

Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing
a guideline on forward capacity allocation (Text with EEA relevance)

TITLE II

REQUIREMENTS FOR TERMS, CONDITIONS AND METHODOLOGIES

CHAPTER 3

Forward capacity allocation

Section 1

General provisions

Article 28

General principles

The allocation of forward capacity shall take place in a way which:

- (a) uses the marginal pricing principle to generate results for each bidding zone border, direction of utilisation and market time unit;
- (b) allocates no more than the offered long-term cross-zonal capacity in accordance with Article 39;
- (c) is repeatable.

Article 29

Input and results

1 The single allocation platform shall use the following inputs for determining the allocation of forward capacity in accordance with paragraph 2:

- a validated splitting of long-term cross-zonal capacity submitted by each coordinated capacity calculator and capacities associated with returned long-term transmission rights pursuant to Article 43;
- b bids submitted by market participants.

2 For each forward capacity allocation, the single allocation platform shall simultaneously determine at least the following results for each bidding zone border, direction of utilisation and market time unit:

- a the volume of allocated long-term transmission rights expressed in MW;
- b the price of long-term transmission rights pursuant to Article 40;
- c the execution status of bids.

3 The single allocation platform shall ensure that auction results are accurate.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) 2016/1719, CHAPTER 3. (See end of Document for details)

4 Each TSO shall ensure that the auction results are consistent with the inputs provided to the single allocation platform in accordance with paragraph 1.

Section 2

Options for cross-zonal transmission risk hedging

Article 30

Decision on cross-zonal risk hedging opportunities

1 TSOs on a bidding zone border shall issue long-term transmission rights unless the competent regulatory authorities of the bidding zone border have adopted coordinated decisions not to issue long-term transmission rights on the bidding zone border. When adopting their decisions, the competent regulatory authorities of the bidding zone border shall consult the regulatory authorities of the relevant capacity calculation region and take due account of their opinions.

2 Where long-term transmission rights do not exist on a bidding zone border at the entry into force of this Regulation, the competent regulatory authorities of the bidding zone border shall adopt coordinated decisions on the introduction of long-term transmission rights no later than six months after the entry into force of this Regulation.

3 The decisions pursuant to paragraphs 1 and 2 shall be based on an assessment, which shall identify whether the electricity forward market provides sufficient hedging opportunities in the concerned bidding zones. The assessment shall be carried out in a coordinated manner by the competent regulatory authorities of the bidding zone border and shall include at least:

- a a consultation with market participants about their needs for cross-zonal risk hedging opportunities on the concerned bidding zone borders;
- b an evaluation.

4 The evaluation referred to in paragraph 3(b) shall investigate the functioning of wholesale electricity markets and shall be based on transparent criteria which include at least:

- a an analysis of whether the products or combination of products offered on forward markets represent a hedge against the volatility of the day-ahead price of the concerned bidding zone. Such product or combination of products shall be considered as an appropriate hedge against the risk of change of the day-ahead price of the concerned bidding zone where there is a sufficient correlation between the day-ahead price of the concerned bidding zone and the underlying price against which the product or combination of products are settled;
- b an analysis of whether the products or combination of products offered on forward markets are efficient. For this purpose, at least the following indicators shall be assessed:
 - (i) trading horizon;
 - (ii) bid-ask spread;
 - (iii) traded volumes in relation to physical consumption;
 - (iv) open interest in relation to physical consumption.

Status: Point in time view as at 31/01/2020.

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5 In case the assessment referred to in paragraph 3 shows that there are insufficient hedging opportunities in one or more bidding zones, the competent regulatory authorities shall request the relevant TSOs:

- a to issue long-term transmission rights; or
- b to make sure that other long-term cross-zonal hedging products are made available to support the functioning of wholesale electricity markets.

6 In case the competent regulatory authorities choose to issue a request as referred to in paragraph 5(b), the relevant TSOs shall develop the necessary arrangements and submit them to the competent regulatory authorities' approval no later than six months after the request by the competent regulatory authorities. Those necessary arrangements shall be implemented no later than six months after approval by the competent regulatory authorities. The competent regulatory authorities may extend the implementation time upon request from the relevant TSOs by a period of no more than 6 months.

7 Where regulatory authorities decide that long-term transmission rights shall not be issued by the respective TSOs or that other long-term cross-zonal hedging products shall be made available by the respective TSOs, Articles 16, 28, 29, 31 to 57, 59 and 61 shall not apply to the TSOs of the bidding zone borders.

