ACER
European Union Agency for the Cooperation of Energy Regulators

PUBLIC

DECISION No 15/2021
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS

of 29 November 2021

on the TSOs' proposal for amendment of the harmonised allocation rules for long-term transmission rights

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators[1], and, in particular, Article 5(2) thereof,

Having regard to Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation[2], and, in particular, Article 4(5), (6)(d) and (12) and Article 51 thereof,

Having regard to the outcome of the consultation with the concerned regulatory authorities and transmission system operators,

Having regard to the outcome of the consultation with ACER's Electricity Working Group ('AEWG'),

Having regard to the favourable opinion of the Board of Regulators of 19 November 2021, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

[1] OJ L 158, 14.6.2019, p. 22.
[2] OJ L 259, 27.9.2016, p. 42.

1. INTRODUCTION

(1) Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (the 'FCA Regulation') laid down rules on cross-zonal capacity allocation in the forward markets. These rules include specific requirements for the development of harmonised allocation rules ('HAR').

(2) On 29 October 2019, ACER issued its Decision No 14/2019 on the TSOs' proposal for the HAR according to Article 51 of the FCA Regulation.[3]

(3) The present Decision follows from the TSOs' proposal to amend the HAR as approved by Decision No 14/2019. Annex I to this Decision sets out the amended HAR, pursuant to Article 51(1) of the FCA Regulation, as approved by ACER.

2. PROCEDURE

(4) On 20 May 2021, the European Network of Transmission System Operators for Electricity ('ENTSO-E'), on behalf of TSOs, launched a public consultation and published the proposed changes to the existing HAR. The consultation lasted until 20 June 2021.

(5) By email of 25 June 2021, ENTSO-E submitted, '*on behalf of all TSOs*', the amended '*Harmonised allocation rules for Long Term Transmission Rights in accordance with Article 51 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation*' (the 'Proposal for amendment') to ACER for approval, pursuant to Article 5(2) of Regulation (EU) 2019/942.

(6) A supporting document '*HAR Review 2021 Explanatory note*' was submitted for information together with the Proposal for amendment and lists the introduced changes to the HAR methodology and provides reasoning for some of the changes.

(7) On 19 July 2021, ACER launched a public consultation[4] on the HAR, inviting all market participants to submit their comments by 27 August 2021. The consultation document focused on the long-term transmission rights ('LTTRs') remuneration rules and, in particular, on the cap for LTTR remuneration introduced by the TSOs in their Proposal for amendment. The summary and evaluation of the responses received are presented in Annex II to this Decision.

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[3] Decision No 14/2019 of 29 October 2019 on the TSOs' proposal for amendment of the harmonised allocation rules for long-term transmission rights: https://extranet.acer.europa.eu//Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2014-2019%20on%20the%20TSOs%20proposal%20for%20HAR%20amendment.pdf

[4] PC_2021_E_08, see ACER's consultation page: https://documents.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2021_E_08.aspx

(8) On 7 September 2021, ACER started the hearing phase as described in ACER's rules of procedure[5] and invited the regulatory authorities and TSOs to submit their written input and requests for oral hearings by 17 September 2021.

(9) ACER cooperated closely with all regulatory authorities, ENTSO-E and TSOs and further consulted them on various amendments suggested by ACER during teleconferences and through exchanges of textual amendments via email communication. In particular, the following procedural steps were taken in 2021:

- 8 June: discussion with the regulatory authorities during the FCA Task Force meeting[6];
- 2 July: teleconference with the TSOs and regulatory authorities;
- 9 July: teleconference with the TSOs and regulatory authorities;
- 21 September: discussion with the regulatory authorities during the FCA Task Force meeting;
- 28 September: teleconference with the TSOs and regulatory authorities;
- 29 September: discussion with the market participants, TSOs, regulatory authorities and the Commission at the Market European Stakeholder Committee (MESC);
- 7 October: discussion with the regulatory authorities during the AEWG[7];
- 8 November: AEWGs' advice on the ACER draft Decision on the Proposal for amendment; and
- 19 November: Board of Regulators' favourable opinion on the ACER draft Decision on the Proposal for amendment.

