

**DECISION No 04/2021
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS**

of 7 May 2021

on the determination of capacity calculation regions

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 ('ACER')¹, and, in particular, Article 5(2)(b) and (6) thereof,

Having regard to Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management² and, in particular, Article 9(6)(b) and Article 15(1) thereof,

Having regard to the outcome of the public consultation and the consultation of the regulatory authorities, the transmission system operators ('TSOs') and the European Network of Transmission System Operators for Electricity ('ENTSO-E'),

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

Having regard to the favourable opinion of ACER's Board of Regulators ('BoR') of 28 April 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 197, 25.7.2015, p. 24](#), as amended by Commission Implementing Regulation (EU) 2021/280 of 22 February 2021, [OJ L 62, 23.2.2021, p. 24](#).

1. INTRODUCTION

- (1) Commission Regulation (EU) 2015/1222 ('the CACM Regulation') defines capacity calculation regions ('CCRs') as geographic areas in which coordinated capacity calculation is applied.³ Article 15(1) of the CACM Regulation requires all TSOs to jointly develop a common proposal regarding the determination of CCRs. ACER approved such proposal of all TSOs in its Decision 06/2016 of 17 November 2016⁴, which was subsequently amended twice, as described in section 2.
- (2) Following the judgements of the General Court of 24 October 2019 in the cases T-332/17 and T-333/17⁵, ACER's Board of Appeal relaunched the procedure to review ACER Decision 06/2016 and remitted the case to ACER for amendment, replacement or confirmation, based on current circumstances.⁶
- (3) On 5 June 2020, ACER's Director sent a letter to all TSOs inviting them to prepare an updated proposal for the determination of CCRs, taking into account the relevant developments since the adoption of ACER Decision 06/2016, and to submit it to ACER for approval pursuant to Article 5(2)(b) of Regulation (EU) 2019/942 and Article 9(6)(b) of the CACM Regulation. This approach was endorsed by ACER's Board of Regulators in a letter sent to the TSOs on the same day.
- (4) On 9 November 2020, all TSOs submitted for ACER's approval an updated common proposal regarding the determination of CCR ('the Proposal')⁷ as requested by ACER. The Proposal is based on current circumstances, i.e. taking into account the relevant developments since the adoption of ACER Decision 06/2016, as outlined in section 2.
- (5) This Decision is issued following ACER's revision of the Proposal and replaces ACER Decision 06/2016 and its subsequent amendments. This Decision includes the following annexes:
 - Annex I sets out the determination of CCRs, as amended and approved by ACER.
 - Annex Ia provides a track-changed version of the Proposal, reflecting ACER's amendments, for information.
 - Annex II provides the results of ACER's public consultation, for information.

³ Article 2(3) of the CACM Regulation.

⁴ ACER Decision 06/2016 of 17 November 2016 on the electricity transmission system operators' proposal for the determination of capacity calculation regions.

⁵ Judgments of the General Court of 24 October 2019 in case T-332/17, E-Control v ACER ([ECLI:EU:T:2019:761](#)) and T-333/17, Austrian Power Grid AG and Vorarlberger Übertragungsnetz GmbH v ACER ([ECLI:EU:T:2019:760](#)).

⁶ [Case A-001-2017_R \(consolidated\) – BoA decision](#).

⁷ https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2021_E_01/CCR%20proposal.pdf

