CONSULTATION RESPONSE

All TSOs' proposal for amendments of the methodology for Harmonised Allocation Rules for long-term transmission rights

We welcome the consultation on the Harmonised Allocation Rules for long-term transmission rights (LTTRs). It contains important clarifications on elements ranging from the adaptation to 15-minute products in the day ahead to various auction specifications. However, we stress two key points :

- We oppose the **flow-based allocation of LTTRs**. We hold that the benefits of the flow-based allocation (independently from the flow-based calculation) have not been proven by ACER, and implementation would make **cross-border hedging more challenging and expensive**, ultimately to the detriment of consumers;

- We welcome additions regarding the **remuneration of LTTRs (and the compensation for curtailed rights) in case of day-ahead market decoupling**. However, we warn that relying on each Member State to set the rules for reference prices in case of full decoupling would **lead to fragmentation.**

1. General remarks on the HAR

Flow-based allocation

We reiterate our opposition to the flow-based allocation of the transmission capacity in the forward timeframe.

First, the day-ahead and intraday timeframes are well suited for flow-based allocation, when actual flows are being nominated by market participants and managed by TSOs. In the forward timeframe, however, TSOs do not manage flows.

Second, a flow-based approach to allocating LTTRs maximises the revenue generated by LTTR auctions. This effectively means that transmission capacity will be allocated to borders with the highest price spreads, leaving other borders with limited or zero capacity.

Maximising the auction revenue is quite different from maximising economic efficiency – as per the FCA Regulation's condition to apply flow-based in the forward timeframe – as the LTTR auction should be considered in the wider context of the forward market (electricity + transmission capacity). Market participants use LTTRs chiefly to hedge the volatility of electricity prices across the bidding zones, which in turn increases liquidity in the forward markets in these areas. Limiting the availability of cross-border hedging instruments at certain borders could lead to a deterioration of liquidity in the adjacent forward markets. This would increase the cost of hedging electricity for consumers, and hence deteriorate the overall economic efficiency of the forward market in the region.

We understand that the amendments to the EU HAR by TSOs are a response to the ACER requirement to implement flow-based capacity allocation in the forward timeframe, but we remind that the objective of the EU legislation is to enable efficient forward markets with hedging instruments made available to the market participants.

Third, another detrimental effect of flow-based allocation is a move to a pan-regional European auction that significantly increases collateral requirements for market participants willing to bid in the LTTR auction. In the Core region, significant collateral will be needed to back up bids relating to 20 bidding zone borders at once. This may lead to a concentration of bids for certain borders while others are left out (possibly worsening the effect low/zero capacity effect mentioned in our second point above). It could also for a trading barrier for smaller participants that would not be able to participate. Both would increase hedging costs, to the detriment of European consumers.

Overall we consider the implementation of flow-based allocation of LTTRs premature, and we hold that ACER has yet to demonstrate the added value of this approach in terms of overall economic efficiency. If it were implemented anyway, we stress the need to ease collateral requirements and improve the methodology to secure transmission capacity at the borders with lower price spreads, providing market participants from all corners of Europe the tools to cover their cross-border risk.

For more details on the matter, see our presentations at the February 2024 MESC meetings (https://eepublicdownloads.blob.core.windows.net/public-cdn-container/clean-documents/Network%20codes%20documents/MESC/2024/240228_MESC_TOP_4.1_Eurelectric_Traders_LTFBA.pdf).

2. Comments on the proposed changes

Article 7 Registration requirements

We welcome the removal of the 9-day deadline before an auction for the submission of registration documents.

Article 15 Refusal of application

We are fine with the addition of a reference to REMIT in art. 15.1(e).

However, we don't agree with the wording of art. 15.1(f), which opens the possibility for the single allocation platform to reject any application "on reasonable grounds". This opens far too broad an option for the platform to reject applications outside the carefully crafted list of reasons in this art. 15.1. Should the TSOs think of specific grounds based on which an application should be rejected by the platform – as the explanatory document indicates – then we invite them to detail these grounds as explicitly in the text of the EU HAR.

Article 19 Payment incidents

We welcome the clarification on the process of payment incidents in the auction of LTTRs (settlement of cNTC auctions first, then flow-based auctions).

Article 22 Validity and renewal of the bank guarantee

We welcome the introduction of a deadline (of 4 days) for the platform to confirm or refuse a bank guarantee.

Article 29 Auction Specifications

As mentioned during the previous consultation, we believe, that the publication of the price cap on collaterals should be made public at **least 2 days** before the gate closure time of the auction, giving market participants enough time to alter their credit limit.

We welcome that the amended version introduces a deadline for the publication of this information, however, we believe that the deadline must be set much earlier than one hour before the gate opening time of the auction.

We would also welcome JAO publishing the actualisation of collaterals more frequently, as currently, it is done once per day, often during the night. As payments are sent throughout the day, changes in the credit limit are only visible the day after, complicating the process on market participants' side.