3. THE ACER'S COMPETENCE TO DECIDE ON THE PROPOSAL FOR AMENDMENT

(10) According to Article 5(2)(b) of Regulation (EU) 2019/942, proposals for terms and conditions or methodologies, based on network codes and guidelines adopted before 4 July 2019, such as the FCA Regulation, which require the approval of all regulatory authorities, shall be submitted to ACER for revision and approval.

[5] Decision No 19/2019 of ACER's Administrative Board: https://documents.acer.europa.eu/en/The_agency/Organisation/Administrative_Board/Administrative%20Board%20Decision/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf

[6] ACER's platform for discussing all issues connected to the FCA Regulation with the regulatory authorities.

[7] ACER's high level platform for discussing all issues connected to all network codes and guidelines

(11) According to Article 4(5) and (6)(d) of the FCA Regulation, the HAR, pursuant to Article 51 of the same Regulation, shall be subject to approval by ACER.

(12) According to Article 4(12) of the FCA Regulation, proposals for amendment to the HAR, which the TSOs may submit to ACER, shall be submitted to consultation in accordance with the procedure set out in Article 6 of the FCA Regulation and approved in accordance with the procedure set out in Article 4 of that Regulation.

(13) According to Article 4(5) of the FCA Regulation, ACER, before approving the terms and conditions or methodologies, shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of the FCA Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

(14) The Proposal for amendment has been submitted to ACER by ENTSO-E, on behalf of all TSOs, in accordance with Article 51 of the FCA Regulation (i.e. a guideline adopted before 4 July 2019).

(15) Therefore, under the provisions of Article 5(2)(b) of Regulation (EU) 2019/942, in conjunction with Article 4(5), (6)(d) and (12) of the FCA Regulation, ACER is competent to adopt a decision on the Proposal for amendment submitted to ACER on 25 June 2021.

4. SUMMARY OF THE PROPOSAL FOR AMENDMENT

(16) The Proposal for amendment includes the following elements:

a) a ‘Whereas’ section;

b) general provisions, including on the scope of application and on harmonised definitions, in Title 1;

c) requirements and process for participation in auctions and transfer, including harmonised provisions on participation conditions, in Title 2;

d) requirements for collaterals, including harmonised provisions on financial requirements, netting policies and financial collaterals for LTTRs, in Title 3;

e) provisions on auctions, including the description of the forward capacity allocation process, with the auction specification, the submission of bids, the publication of auction results and contestation period, in Title 4;

f) harmonised provisions for the return of LTTRs, in Title 5;

g) harmonised provisions for the transfer of LTTRs, including their notification, in Title 6;

h) principles regarding the use and remuneration of LTTRs, including harmonised Use-It-Or-Sell-It (UIOSI) provisions in case of physical transmission rights, a description of the types of LTTRs which are offered, including the remuneration principles, as well as principle description of the applicable nomination rules, in Title 7;

i) provisions regarding fallback procedures, in Title 8;

j) provisions regarding curtailments, including provisions on firmness and compensation rules, in Title 9;

k) provisions regarding invoicing and payment, including harmonised provisions on financial requirements and settlement, in Title 10; and

l) miscellaneous provisions, referring also to the contractual framework between the single allocation platform and the market participants, including provisions on the applicable law, the applicable language, confidentiality, dispute resolution, liability and force majeure, in Title 11.