2. DEVELOPMENTS CONSIDERED IN THE PROPOSAL

- (6) The first determination of CCRs has been amended on two occasions since the adoption of ACER Decision 06/2016.
- (7) The first amendment added the new bidding zone border between Belgium and Great Britain and its corresponding TSOs to the Channel CCR and came into effect on 18 September 2017 with the approval by all regulatory authorities.
- (8) The second amendment came into effect with ACER Decision 04/2019 of 1 April 2019, following a referral from the regulatory authorities.⁸ The decision assigned a newly established DK1-NL bidding zone border to the Hansa CCR on a temporary basis and set out a process for evaluating and identifying an optimal determination of the Hansa and Channel CCRs, by October 2020. ACER Decision 04/2019 also approved changes to the Greece-Italy (GRIT) CCR resulting from the Italian bidding zone review.
- (9) All TSOs carried out the required regional assessment of the Hansa and Channel CCRs and submitted an Assessment Report to ACER on 1 October 2020. The Report concludes that the current CCR determination is the most efficient one.⁹
- (10) The Proposal takes into account the above amendments to ACER Decision 06/2016 and reflects the currently established CCR determination with the addition of the SE4-DE/LU bidding zone border to the Hansa CCR following the TSO certification of Baltic Cable AB. Since the evaluation of the Assessment Report by ACER was ongoing at the time of the submission of the Proposal, the TSOs have not proposed any changes to the CCR determination in that respect.

⁸ ACER Decision 04/2019 of 1 April 2019 on the electricity transmission system operators' proposal for amendments of the determination of capacity calculation regions.

⁹ ENTSO-E, Capacity calculation regions assessment report, 30 September 2020, https://eepublicdownloads.entsoe.eu/clean-documents/Network%20codes%20documents/Implementation/ccr/200930_ALL_TSOs_CCR_Assessment_report.pdf.

3. PROCEDURE

- (11) On 9 November 2020, ENTSO-E submitted the Proposal on behalf of all TSOs to ACER for approval.
- (12) Between 5 and 25 January 2021, ACER held a public consultation¹⁰ on the Proposal, seeking views from all interested parties. Annex II provides a summary of comments received along with ACER's responses to these comments.¹¹
- (13) Between 9 November 2020 and 11 March 2020, ACER engaged in discussions with the TSOs, ENTSO-E, regulatory authorities and other relevant stakeholders. These discussions involved numerous conference calls and electronic exchange of documents, allowing ACER to gather information and form its preliminary position on the Proposal. In particular, these discussions focused on:
 - (a) ACER's assessment framework as described in section 7.1;
 - (b) the feedback received in the public consultation;
 - (c) the current developments in the existing CCRs, in particular the implementation of the regional CCR methodologies and regional projects, thereby examining whether the Proposal is practical and would not impede the ongoing processes;
 - (d) reaching a common understanding or exchanging views on certain aspects of the Proposal.
- (14) Between 11 and 22 March 2021, ACER consulted all TSOs, ENTSO-E and all regulatory authorities on its preliminary position, by sharing an updated version of the Proposal setting out its suggested amendments and reasoning for these amendments. The consulted parties provided their views by 22 March. These views are summarised in section 6.2.
- (15) ACER considered all the written comments received on its preliminary position, and further discussed them with the individual stakeholders, where necessary. In particular, ACER held oral hearings with Energinet together with the other Nordic TSOs (19 March 2021), as well as with the Danish and Swedish regulatory authorities (23 March 2021). Following this process, ACER introduced further amendments to the Proposal to take some issues raised by the consulted parties into account.

¹⁰PC/2021/E/01, see ACER's consultation page:

https://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2021_E_01.aspx.

¹¹ This is a summary and not to be considered a complete representation of the comments received. All non-confidential responses are published on ACER's consultation page (see footnote 10).

- (16) The AEWG was consulted between 30 March and 9 April 2021, and provided its advice on 9 April 2021 (see section 6.3).
- (17) On 28 April 2021, ACER's BoR issued a favourable opinion pursuant to Article 22(5)(a) of Regulation (EU) 2019/942.

4. ACER'S COMPETENCE TO DECIDE ON THE PROPOSAL

- (18) Pursuant to Article 5(2)(b) of Regulation (EU) 2019/942 and Article 9(6)(b) of the CACM Regulation, as amended,¹² the proposal for CCRs in accordance with Article 15(1) of the CACM Regulation, shall be subject to approval by ACER.
- (19) On 9 November 2020, all TSOs submitted the Proposal to ACER for approval. ACER is competent to decide on the Proposal based on Article 5(2)(b) of Regulation (EU) 2019/942, Article 9(6)(b) and Article 15(1) of the CACM Regulation.