8 Upon a joint request of the TSOs on a bidding zone border or at their own initiative, and at least every 4 years, the competent regulatory authorities of the bidding zone border shall perform, in cooperation with the Agency, an assessment pursuant to paragraphs 3 to 5.

Article 31

Regional design of long-term transmission rights

1 Long-term cross-zonal capacity shall be allocated to market participants by the allocation platform in the form of physical transmission rights pursuant to the UIOSI principle or in the form of FTRs — options or FTRs — obligations.

2 All TSOs issuing long-term transmission rights shall offer long-term cross-zonal capacity, through the single allocation platform, to market participants for at least annual and monthly time frames. All TSOs in each capacity calculation region may jointly propose to offer long-term cross-zonal capacity on additional time frames.

3 No later than six months after the entry into force of this Regulation, TSOs in each capacity calculation region where long-term transmission rights exist shall jointly develop a proposal for the regional design of long-term transmission rights to be issued on each bidding zone border within the capacity calculation region.

No later than six months after the coordinated decisions of the regulatory authorities of the bidding zone border to introduce long-term transmission rights pursuant Article 30(2), TSOs of the concerned capacity calculation region, shall jointly develop a proposal for the regional design of long-term transmission rights to be issued on each bidding zone border within the concerned capacity calculation region.

Regulatory authorities of Member States in which the current regional design of long-term transmission rights is part of a TSO cross-border re-dispatch arrangement for the purpose of ensuring that operation remains within operational security limits may decide to maintain physical long-term transmission rights on its bidding zone borders.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) 2016/1719, CHAPTER 3. (See end of Document for details)

4 The proposals referred to in paragraph 3 shall include a time schedule for implementation and at least the description of the following items specified in the allocation rules:

- a type of long-term transmission rights;
- b forward capacity allocation time frames;
- c form of product (base load, peak load, off-peak load);
- d the bidding zone borders covered.

5 The proposals shall be subject to consultation in accordance with Article 6. For the proposed long-term transmission rights to be issued, each TSO shall duly consider the result of the consultation.

6 The allocation of physical transmission rights and FTRs — options in parallel at the same bidding zone border is not allowed. The allocation of physical transmission rights and FTRs — obligations in parallel at the same bidding zone border is not allowed.

7 A review of long-term transmission rights offered on a bidding zone border may be launched by:

- a all regulatory authorities of the bidding zone border, at their own initiative; or
- b all regulatory authorities of the bidding zone border based upon a recommendation from the Agency or joint request by all TSOs of the concerned bidding zone border.

8 All TSOs in each capacity calculation region shall be responsible for undertaking the review as provided for in paragraph 9.

9 Each TSO involved in the review of long-term transmission rights shall:

- a assess the offered long-term transmission rights taking into account the characteristics in paragraph 4;
- b if considered necessary, propose alternative long-term transmission rights, taking into account the result of the assessment in subparagraph (a);
- c carry out a consultation in accordance with Article 6 regarding:
 - (i) the results of the assessment of the offered long-term transmission rights;
 - (ii) if applicable, the proposal for alternative long-term transmission rights.

10 Following the consultation referred to in paragraph 9(c) and within three months of the issuance of the decision to launch a review, the TSOs of the capacity calculation region concerned shall jointly submit a proposal to the competent regulatory authorities to maintain or amend the type of long-term transmission rights.

Article 32

Physical transmission rights

1 Each physical transmission right holder shall be entitled to nominate all or part of its physical transmission rights pursuant to Article 36.

2 Where the physical transmission rights holders do not make a nomination by the deadline specified in the nomination rules, they shall be entitled to obtain remuneration in accordance with Article 35.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) 2016/1719, CHAPTER 3. (See end of Document for details)

Article 33

Financial transmission rights — options

1 Holders of FTRs — options shall be entitled to obtain remuneration in accordance with Article 35.

2 The implementation of FTRs — options shall be subject to the application of day-ahead price coupling in accordance with Articles 38 to 50 of Regulation (EU) 2015/1222.

Article 34

Financial transmission rights — obligations

1 Holders of FTRs — obligations shall be entitled to receive or obliged to pay the financial remuneration pursuant to Article 35.

2 The implementation of FTRs — obligations shall be subject to the application of day-ahead price coupling according to Articles 38 to 50 of Regulation (EU) 2015/1222.

Article 35

Principles for long-term transmission rights remuneration

1 The relevant TSOs performing the allocation of transmission rights on a bidding zone border through the single allocation platform shall remunerate the long-term transmission rights holders in case the price difference is positive in the direction of the long-term transmission rights.