(17) The Proposal for amendment, therefore, consists of the complete HAR as contained in Annex I to ACER's Decision No 14/2019, subject to the following TSOs' amendments:

a) replacing references to the repealed regulations with the newly applicable regulations;

b) addition of one paragraph to the recitals that lists the TSOs that are responsible for the development of the proposal and for its submission to ACER;

c) amendments to the use of electronic communication and methods allowed for signing documents, in Articles 7, 9, 16, 21, 24-25, 49-52, 57, 65-66, 74 and 76;

d) amendments to the details concerning taxes, in Article 9 and 62;

e) amendments of necessary details to improve market surveillance, in Article 9;

f) amendments to the provision of the dedicated business account, in Article 12;

g) amendments to clarify conditions for refusal of application to the participation agreement and its suspension, in cases a market participant is under economic sanctions, in Articles 15 and 71; and

h) addition of one paragraph introducing a cap on remuneration of LTTRs in case of fallback, in Article 59.

5. OBSERVATIONS RECEIVED BY ACER

5.1. Public consultation on the Proposal

(18) Responses to ACER's public consultation are summarised in Annex II to this Decision.

5.2. Consultation on ACER's preliminary position

(19) The following paragraphs provide a summary of views on ACER's preliminary position received during the hearing phase between 6 and 17 September 2021. ACER received a written comment from ENTSO-E on behalf of all TSOs. ACER did not receive any requests for oral hearings.

(20) On behalf of the TSOs, ENTSO-E stated in its hearing input the following:

a) Cap on remuneration of LTTRs in case of decoupling[8]

- Uncapped LTTR remuneration creates a revenue inadequacy between the remuneration of LTTRs and the congestion income from explicit auctions (currently used as a fallback method) to the detriment of tariff payers and to the benefit of the overcompensated LTTR holders, thus, the TSOs propose to limit the remuneration pay-outs in case of decoupling by the introduction of a cap;

- Since explicit fallback procedure does not rely on market fundamentals and the underlying price against which LTTRs are settled, the remuneration of LTTRs is no longer representing the value of the day-ahead cross-zonal capacity and cannot be considered as hedging against the day-ahead pricing;

- Uncapped LTTR remuneration is inconsistent with the objectives of the FCA Regulation and Regulation (EU) 2019/943;

- The option to cover decoupling events in Article 48 and 59 of the HAR seems only possible if Article 35 of the FCA Regulation is amended;

- Uncapped LTTR remuneration may distort the technical evolution of the transmission system in the Union as it provides a dis-incentive to offer LTTRs;

- The current remuneration mechanism as set out by the FCA Regulation is unlawful and in contradiction with the need for an orderly price formation of transmission capacities, with the need to promote effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants, with the fair treatment of TSOs and market participants and with the efficient long-term operation and development of the electricity sector in the Union;

- LTTR holders have no incentive to participate in the fallback capacity auction, because of generous payoffs from LTTR remunerations that increase especially when the fallback mechanism performs poorly;

- Nothing in the regulatory framework prohibits the imposition of a remuneration cap to mitigate duly justified risks in case of decoupling;

- Compensation cap is only possible pursuant to Articles 53 to 55 of the FCA Regulation for curtailment of LTTRs and these articles do not relate to the remuneration of LTTRs;

[8] See recital (30) below.

- During curtailment and decoupling, normal market results are not obtained due to unforeseen circumstances. The introduction of the remuneration cap of LTTRs would make the remuneration more in line with the underlying price against which they are settled and with the general principles governing electricity markets; and

- Introduction of the cap for remuneration of LTTRs would comply with Article 35 of the FCA Regulation, since the remuneration mechanism will remain the same (i.e. equal to market spread).

b) Other comments

- ENTSO-E, in its hearing input reacted to some minor clarifying issues that were raised at the beginning of the hearing phase by ACER, e.g. the use of electronic signatures, receipts issued by the single allocation platform to market participants, publication of information.

5.3. Consultation of the AEWG

(21) The AEWG provided its advice on 8 November 2021, endorsing the draft ACER Decision with Annexes. Moreover, AEWG invited ACER to take note of the comments raised by HERA[9] during the AEWG consultation phase.

6. ASSESSMENT OF THE PROPOSAL FOR AMENDMENT

6.1. Legal framework

(22) Article 4(6)(d) in conjunction with Article 4(12) of the FCA Regulation provide that amendments to the approved HAR, in accordance with Article 51 of the same Regulation, are subject to approval by ACER.