5. SUMMARY OF THE PROPOSAL

- (20) The Proposal submitted to ACER on 9 November 2020 includes a ‘whereas’ section and the following titles:
 - Title 1 setting out the general provisions;
 - Title 2 consisting of proposed determination of the CCRs; and
 - Title 3 setting out final provisions.
- (21) The Proposal includes an Appendix with the maps of the proposed CCRs.
- (22) The Proposal is accompanied by a submission letter from ENTSO-E with a list of TSOs on which behalf the Proposal is submitted, a document summarising the responses ENTSO-E received in their public consultation on the Proposal¹³ and a letter on the inclusion of Baltic Cable in the Proposal.

6. OBSERVATIONS RECEIVED BY ACER

6.1. Public consultation on the Proposal

- (23) Responses to ACER’s public consultation¹⁴ are summarised in Annex II to this Decision.

¹² See footnote 2.

¹³ ENTSO-E’s response to the public consultation, 6 November 2020,
https://eepublicdownloads.entsoe.eu/clean-documents/nc-tasks/CACM/201109_CCR_proposal_answers_to_public_consultation.pdf

¹⁴ See footnote 10.

6.2. Consultation on ACER's preliminary position

- (24) The following paragraphs provide a summary¹⁵ of views on ACER's preliminary position received during the hearing phase between 11 and 22 March 2021. ACER received written comments from the following parties:
- (a) ENTSO-E on behalf of all TSOs;
 - (b) The Nordic TSOs (Energinet – TSO of Denmark, Svenska Kraftnät – TSO of Sweden and Fingrid – TSO of Finland);
 - (c) TenneT (TenneT TSO B.V. and TenneT TSO GmbH, i.e. the TSOs of the Netherlands and Germany);
 - (d) EirGrid plc (i.e. the TSO of Ireland);
 - (e) The regulatory authority of Denmark;
 - (f) The regulatory authority of Luxembourg;
- (25) In addition, the following parties provided oral feedback during oral hearings with ACER:
- (a) The Nordic TSOs;
 - (b) The regulatory authorities of Denmark and Sweden;
- (26) ENTSO-E, the Nordic TSOs and the regulatory authority of Denmark stated that ACER's preliminary position lacks sufficient reasoning for the foreseen change in the CCR configuration, in particular regarding the proposed reassignment of the CCR Hansa bidding zone borders (DK1-NL and DK1-DE/LU) to the Core CCR.
- (27) ENTSO-E, TenneT, the Nordic TSOs and the regulatory authority of Denmark stated that the proposed change in the CCR configuration "by default" reverses the burden of proof as it requires the TSOs to justify the efficiency of the existing CCR configuration. ENTSO-E stated that this may be contrary to the principle of good administration, whereas TenneT observed that it might set different standards of assessment between ACER and the TSOs.
- (28) The Nordic TSOs and the regulatory authority of Denmark raised concerns that ACER's proposed default reassignment of the Hansa CCR bidding zone borders may result in substantial costs for Energinet and Danish consumers, and may endanger the Nordic cooperation. With no sufficient proof as to higher efficiencies in comparison

¹⁵ This is ACER's summary of key concerns and not to be considered a complete representation of the comments received.

to the current configuration, the proposed reassignment may thus violate the principle of proportionality.

- (29) The Nordic TSOs and the regulatory authority of Denmark provided detailed views on the expected impacts of the proposed reassignment of the bidding zone borders in terms of efficiency of capacity calculation and allocation (supported by an assessment of flows on the DK1-DE/LU bidding zone border) and the regional operational security coordination (ROSC).
- (30) The regulatory authority of Denmark also raised concerns regarding potential negative impacts of the proposed reassignment on the implementation of other regional methodologies related to capacity allocation and congestion management (beyond capacity calculation and ROSC), forward capacity allocation¹⁶ and electricity balancing.¹⁷
- (31) The Nordic TSOs and the regulatory authority of Sweden questioned ACER's competence to take decisions regarding internal bidding zone borders within the Member States, such as the DK1-DK2 bidding zone border.
- (32) ENTSO-E, EirGrid and the regulatory authority of Luxembourg commented on the proposed consideration of the future bidding zone border between France and Ireland (i.e. consisting of the proposed Celtic interconnector due to be completed in 2026).

