

ENERGETICKÝ REGULAČNÍ ÚŘAD

Masarykovo náměstí 5, 586 01 Jihlava

Sp. zn. SLS-04818/2017-ERU

V Ostravě dne 10. října 2017

Č. j.: 04818-6/2017-ERU

R O Z H O D N U T Í

Energetický regulační úřad, se sídlem Masarykovo náměstí 5, 586 01 Jihlava, jako správní orgán příslušný podle čl. 4 odst. 6 písm. c) a f) NAŘÍZENÍ KOMISE (EU) 2016/1719 ze dne 26. září 2016, kterým se stanoví rámcový pokyn pro přidělování kapacity na dlouhodobém trhu (dále také „Nařízení 2016/1719“), po provedení správního řízení sp.zn. SLS-04818/2017-ERU podle zákona č. 500/2004 Sb., správní řád, ve znění pozdějších předpisů (dále jen „správní řád“), zahájeného na návrh společnosti ČEPS, a.s., IČ 257 02 556, se sídlem Elektrárenská 774/2, 101 52 Praha 10, (dále také „účastník řízení“), ve věci žádosti o schválení Zavedení jednotné platformy pro přidělování dle čl. 49 a čl. 59 NAŘÍZENÍ KOMISE (EU) 2016/1719 ze dne 26. září 2016, kterým se stanoví rámcový pokyn pro přidělování kapacity na dlouhodobém trhu, podle čl. 4 odst. 9 Nařízení 2016/1719 a § 67 a násl. správního řádu

s c h v a l u j e

Zavedení jednotné platformy pro přidělování dle čl. 49 a čl. 59 NAŘÍZENÍ KOMISE (EU) 2016/1719 ze dne 26. září 2016, kterým se stanoví rámcový pokyn pro přidělování kapacity na dlouhodobém trhu, předložené Energetickému regulačnímu úřadu společností ČEPS, a.s., IČ 257 02 556, se sídlem Elektrárenská 774/2, 101 52 Praha 10, dne 18. dubna 2017, které tvoří nedílnou součást výrokové části a je přílohou tohoto rozhodnutí.

O d ů v o d n ě n í:

I.

Energetický regulační úřad obdržel dne 18. dubna 2017 žádost společnosti ČEPS, a.s., IČ 257 02 556, se sídlem Elektrárenská 774/2, 101 52 Praha 10, jejíž součástí byl návrh na schválení Zavedení jednotné platformy pro přidělování dle čl. 49 a čl. 59 Nařízení 2016/1719 (dále také „Metodika SAP“).

Účastník řízení uvedl, že předložený návrh Metodiky SAP byl po veřejné konzultaci schválen dne 7. dubna 2017 všemi provozovateli přenosových soustav. Za účelem vyjasnění

a odůvodnění obsahu Metodiky SAP zaslal účastník řízení současně s výše uvedeným návrhem vysvětlující doprovodný dokument, který vypracovali provozovatelé přenosových soustav.

Energetický regulační úřad vyvěsil na svých webových stránkách do dne 9. června 2017 Metodiku SAP ke konzultaci. V tomto konzultačním procesu nebyly doručeny žádné připomínky.

Energetický regulační úřad vložil do předmětného spisu správního řízení dne 4. října 2017, č.j. 04818-5/2017-ERU, dokument ze dne 18. a 22. září 2017, který opatřil z úřední činnosti, a který adresoval pan John Mogg, předsedající ERF panu Laurentovi Schmittovi, generálnímu tajemníkovi ENTSO-E, panu Albertovi Pototschnigovi, řediteli Agentury pro spolupráci energetických regulačních orgánů ACER a panu Klausovi-Dieterovi Borchardtovi, řediteli direktoriátu B pro vnitřní trh s energiemi Generálního ředitelství Evropské komise pro energetiku, který jménem všech regulačních orgánů sdělil, že ve věci Metodika SAP dle čl. 49 a čl. 59 Nařízení 2016/1719 (předložený Energetickému regulačnímu úřadu účastníkem řízení dne 18. dubna 2017), všechny regulační orgány dospěly k jednomyslné dohodě dne 18. září 2017 schválit předmětný návrh. Dohoda všech regulačních orgánů představuje důkaz, že ACER nemusí činit rozhodnutí o výše uvedeném návrhu dle článku 4. odst. 10 Nařízení 2016/1719. Účelem této dohody je vytvořit princip, podle kterého všechny regulační orgány následně vnitrostátně rozhodnou podle čl. 4 odst. 9 Nařízení 2016/1719 o schválení předmětného návrhu.

II.

Posouzení věci

Dle čl. 4 odst. 1 Nařízení 2016/1719 Provozovatelé přenosových soustav vypracují podmínky nebo metodiky požadované tímto nařízením a předloží je v odpovídajících lhůtách stanovených v tomto nařízení ke schválení příslušným regulačním orgánům. Musí-li návrh podmínek nebo metodik podle tohoto nařízení vypracovat a odsouhlasit více než jeden provozovatel přenosové soustavy, musí zúčastnění provozovatelé přenosových soustav úzce spolupracovat. Provozovatelé přenosových soustav za pomoci organizace ENTSO pro elektřinu pravidelně informují příslušné regulační orgány a agenturu o pokroku při vypracovávání těchto podmínek nebo metodik.

Dle čl. 4 odst. 6 písm. c) Nařízení 2016/1719, návrhy následujících podmínek nebo metodik musí schválit všechny regulační orgány: (c) požadavky na jednotnou platformu pro přidělování podle článku 49.

Dle čl. 4 odst. 6 písm. f) Nařízení 2016/1719, návrhy následujících podmínek nebo metodik musí schválit všechny regulační orgány: (f) metodika společné úhrady nákladů na zřízení, rozvoj a provozování jednotné platformy pro přidělování podle článku 59.

Dle čl. 49 Nařízení 2016/1719, Do šesti měsíců od vstupu tohoto nařízení v platnost předloží

všichni provozovatelé přenosových soustav všem regulačním orgánům společný návrh na vytvoření souboru požadavků a na zavedení jednotné platformy pro přidělování. V tomto návrhu se uvedou různé varianty zavedení a správy jednotné platformy pro přidělování, včetně varianty jejího vytvoření provozovateli přenosových soustav nebo třetími osobami jejich jménem. Návrh provozovatelů přenosových soustav musí obsahovat obecné úkoly jednotné platformy pro přidělování, jež stanoví článek 50, a požadavky na úhradu nákladů podle článku 59.

Dle čl. 59 Nařízení 2016/1719, Všichni provozovatelé přenosových soustav, kteří vydávají dlouhodobá přenosová práva na jednotné platformě pro přidělování, nesou společně náklady spojené s jejím zřízením a provozováním. Do šesti měsíců od vstupu tohoto nařízení v platnost navrhnou všichni provozovatelé přenosových soustav, například na základě podobných zásad, jako jsou zásady stanovené v článku 80 nařízení (EU) 2015/1222, metodiku společné úhrady těchto nákladů, přičemž tyto náklady musí být přiměřené a efektivní.

Dle čl. 4 odst. 9 Nařízení 2016/1719, Má-li o schválení podmínek nebo metodik rozhodnout více regulačních orgánů, příslušné regulační orgány se navzájem konzultují, úzce mezi sebou spolupracují a koordinují se za účelem dosažení dohody. Příslušné regulační orgány v příslušných případech zohlední stanovisko agentury. O předložených podmínkách nebo metodikách podle odstavců 6 a 7 rozhodnou regulační orgány do šesti měsíců poté, co je dotčený regulační orgán, případně poslední dotčený regulační orgán obdrží.

V rozsahu pravomocí svěřených Nařízením 2016/1719, viz výše, je ERÚ kompetentní rozhodovat předmětnou věc. Lhůta pro vydání rozhodnutí dle čl. 4 odst. 9 Nařízení 2016/1719 je dodržena.

Ve správním řízení byly posouzeny veškeré informace a dokumenty předložené účastníkem řízení a také dokumenty, které ERÚ získal z úřední činnosti.