(23) Articles 51 and 52 of the FCA Regulation set out specific requirements for the HAR.

(24) According to Article 51(1), the proposal for HAR shall be developed in accordance with the requirements of Article 52(2) and shall be subject to consultation in accordance with Article 6 of the FCA Regulation. Moreover, in accordance with Article 4(12) of the FCA Regulation, the TSOs' proposals for amendment to the terms and conditions or methodologies shall also be subject to consultation in accordance with Article 6 of the FCA Regulation.

[9] The Croatian regulatory authority (HERA) supports the all TSOs' proposal to introduce a cap for remuneration of LTTRs.

(25) According to Article 52(1), the requirements for HAR for LTTRs shall cover physical transmission rights, FTRs-options and FTRs-obligations, and TSOs shall consider and duly take into account specificities related to the different types of products.

(26) According to Article 52(2), the proposal for HAR shall follow the principles of non-discrimination and transparency and at least contain the general requirements set out in its subparagraphs (a) to (l).

(27) As a general requirement, Article 4(8) of the FCA Regulation sets out that every proposal for terms and conditions or methodologies includes a proposed timescale for their implementation and a description of their expected impact on the objectives of the FCA Regulation.

(28) Further, for coherence reasons and as confirmed by Article 4(8) of the FCA Regulation, the proposal for terms and conditions or methodologies must be in line with the objectives of the FCA Regulation defined in its Article 3.

6.2. Assessment of the legal requirements

(29) The Proposal for amendment includes not only specific amendments to the HAR approved by the ACER's Decision No 14/2019, but also the rest of the approved HAR. To avoid duplication, ACER will not reassess those parts of the Proposal for amendment which correspond to the approved HAR, and in that respect refers to its Decision No 14/2019. Therefore, in the following, ACER will focus on the TSOs' proposed amendments and the additional amendments made by ACER.

6.2.1. Legal assessment of the introduction of the cap for remunerating LTTRs

(30) In Article 59(5) of the Proposal for amendment, the TSOs added a new principle for the remuneration of LTTRs, which introduces a cap on the remuneration of the LTTR holders: '*Irrespective of whether it is a Direct Current interconnector or not, the caps described in paragraphs 2 and 3 of this Article shall also apply to the remuneration of Long Term Transmission Rights holders for non-nominated Physical Transmission Rights and Financial Transmission Rights in case of fallback Allocation for Implicit Allocation.*' This new principle aims to apply the rules for caps on the compensation for curtailments necessary to ensure operation remains within operational security limits before the day-ahead firmness deadline ('compensation for curtailments') also to the remuneration of LTTR in case of fallback allocation.

(31) The TSOs justified this new cap in essence by arguing that, in case of a decoupling event, remunerating LTTRs holders with the market spread using the explicit fallback revenues is inconsistent with the objectives of Regulation (EU) 2019/943 and the FCA Regulation and that the proposed cap addresses this inconsistency. According to the TSOs, *'[a]s there is no consensus (yet) on TSOs' proposal and the option to cover decoupling events in Article 48 and 59 of the HAR seems only possible if Article 35 of the FCA Regulation is amended, TSOs propose as an improvement until a more structural solution is implemented to extend to the remuneration of LTTRs in case of decoupling events the applicability of a cap on compensation for curtailment*

according to Article 59 (i.e. to limit the compensation to LTTR holders in case of missing income from DA due to unexpected outages and incident out of TSOs 'domain').' In the TSOs' view, *'nothing in the legal and regulatory framework prohibits the imposition of a remuneration cap'*.[10]

(32) As regards the legal and regulatory framework, it is first to note that Article 52 of the FCA Regulation sets out the requirements for the HAR, partly via reference to other provisions of the FCA Regulation. Neither Article 52 nor the other provisions referred therein provide for a cap on the remuneration of LTTRs. This is in particular true for Article 35 of the FCA Regulation, referred to in Article 52(2)(d) thereof, which sets out the principles for LTTRs' remuneration, and Article 54 of the FCA Regulation, referred to in Article 52(2)(k), which defines caps on the compensation for curtailed LTTRs.

