

## **ACER Decision No 10/2018 on Core CCR fallback procedures: Annex III**

### **Evaluation of responses to the public consultation on the proposal for the Core CCR TSOs' Fallback Procedures**

#### **1 Introduction**

Pursuant to Article 9(7)(e) and 44 of the CACM Regulation, the TSOs from the Core CCR submitted the amended proposal regarding the Core CCR TSOs' Fallback Procedures ('the Amended Proposal') to their respective regulatory authorities for approval.

The regulatory authorities of the Core CCR agreed to request the Agency to adopt a decision on the Amended Proposal, because one regulatory authority was not able to approve the Amended Proposal, due to the reasons outlined in the body of the ACER Decision on Core CCR Fallback Procedures. Therefore, in accordance with Article 9(12) of the CACM Regulation and Article 8(1) of Regulation (EC) No 713/2009<sup>1</sup>, the Agency became responsible for adopting a decision concerning the Amended Proposal as of 27 March 2018. In order to take an informed decision on the Amended Proposal, the Agency launched a public consultation on 1 August 2018 inviting all interested parties to express their views on potential amendments of the Amended Proposal. The closing date for comments was 24 August 2018.

More specifically, the Agency sought stakeholder inputs to the following two topics:

Topic I: Harmonisation of the Core CCR Fallback Procedures:

- (i) Do you find it critical that all bidding zone borders in a capacity calculation region apply the same shadow allocation rules and the same allocation platform in case of fallback procedures?
- (ii) Do you find it critical that the fallback procedures and the corresponding shadow allocation rules are as similar as possible to the Harmonised Allocation Rules and performed by a single allocation platform?

Topic II: General remarks on the Core CCR TSOs' Fallback Procedures:

- (iii) Do you have any other comments or concerns with regard to the Core CCR TSOs' Fallback Procedures including the annexed Shadow Allocation Rules?

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<sup>1</sup> OJ L 211, 14.8.2009, p. 1.

## **2 Responses**

By the end of the consultation period, the Agency received responses from 9 respondents.

This evaluation paper summarises all received comments and responses to them. The table below is organised according to the consultation questions and provides the respective views from the respondents as well as the response from the Agency on how their comments were taken into account.

Respondents' views	ACER views
<p><b>Question 1: Do you find it critical that all bidding zone borders in a capacity calculation region apply the same shadow allocation rules and the same allocation platform in case of fallback procedures?</b></p>	
<p><b>4 respondents favoured the answer YES</b> and raised the following comments:</p> <p>a) EFET: The Amended Proposal is not sufficiently meeting the requirement of Article 44 of the CACM Regulation to be developed in a coordinated manner. The harmonisation of fallback procedures in the CORE region should be considered as a non-regret option. A single harmonised fallback procedure for the whole CORE would have an immediate positive impact for the market, as it will facilitate market participation in the shadow auctions at all CORE bidding zone borders and would ensure that welfare losses are minimised in case the single day-ahead market coupling does not deliver results. We do not see a reason for the TSOs to wait until the finalisation of the CORE Capacity Calculation Methodology (CCM) to implement a harmonised fallback procedure, as the two elements (CCM and fallback) are by nature uncorrelated and will apply different capacity allocation methods. We call on ACER to enact the implementation of a single harmonised fallback procedure for all CORE bidding zone borders immediately.</p> <p>b) HSE: For market participants it is crucial that the shadow allocation rules are clear, simple and unified. Should this not be the case, due to the lack of experience and the lack of time, mistakes in cooperation can be made, which can result in certain business loss.</p> <p>c) Tiwag: The introduction of another platform and differing rules might impose hidden bureaucratic barriers, deter market participants, reduce</p>	<p><b>The Agency agrees with the majority of comments and applies harmonised shadow allocation rules for shadow auctions performed on the single allocation platform for the single day-ahead market coupling in the Core CCR.</b></p> <p>The Agency also recognises the argument brought up by the 4M MC TSOs that an immediate implementation of applicable shadow auctions on a single allocation platform for the borders within the 4M MC, which apply different procedures, timings and rules would be difficult at this moment.</p> <p>For the reasons above the Agency made amendments to the Amended Proposal to impose harmonised shadow allocation rules and the single allocation platform for the the Core CCR. However, transitional arrangements are provided to the bidding zone borders within the 4M MC to take into account the fact that they currently apply a market coupling with different procedures, timings and rules. These borders would therefore apply transitional shadow allocation rules until the merge with the single day-ahead coupling organised under the Multi Regional Coupling project.</p>