6.3. Consultation of the AEWG

- (33) The AEWG provided its advice on 9 April 2021, broadly endorsing the draft ACER Decision with Annexes. AEWG invited ACER to consider the proposals and comments made by the regulatory authorities during the AEWG consultation phase regarding further improvements to the transparency of the Decision.

7. ASSESSMENT OF THE PROPOSAL

7.1. Legal requirements

- (34) Article 15(1) of the CACM Regulation requires all TSOs to jointly develop a common proposal regarding the determination of CCRs and, pursuant to Article 5(2)(b) of Regulation (EU) 2019/942 and Article 9(6)(b) of the CACM Regulation, as amended,¹⁸ submit it to ACER for approval.
- (35) Article 15(1) in joint reading with Article 12 of the CACM Regulation requires that the proposal referred to in Article 15(1) is subject to a consultation at Union level for

¹⁶ Pursuant to Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation.

¹⁷ Pursuant to Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing.

¹⁸ See footnote 2.

a period of not less than one month before it is submitted for approval to ACER. The consulted stakeholders shall include the relevant authorities of each Member State, and its results shall be duly taken into consideration by all TSOs. The TSOs are required to develop in their submission a clear and robust justification for including or not the views resulting from the consultation and publish it in a timely manner before or simultaneously with the publication of the proposal.

- (36) According to Article 15(2) of the CACM Regulation, each bidding zone border shall be assigned to one CCR and TSOs shall be assigned to all CCRs in which they have bidding zone borders.
- (37) According to Article 15(3) of the CACM Regulation, CCRs applying flow-based capacity calculation shall be merged into one CCR if their transmission systems are directly linked to each other, they participate in the same single day-ahead or intraday coupling area and merging them is more efficient than keeping them separate. The competent regulatory authorities may request a joint cost-benefit analysis from the TSOs concerned to assess the efficiency of the merger.
- (38) Pursuant to Article 9(9) of the CACM Regulation, all proposals for terms and conditions or methodologies, i.e. including the proposal referred to in Article 15(1) of that Regulation, shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of the CACM Regulation. These objectives are listed in Article 3 of the CACM Regulation.
- (39) Pursuant to Article 5(6) of Regulation (EU) 2019/942 and Article 9(5) of the CACM Regulation, before approving the proposal regarding the determination of CCRs, ACER shall revise it where necessary, after consulting the respective TSOs and ENTSO-E, in order to ensure that it is in line with the purpose of the CACM Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

7.2. ACER's assessment and amendments

- (40) This section outlines ACER's amendments to the Proposal, taking into account the legal requirements (see section 7.1), stakeholders' feedback received during the public consultation (see Annex II), comments on ACER's preliminary position (see section 6.2) and AEWG's advice (see section 6.3).

7.2.1. Assessment of the Proposal in view of the legal requirements

- (41) The Proposal fulfils the requirements of Article 9(6)(b) and Article 15(1) of the CACM Regulation, as all TSOs jointly developed the Proposal and submitted it to ACER for revision and approval.¹⁹
- (42) The Proposal was publicly consulted via ENTSO-E's web-based consultation between 19 August and 19 September 2020. The TSOs compiled all the comments in a document which was submitted to ACER together with their Proposal.²⁰ The document explains how stakeholders' views have been taken into consideration, and provides reasons where they have not been taken into account. ENTSO-E has published their submission.²¹ Therefore, ACER considers that the Proposal meets the requirements of Article 12 of the CACM Regulation.
- (43) The Proposal also fails to fully comply with Article 15(2) of the CACM Regulation, which requires that each bidding zone border is assigned to one CCR and the TSOs are assigned to all CCRs in which they have bidding zone borders. The Proposal does not assign Kraftnät Åland to any CCR. ACER's amendment in that respect is discussed in section 7.2.3.
- (44) As the Proposal does not foresee any CCR mergers, Article 15(3) of the CACM Regulation does not apply.
- (45) The Proposal meets the requirements of Article 9(9) on the inclusion of a proposed timescale for implementation, as Article 13 of the Proposal specifies the timeline for its implementation.
- (46) Recitals (14) to (22) of the Proposal aim to describe the expected impact of the Proposal on the objectives listed in Article 3 of the CACM Regulation, however ACER notes that not all the objectives have been addressed. For completeness, ACER has added Recitals (23) to the 'whereas' section of Annex I in order to explain impacts of the Proposal on the objectives which were left out by the TSOs and which relate to non-discrimination, fair and orderly market and price formation and the level playing field for the nominated electricity market operators. ACER has also introduced Recital (18) to the 'whereas' section of Annex I to highlight the relevance of its amendment requiring future assessment of the CCR determination (see section 7.2.2) in achieving the objectives of the CACM Regulation.
- (47) ACER has revised certain aspects of the Proposal and introduced amendments to ensure that the Proposal is in line with the purpose of the CACM Regulation and contributes to market integration, non-discrimination, effective competition and the