2 The holders of FTRs — obligations shall remunerate the relevant TSOs through the single allocation platform allocating transmission rights on a bidding zone border in case the price difference is negative in the direction of the FTRs — obligations.

3 The remuneration of long-term transmission rights in paragraphs 1 and 2 shall comply with the following principles:

- a 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;
- b where the cross-zonal capacity is allocated through explicit auction in the day-ahead time frame, the remuneration of long-term transmission rights shall be equal to the clearing price of the daily auction.

4 In case allocation constraints on interconnections between bidding zones have been included in the day-ahead capacity allocation process in accordance with Article 23(3) of Regulation (EU) 2015/1222, they may be taken into account for the calculation of the remuneration of long-term transmission rights pursuant to paragraph 3.

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Section 3

Nomination procedures for physical transmission rights

Article 36

General provisions for physical transmission rights nomination

1 Where TSOs issue and apply physical transmission rights on bidding zone borders, they shall enable physical transmission rights holders and/or their counterparties to nominate their electricity exchange schedules. Physical transmission rights holders may authorise eligible third parties to nominate their electricity exchange schedules on their behalf in line with the nomination rules in accordance with paragraph 3.

2 No later than 12 months after the entry into force of this Regulation, all TSOs issuing physical transmission rights on a bidding zone border shall submit to the relevant regulatory authorities' approval a proposal for nomination rules for electricity exchange schedules between bidding zones. The proposal shall be subject to consultation in accordance with Article 6. Nomination rules shall contain at least the following information:

- a the entitlement of a physical transmission rights holder to nominate electricity exchange schedules;
- b minimum technical requirements to nominate;
- c description of the nomination process;
- d nomination timings;
- e format of nomination and communication.

3 All TSOs shall progressively harmonise the nomination rules on all bidding zone borders on which physical transmission rights are applied.

4 Physical transmission rights holders, their counterparties where applicable or an authorised third party acting on their behalf shall nominate all or part of their physical transmission rights between bidding zones in compliance with the nomination rules.

5 In case allocation constraints on interconnections between bidding zones have been included in the day-ahead capacity allocation process in accordance with Article 23(3) of Regulation (EU) 2015/1222, they shall be taken into account in the proposal for nomination rules referred to in paragraph 2.

Section 4

Processes and operation

Article 37

Terms and conditions for participation in the forward capacity allocation

1 Market participants shall be registered with the single allocation platform and meet all eligibility requirements under the harmonised allocation rules before being entitled to participate in the auctions or transfer their long-term transmission rights. The eligibility requirements shall comply with the principles of non-discrimination and transparency.

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2 Following a market participant's request for registration, the single allocation platform shall notify the market participant whether it fulfils all eligibility requirements and is entitled to participate in the auctions or transfer its long-term transmission rights from a specified date.

3 Market participants shall fully comply with the harmonised allocation rules. They shall keep all information relating to their participation up to date and notify the single allocation platform of any changes to this information without delay.

4 The single allocation platform shall be entitled to suspend or withdraw a market participant's right to participate in the auctions or transfer its long-term transmission rights following a breach of its contractual obligations under the harmonised allocation rules.

5 The suspension or withdrawal of the right of the market participant to participate in the auctions or transfer its long-term transmission right pursuant to the harmonised allocation rules shall not exonerate a market participant or the single allocation platform from their obligations deriving from long-term transmission rights allocated and paid before the suspension or withdrawal.

Article 38

Submission of input data to the single allocation platform

Each TSO shall ensure that validated splitting of long-term cross-zonal capacity is submitted to the single allocation platform prior to the publication of the auction specification in accordance with Article 39.

Article 39

Operation of the forward capacity allocation

1 No later than the time specified in the harmonised allocation rules for each forward capacity allocation, an auction specification containing at least the following information shall be defined and published on the single allocation platform:

- a date and time of gate opening and gate closure of the auction;
- b validated splitting of long-term cross-zonal capacity and type of the long-term transmission rights that will be auctioned;
- c format of bids;
- d date and time of publication of auction results;
- e the period during which auction results can be contested.

2 The published long-term cross-zonal capacity shall not be modified during a period prior to the gate closure of the auction. The harmonised allocation rules shall specify that period.

3 Each market participant shall submit its bids to the single allocation platform prior to the gate closure time and in accordance with the conditions set out in the auction specification.