Příslušné regulační orgány spolu v souladu s článkem 4 odst. 9 Nařízení 2016/1719 konzultovaly a úzce spolupracovaly a koordinovaly se za účelem dosažení dohody ohledně návrhu, který podléhá schválení všemi regulačními orgány. Dohoda všech regulačních orgánů schválená dne 18. září 2017 v rámci fóra energetických regulačních orgánů ve věci návrhu všech provozovatelů přenosových soustav ohledně Zavedení jednotné platformy pro přidělování dle čl. 49 a čl. 59 Nařízení 2016/1719 podává důkaz, že ACER nemusí činit rozhodnutí o Metodice SAP dle článku 4 odst. 10 Nařízení 2016/1719. Z této dohody Energetický regulační úřad vycházel při právně závazném rozhodování na národní úrovni o schválení, nejpozději do šesti měsíců od jeho předložení, dle článku 4 čl. odst. 9 Nařízení 2016/1719, tzn., bylo vyhodnoceno, že jsou splněny podmínky pro vydání předmětného rozhodnutí.

III. Závěr

Energetický regulační úřad při svém rozhodování přihlédl k podkladům a důkazům založeným ve správním spisu.

V předmětném správním řízení ERÚ hodnotil podklady, zejména důkazy, podle své úvahy a to každý důkaz jednotlivě a všechny důkazy ve vzájemných souvislostech, přitom přihlédl ke všemu, co vyšlo v řízení najevo, včetně toho, co účastník řízení uvedl.

Na základě všech výše uvedených skutečností rozhodl Energetický regulační úřad tak, jak je uvedeno ve výrokové části tohoto rozhodnutí.

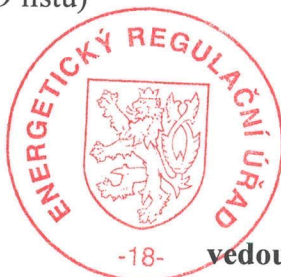
Poučení o opravném prostředku:

Proti tomuto rozhodnutí lze podat rozklad podle § 152 správního řádu k Radě Energetického regulačního úřadu ve lhůtě 15 dnů ode dne jeho doručení, a to jeho podáním Energetickému regulačnímu úřadu.

Lhůta pro podání rozkladu se počítá ode dne následujícího po dni doručení rozhodnutí, nejpozději však po uplynutí desátého dne ode dne, kdy bylo nedoručené a uložené rozhodnutí připraveno k vyzvednutí. V rozkladu se uvede, v jakém rozsahu se rozhodnutí napadá a dále namítaný rozpor s právními předpisy nebo nesprávnost rozhodnutí nebo řízení. Podaný rozklad má v souladu s § 85 odst. 1 správního řádu odkladný účinek. Rozklad jen proti odůvodnění rozhodnutí je nepřipustný.

Příloha:

Zavedení jednotné platformy pro přidělování dle čl. 49 a čl. 59 NAŘÍZENÍ KOMISE (EU) 2016/1719 ze dne 26. září 2016, kterým se stanoví rámcový pokyn pro přidělování kapacity na dlouhodobém trhu (29 listů)




Mgr. Lenka Ferčáková

oprávněná úřední osoba

vedoucí oddělení sporných a schvalovacích řízení

Rozdělovník: ČEPS, a.s.

**All TSOs' proposal for the establishment of a Single
Allocation Platform (SAP) in accordance with Article 49
and for the cost sharing methodology in accordance with
Article 59 of Commission Regulation (EU) 2016/1719
establishing a Guideline on Forward Capacity Allocation**

7 April 2017

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All TSOs, taking into account the following,

Whereas

- (1) This document is the common proposal developed by all Transmission System Operators (hereafter referred to as “TSOs”) for a set of requirements and for the establishment of the Single Allocation Platform (hereafter referred to as “SAP”) in accordance with Article 49 and for a cost sharing methodology (hereafter referred to as “SAP Cost Sharing Methodology”) in accordance with Article 59 of Commission Regulation (EU) 2016/1719 establishing a guideline on Forward Capacity Allocation (hereafter referred to as the “FCA Regulation”). This proposal is hereafter referred to as the “SAP Proposal”.
- (2) The SAP Proposal takes into account the general principles, goals and other methodologies set out in the FCA Regulation. The goal of the FCA Regulation is the coordination and harmonisation of forward capacity calculation and allocation in the long-term capacity markets, and it sets requirements for the TSOs to co-operate on a pan-European level; on the level of capacity calculation regions (hereinafter referred to as “CCRs”), and across bidding zone borders. The FCA Regulation also sets rules for establishing European Harmonised Allocation Rules and regional/border specific annexes (hereafter referred to as “HAR”). The HAR shall contain at least the description of the allocation process/procedure for long-term transmission rights, including the minimum requirements for participation, financial matters, type of products offered in explicit auctions, nomination rules, curtailment and compensation rules, rules for market participants in case they are transferring their long-term transmission rights, the use-it-or-sell-it principle, rules as regards force majeure and liability. The HAR should also outline the contractual obligations to be respected by market participants.
- (3) The SAP Proposal lays down the functional requirements, governance, liabilities and cost sharing methodology for the Single Allocation Platform. The SAP shall be able to perform, at least, the execution of the long-term auctions in accordance with the HAR and any associated additional tasks required in the provision of long-term auctions (such as clearing and settlement and on call support) as described in Article 50 of the FCA Regulation (“SAP Tasks”).
- (4) When developing the SAP Proposal, the following options were examined by all TSOs for the establishment of the SAP:
 - a. appointing one/or more TSO/TSOs (on a rotating basis) to operate the SAP on behalf of all TSOs. This option would have been challenging due to proportionality issues and also the associated costs; or
 - b. appointing an existing entity to perform the SAP Tasks as a vehicle of cooperation among TSOs and on their behalf; or
 - c. creating a new entity to perform the SAP Tasks as a vehicle of cooperation among TSOs and on their behalf; or
 - d. appointing the development and operation of the Single Allocation Platform to a third party independent from the TSOs.
- (5) Having considered the above options, all TSOs conclude that the allocation of capacity being a core task of the TSOs, the SAP Tasks have to be performed by the TSOs either among themselves or by a vehicle of cooperation solely composed of TSOs. They therefore chose to use an existing entity to perform the SAP Tasks as a vehicle of cooperation among TSOs and on their behalf is

- the most efficient and pragmatic approach. All TSOs propose to appoint the Joint Auction Office (hereafter referred to as "JAO") due to following reasons:
- a. TSOs have competence for the operation of forward capacity allocation and have thus created a common entity, JAO, to perform this task;
 - b. JAO is the result of a merger of the former CASC.EU S.A. and CAO Central Allocation Office GmbH, both having a long history in the execution of long-term auctions and thus already executes the long term auctions on behalf of the majority of TSOs bound by the FCA Regulation;
 - c. JAO has already adjusted its tools in order to apply the HAR developed by the relevant TSOs and approved by the relevant NRAs as an early implementation of the FCA Regulation;
 - d. JAO is currently the counterparty to the majority of the market participants applying the HAR and covers the majority of the Bidding Zone borders where forward capacity allocation is applicable.
- (6) All TSOs therefore consider that they are able to meet the obligations and requirements of the FCA Regulation by operating the SAP through JAO (hereinafter referred to as "SAP Operator").
 - (7) This SAP Proposal contains in Part 1 the general rules for the entire SAP proposal. Part 2 describes the governance principles of the SAP and its functional requirements in accordance with Article 49 of the FCA Regulation. These should be implemented and followed by the TSOs through the SAP.
 - (8) Part 3 of the SAP Proposal describes the SAP Cost Sharing Methodology in accordance with Article 59 of the FCA Regulation. JAO performs many tasks. Therefore, there are also costs for tasks other than the SAP Tasks that are commonly shared. With the cost sharing methodology, it is clarified that all TSOs shall share the costs for the establishment and operation of the SAP only. Such costs include direct and indirect costs defined in the SAP Cost Sharing Methodology. The SAP Cost Sharing Methodology also follows essential general principles for cost sharing which needs to:
 - a. be reasonable, efficient and proportionate to operational costs as required in Article 59 of the FCA Regulation;
 - b. be fair and non-discriminatory;
 - c. be fully transparent and auditable;
 - d. reflect nature of costs and their relation to the establishment and operation of the SAP;
 - e. be attractive for new and existing parties; and
 - f. bring benefits and savings for all TSOs.
 - (9) According to Article 4 (8) of the FCA Regulation, the expected impact of the SAP Proposal on the objectives of the FCA Regulation has to be described and is presented below.
 - (10) The SAP Proposal generally contributes to the achievement of the objectives of Article 3 of FCA Regulation. In particular, the SAP Proposal serves the objective of promoting effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants as the establishment of a single trading platform harmonises and simplifies the trading activities for long-term products across European borders.
 - (11) The objective of optimising the allocation of long-term cross-zonal capacity is achieved with this SAP Proposal, notably because the coordination in the auctions calendar is centralised and the

allocation is based on transparent contractual and operational rules, with a single contractual framework that facilitate the access to all market participants in a non discriminatory way. Besides, by auctioning forward capacities through a vehicle of cooperation that also performs other tasks, in particular explicit allocation for other timeframes, the choice of TSOs in this SAP Proposal ensures an optimisation of costs that will benefit to the community