¹⁹ Given the circumstances set out in section 1, the deadline of 3 months referred to in Article 15(1) of the CACM Regulation does not apply to this new Proposal.

²⁰ See footnote 13.

²¹ The submitted documents are available at https://www.entsoe.eu/network_codes/cacm/#deliverables.

proper functioning of the market. These amendments are discussed in the next sections.

7.2.2. Amendment introducing Article 12 on future assessment

- (48) Article 14 of the Proposal refers to a requirement from ACER Decision 04/2019 for an assessment of possible alternatives for minimising unscheduled allocated flows in the Core and Nordic CCRs due to interconnectors in Hansa and Channel CCRs and foresees the possible reassignment of the Hansa bidding zone borders DK1 - NL and DK1 - DE/LU to the Core CCR.
- (49) ACER has investigated and consulted on the possible amendments related to a future reassignment of these bidding zone borders. While the investigations by ACER and the consultation with TSOs, ENTSO-E, regulatory authorities and other stakeholders covered a number of possible impacts of such reassignment of bidding zone borders, the main criteria identified for justifying any changes in the CCR determination were the efficiency of capacity calculation and allocation and ROSC in all timeframes.
- (50) Taking account of stakeholders' feedback received in the proceedings leading to this Decision, as well as in the previous proceedings related to ACER Decision 04/2019,²² ACER deems it important to ensure that any eventual change of the CCR determination does not negatively impact the timeline of existing prioritised implementation projects.

7.2.2.1. Assessment of efficiency of capacity calculation and allocation

- (51) Since an immediate reconfiguration of the CCRs might endanger the implementation of the existing projects, ACER concluded that a possible reassignment of the Hansa bidding zone borders DK1 - NL and DK1 - DE/LU to the Core CCR should not be implemented before the foreseen implementation of advanced hybrid coupling (AHC) in the Core CCR. AHC is a solution using virtual bidding zone(s) where the capacity of critical network elements in a CCR (e.g. Core) does not need to be reserved for physical flows resulting from exchanges in an adjacent CCR (e.g. Hansa) (i.e. to accommodate any unscheduled allocated flows) but can be allocated simultaneously to cross-zonal exchanges (e.g. in the Hansa and Core CCRs) within the single coupling algorithms. Therefore, in the context of efficiency of capacity calculation and allocation, ACER's assessment and discussions with the regulatory authorities and the TSOs mainly focused on the comparison between the efficiency of applying the Core flow-based approach with DK1 – DE/LU included in Core CCR and the efficiency of the Hansa coordinated net transfer capacities (cNTC) approach with the application of AHC on the alternating current (AC) bidding zone border between DK1 and DE/LU. While the exchange on the cNTC bidding zone border would be dynamically considered on the critical network elements of Core by using the virtual bidding zone

²² See footnote 8.

concept of AHC, the flow on the critical network elements of the cNTC bidding zone border cannot be dynamically considered when the cross-zonal capacity is allocated. The Core flow-based approach, on the other hand, would directly include the critical network elements from the AC interconnectors on this bidding zone border in capacity calculation and allocation.

