguridad y considerando situaciones de contingencia.

Dicha solicitud de excepción presentada por REE ha sido objeto de consulta durante el período comprendido entre el 17 de octubre y el 6 de noviembre de 2020 en el ámbito del grupo de trabajo del ARA WG (grupo de trabajo de Acer donde están representadas todas autoridades reguladoras nacionales), para dar cumplimiento al segundo párrafo del apartado 9 del mencionado artículo 16 del Reglamento (UE) 2019/943 que establece que las excepciones deben ser objeto de consulta entre las autoridades reguladoras de otros Estados miembros que pudieran ser potencialmente afectados, tanto de la región de cálculo de la capacidad afectada, como de regiones vecinas.

Una vez finalizada dicha consulta, ningún regulador europeo ha manifestado estar afectado negativamente por la excepción presentada por REE, por lo que no se requiere escalar la aprobación de dicha excepción a ACER, tal como se establece en el mismo artículo 16.

FUNDAMENTOS DE DERECHO

1. Habilitación competencial

El apartado 8 del artículo 16 del Reglamento (UE) 2019/943 establece que los gestores de la red de transporte europeos no deben limitar las capacidades de interconexión para resolver congestiones derivadas de transacciones internas, y a tal fin, obliga a que proporcionen al menos un 70 % de la capacidad de intercambio disponible para el comercio interzonal:

“8. Los gestores de la red de transporte no limitarán el volumen de la capacidad de interconexión que se ponga a disposición de los participantes del mercado como medio para resolver la congestión dentro de su propia zona de oferta o como medio de gestionar los flujos resultantes de transacciones internas a las zonas de oferta. Sin perjuicio de la aplicación de las excepciones contempladas en los apartados 3 y 9 del presente artículo y de la aplicación del artículo 15, apartado 2, se considerará que se ha cumplido con lo dispuesto en el presente apartado siempre que se alcancen los siguientes niveles mínimos de capacidad disponible para el comercio interzonal:

a) para las fronteras en las que se use un enfoque coordinado de capacidad de intercambio de las interconexiones neta, la capacidad mínima será el 70 % de la capacidad de intercambio de las interconexiones, respetando los límites de seguridad operativa y tras descontar las contingencias, como se determina de conformidad con la directriz sobre la asignación de capacidad y la gestión de las congestiones, adoptada sobre la base del artículo 18 del Reglamento (CE) n.º 714/2009;[...]”

El apartado 9 del artículo 16 del Reglamento (UE) 2019/943 permite a las autoridades reguladoras conceder una excepción temporal al requerimiento establecido en el apartado 8 de ese mismo artículo, en relación al mínimo de capacidad de interconexión del 70% ofrecida, previa solicitud de los gestores de redes de transporte, y por razones previsibles cuando sea necesario para mantener la seguridad operativa. Establece además que, tal excepción, se concederá por no más de un año cada vez, o siempre que se dé un nivel significativamente decreciente de la excepción cada año, hasta un máximo de dos años. Y que la dimensión de dicha excepción se limitará a lo estrictamente necesario para mantener la seguridad operativa y evitará la discriminación entre intercambios internos e interzonales:

“9. En caso de que lo soliciten los gestores de redes de transporte de una región de cálculo de capacidad, las autoridades reguladoras pertinentes podrán conceder una excepción con respecto al apartado 8 por razones previsibles cuando sea necesario para mantener la seguridad operativa. Tal excepción, que no podrá referirse a la reducción de capacidades ya asignadas con arreglo al apartado 2, se concederá por no más de un año cada vez, o siempre que se dé un nivel significativamente decreciente de la excepción cada año, hasta un máximo de dos años. La dimensión de dicha excepción se limitará a lo estrictamente necesario para mantener la seguridad operativa y evitará la discriminación entre intercambios internos e interzonales.”

2. Valoración de la solicitud de la excepción temporal para el año 2021

De acuerdo con lo previsto en el apartado 8 del artículo 16 del Reglamento (UE) 2019/943, el operador del sistema español (REE) debe ofrecer al menos un 70% de la capacidad disponible de la interconexión para transacciones transfronterizas a partir del 1 de enero de 2020.

Ya en 2019, REE solicitó una excepción temporal de la aplicación de esta obligación, siendo aprobada por la CNMC mediante Resolución del 17 de diciembre de 2019.

En enero de 2020 los operadores de sistema pusieron en funcionamiento una nueva metodología regional de cálculo de capacidad coordinado para el mercado diario, que permite obtener valores más óptimos de capacidad en las fronteras con Portugal y Francia. Además, se ha reducido el número de elementos potencialmente limitantes de la capacidad y se han iniciado los desarrollos para implementar en 2021 un cálculo coordinado para el horizonte intradiario.