- (12) Through this SAP Proposal, the TSOs fulfil their obligations under the directive 2009/72/EU and the FCA Regulation to ensure the provision of non-discriminatory access to long-term cross-zonal capacity by centralising the process of entitlement to all European borders for all market participants.
- (13) Furthermore, the SAP Proposal ensures fair and non-discriminatory treatment of all affected parties, as it sets rules to be applied by all TSOs. Additionally, the SAP Proposal assures transparency when accessing forward capacity allocation related information.
- (14) Further, the SAP Proposal provides for a regime which respects the need for a fair and orderly forward capacity allocation and orderly price formation as a harmonised set of allocation rules is envisaged with a single capacity allocation algorithm in the allocation.
- (15) Regarding the objective of transparency and reliability of information on forward capacity allocation, the SAP Proposal assures a single and centralised source of information related to forward capacity allocation.
- (16) The SAP Proposal should foster liquidity by easing access to the market in a non-discriminatory and cost-efficient manner, taking into account the existing allocation process.
- (17) Also the SAP Proposal contributes to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union, as it optimises allocation of long-term capacity, reflecting congestion on all EU borders in an efficient way.
- (18) In conclusion, the SAP Proposal contributes to the general objectives of the FCA Regulation to the benefit of all market participants and electricity end consumers.

SUBMIT THE FOLLOWING SAP PROPOSAL TO ALL REGULATORY AUTHORITIES:

Part 1

General Provisions

Article 1 - Subject matter and scope

1. All TSOs lay down in this SAP Proposal the functional requirements, governance, liabilities and cost sharing requirements for the SAP. The SAP shall enable the TSOs to fulfil the requirements of Article 50 of the FCA Regulation and will cover all Bidding Zone borders where forward capacity allocation applies according to the applicable HAR, as amended from time to time in accordance with the FCA Regulation.

2. All TSOs agree to use JAO as the SAP Operator and shall ensure through the SAP Operator, as a vehicle of cooperation, that the SAP is operational and complies with the functional requirements of this SAP Proposal, the HAR and the FCA Regulation.
3. The mutual rights, obligations and liabilities between all TSOs and the SAP Operator for the development and operation of the Single Allocation Platform will be laid down in a SAP Cooperation Agreement in accordance with Part 2 Title 2 of this SAP Proposal.
4. The terms in the SAP Cooperation Agreement shall be without prejudice to any other obligations of the TSOs in accordance with the FCA Regulation.
5. Any other tasks performed by the SAP Operator on behalf of one or more TSOs which do not relate to the SAP Tasks fall out of the scope of this SAP Proposal.

Article 2- Definitions and interpretation

1. For the purpose of the establishment of the SAP, terms used in this document shall have the meaning of the definitions included in the Commission Regulation (EU) No. 2015/1222, the FCA Regulation, the HAR as amended from time to time, Regulation (EC) 714/2009, Directive 2009/72/EC and Commission Regulation (EU) 543/2013. All TSOs and the SAP Operator shall use the same terms in the agreements to be concluded and other documents to be prepared in accordance with the SAP Proposal.
2. In addition, in this SAP Proposal, unless the context requires otherwise, the following terms shall have the meaning below:
 - a. "Auction Results" includes the determination of the total quantity of the allocated long-term transmission rights per Bidding Zone border and direction, identification of winning Bids to be fully or partially satisfied and determination of the Marginal Price per Bidding Zone border and direction;
 - b. "Message Standards" means set of standardized messages required for the use of Auction Tool;
 - c. "Operational Procedures" means the procedures defining the operational process in relation to respective tasks and for respective Bidding Zone borders and/or TSOs;
 - d. "Allocation Border(s)" means the Bidding Zone border(s) and/or their subsets as listed in the applicable HAR where the entity appointed as the SAP Operator is auctioning the products for the long-term timeframe;
 - e. "Fee Application Report" means an annual report submitted by the SAP Operator to the relevant SAP body in which the results of the fee calculation is provided for all TSOs in accordance with the SAP Cost Sharing Methodology;
 - f. "SAP Council" means the communication and decision making forum between all TSOs and the SAP Operator established with the SAP Cooperation Agreement for the monitoring and the governance of SAP Tasks dealing with the implementation of the SAP Cooperation Agreement and the HAR, with direct decision making power as per Article 7; and
 - g. "SAP Cooperation Agreement" or "SAP CA" means the agreement between all TSOs and the SAP Operator for the provision of the SAP Tasks;
 - h. "SAP CA Parties" means all TSOs and the SAP Operator party to the SAP CA;
 - i. "SAP Operator" means the vehicle of cooperation providing the SAP Tasks on behalf of all TSOs, in particular the operation of the SAP;

- j. "Yearly Calendar Product" means a product with a delivery period starting on January 1st and ending on December 31st of the same year.
 - k. "Yearly Non-Calendar Product" means a product with a delivery period starting on October 1st and ending on September 30th of the following year.
 - l. "Seasonal Product" means a product with a 6 calendar months delivery period either starting on October 1st and ending on March 31st of the following year or starting on April 1st and ending on September 30th of the same year.
 - m. "Quarterly Product" means a product with a 3 calendar months delivery period either :
 - starting on January 1st and ending on March 31st
 - starting on April 1st and ending on June 30th
 - starting on July 1st and ending on September 30th
 - starting on October 1st and ending on December 31st
 - n. "Monthly Product" means a product with a calendar month delivery period starting on the 1st day of the calendar month and ending on the last day of the same calendar month.
 - o. "Weekly Product" means a product with a five days delivery period starting on a Monday and ending on Friday of the same week.
 - p. "Week-end Product" means a product with a two days delivery period starting on a Saturday and ending on a Sunday.
3. In addition, in this SAP Proposal, unless the context requires otherwise:
- a. the singular indicates the plural and vice versa;
 - b. the table of contents and headings are inserted for convenience only and do not affect the interpretation of this SAP Proposal;
 - c. the reference time zone is Central European Time (CET) and
 - d. any reference to legislation, regulations, directives, orders, instruments, codes or any other enactment shall include any modification, extension or re-enactment of it when in force.

Article 3-Structure

The SAP Proposal sets out in Part 2 and 3 the detailed rules for the following:

- a. Part 2: the SAP governance rules and SAP functional requirements; and
- b. Part 3: the SAP Cost Sharing Methodology.

Article 4- Implementation

1. In accordance with Article 48(1) of the FCA Regulation, all TSOs shall ensure that the SAP is operational and complies with the functional requirements within twelve months after the national regulatory authorities have approved the SAP Proposal or a decision has been taken by the Agency in accordance with Article 4(9) to (11) of the FCA Regulation.
2. For Direct Current Interconnectors, concerned TSOs shall ensure the SAP is operational and complies with the functional requirements specific to their forward capacity allocations no later than 24 months after the national regulatory authorities have approved the SAP Proposal or a decision has been taken by the Agency in accordance with Article 4(9) to (11) of the FCA Regulation

Article 5- Language

The reference language for this SAP Proposal shall be English. For the avoidance of doubt, where TSOs need to translate this SAP Proposal into their national language(s), in the event of inconsistencies between the English version published by all TSOs in accordance with Article 4(13) of the FCA Regulation and any version in another language the relevant TSOs shall, in accordance with national legislation, provide the relevant NRAs with an updated translation of the SAP Proposal.