Article 34 Credit limit verification

We support the principle of a cap on collateral requirements to decrease the constraints for market participants, especially if single pan-regional auctions are organised for flow-based allocation, where collateral constraints would be much more burdensome.

However, we reiterate, that calculating collateral cap on the day-ahead spreads is not optimal and doesn't reflect the forward market fundamentals, upon which the market participants base their bidding strategy. We hold, that caps should be based *purely* on the forward spreads observed as close to auctions as possible, meaning yearly spreads for yearly auctions and quarterly/monthly/weekly spreads for quarterly/monthly/weekly auctions.

Article 48 Remuneration of LTTRs

We welcome the addition of explicit rules for the determination of the remuneration price for LTTRs in case of partial or full-day-ahead market decoupling.

Regarding art. 48.1, we would like to stress that having different MTUs for long-term (hourly) and day-ahead markets (quarter-hourly from June 2025) may represent additional complexity.

On the specific mathematical rule to compute the settlement of transmission rights and handle the difference between forward and day-ahead MTUs, we would like to make sure that our interpretation is correct: we understand art. 48.1(a) as setting the remuneration of hourly LTTRs at the average of the positive day-ahead 15-minute market spreads. We provide an illustrative example in the annex.

Regarding the rule of art. 48.1(a)ii, proposing that the day-ahead reference price in case of full day-ahead market decoupling be determined by national legislation, we note that this rule creates a double risk:

- Risk of missing price – in case a Membe State has not enacted legislation in that regard, or in case of conflicting legislations on the two sides of a border where LTTRs are allocated. We therefore invite the TSOs to provide a clear list of which countries have enacted legislation on the matter, and what reference price applies in each case.
- Risk of legal fragmentation – with different Member States applying different rules to set the reference price. We claim that even in the case of decoupling, our European market remains a common market and that the rules to establish a reference price should be set at the EU level.

We invite the TSOs to make a clear, European proposal, to set the reference price for the remuneration of LTTRs in case of full day-ahead market decoupling. Should this require an amendment to the CACM Regulation – in particular regarding how prices in case of decoupling are set in Multi-NEMO Arrangements – we invite the TSOs to make a public proposal.

Article 59 Compensation for curtailment of LTTRs

We welcome the addition of explicit rules for the determination of the compensation for curtailment of LTTRs, in case of partial or full day-ahead market decoupling.

We reiterate our comments made above regarding art. 48.1(a)ii, proposing that reference price in case of full-day-ahead market decoupling be determined by national legislation. We note that this rule creates a double risk of missing reference price, a legal fragmentation.

Finally, as mentioned for many years, we continue to challenge the legitimacy of TSOs to curtail LTTRs on the grounds of operational security when these rights are financial transmission rights (FTRs). FTRs have no impact on physical operations, and in this sense, we request that the curtailment of LTTRs for reasons of operational security be restricted to physical transmission rights (PTRs).

Article 68 Duration and the amendment of the HAR

We support the call for TSOs to explore more efficient calculation of the maximum credit obligations in the case of flow-based allocation. As mentioned previously, single pan-regional flow-based auctions would introduce additional credit constraints for market participants, further decreasing hedging availability.

As we stress our opposition to the flow-based LTTR allocation and its added value, we stress that if implemented, decreasing collateral costs is a prerequisite to preserving hedging possibilities for market participants.

Improvements in that regard could include:

Title 10

As the timeline for yearly, quarterly and monthly auctions is not clear, it is more important to re-use the credit limit for the subsequent allocations, given the increased collateral requirements.

Auction participants should have sufficient time for payment for capacity allocations before the next auction is opened to reset and re-use their credit risk for following auctions. This need is stressed even more for the single pan-European auction, which will have a much higher impact on collaterals. Timing of auctions, invoicing and payments should allow optimal use of the credit.

Improving bid filtering

While we understand bid filtering in single NTC per-border auctions, filtering bids in flow-based auctions could lead to the discrimination of bids at the bidding zone borders with lower market spreads.

Prioritising higher bids will lead to higher TSOs revenues but will leave market participants in lower price spread areas without hedging tools to cover their cross-border risks and market volatility.

Technical remarks

We welcome the publication of the track changes document on the ENTSO-E website along with an Explanatory Note. However, we recommend publishing both documents on day 1 of the consultation period, as this step will give market participants an easier overview of the proposed changes.

ANNEX: Interpretation of art. 48.1(a)

	DA price		DA spread per MTU for the oriented border	Interpretation of article 48.1 -> to confirm
	A	B	B-A	
QH1	50	55	5	5
QH2	70	52	-18	0
QH3	60	50	-10	0
QH4	30	40	10	10
			Average spread for the hour	Average of positive 15min spreads
			-3,25	3,75

Our interpretation of art. 48.1: the average of positive 15min spreads, leaving out negative spreads, is positive => remuneration is EUR 3,75/MWh

Alternative interpretation: the average spread over the hour is negative => remuneration is 0 EUR/MWh

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