- (52) ACER considers that the application of the Core flow-based approach on the DK1 - DE/LU bidding zone border would by default be the more or equally efficient solution, which has proven its effective application in practice and would be less burdensome for the market coupling algorithms than the introduction of virtual bidding zones from AHC during the capacity allocation process. However, further analysis of potential flows on the future DK1-DE/LU bidding zone border (including its foreseen west coast line²³) and information received in the scope of the consultation on ACER's preliminary position indicated that the flow pattern over the DK1-DE/LU bidding zone cross-border lines shows predictable and almost radial characteristics, with PTDF sensitivity factors being very similar, among DK1 and different bidding zones within the Core CCR. Taking this into consideration, while assuming an efficient application of AHC on the DK1-DE/LU bidding zone border, ACER could not identify in its assessment substantial or certain benefits in terms of efficiency of capacity calculation and allocation for the flows crossing the DK1-DE/LU bidding zone border.

7.2.2.2. *Assessment of efficiency of ROSC*

- (53) Regarding the efficiency of ROSC in accordance with Article 76(1) of Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation²⁴ and related processes, ACER's investigation and its consultations with the regulatory authorities and the TSOs mainly focused on the question as to where a cross CCR coordination between the Nordic and Core CCR can be conducted most efficiently. ACER expects that there might be considerable efficiency gains from including the current Hansa bidding zone borders DK1 - NL and DK1 - DE/LU in the Core CCR through the inclusion of the relevant remedial actions from DK1 in the remedial actions optimisation of the Core ROSC. At the same time, ACER acknowledges that the efficiency of the corresponding process in the Nordic CCR might decrease due to a shift of the cross CCR coordination to the HVDC bidding zone borders between the Nordic and Continental Europe synchronous areas (i.e. currently partly consisting of bidding zone borders included in the Nordic CCR).
- (54) ACER considers it likely that the overall efficiency of ROSC might increase as a result of including the current Hansa bidding zone borders DK1 - NL and DK1 - DE/LU in the Core CCR. This is due to the significantly higher frequency and amount of activated remedial actions for the DK1-DE/LU bidding zone border compared to

²³ https://ec.europa.eu/energy/maps/pci_fiches/PciFiche_1.3.1.pdf

²⁴ OJ L 220, 25.8.2017, p. 1.

corresponding activations including DK1 remedial actions in the Nordic CCR. However, the scope of these potential efficiency gains is currently not evident and could not be clarified by ACER within the time required for the decision-making. As such, ACER is of the view that a decision to reassign Hansa bidding zone borders to the Core CCR would not be sufficiently justified at this stage.

- (55) Since the expected efficiency gains linked to the reassignment of the Hansa bidding zone borders may be more precisely determined once the first version of ROSC is implemented in Core, ACER deems it still necessary to re-assess the efficiency of the current CCR determination and investigate any alternative determinations of the Hansa, Nordic and Core CCR in the future.

7.2.2.3. Other relevant considerations related to a potential change in the CCR determination

- (56) With respect to concerns as to considerable economic consequences for Energinet (see recital (28)), ACER considers that some of these claimed costs (i.e. the costs related to the possibility of sharing reserves between DK1 and DK2) would not occur, since sharing of reserves can be performed (considering a relevant methodology for allocating cross-zonal capacity to the balancing timeframe) regardless of the reassignment of the relevant bidding zone borders. However, ACER acknowledges that Energinet would face additional costs resulting from the additional involvement in the Core CCR and the subsequent inclusion in the Central Europe system operation region in accordance with the methodology pursuant to Article 36(1) of Regulation (EU) 2019/943 with their necessary participation in a regional coordination centre in accordance with paragraph (2) of that Article.
- (57) As regards the potential impact on other regional methodologies (see recital (29)), ACER notes that while potential risks exist, they can be effectively addressed and mitigated in these other regional methodologies and should therefore not be a decisive factor when deciding on the changes in the determination of the CCRs.