Part 2:

Chapter 1: Governance rules

TITLE 1

General provisions

Article 6- Scope

1. In accordance with the FCA Regulation, all TSOs have the responsibility to establish and operate the SAP.
2. On this basis, all TSOs acknowledge and agree that the SAP Operator is established and operates the SAP, on behalf of the TSOs, in accordance with the legal framework of the place where it is officially registered.
3. All TSOs and the SAP Operator shall participate in the SAP Council signing the SAP CA to fulfil the SAP Tasks in accordance with the FCA Regulation.

Article 7 - SAP Council

1. All TSOs shall cooperate through the SAP Operator as an existing vehicle of cooperation and shall sign the SAP CA to be member of the SAP Council.
2. The SAP Council shall follow the rules set out in the SAP CA in accordance with Article 8.
3. All SAP CA Parties are members of the SAP Council.
4. The concerned TSOs that are SAP CA Parties shall decide within the SAP Council on Operational Procedures per Bidding Zone border or per CCR where applicable.
5. The SAP Council shall be the sole competent body for deciding on matters related only to the fulfilment of the SAP Tasks in accordance with the FCA Regulation and as specified below:
 - a. all matters regarding the Operational Procedures related to the functional requirements in accordance with Article 7(4) of this SAP Proposal and Article 49 of the FCA Regulation;
 - b. all matters mentioned in the SAP Cost Sharing Methodology related to the establishment, the development and the operation of the SAP as defined in the Articles 57 to 65 of the SAP Proposal and in accordance with Article 59 of the FCA Regulation;
 - c. any appointment of a third party with the tasks of financial clearing and settlement of Auctions with regard to SAP Tasks in accordance with Article 12 (1) of the SAP Proposal;
 - d. to ensure regular reporting from the SAP Operator to all TSOs (regular written report, periodic meetings, calls and also extraordinary reports), including the content and regularity of the reports;
 - e. to ensure satisfactory performance of the SAP and defining appropriate actions when needed; and;
 - f. all matters related to the calculation and validation of the fees to be paid by all TSOs for the SAP Tasks.
6. For decisions under paragraph 5(a) of this Article, decisions shall be taken unanimously by the concerned TSOs that are SAP CA Parties per Bidding Zone border or per CCR where applicable. In case unanimity cannot be reached at the first round between the concerned TSOs that are SAP CA Parties, alternative proposals shall be submitted for a second round. The SAP Operator shall have an

advisory role and shall be consulted on the recommended decisions by the concerned TSOs. Where the unanimous decision of concerned TSOs can lead to significant risks and operational costs for the SAP Operator, the decision on such Operational Procedures shall be taken by all TSOs that are SAP CA Parties and qualified majority principles in accordance with Article 4(2) of the FCA Regulation shall apply

7. For decisions pursuant to paragraphs 5(b)-5(f) decisions shall be taken unanimously by all TSOs that are SAP CA Parties. In case unanimity cannot be reached, alternative proposals shall be submitted for a second round. In case unanimity cannot be reached at the second round, qualified majority principles in accordance with Article 4(2) of the FCA Regulation shall apply. The SAP Operator shall have an advisory role and shall be consulted on the recommended decisions by TSOs.

TITLE 2

SAP Cooperation Agreement (SAP CA)

Article 8 - Parties and scope of the SAP CA

1. The SAP CA shall be consistent with the objectives of the FCA Regulation.
2. The SAP CA shall set forth all rights and obligations of the SAP CA Parties and contain all relevant Operational Procedures related to the SAP Tasks listed in Article 50 of the FCA Regulation. The SAP CA shall supersede all previous agreements, whether oral or in writing, between the SAP CA Parties relating to the same scope of SAP Tasks and delivery period for long-term transmission rights. The SAP CA shall comply with the rules set out in the present SAP Proposal, without limitation to other arrangements which may be necessary.
3. The TSOs shall explicitly establish and operate through the SAP Operator the SAP in compliance with the SAP CA, the applicable HAR and the functional requirements as proposed by all TSOs in accordance with Article 49(2) of the FCA Regulation.
4. During the execution of the SAP Tasks, the SAP Operator shall act on behalf of the TSOs but on its own name unless otherwise agreed by the SAP CA Parties. The SAP Operator shall be the counterparty to the Registered Participants regarding the rights and obligations arising from the HAR, including any contractual liability in relation to the obligations under the Participation Agreement and the HAR for all tasks related to the SAP.

Article 9- SAP Tasks

The SAP Operator shall provide for at least the following tasks:

- a. the registration of market participants;
- b. providing a single point of contact to market participants;
- c. the operation of auction procedures;
- d. the financial settlement of allocated long-term transmission rights with market participants, including management of collaterals;
- e. the cooperation with a clearing house, if required by the common rules for the implementation of FTRs - obligations pursuant to Article 34 of the FCA Regulation;
- f. the organisation of a fallback procedure pursuant to Article 42 and 46 of the FCA Regulation;
- g. enabling the return of long-term transmission rights pursuant to Article 43 of the FCA Regulation;
- h. facilitating the transfer of long-term transmission rights pursuant to Article 44 of the FCA Regulation;

- i. the publication of market information pursuant to Article 47 of the FCA Regulation;
- j. providing and operating interfaces for data exchange with market participants; and
- k. reporting the relevant information upon prior decision of TSOs and on behalf of TSOs.

Article 10– Change of SAP Tasks' scope

1. The SAP CA shall provide rules to ensure that any change of the HAR or the FCA Regulation is communicated by TSOs to the SAP Operator in order to assess the change and prepare its implementation.
2. In case of inconsistency between the HAR or the FCA Regulation and the SAP CA, the HAR or the FCA Regulation shall prevail and the SAP CA shall be adapted accordingly

Article 11- Remuneration of the SAP Operator

1. The SAP CA shall contain rules regarding the financial contribution of each TSO to the SAP Tasks, including the regularity of calculation and payment of the fee to be paid by the TSOs. It shall also be stated that every TSO is responsible solely for its own fee and that TSOs do not bear joint and several liability regarding the fees payable to the SAP Operator.
2. The SAP CA shall include a detailed process on calculating the fee of the SAP Tasks, including the composition, checking procedure and finalization of the Fee Application Report in accordance with the SAP Cost Sharing Methodology. The SAP CA shall contain the process of adjusting the fees during the year by the SAP Operator. Each TSO shall contribute to the remuneration of the SAP Operator up to its annual fee calculated in accordance with the SAP Cost Sharing Methodology defined in Chapter 3.
3. The SAP CA shall regulate the content and issuance of invoices, deadline of payments and process for contestation and correction of invoices.

Article 12 - Auction incomes and Financial Flows

1. The SAP Operator operates the financial clearing and settlement of all Auctions with regard to SAP Tasks or appoints a third party with this task for all or some Auctions subject to Article 14, furthermore the invoicing of the Registered Participants according to the conditions of the HAR and the Operational Procedures. In case of appointment of a third party, the SAP Operator shall seek the approval of the SAP CA Parties.
2. The SAP Operator will distribute the Auction incomes (revenues) to the TSOs according to the Operational Procedures.
3. The SAP CA shall regulate the process of triggering the collaterals by the SAP Operator in case that Registered Participants fail to pay their debts or part thereof. The SAP CA Parties shall agree on principles of debtor risks (e.g. which part of the collaterals can be triggered).
4. The SAP CA shall contain settlement rules in case of curtailment, off-setting and reconciliation in accordance with the FCA Regulation and the HAR.