(33) Article 35(3)(a) of the FCA Regulation sets out the rules for remuneration of LTTRs in case of implicit auctioning in the day-ahead timeframe, requiring that '*where the cross-zonal capacity is allocated through implicit allocation or another method resulting from a fallback situation in the day-ahead time frame, the remuneration of long-term transmission rights shall be equal to the market spread.*' In that context, Article 2(9) of the FCA Regulation defines the market spread as '*the difference between the hourly day-ahead prices of the two concerned bidding zones for the respective market time unit in a specific direction*'.

(34) As a result, the LTTR holders need to be remunerated with exactly the difference between the hourly day-ahead prices per market time unit and direction, between two bidding zones. This principle holds even if another method resulting from a fallback situation in the day-ahead time frame is used.

(35) If, however, a cap was applied on the remuneration of LTTRs as suggested in the Proposal for amendment,[11] the principle for remunerating the LTTR holders would not be based on market spread, but on any value that is lower than the market spread. As such, the proposed amendment in Article 59(5) of the Proposal for amendment does not ensure that LTTR holders are remunerated in accordance with Article 35 of the FCA Regulation, where costs for remuneration of the LTTRs exceed the proposed cap. In that regard, contrary to TSOs' view, the remuneration mechanism of LTTRs will not remain the same, i.e. equal to market spread.

(36) Consequently, the proposed cap on the remuneration of LTTRs is not compliant with the prescribed remuneration mechanism of applying the market spread as prescribed under Article 35(3)(a) of the FCA Regulation. Since the requirement of a market spread based remuneration mechanism is mandatory under Article 35(3)(a) of the

[10] ENTSO-E's hearing input, p. 2.
[11] I.e. a situation in which the costs incurred to TSOs for remunerating the LTTR holders exceed the cap proposed by all TSOs in Article 59(5) of the Proposal for amendment, in accordance with the formulas of the same Article 59.

FCA Regulation, the Proposal for amendment must comply with that requirement and ACER has to apply it when assessing the compliance of the Proposal for amendment with the FCA Regulation.

(37) Moreover, the FCA Regulation mentions caps explicitly only in its Article 54 in the context of curtailments of LTTRs and the compensation to be paid to the curtailed LTTR holders.

(38) Clearly, and as also acknowledged by the TSOs,[12] the remuneration of LTTRs does not qualify as a compensation for the curtailment of LTTRs, so that Article 54 of the FCA Regulation does not provide a legal basis for a cap on the remuneration of LTTRs.

(39) In ACER's view, the sole reference to a cap in Article 54 of the FCA Regulation also raises the question whether the EU legislator intended to allow the introduction of caps in cases other than the one of LTTRs curtailment. In fact, the absence of any reference to a cap in Article 35 of the FCA Regulation could suggest that, unlike for the compensation for curtailments under Article 54 of the FCA Regulation, introducing, via the HAR, a cap on the remuneration of LTTRs was not intended. From the context and the structure of the FCA Regulation, it seems therefore not clear that the lack of an explicit provision for a cap on the remuneration of LTTRs, like in Article 35 of the FCA Regulation, would imply a tacit approval of such cap. Indeed, the TSOs stated themselves that *'the option to cover decoupling events in Article 48 and 59 of the HAR seems only possible if Article 35 of the FCA Regulation is amended'*.[13] Accordingly, and contrary to the TSOs' suggestion, ACER currently does not see a sufficient legal basis for introducing, through the HAR, a cap on the remuneration of LTTRs merely by reference to *'instances in which a normal market result is not obtained due to random or unforeseen circumstances'* and *'general principles of law and governing the operation of electricity markets'*.[14]

(40) In conclusion, ACER considers the proposed cap on the remuneration of LTTRs in Article 59(5) of the Proposal for amendment as not compliant with the FCA Regulation and as lacking a sufficient legal basis. Therefore, ACER cannot approve this amendment, and for the same reasons cannot amend the proposed cap on the remuneration of LTTRs in a way that it is compliant with the FCA Regulation. Accordingly, ACER had to delete the respective text in Article 59(5) of the Proposal for amendment.