7.2.2.4. ACER amendment

- (58) In view of the above considerations and based on the information gathered by ACER in the scope of consultations referred to in sections 6.1 and 6.2, ACER deems it reasonable to change its preliminary position and approve the determination of CCRs as described in the Proposal without any foreseen reassignment of the Hansa CCR bidding zone borders.
- (59) Nevertheless, having regard to the objectives of optimising the calculation and allocation of cross-zonal capacity and ensuring the optimal use of the transmission infrastructure,²⁵ ACER does see a need for re-evaluating the possible reassignment of

²⁵Points (b) and (d) Article 3 of the CACM Regulation.

the DK1 - NL and DK1 - DE/LU bidding zone borders to the Core CCR once the TSOs of the Core and Nordic CCRs have gained more experience from the implementation of the capacity calculation methodologies (CCM) and ROSC projects. Therefore, ACER has introduced Article 12 of Annex I, requiring the TSOs to review the CCR determination in the future, when the objectives of efficiency and optimal use of cross-zonal capacity can be better assessed.

- (60) ACER notes that any future assessments of the efficiency of the CCR determination should be based on the efficiency criteria listed in Article 12 of Annex I and that any future decision on the optimal CCR determination should be only based on the expected future benefits (and eventual cost) but should not take into consideration any (sunk) costs of implementation projects which occurred before the possible reassignment of a bidding zone border.

7.2.3. Amendment assigning Kraftnät Åland TSO to the bidding zone border between the bidding zones of Finland and Sweden 3

- (61) ACER has amended Article 3 of the Proposal by adding Kraftnät Åland as a TSO to the bidding zone border between the bidding zones of Finland (FI) and Sweden 3 (SE3) of the Nordic CCR. Kraftnät Åland is a TSO certified in accordance with Article 52 of Directive (EU) 2019/944²⁶ and operates interconnectors on the SE3-FI bidding zone border. ACER consulted the energy department of the Ministry of Economic Affairs and Employment of Finland and the regulatory authority of Finland to clarify that no derogation has been granted in accordance with Article 1(3) of the CACM Regulation, which would release Kraftnät Åland from the obligations under the CACM Regulation by assigning them to a different TSO operating in Finland. Since no derogation has been granted to Kraftnät Åland in accordance with Article 1(3) of the CACM Regulation, ACER concluded that, pursuant to Article 15(2)(c) of the CACM Regulation, Kraftnät Åland has to be assigned to the SE3-FI bidding zone border of the Nordic CCR.

7.2.4. Amendments resulting from the withdrawal of the United Kingdom from the EU

- (62) Following the withdrawal of the United Kingdom from the EU, the former Channel and IU CCR, consisting of bidding zone borders connecting the main island of the United Kingdom, no longer constitute capacity calculation regions in the meaning of Article 15 of the CACM Regulation. Therefore, ACER has deleted Article 9 and Article 10 of the Proposal and the corresponding maps in the Appendix to the Proposal, and added Recital (12) to the ‘whereas’ section of Annex I to explain this deletion. In relation to this, Recital (12) of Annex I also requires all TSOs to submit a proposal for amendment of the CCR determination once the proposed Celtic

²⁶ OJ L 158, 14.6.2019, p. 125.

interconnector between Ireland and France becomes operational (expected 2026) in order to include this new bidding zone border in the CCR determination.

- (63) ACER agrees with the parties referred to above in recital (32) that it is not necessary to specify at this stage the exact treatment of the future bidding zone border between France and the Single Electricity Market of Ireland and Northern Ireland. Nevertheless, ACER considers it relevant to clarify its view regarding any future solution for this bidding zone border. ACER deems that the only reasonable solutions to address the future flows on this HVDC bidding zone border and avoid unscheduled allocated flows in the Core CCR would be either the AHC solution (which will be available by the time the proposed interconnector is operational) or the evolved flow-based solution (provided it is fully integrated within the Core CCM). However, the question as to how this bidding zone border is to be incorporated in the CCR determination would be more appropriately addressed in the TSOs' proposal for amendment referred to in Recital (13) of Annex I.