Article 13 - Cooperation of SAP CA Parties

The SAP CA shall contain rules about the cooperation structures between the SAP CA Parties as follows:

- a. creation of a users' group: the users' group shall serve as a consultation forum of the SAP CA Parties, organised by the SAP Operator on behalf of all TSOs to gather feedback and requests on the IT interfaces and the SAP Tasks;

- b. the SAP CA Parties shall agree within the SAP CA on detailed tasks and organisational issues of the SAP Council;
- c. the SAP CA Parties shall agree on rules about regular reporting from the SAP Operator to the TSOs (regular written report, periodic meetings, calls and also extraordinary reports), including the content and regularity of the reports).
- d. following a request that a specific TSO may submit at its own discretion, the SAP Operator shall communicate to the relevant NRA the information indicated in the TSO's request and on its behalf;
- e. the SAP CA Parties shall also agree on which data shall be exchanged by email including but not limited to the Auction Calendar, the Offered Capacity and the Auction Results; and
- f. the SAP CA shall fix rules on the working hours when the SAP Operator shall be available for the TSOs.

Article 14- Audit rights of TSOs

Each TSO shall have the right to monitor/audit the fulfilment of the SAP Operator's obligations related to the establishment, the development and the operation of the SAP by an independent, internationally recognised, certified public audit firm. The SAP CA shall contain the activities/processes, which shall be audited, the rules for calling for audit, the rules for the sharing of the audit costs as well as other detailed rules.

Article 15- Management of the SAP

1. The SAP CA Parties shall agree on the availability of the Auction Tool, resolution of forced outage of the Auction Tool, test of relevant system updates and making available the manuals in English for the users of the Auction Tool.
2. In case the agreed level of performance is not reached, all TSOs shall take appropriate actions covered in the SAP CA.

Article 16 - Liability

1. The SAP CA shall state that each Party shall be liable for damages the Party is responsible for (Defaulting Party) and shall include rules of liability between the SAP CA Parties and rules of liability in relation to third party claims.
2. Regarding the liability between the Parties, the following shall be determined in the CA:
 - a. Except for cases of force majeure, SAP CA Parties shall be entitled to claim compensation for any and all losses, damages, charges, fees or expenses, which were foreseeable and unforeseeable and which can be considered as direct damage, resulting from a breach of the SAP CA or the HAR. Loss of Auction revenues shall constitute direct damage;
 - b. SAP CA Parties shall fix a cap of liability for breaching confidentiality obligations;
 - c. Parties shall fix a cap of liability for breaches of the SAP CA or the HAR (being understood that such a cap shall be different from the one set out for the breaches of confidentiality obligations);
 - d. SAP CA Parties shall have no cap in case of gross negligence, wilful misconduct, fraud or intentional breach;
 - e. SAP CA Parties shall not bear joint and several liability towards each other; and
 - f. SAP CA Parties shall not be liable for indirect damages (loss of goodwill, loss of business, loss of profit, etc.), except in case of gross negligence, wilful misconduct, fraud or intentional breach.
3. Regarding the liability in relation to third party claims the following shall be determined in the CA:
 - a. SAP CA Parties facing a claim for damages (Defending Party) suffered by a third party shall notify the other Parties promptly, and inform them to the possible extent about the content of the claim;

- b. Affected Parties (Defending Party and alleged Defaulting Parties) shall cooperate in the defence set up by Defending Party towards the third party claim; and
 - c. SAP CA Parties shall agree on the rules for complaining compensation by the Defending Party from the Defaulting Parties.
4. The SAP Operator shall have sufficient insurance coverage for the whole duration of the CA, and upon request of any TSO, the SAP Operator shall provide a report confirming this sufficient character.

Article 17 - Confidentiality

1. The SAP CA Parties shall be obliged to maintain confidentiality of the confidential information.
2. The SAP CA shall define confidential information (including exclusions such as public information, information disclosed by a third party, etc.), as well as the disclosing and receiving party.
3. The obligations of the SAP CA Parties regarding confidentiality include but are not limited to:
 - a. obligation not to disclose confidential information to a third party,
 - b. obligation not to use information other than for the purpose of the SAP CA; and
 - c. obligation to safeguard the information with same degree as its own confidential information.
4. The exceptions to confidentiality obligations include but are not limited to:
 - a. case of a request by administrative/regulatory authority or judge; and
 - b. cases covered by national law, provisions of the FCA regulation or other relevant EU legislation.
5. Confidential information remains the property of the disclosing party and shall contain rules for return/destruction of confidential information upon request/after termination of the SAP CA.
6. The SAP CA shall contain sanctions of breaching confidentiality obligations.
7. Confidentiality provisions survive the termination/expiry of the SAP CA.

Article 18 - Assignment of rights and obligations

1. The SAP CA Parties shall agree that the SAP CA cannot be transferred or assigned to a third party without the prior, express and written consent of all other SAP CA Parties.
2. Any TSO shall be able to freely transfer its rights and obligations in certain cases (ceasing to qualify as TSO, assigning to a controlled company, etc.), but a prior written notification to the other Parties shall be required in these cases.

Article 19 - Severability

The SAP CA Parties shall agree that if any part or provision of the SAP CA becomes invalid, illegal, void or unenforceable, it does not affect the other parts or provisions of the SAP CA. The Parties shall replace it/them with valid, legal and enforceable provisions in order to achieve the intended economic and legal effect of the CA.

Article 20 - Waiver

The SAP CA Parties shall agree that no failure or delay by a SAP CA Party in exercising any right or remedy provided by law or under the CA shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any further exercise of it or the exercise of any other remedy.

Article 21 - Amendment

The SAP CA shall contain conditions under which the agreement may be amended, and the process of amendment shall be also described (in writing, approval of Regulatory Authorities, etc.).

Article 22 - New Parties

The SAP CA shall include the following conditions regarding the adherence of new SAP CA Parties to the SAP CA:

- a. the new party shall be a TSO;
- b. the new party shall sign an Adherence Form a template of which shall be attached to the SAP CA as an Annex; and
- c. the accession shall become valid when confirmed by the SAP Operator and concerned TSO(s) of the Bidding Zone border(s) where forward capacity allocation takes place. Such confirmations shall not be unreasonably withheld.

Article 23 - Language

The SAP CA shall fix the English language as the language for all notices and legal proceedings to the extent permitted by relevant mandatory legislation.

Article 24 - Notices

1. SAP CA Parties shall agree on the form, delivery, effectivity of notices and they shall list in an Annex attached to the SAP CA the contact persons for all Parties.
2. The SAP CA Parties shall agree on the process of modification of contact persons.

Article 25 - Applicable law

The governing/applicable law shall be the law of the country where the SAP Operator is headquartered.

Article 26 - Settlement of disputes

The SAP CA Parties shall agree on a two-level settlement of disputes:

- a. amicable settlement according to which the SAP CA Parties shall first attempt to solve their disputes by mutual discussion in a certain timeframe. When the SAP CA Parties reach an amicable settlement, they shall sign a settlement contract; and
- b. arbitration to which the SAP CA Parties shall resort their dispute only failing to reach an amicable settlement. For this case, the Parties shall agree on the place of arbitration, the rules to follow, the language of arbitration, number and proficiency of arbitrators. The SAP CA Parties shall agree that the arbitration decision is a final decision and cannot be a subject to any appeal.

Article 27 - Entry into force and Duration

1. The SAP CA shall enter into force on the date it has been validly signed by each of the SAP CA Parties and at the latest within the deadline set in Article 4 of this SAP Proposal. In the event that the SAP CA Parties do not sign it on the same date, the date of last signature shall be considered as the date that this SAP CA comes into force.
2. The duration of the SAP CA will be defined in the SAP CA. It is however understood that such duration shall be fixed in relation to the tasks performed by the SAP Operator and especially the nature of such tasks.

Article 28- Termination and Suspension

1. The SAP CA Parties shall agree that an individual Party can terminate the SAP CA as from 1 January of any given year, with a 12 months' notice period with a registered letter sent to all other Parties.
2. The SAP CA Parties shall agree on which cases the SAP CA can be terminated with "good cause". In these cases, all SAP CA Parties shall be entitled to terminate the SAP CA to the last day of the next calendar month, while a six month notice period shall be required.
3. The SAP CA shall contain that in case of termination by one or more SAP CA Party(ies), the SAP CA remains in force and binding towards the remaining SAP CA Parties.
4. Any obligation originated from the time before termination shall continue until it is exercised/fulfilled.
5. The SAP Operator shall have the right to suspend the provision of the SAP Tasks in case a TSO breaches its obligations to provide information relating to the amendment of the HAR that can result to adverse effect on the SAP Operator, such as increase of risk, increase of liabilities or no possibility of the SAP to fulfil obligations under the applicable HAR.