Pese a dichos avances, REE considera que, a día de hoy, el sistema sigue sin poder garantizar que un 70% de la capacidad de interconexión sea puesta a disposición de transacciones transfronterizas en condiciones seguras, y en particular no se puede dar cumplimiento al apartado 4 del artículo 16 del mencionado reglamento que obliga a utilizar todas las posibilidades de redespachos coordinados a tal fin. Por ello, REE solicita la excepción para el año 2021 del cumplimiento de dicha obligación.

El nivel de coordinación actual entre operadores del sistema europeos es insuficiente para poder activar de forma óptima todos los redespachos disponibles necesarios para garantizar el valor mínimo del 70% de capacidad, haciendo falta el desarrollo de una herramienta que permita al centro de coordinación regional (CORESO) responsable del cálculo de capacidad, evaluar y activar los redespachos necesarios de la forma más eficiente, así como monitorizar el nivel de cumplimiento del margen de capacidad en cada elemento crítico.

De acuerdo con todo lo anterior, se considera que la solicitud presentada por REE cumple el requisito previsto en el apartado 9 del artículo 16 del Reglamento (UE) 2019/943, en cuanto a su necesidad para mantener la seguridad operativa y en cuanto a las soluciones propuestas que permitirán alcanzar en el corto plazo el cumplimiento del valor mínimo del 70% de capacidad de interconexión exigida por el *Reglamento (UE) 2019/943*.

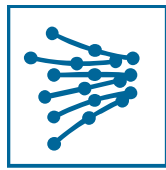
Se considera además positivo el compromiso incorporado en la solicitud de excepción de alcanzar el umbral del 70% de capacidad en el 70% de las horas, en los elementos limitantes del cálculo excluyendo horas de igualdad de precio y situaciones de indisponibilidades sobrevenidas con impacto relevante.

Vistos los citados antecedentes de hecho y fundamentos de derecho, la Sala de Supervisión Regulatoria de la CNMC,

RESUELVE

ÚNICO. Aprobar la excepción temporal solicitada por el gestor de la red de transporte española Red Eléctrica de España, S.A.U. (REE) para el año 2021 en relación con la aplicación del artículo 16(8) del Reglamento (UE) 2019/943 sobre capacidad disponible de intercambio transfronterizo, la cual se adjunta como anexo a la presente Resolución.

Notifíquese esta resolución a Red Eléctrica de España, S.A.U. y publíquese en la página web de la CNMC.



RED
ELÉCTRICA
DE ESPAÑA

Grupo Red Eléctrica

REE request for derogation on the implementation of the minimum margin available for cross- zonal trade

**in accordance with Article 16(9) of
Regulation (EU) 2019/943 of the
European Parliament and of the
Council of 5 June 2019 on the
internal market for electricity
(recast)**





Whereas

- (1) REE is the Spanish Transmission System Operator. REE belongs to South West Europe capacity calculation region (hereinafter, "SWE CCR").
- (2) REE is required, by Article 16(8) of the Regulation (EU) 2019/943 of 5 June 2019 on the internal market for electricity (hereinafter, the "Regulation 2019/943"), to offer minimum levels of available capacity for cross-zonal trade as of the 1st of January 2020.
- (3) Article 16(4) of the Regulation 2019/943 provides that, in order to maximise available capacities to reach the minimum capacity requirements provided for in Article 16 (8), Transmission System Operators (hereinafter, "TSOs") shall use countertrading and redispatch, including cross-border redispatch, via "a coordinated and non-discriminatory process".
- (4) Article 16(9) of the Regulation 2019/943 provides regulatory authorities with the possibility of granting a derogation from Article 16(8) upon TSO request on foreseeable grounds where necessary for maintaining operational security.
- (5) Article 7(2) of Regulation 2019/943 establishes among other objectives that both day-ahead and intraday market shall ensure operational security while allowing for maximum use of transmission capacity.
- (6) Recommendation No 01/2019 of the European Union Agency for the Cooperation of Energy Regulators of 08 August 2019 on the implementation of the minimum margin available for cross-zonal trade pursuant to Article 16(8) of Regulation (EU) 2019/943 proposes a method to monitor the margin available for cross-zonal trade in accordance with Article 16(9).
- (7) Complying with the minimum requirements set in Article 16(8) would require an intensive use of costly remedial actions that undermines the operational security of the Spanish grid specially if Recommendation No 01/2019 is applied for setting the minimum requirements for REE interconnections.
- (8) This document constitutes a request for derogation in accordance with Article 16(9) of the Regulation 2019/943 and addresses the foreseeable grounds, related to the operational security of the Spanish grid, justifying the request for a derogation.
- (9) A first derogation for REE had already been submitted and approved by the Spanish regulatory authority CNMC on 17th December 2019 for the year 2020 (from 1st January 2020 to 31st December 2020).
- (10) This document constitutes a request for derogation for the year 2021 (from 1st January 2021 to 31st December 2021).
- (11) REE will provide a long-term solution to the issue that this derogation seeks to address, in coordination with the TSOs of the affected capacity calculation regions (hereinafter "CCR").
- (12) The term Regional Coordination Centre (hereafter "RCC") shall be understood as the Regional Security Coordinator (hereafter "RSC") in charge of the capacity calculation for SWE CCR, as at the time of this request the RCCs, in terms of article 35 of Regulation (EU) 2019/943, are not established yet.