4 The single allocation platform shall ensure the confidentiality of submitted bids.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) 2016/1719, CHAPTER 3. (See end of Document for details)

Article 40

Pricing of the long-term transmission rights

The price of long-term transmission rights for each bidding zone border, direction of utilisation and market time unit shall be determined based on the marginal price principle and expressed in euro per megawatt. In case the demand for the long-term cross-zonal capacity for a bidding zone border, direction of utilisation and market time unit is lower or equal to the offered long-term cross-zonal capacity, the price shall be zero.

Article 41

Financial requirements and settlement

1 The single allocation platform shall provide invoicing or self-billing procedures for the settlement of debits or credits resulting from the allocation of long-term transmission rights, the return of long-term transmission rights and the remuneration of long-term transmission rights. The harmonised allocation rules shall specify those procedures.

2 In order to participate in the auctions, a market participant shall have sufficient collaterals to secure bids and allocated long-term transmission rights in accordance with the conditions set out in the harmonised allocation rules.

Article 42

Establishment of fallback procedures

1 In the event that forward capacity allocation is unable to produce results, the default fallback procedure shall be the postponement of the forward capacity allocation.

2 All TSOs in each capacity calculation region shall be entitled to implement alternative coordinated fallback solutions. In such cases, all TSOs in each capacity calculation region shall develop a coordinated proposal for reliable fallback procedures.

Article 43

Return of long-term transmission rights

1 Long-term transmission rights holders may return their long-term transmission rights to the relevant TSOs through the single allocation platform for subsequent forward capacity allocation.

2 Long-term transmission rights holders willing to return their long-term transmission rights for subsequent forward capacity allocation shall notify this, directly or indirectly through a third party, to the single allocation platform as set out in the harmonised allocation rules.

3 Long-term transmission rights holders who return their long-term transmission rights shall be remunerated, directly or indirectly through a third party, by the relevant TSOs through the single allocation platform. Such remuneration shall be equal to the price resulting from the auction where the long-term transmission rights are reallocated.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) 2016/1719, CHAPTER 3. (See end of Document for details)

Article 44

Transfer of long-term transmission rights

1 Long-term transmission rights holders shall be entitled to transfer all or part of their long-term transmission rights to other market participants in accordance with the harmonised allocation rules.

2 The rules on admissibility and a list of market participants registered with the single allocation platform and eligible to transfer long-term transmission rights shall be published on the single allocation platform.

3 Long-term transmission rights holders shall notify the transfer of long-term transmission rights, directly or indirectly through a third party, to the single allocation platform in accordance with the harmonised allocation rules.

4 Market participants acquiring those long-term transmission rights shall confirm, in accordance with the harmonised allocation rules, directly or indirectly through a third party, to the single allocation platform the notification sent by the previous long-term transmission rights holder.

Article 45

Delivery of results

1 The single allocation platform shall notify the TSOs responsible for the bidding zone border to which the long-term transmission rights are associated, the market participants and the long-term transmission rights holders about the result of the forward capacity allocation within the time frame provided in the auction specification.

2 The single allocation platform shall inform market participants about the execution status and clearing prices of their bids.

Article 46

Initiation of fallback procedures

1 In the event that the single allocation platform is unable to deliver either the auction specification in accordance with Article 39 or part or all of the results of the forward capacity allocation within the time frame specified in the harmonised allocation rules, the TSOs responsible on the bidding zone border shall implement the fallback procedures established pursuant to Article 42.

2 As soon as a failure to deliver the items referred to in paragraph 1 is identified, the single allocation platform shall notify the TSOs responsible on the bidding zone border. The single allocation platform shall notify market participants that fallback procedures may be applied.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) 2016/1719, CHAPTER 3. (See end of Document for details)

Article 47

Publication of market information

1 At least the following information for each bidding zone border and direction of utilisation shall be published on the single allocation platform:

- a auction specification in accordance with Article 39;
- b an indicative auction calendar setting out the type of long-term transmission rights to be offered and the dates when those long-term transmission rights shall be offered to market participants;
- c forward capacity allocation results in accordance with Article 29;
- d number of market participants in each auction;
- e list of eligible market participants for the transfer of long-term transmission rights;
- f the single allocation platform's contact details.

2 The relevant TSOs shall publish, through the single allocation platform, the information required referred to in paragraph 1 in accordance with the timing set out in the auction specification and in Regulation (EU) No 543/2013.

3 The single allocation platform shall ensure that historical data for a period of not less than five years is made publicly available.

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Changes to legislation:

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