(41) ACER is aware of the above mentioned issues raised by TSOs regarding the remuneration of LTTRs in case of decoupling (see recital (20)). These considerations, however, do not change the fact that the proposed cap is not compliant with the FCA Regulation and lacks a sufficient legal basis. Therefore, ACER deems it not necessary

[12] ENTSO-E's hearing input, p. 4.
[13] ENTSO-E's hearing input, p. 2.
[14] ENTSO-E's hearing input, p. 4.

and appropriate to discuss these considerations in the scope of the present Decision. However, ACER intends to follow up this matter in the future and engage actively in the discussions on the functioning of fallback mechanisms, as well as on the principles of remunerating LTTRs, in particular in the framework of a future amendment of the FCA Regulation.

6.2.2. Assessment of the requirements in Article 52(1) and (2) of the FCA Regulation

(42) The proposed amendments update some provisions related to the requirements described in Article 52(1) and (2) of the FCA Regulation.

(43) These amendments do not affect the finding in ACER's Decision No 14/2019 that the requirements of Article 52(1) and (2) of the FCA Regulation are fulfilled, except the amendments introduced in Article 59(5) of the Proposal for amendment which, however, cannot be approved for the reasons explained in Chapter 6.2.1 above.

(44) Therefore, the Proposal for amendments, except for those proposed for Article 59(5) of that Proposal, fulfils the requirements of Article 52(1) and (2) of the FCA Regulation.

6.2.3. Assessment of the requirements for consultation

(45) The draft Proposal for amendment was consulted Union-wide with stakeholders as presented in recital (4) above.

(46) Therefore, the Proposal for amendment has been subject to a public consultation in accordance with Article 6 of the FCA Regulation and complies with Article 4(12) of the FCA Regulation.

6.2.4. Assessment of the requirements in Article 4(8) of the FCA Regulation

(47) Article 5 of the Proposal for amendment provides that the HAR shall apply for capacity allocation for LTTRs with a delivery period starting from 1 January in the subsequent year following the approval of the HAR by ACER.

(48) Recitals (7) to (13) of the 'Whereas'-section in the Proposal for amendment describe the expected impact of the HAR on the objectives listed in Article 3 of the FCA Regulation and remained unchanged in comparison to the version of the HAR according to ACER's Decision No 14/2019.

(49) Therefore, the Proposal for amendment complies with the requirement of the inclusion of the implementation timescale and of the description of the expected impact on the objectives, in accordance with Article 4(8) of the FCA Regulation.

6.2.5. Assessment of other points of the Proposal for amendment

(50) All TSOs propose a range of amendments to the HAR, as presented in recital (17) above.

(51) ACER agrees that the amendments listed in recital (17), points a) to g), clarify and improve the HAR and are in line with the objectives of the FCA Regulation.

(52) However, ACER cannot approve and deleted the amendment listed in recital (17), point h), introducing the cap for remuneration of LTTRs in case of fallback, on the grounds detailed in Chapter 6.2.1.

(53) ACER, after consulting the TSOs, clarified the term 'return' in the formulas of Article 59 of the Proposal for amendment and replaced it with 'return of LTTRs'.

(54) ACER adjusted provisions concerning regulatory approval competencies, replacing the approval by all regulatory authorities with the one by ACER, thereby taking into account the respective changes introduced in the FCA Regulation by Commission Implementing Regulation (EU) 2021/280[15].

(55) ACER amended recital 1 of the Proposal for amendment to clarify that the HAR, as presented in Annex I of this Decision, amends the HAR approved by ACER's Decision No 14/2019 of 29 October 2019.