REE SUBMITS THE FOLLOWING REQUEST FOR DEROGATION

Article 1. Subject matter and scope

This document constitutes a request for a second derogation from the implementation of the minimum margin available for cross-zonal trade in accordance with Article 16(9) of Regulation 2019/943 to be applied in SWE CCR.

Article 2. Definitions

All the terms used in this request for a second derogation shall have the meaning provided by Article 2 of Regulation 2019/943 and Article 2 of Regulation 2015/1222.

Article 3. Operational Security grounds justifying the request for a derogation

- (1) The development of new processes aiming at offering higher capacities to the market, and the introduction of new tools enabling the fulfilment of Article 16(8) minimum capacity requirements introduce new risks to operational security:
 - a. with regards the risk related to new processes to offer higher capacities:
 - i. the implementation of the minimum capacity requirement set forth in Article 16(8) of the Regulation 2019/943 should lead to more capacity given to the market which may require a more extensive application of costly remedial actions, in accordance with Article 16(4) of the same Regulation. The operational experience for processes with an extensive application of costly remedial actions is currently very low, which means that applying the necessary remedial actions from the Required Date would lead to operational security risks;
 - ii. the likelihood of a more extensive application of remedial actions is higher in Member States where no action plan is applied, as it is the case of Spain;
 - b. with regards to the risks related to new tools:
 - i. in line with Article 16(8) of Regulation 2019/943, it should be possible for RCCs to use all the available remedial actions provided by TSOs to reach the minimum capacity requirement.
As from the 1st of January 2021, SWE RCC will not have the necessary tools to assess whether this minimum capacity is reached and thus to what extent the capacity should be increased to reach this threshold;
 - ii. in line with Article 16(3) of Regulation 2019/943, it should be possible for RCCs to identify the cases where available remedial actions provided by TSOs are sufficient to reach the capacity requirements while guaranteeing security of supply.
As from January 1st 2021, SWE RCC will not have the necessary tools to assess the availability of such remedial actions to reach the capacity requirements in line with Article 16(3) of Regulation 2019/943. Due to this temporary lack of regional tools, SWE RCC will operate the Day-Ahead capacity calculation process according to SWE approved capacity calculation methodology but will not be able to assess the availability of remedial actions in order to reach the capacity requirements in line with Article 16(3) of Regulation 2019/943 and thus provide maximum capacity to TSOs and the Day-Ahead market, which is one of the main objectives of Regulation 2019/943;
 - iii. As from the 1st of January 2021, REE will not have the necessary tools to assess and validate the availability of such remedial actions. Due to this temporary lack of internal tools, REE will not be able to assess the availability of remedial actions in order to reach the capacity requirements, which is one of the main objectives of Regulation 2019/943 (see whereas (2)).
- (2) To mitigate the identified operational security risks, REE requests this derogation for 1 year to complete the tools mentioned and to gather relevant experience from the processes and to complete the tools mentioned, in order to ensure an effective usage while guaranteeing operational security.