7.2.5. Other substantive amendments

- (64) ACER has deleted Recital (12) of the Proposal describing relations with third country TSOs regarding methodologies and processes in the CCRs based on this Proposal. While potential impacts on third countries should be considered where required by applicable legislation, the proposed content of Recital (12) goes beyond the scope of this decision.
- (65) Following AEWG's advice to increase transparency of the Decision (see section 6.3), ACER has added a new Recital (12) to Annex I highlighting all the changes to the CCRs when compared to the configuration in place before this Decision. Accordingly, Recital (12) of Annex I notes the addition of Baltic Cable AB in Article 4(e), and Kraftnät Åland AB in Article 3(g) of the Proposal. The addition of Kraftnät Åland AB is further discussed in section 7.2.3.
- (66) In Article 7 of the Proposal, ACER has deleted the provisions on GRIT CCR, since these provisions describe an intermediate configuration of the GRIT CCR which ceased to apply on 1 January 2021.
- (67) In Article 5(2) of the Proposal, ACER has deleted a reference to the Core CCR's bidding zone border BE-DE/LU which is no longer necessary, since this bidding zone border is operational since November 2020.

7.2.6. Editorial amendments

- (68) ACER has introduced a number of editorial amendments to improve clarity, conciseness, consistency and readability of the Proposal, while preserving the intended meaning of the content. These editorial amendments generally relate to amendments of wording and improvements of structure.
- (69) In particular, ACER has amended Recitals (2) to (10) in the 'whereas' section of the Proposal detailing past developments in the determination of CCRs since the TSOs'

initial proposal of 17 November 2015. ACER has shortened these recitals to the minimum necessary to understand the context of the Proposal.

8. DECISION NO 06/2016 OF 17 NOVEMBER 2016

- (70) The present Decision will replace ACER Decision No 06/2016 of 17 November 2016. The latter will therefore be repealed.

9. CONCLUSION

- (71) For the above reasons, ACER considers that the amendments detailed in section 7 are necessary in order to ensure that the Proposal is in line with the requirements and the objectives of the CACM Regulation, as well as to improve the editorial quality.
- (72) Therefore, ACER approves the Proposal subject to the necessary substantive and editorial amendments. Annex I to this Decision sets out the determination of CCRs, as amended and approved by ACER.

HAS ADOPTED THIS DECISION:

Article 1

The determination of capacity calculation regions pursuant to Article 15(1) of the CACM Regulation is approved as set out in Annex I to this Decision.

Article 2

ACER's Decision No 06/2016 of 17 November 2016 on the electricity transmission system operators' proposal for the determination of capacity calculation regions is repealed.

Article 3

This Decision is addressed to all TSOs:

50Hertz - 50Hertz Transmission GmbH
Ampriion - Ampriion GmbH
APG - Austrian Power Grid AG
Augstsprieguma tīkls - AS Augstsprieguma tīkls
Baltic Cable - Baltic Cable AB
ČEPS - ČEPS a.s.
CREOS Luxembourg - Creos Luxembourg S.A.
EirGrid - EirGrid plc
Elering - Elering AS

ELES - ELES, d.o.o.
Elia - Elia Transmission Belgium SA/NV
Energinet - Energinet
ESO - Electroenergien Sistemen Operator EAD
Fingrid - Fingrid Oyj
HOPS - Croatian Transmission System Operator Ltd
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 Részvénnytársaság 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 prenosovú sústava, a.s.
SONI - System Operator for Northern Ireland Ltd
Svenska Kraftnät - Affärsverket svenska kraftnät
TenneT GER - TenneT TSO GmbH
TenneT TSO - TenneT TSO B.V.
Terna - Terna Rete Eletrica Nazionale S.p.A.
Transelectrica - National Power Grid Company Transelectrica S.A.
TransnetBW - TransnetBW GmbH
VÜEN - Vorarlberger Übertragungsnetz GmbH

Done at Ljubljana, on 7 May 2021.

- SIGNED -

*For the Agency
The Director*

C. ZINGLERSEN

Annexes:

- Annex I Determination of capacity calculation regions
- Annex Ia Determination of capacity calculation regions (track-change version, for information only)
- Annex II Evaluation of responses to the public consultation on the proposal for the determination of capacity calculation regions

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.