(56) ACER clarified the provisions concerning the language in Article 78 of the Proposal for amendment to make it consistent with the recent practice while approving terms and conditions or methodologies, in accordance with the FCA Regulation.

(57) Finally, ACER introduced some necessary editorial changes.

7. CONCLUSION

(58) For all the above reasons, ACER considers the Proposal for amendment in line with the requirements of the FCA Regulation, provided that the amendments described in this Decision are integrated in the Proposal for amendment, as presented in Annex I to this Decision. The amendments, which have been consulted with ENTSO-E and the TSOs, are necessary to ensure that the Proposal is in line with the purpose of the FCA Regulation and contributes to market integration, non-discrimination, effective competition and the proper functioning of the market.

(59) Therefore, ACER approves the Proposal for amendment subject to the necessary amendments. To provide clarity, Annex I to this Decision sets out the Proposal for amendment as amended and approved by ACER,

[15] Commission Implementing Regulation (EU) 2021/280 of 22 February 2021 amending Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 in order to align them with Regulation (EU) 2019/943, OJ L 62, 23.2.2021, p. 24.

HAS ADOPTED THIS DECISION:

Article 1

The harmonised allocation rules for long-term transmission rights pursuant to Article 51 of Regulation (EU) 2016/1719 are amended and approved as set out in Annex I to this Decision.

Article 2

This Decision is addressed to:

50Hertz - 50Hertz Transmission GmbH
Amprion - Amprion GmbH
Augstsprieguma tïkls - AS "Augstsprieguma tïkls"
APG - Austrian Power Grid AG
CNTEE Transelectrica SA – Compania Nationala de Transport al Energiei Electrice
ČEPS - ČEPS a.s.
CREOS Luxembourg - Creos Luxembourg S.A.
Croatian Transmission System Operator Ltd. (HOPS d.o.o.)
EirGrid - EirGrid plc
ESO - Electroenergien Sistemen Operator EAD
Elering - Elering AS
ELES - ELES, d.o.o.
Elia - Elia Transmission Belgium SA/NV
Energinet - Energinet
Fingrid – Fingrid Oyj
IPTO - Independent Power Transmission Operator S.A.
Kraftnät Åland - Kraftnät Åland Ab
LITGRID - Litgrid AB
MAVIR ZRt. - MAVIR Magyar Villamosenergia-ipari Átviteli Rendszerirányító Zártkörűen Működő Részvénytársaság ZRt.
PSE - Polskie Sieci Elektroenergetyczne S.A.
REE - Red Eléctrica de España S.A.
REN - Rede Eléctrica Nacional, S.A.
RTE - Réseau de Transport d'Electricité, S.A.
SEPS - Slovenská elektrizačná prenosová sústava, a.s.
Svenska Kraftnät - Affärsverket svenska kraftnät
SONI - System Operator for Northern Ireland Ltd
TenneT TSO - TenneT TSO B.V.
TenneT GER - TenneT TSO GmbH
Terna S.p.A.
TransnetBW - TransnetBW GmbH
VÜEN - Vorarlberger Übertragungsnetz GmbH

Done at Ljubljana, on 29 November 2021.

- SIGNED -

For the Agency
The Director

C. ZINGLERSEN

Annexes:

Annex I	Harmonised allocation rules for long-term transmission rights
Annex Ia	Harmonised allocation rules for long-term transmission rights (track-change version to the Proposal for amendment, for information only)
Annex II	Evaluation of responses to the public consultation on the proposal for Harmonised allocation rules for long-term transmission rights (for information only)

In accordance with Article 28 of Regulation (EU) 2019/942, the addressee(s) may appeal against this Decision by filing an appeal, together with the statement of grounds, in writing at the Board of Appeal of ACER within two months of the day of notification of this Decision.

In accordance with Article 29 of Regulation (EU) 2019/942, the addressee(s) may bring an action for the annulment before the Court of Justice only after the exhaustion of the appeal procedure referred to in Article 28 of that Regulation.