Article 29 - Force Majeure

1. The SAP CA Parties shall agree that they cannot be held responsible for the non-fulfilment of the obligations affected by force majeure. SAP CA Parties shall define force majeure as in the HAR and to include situations, like disasters, flood, earthquake, epidemic, social events (war, riot, embargo, etc.) and labour actions (strike, slow-down of work, etc.).
2. In case the situation of force majeure affecting the obligations of at least one of the SAP CA Parties lasts for a period of at least six (6) months or if it is realised that it will continue for a period of at least six (6) months or if the suspension of the obligations due to force majeure makes the performance of the SAP CA impossible, then the SAP CA may be terminated by either Party by giving a written notice.

Article 30 - Annexes

1. The SAP CA shall contain the necessary annexes, to be an integral part of the SAP CA, covering at least the following:
 - a. a list of contact details of the Parties;
 - b. an overview of the SAP Tasks agreed for a Bidding Zone border;
 - c. the Operational Procedures;
 - d. the annual Fee Application Report;
 - e. adherence form to enable new parties to adhere to the SAP CA.
2. The SAP CA shall define the hierarchy in case of contradiction between the terms of the main body and the annexes of the SAP CA.

Chapter 2: Functional requirements

TITLE 1

Harmonised contractual framework with market participants

Article 31– General provisions

1. The SAP shall, in compliance with the applicable HAR, enable participation in forward Capacity Allocation processes to all market participants who:
 - a. conclude a valid and effective Participation Agreement;
 - b. accept Information System Rules of Auction Tool and have access to the Auction Tool in accordance with the HAR ; and
 - c. accept additional financial terms where needed in accordance with the HAR.
2. The SAP Operator shall comply with the requirements and processes for participation in the Auctions and transfer as specified in the HAR. The HAR shall stipulate the process for the conclusion of the Participation Agreement and its update, including deadlines for all relevant actions envisaged on both market participants' and the SAP Operator's side.

TITLE 2

Principles of financial settlement and risk management of allocated products

Article 32– Collaterals

1. Collaterals provided by Registered Participants in order to secure payments resulting from Auctions of long-term transmission rights shall be handled by the SAP Operator.
2. The SAP Operator shall comply with the rules of collateral management specified in the HAR with the following:
 - a. the forms of accepted collaterals: Bank Guarantee and cash deposit;
 - b. the currency of accepted collaterals;
 - c. the validity and collateral renewal process;
 - d. the modification of collaterals;
 - e. the deadline for collateral submission before relevant auction;
 - f. the specification of the confirmation or the refusal by the SAP Operator about the acceptance of the collaterals;
 - g. the collateral incidents and the details of incident notification sent by the SAP; and
 - h. the procedure of calling on and restoration of collaterals.

Article 33– Credit Limit

1. The SAP shall be able to verify the validity of collaterals in form of a Bank Guarantee, calculate and continuously update the Credit Limit of each Registered Participant according to the HAR.
2. The SAP shall be able to check the maximum payment obligation and Credit Limit relation at Bid submission and at closure of the Bidding Period according to the HAR.

Article 34– Invoicing and Payment

The SAP Operator shall comply with the settlement of payments and invoicing procedures defined in the HAR with the following:

- a. the calculation of due amounts for all long-term transmission rights;
- b. the currency of all financial information, prices and amounts due including deviations required by applicable law or regulations;
- c. the deadline to settle the given amount and any interest for late payment;
- d. taxes and levies at a rate and to the extent applicable when assessing payment obligations and issuing invoices;
- e. the rounding of due amounts;
- f. the calculation of monthly instalments;
- g. the application of tax deduction if required;
- h. the invoicing and payment conditions including the process of issuing invoices; invoicing in case of curtailment and return; deadlines for invoicing; invoice correction process; and application of bank fees;
- i. the process of payment in case of disputes and dispute resolution; and
- j. late payment and payment incident situations.

Article 35– Remuneration of Long Term Transmission Right Holders

1. The SAP Operator shall pay out Registered Participants who returned long-term transmission rights a remuneration equal to the value of the returned long-term transmission rights according to the HAR.
2. The SAP Operator shall remunerate the long-term transmission rights holder for the Financial Transmission Rights and non-nominated Physical Transmission Rights, which are reallocated at the relevant daily allocation in accordance with the HAR.

Article 36– Compensation for curtailments

1. In cases of curtailment to ensure operation remains within Operational Security Limits before the Day Ahead Firmness Deadline, the SAP Operator shall compensate the long-term transmission rights holder in accordance with the HAR.
2. In the case of Force Majeure before the Day Ahead Firmness Deadline, holders of curtailed long-term transmission rights shall be entitled to receive a reimbursement in accordance with the HAR.
3. In the event of Force Majeure or Emergency Situation after the Day Ahead Firmness Deadline, the SAP Operator shall compensate holders of curtailed long-term transmission rights in accordance with Article 72 of Commission Regulation (EU) No. 2015/1222.

TITLE 3

Products, allocation methods and algorithms

Article 37 – General provisions

1. The SAP shall be able to allocate long-term transmission rights to Registered Participants by way of Explicit Allocation. Prior to the Auction the SAP Operator shall publish Auction Specifications on its website in line with the HAR.

2. The Auctions shall be organised via the Auction Tool. Each Registered Participant fulfilling the requirements for participating in the Auction may place Bids in the Auction Tool until the relevant deadline for placing Bids in the specific Auction expires according to the respective Auction Specification.
3. The SAP Operator shall comply with the applicable HAR regarding the following:
 - a. list of information to be provided within the Auction specification;
 - b. minimum deadline for provision of all information relevant for specific auction, including publication of Auction Specification, Offered Capacity;
 - c. form and content of Bids;
 - d. conditions upon which fulfilment Bids are registered;
 - e. criteria of Credit Limit verification as specified in Article 34 of this SAP Proposal;
 - f. auction results determination;
 - g. notification of provisional and final Auction Results; and
 - h. procedure of contestation of Auction Results.
4. The SAP Operator shall provide information on forthcoming Auctions by publishing on its website a provisional Auction calendar with the dates of Auctions reasonably in advance before the Auctions take place.

Article 38– Form of products and covered Bidding Zone borders

1. Unless stated otherwise in the HAR, the standard Forward Capacity Allocation timeframes, subject to product availability, shall include at least the following:
 - a. yearly timeframe; and
 - b. monthly timeframe.
2. Unless the combination of the approved long-term transmission rights proposals pursuant to Article 31 of the FCA Regulation would lead to a shorter list (in which case the resulting shorter list shall be withheld for the purposes of the present Article), the SAP shall be able to allocate the following forms of products:
 - a. Yearly Calendar Product and Yearly Non-Calendar Product;
 - b. Seasonal Product;
 - c. Quarterly Product;
 - d. Monthly Product;
 - e. Weekly Product and Weekend Product.
3. The SAP shall be able to allocate long-term transmission rights on all Bidding Zone borders covered by the HAR.

TITLE 4

Operational processes

Article 39 –Publication of the Offered Capacity

1. The SAP Operator shall receive the amount of long-term cross-zonal capacity to be offered in the respective auction directly from the TSOs or the coordinated capacity calculator where relevant.
2. The SAP Operator shall publish the Offered Capacity including Reduction Periods (if applicable) in accordance with the HAR.

Article 40– Bids submission and registration

1. The SAP shall enable Bids' submission including default Bids in accordance with the HAR and in accordance with the Information System Rules of the Auction Tool.
2. Bids shall be submitted to the SAP in accordance with the formats defined in the documentation available on the SAP Operator's website. The SAP shall be able to ensure that the bids, which are not submitted in the required format, shall not be taken into account.
3. Bids shall be accepted or rejected in accordance with the formats defined in the documentation available on the SAP Operator's website and in accordance with the HAR and consequently be used in the Auction Results determination. The SAP Operator shall maintain a record of all Bids received.