Article 4. Summary of accomplishments after the first derogation and justification for this second derogation request

- (1) A first derogation (from 1st of January 2020 to 31st of December 2020) was submitted and approved by CNMC. This first derogation granted 1 year for the definition, development and implementation of new tools enabling the fulfilment of Article 16(8) while ensuring operational security.
- (2) During this period the SWE TSOs and RCC:
 - a. Finalized the implementation of the D-2 Capacity Calculation as provided in the methodology approved by SWE NRAs, using the CGMES format as defined in the European guidelines.
 - b. Initialized the developments associated with the Intraday Capacity Calculation, the study to optimize TRM, which is expected by the end of 2020, and the new developments related to data collection taking into consideration the dispositions of Article 82 (4) of CACM.
 - c. Finalized the Business Requirements for the implementation of 70% compliance regional monitoring set forth in Article 16(8) of the Regulation 2019/943 and the ACER Recommendation No. 1/2019, after discussion with the national regulators.
 - d. REE increased the sensitivity threshold in order to reduce the frequency of internal elements limiting cross border capacity, with the objective to offer higher levels of capacity.
- (3) The roadmaps of the works mentioned before were affected by the Covid-19 pandemic situation, namely developments, test and training had to be put on hold for several weeks, in order to focus on critical activities.
- (4) A new one-year period will be set up for the day ahead capacity calculation process in SWE:
 - a. During this period, REE will apply the current approved capacity calculation methodology and practices in the SWE CCR for the operational day-ahead coordinated capacity calculation process, insuring in this way the maintenance of the operational security in the SWE CCR. REE will offer as a result of this process at least the minimum levels of capacity in accordance with article 16(8)(a) of Regulation 2019/943 during 70% of the hours on which the one-year derogation applies, considering the following criteria:
 - i. The minimum levels will be provided in accordance with article 16(8)(a) of Regulation 2019/943 and with paragraphs 4.2 and 5.1 of ACER Recommendation 01/2019 on the limiting CNECs.
 - ii. It is considered fulfilled if the limiting CNEC does not belong to REE. For the sake of clarity, as stated in Recommendation No 01/2019, a given CNEC shall be attributed to one TSO only. Even interconnectors shall be defined as two different CNEs in series configuration.
 - iii. Those hours where it was not possible to identify a limiting CNEC will be discarded to calculate the proportion.
 - iv. It is considered fulfilled if in the concerned border and direction the commercial exchange program is smaller than the corresponding NTC value.
 - v. If during the period of the derogation an unforeseen outage or breakdown does not allow to offer the minimum levels of capacity, REE shall justify to CNMC this unavailability for force majeure reason. CNMC will decide if this justification implies the no consideration of the corresponding period to calculate the proportion.

This proportion of yearly hours has been determined based on the results for the first year of derogation, up to the date that the present request was submitted.
 - b. During this period, RCC and SWE TSOs will:
 - i. Develop a regional validation tool, that will enable the RCC to identify the cases where available remedial actions are sufficient to reach the capacity requirements while



guaranteeing security of supply. The validation system shall assess the available remedial actions and apply these in order to provide margins available for cross-zonal trade aligned with the provisions of Regulation 2019/943, always with a view to providing affordable energy to the final customers.

- ii. Finish and put in service the regional monitoring of the 70 % compliance as set forth in Article 16(8) of the Regulation 2019/943 and the Recommendation no. 1/2019 by ACER.
 - iii. Finish the developments and put in service the Intraday Capacity calculation, as well as the implementations related to the data collection foreseen in the article 82 (4) of the CACM and start the Long-Term Capacity Calculation developments.
 - iv. Analyze the need to update or not the current SWE Capacity Calculation methodology taking into consideration the dispositions foreseen in the Regulation 2019/943 and propose the new version if needed, under agreement with SWE NRAs.
 - v. Study the technical and regulatory framework to enable, if necessary, the use of costly remedial actions, namely counter trading and coordinated redispatching.
- (5) REE will continue to train the operators for them to gain enough experience with new processes and tools to ensure operational security.
- (6) REE will assess the possibility to implement, in operations, new measures to offer higher values of minimum margins for cross-zonal trades provided that the tools and processes are sufficiently developed to ensure operational security with these levels of minimum margins.
- (7) The assessment stated in the previous paragraph will be conducted by REE with CNMC every three months.

Article 5: Reporting

The results of the accomplishments achieved during this period will be communicated regularly to CNMC including at least the following indicators, as soon as the regional monitoring tool is operational, and by Q1 2021 at the latest:

- a. Average % of margin available for cross zonal-trades on most limiting CNECs¹ compared to the capacity of the line;
- b. Number of hours where the minimum capacity requirement set forth in Regulation 2019/943 is reached on the most limiting CNECs.

¹ As per Recommendation No 01/2019 of the European Union Agency for the Cooperation of Energy Regulators of 08 August 2019 on the implementation of the minimum margin available for cross-zonal trade, 'CNEC' means a Critical Network Element associated with a contingency used in capacity calculation. For the purpose of the said Recommendation, the term CNEC also covers the case where a CNE is used in capacity calculation without a specified contingency.



Red Eléctrica de España, S.A.U.
www.ree.es