Article 41– Capacity and Nomination curtailment

1. Long-term transmission rights may be curtailed in the event of Force Majeure, or to ensure operation remains within Operational Security Limits in accordance with the FCA Regulation and the HAR.
2. TSOs, or the Coordinated Capacity Calculator where relevant, shall submit the long-term cross-zonal capacity curtailment request to the SAP, which shall be able to reduce the held rights accordingly, and the SAP Operator shall compensate or reimburse the holders of curtailed long-term transmission rights in accordance with the HAR.
3. In case of curtailment of nominated Physical Transmission Rights, TSOs shall send the curtailed nominations to the SAP after having sent the non-curtailed values. The SAP shall be able to calculate the compensation to be paid to holders of curtailed nominated Physical Transmission Rights based on the curtailed nominations in accordance with the HAR.
4. The SAP Operator shall publish as soon as possible information that there is a curtailment of long-term transmission rights.

Article 42– Auction Results Determination

After the Bids' submission, the SAP shall be able to determine the Auction Results (allocated quantity, auction price and winning Registered Participants) in accordance with the HAR.

Article 43– Notification of provisional Auction results

The SAP Operator shall publish as soon as possible the provisional Auction Results in accordance with the HAR.

Article 44 – Contestation of Auction Results

The SAP Operator shall enable contestation of the Auction Results in the event Registered Participants believe the Auction Results to be erroneous. The SAP Operator shall process the contestation in accordance with the HAR.

Article 45 - Return of Long Term Transmission Rights

1. The SAP shall enable returns of long-term transmission rights in accordance with the HAR, the SAP shall make the returned capacity available in the subsequent Auction.
2. The SAP Operator shall, on behalf of TSOs, compensate the Registered Participant for the return of long-term transmission rights in accordance with the HAR.
3. The details regarding the required information and format of the return that are to be accepted by the SAP Operator are further defined in the HAR.

Article 46 - Transfer of Long Term Transmission Rights

The SAP shall enable Transfer of long-term transmission rights in accordance with the HAR and in accordance with the Information System Rules of the Auction Tool.

Article 47 - Notice Board

The SAP Operator shall make a notice board available to Registered Participants, free of charge in accordance with the HAR.

Article 48 - Use and remuneration of Long Term Transmission Rights

1. The SAP shall provide Registered Participants and respective TSOs with a Rights Document containing the long-term transmission rights that the Registered Participant holds and is entitled to nominate in accordance with the relevant Nomination Rules, in the event of Physical Transmission Rights.
2. The SAP Operator shall remunerate Financial Transmission Rights or non-nominated Physical Transmission Rights in accordance with the HAR.

Article 49 - Fall-back procedures – General provisions

The SAP Operator shall, to the extent reasonably practicable, organise fall back procedures in line with the HAR for the following cases:

- a. failure at the site of the SAP of the standard processes for data exchange via the Auction Tool;
- b. technically no feasibility to hold an auction;
- c. technically no feasibility to return long-term transmission rights;
- d. technically no feasibility to notify a transfer of long-term transmission rights; and
- e. technically no feasibility to notify who will be nominating the long-term cross-zonal capacity.

Article 50 - Auction cancellation

The SAP Operator may cancel an Auction in the event of technical issues prior to the results being final provided that adequate fallback procedures were available at the time of the incident and that these procedures have been initiated pursuant to Article 49, or after the Auction Results are final in the event that the Auction Results are erroneous, in accordance with the HAR. The SAP Operator shall inform Registered Participants and respective TSOs about the Auction cancellation.

TITLE 5 Data Interfaces

Article 51 - Information System Rules

The Information System Rules shall set down the terms and conditions for access to, and use of the Auction Tool by the Registered Participants and their user(s). The SAP Operator shall develop and operate the Auction Tool in accordance with the Information System Rules.

Article 52 - Message Standards

1. The SAP Operator may define which Message Standards are required for the use of the Auction Tool. Each Message Standard shall be available on the SAP Operator's website, by way of a link to the relevant ENTSO-E standards as published on ENTSO-E's website. Registered Participant's messages shall comply with the Message Standards, failing which they will be rejected.
2. The SAP Operator is entitled to modify Message Standards. The SAP Operator shall notify the Registered Participants of the new Message Standards, together with the date on which they come into force on its website with reasonable prior notice.
3. The date and time generated by the Auction Tool, as appearing in the messages received or sent by the SAP, will be the only date and time taken into consideration for evidence purposes.
4. The SAP shall be able to archive data logs and messages for the purpose of any dispute in accordance with the Information System Rules and the applicable legislation.

TITLE 6

Technical availability and reliability of provided tasks

Article 53 - Participants' support

1. The SAP Operator shall offer support in relation to the Auctions to the Registered Participants during Working Hours. Contact details of the SAP Operator for this purpose will be published on the SAP Operator's website. Registered Participants will be informed on any change of working hours or contact details via email.
2. All communications shall be in English.

Article 54 - On-call support

The SAP Operator shall provide an on-call support for the TSOs in order to manage possible curtailments outside working hours. This support shall be available for curtailment only and shall be specified in the SAP CA.

Article 55 - Training of TSOs' operators and Registered Participants

In case of substantial evolutions of the Auction Tool, the TSOs may ask the SAP Operator to organise training sessions for TSOs' operators and Registered Participants. The SAP Operator shall comply with this request if assessed by the SAP Operator as reasonable and justified.

Article 56 - Management of Participants' claims

1. The SAP Operator shall be the operational contact towards the Registered Participants for all potential claims. Unless stated otherwise in the HAR, the SAP Operator shall send to the Registered Participant a notification of the receipt of this claim within five (5) Working Days following the receipt.
2. Unless otherwise required in the HAR, the SAP Operator shall consult the involved TSOs with the view to provide an answer to the Registered Participant within twenty (20) Working Days following the day of the receipt of this claim.

Part 3:

Cost sharing methodology

Article 57 - Subject matter and scope

1. All TSOs shall remunerate the SAP Operator with a fee for the provision of the SAP Tasks in accordance with this SAP Cost Sharing Methodology.
2. The SAP Cost Sharing Methodology shall apply to the SAP Tasks, while interaction with costs of other tasks provided by the SAP Operator not covered by the SAP Proposal shall be taken into account for a fair distribution reflecting the operational costs incurred by each SAP Task.
3. The way individual fees computed by the SAP Operator shall respect the nature of the costs and provide savings for the TSOs.
4. The following elements shall at least be taken into account in the calculation of the fee for the SAP Tasks for the next budget year:
 - a. the SAP Tasks, as defined in Article 9;
 - b. the number of TSOs appointing the SAP Operator to perform the SAP Tasks;
 - c. the number of Allocation Borders covered by the SAP per task;
 - d. the total costs budgeted by the SAP Operator;
 - e. the allocation of the SAP's costs to each SAP Task; and
 - f. the cost-plus margin that the SAP Operator charges for the use of the SAP Tasks only if required by the national tax authorities where the SAP Operator is headquartered and at the minimum level possible.

Article 58 - Costs for the establishment, the development and the operation of the Single Allocation Platform

1. The total budgeted costs for operations of the SAP shall be allocated per each SAP Task taking into account all tasks performed by the SAP Operator. A regular reconciliation between the budgeted and the realised costs shall be proposed by the SAP Operator and verified by the SAP Council.
2. The distribution of the budget for operation of the SAP to the SAP Tasks shall be based on direct costs and the allocation of indirect costs where:
 - a. direct costs are directly assigned to the different SAP Tasks; and
 - b. indirect costs are assigned to different SAP Tasks, based on time spent and usage.
3. Indirect costs shall include costs such as but not limited to:
 - a. IT supplies and IT general maintenance costs;
 - b. rent for the SAP Operator;
 - c. audit accounting/IT;
 - d. insurances;
 - e. personnel costs in financial department, human resources department;
 - f. other costs related to human resources (such as recruitment);

- g. office operating costs;
 - h. training; and
 - i. consultancy.
4. The costs related to the establishment of the SAP incurred after the approval, by NRAs of this SAP Proposal shall be borne by all TSOs in accordance with this SAP Cost Sharing Methodology. Such costs shall include at least the investments related to forward capacity allocation, which are related to the SAP Tasks, including the introduction of products listed in Article 38(2) and any related depreciation costs following the approval of the SAP proposal.
5. The costs related to the further development of the SAP after its establishment, covering at least the costs for the development of additional product different from those listed in Article 38(2), additional functions following a change in the HAR or possible new features aiming at improving the performance of the SAP shall be shared between all or concerned TSOs in accordance with this SAP Cost Sharing Methodology.

Article 59- Cost allocation proposal

1. The distribution of the costs to all SAP Tasks (“**Cost Allocation Proposal**”) shall be based on the allocation of direct and indirect costs. The SAP Operator shall provide every year the allocation of the indirect costs to different tasks, first to include the new items and secondly to adapt the time spent parameter, according to the updated processes. The Cost Allocation Proposal for the coming year is part of the annual Fee Application Report in accordance with Article 63 of the SAP Proposal.
2. The Cost Allocation Proposal shall be based on:
 - a. allocation of direct costs to the appropriate SAP Task;
 - b. allocation of Auction related IT costs to the appropriate Auction SAP Tasks based on the relative IT usage;
 - c. split of indirect costs to the appropriate tasks based on a workload assessment per department dedicated in each task performed by the SAP Operator only for SAP Tasks; and
 - d. allocation of a proportionate share of the minimum required cost-plus margin applied on earnings before tax of the SAP Operator to the appropriate SAP Tasks, if required by the national tax authorities where the SAP Operator is headquartered.

Article 60- Cost sharing arrangements

1. The cost-sharing per SAP Task shall be based on different combinations of the two following keys:
 - a. the “Per Allocation Border” cost sharing key; and
 - b. the “Per TSO” cost sharing key.
2. The “Per Allocation Border” cost sharing key shall be the individual ratio of a TSO per SAP Task which is the fraction assigned to this SAP Task and equals to the number of that TSOs’ Allocation Borders, where that SAP Task is performed, divided by the total number of Allocation Borders where this SAP Task is performed. For DC Interconnectors, regardless of the ownership of a DC Interconnector, each side of a DC interconnector should be considered once. The same applies for Allocation Borders operated by only one TSO. For Allocation Borders where there is more than one TSO on one side, the Allocation Border is counted once as a total and split equally between the concerned TSOs.

3. The “Per TSO” cost sharing key means the individual ratio of a TSO which equals to the fraction assigned to a SAP Task divided by the number of TSOs using this SAP Task in total.
4. In combination of the two cost sharing keys depending on the respective SAP Task, the SAP Operator shall define the final ratios per SAP Task per TSO by taking into consideration the nature of the associated costs. The combination of the cost sharing keys applicable to each SAP Task shall be defined in the SAP Fee Structure described in Article 61 of the SAP Proposal and published in the Fee Application Report.

Article 61- The SAP Fee Structure

1. For the SAP Tasks, the SAP Fee Structure shall be based on the SAP Cost Sharing Methodology, and shall define the combination of the cost-sharing keys applicable to each SAP Task. The SAP Fee Structure shall also define the process for any fee adjustment in accordance with the SAP Cost Sharing Methodology.
2. The SAP Fee Structure shall be approved by the SAP Council. If no agreement is reached by October 31st (for the invoicing period from 1 January to 31 December of the following year), the existing cost sharing keys apply (as set out in Article 61 of this SAP Proposal).
3. In case of discrepancy between the SAP Fee Structure and the SAP Cost Sharing Methodology for the SAP Tasks, this latter shall prevail.
4. An amendment of this SAP Cost Sharing Methodology for the SAP Tasks may require a review of the cost sharing arrangements and the SAP Fee Structure accordingly.

Article 62- Proposal of the Fee Application Report

1. The SAP Operator shall provide to the SAP Council the proposal for the yearly Fee Application Report including the individual yearly fee per TSO with a break-down per SAP Task in accordance with this SAP Cost Sharing Methodology, at least once per year before end October of the year preceding the year of application.
2. The SAP Council shall check the proposal for the yearly Fee Application Report and to notify any discrepancy to the SAP Operator.
3. In case a discrepancy is notified by the SAP Council to the SAP Operator, the SAP Operator shall assess the notification and provide the results of this assessment to the SAP Council without undue delay.
4. The Fee Application Report shall include at least the following information:
 - a. SAP Tasks categories (e.g. long-term auctions detailed per form of product, clearing and settlement), fee per SAP Task category;
 - b. applied cost sharing keys per SAP Tasks defined in the SAP Fee Structure ;
 - c. overview of TSOs to which each SAP Task category applies if relevant;
 - d. overview of the number of Allocation Borders per TSO to which the SAP Tasks category applies if relevant;
 - e. Cost Allocation Proposal with the distribution of the costs, including indirect costs, to all SAP Tasks according to the final ratios per SAP Task;

- f. in total the yearly fee per TSO with a breakdown per SAP Task; and
 - g. all the related supporting tables and documents.
5. The proposal for the Fee Application Report shall provide a transparent overview of the cost allocation and the split of costs over the respective SAP Tasks.

Article 63- Extraordinary Update of the Fee Application Report

1. The SAP Operator may, in exceptional circumstances adjust the fees during the year of application of the Fee Application Report and shall provide TSOs with detailed justification for the fee adjustment. The SAP Operator shall inform in such a case the SAP Council by providing a proposal for an updated Fee Application Report.
2. After the proposal for the updated Fee Application Report is provided, the SAP Council shall check within ten (10) working days as defined in the SAP CA whether the application of the SAP Cost Sharing Methodology and the SAP Fee structure resulted in a correct calculation of the individual TSO's fee and to notify any discrepancy to the SAP Operator.
3. In case a discrepancy is notified by the SAP Council, the SAP Operator shall then assess the notification and provide the results of this assessment to the SAP Council without undue delay and at the latest within ten (10) working days as defined in the SAP CA. After the checking procedure described above is completed, the final updated Fee Application Report shall be attached to the SAP CA.
4. The fee adjustment shall always comply with the latest SAP Cost Sharing Methodology approved in accordance with the FCA Regulation.
5. In case one or more of the following changes occur:
 - a. a change in the number or list of the Allocation Borders ;
 - b. number of TSOs acquiring a fulfilment of a SAP Task; and/or
 - c. yearly adaptation based on budget for next year and different allocation for indirect costs,the SAP Operator shall perform a recalculation of the fees and shall propose the adaptation of the fee structure including a date from which the recalculation comes into force. The SAP Operator shall notify the SAP Council about the decision. When notified the members of the SAP Council shall check within ten (10) working days the correct application of the updated individual contribution.

Article 64- Amendments of the SAP Cost Sharing Methodology

1. In case of a request for amendment of the SAP Cost Sharing Methodology in accordance with the FCA Regulation, all TSOs shall consult the SAP Operator on any such amendment.
2. After the amendment of this SAP Cost Sharing Methodology in accordance with the FCA Regulation, all TSOs shall notify the SAP Operator of the amendment as well as how the input provided by the SAP Operator was considered.

Article 65 Relationship to other rules

All TSOs' proposal for the establishment of a Single Allocation Platform (SAP) in accordance with Article 49 and for the cost sharing methodology in accordance with Article 59 of Commission Regulation (EU) 2016/1719 establishing a Guideline on Forward Capacity Allocation



In case of inconsistency between the HAR and the SAP Cost Sharing Methodology or the SAP Operator fee structure, the HAR or the FCA Regulation shall prevail and the SAP Cost Sharing Methodology or the SAP Fee Structure shall be adapted accordingly.

Ověřovací doložka konverze do dokumentu obsaženého v datové zprávě

Ověřuji pod pořadovým číslem **101154491-210663-171010091006**, že tento dokument, který vznikl převedením vstupu v listinné podobě do podoby elektronické, skládající se z **33** listů, se doslovně shoduje s obsahem vstupu.

Zajišťovací prvek: **bez zajišťovacího prvku**

Ověřující osoba: **Alice Bularzová**

Vystavil: **Energetický regulační úřad**

Pracoviště: **Energetický regulační úřad - dislokované pracoviště Ostrava**
v ERU dne **10.10.2017**



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