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<p>liquidity, allocate capacity uneconomically, not allocate any capacity in certain cases, make markets more unpredictable. Therefore, non-harmonised SAR and Allocation Platform would be a direct violation of the goals given in the CACM wherein the fallback procedures should be “robust” and “ensure efficient, transparent and non-discriminatory capacity allocation”.</p> <p>d) Vattenfall: Harmonized rules and a single platform to work on are critical factors for successful participation. The decoupling case poses a very rare event (&lt;1 occurrence per year) implying that maintenance efforts for tools connecting and training for people should aim to be kept at a minimum. Furthermore, time will be of essence also, as traders will not be used to the process – hence keeping the overview as simple as possible seems like a desirable approach.</p>	
<p><b>3 respondents favoured the answer NO</b> and raised the following comments:</p> <p>a) ČEPS, MAVIR, SEPS: 4M TSOs find it critical that within the same coupled area the same steps/timing of fallback procedures apply so that the traders are not discriminated and have a similar approach across the coupled area. Fallback solution should be technically and economically efficient and should reflect market coupling solution(s) implemented on respective bidding zone borders within the concerned CCR. 4M TSOs support that with the launch of market coupling between MRC and 4M regions the fallback procedures and shadow allocation rules are fully harmonized in the coupled regions and the same allocation platform is used. 4M TSOs find acceptable to introduce a single Core CCR shadow</p>	

Respondents' views	ACER views
<p>allocation rules applicable for both MRC and 4M MC procedures. 4M TSOs do not see cost effectiveness to invest in the establishment of new technical solutions only for the interim period before the coupling between MRC and 4M MC and therefore do not support the introduction of a single allocation platform in case of fallback for the interim period.</p>	
<p><b>1 respondent provided a different answer</b>, raising the following comment:</p> <p>a) Nordpool: deems it essential that the timings of all shadow auctions are harmonised. Regional price coupling can be used as a fallback in case the single day-ahead coupling fails to deliver results (e.g. Nordic approach) instead of shadow auctions on some borders.</p>	
<p>1 respondent provided no comments concerning this question.</p>	
<p><b>Question 2: Do you find it critical that the fallback procedures and the corresponding shadow allocation rules are as similar as possible to the Harmonised Allocation Rules and performed by a single allocation platform?</b></p>	
<p><b>8 respondents favoured the answer YES</b> and raised the following comments:</p> <p>a) EFET: Market participants need to have a clear understanding and visibility of their exposure in case of activation of the fallback procedure. This procedure should be kept as simple as possible knowing that the time to react when it is activated will be very limited. If the rules are too complex, there is a risk that it refrains market participation, i.e. market participants would limit their participation to a selected number of borders, which they deem a priority, which would be detrimental to social welfare. A single set of rules is highly desirable to help market participants manage their activities and risks. Aligning the fallback</p>	<p><b>The Agency shares the opinion on the importance of shadow allocation rules being similar to the already existing Harmonised Allocation Rules</b> and performed by a single allocation platform to ensure transparency and provide a solution as simple as possible for seldom occurring shadow auctions.</p> <p>Therefore, the Agency used the shadow allocation rules provided by the single allocation platform, (i.e. Joint Allocation Office), which show high similarities with the Harmonised Allocation Rules as the basis for the harmonised shadow allocation rules for the Core CCR</p>

Respondents' views	ACER views
<p>procedure to the EU HAR would ensure that market participants are already familiar with the fallback procedure. The single allocation platform is largely used already for long-term transmission rights and day-ahead/intraday explicit auctions. Gradually, it will become the only platform where such auctions are performed. Market participants are familiar with its functioning and functionalities. Once again, shadow auctions in case the single day-ahead coupling does not produce results are organised in a very short timeframe. During this rushed time, familiarity with the auction tool will be a precious advantage to ensure efficient, transparent and non-discriminatory participation of all to the shadow auctions.</p> <p>b) HSE: The same rules and procedures for capacity allocation must apply on all borders and the auction must be carried out by a single allocation platform.</p> <p>c) Tiwag, Vattenfall: support the use of SAR similar to HAR by the Single Allocation Platform for the same reasons as presented in the answer to the previous question.</p> <p>d) ČEPS, MAVIR, SEPS: 4M TSOs suggest that rights and obligations of market participants be harmonized with HARs to the maximum possible extent. Technical procedures/steps should be adjusted to fit the tools used for Shadow Auctions.</p>	<p>fallback procedures. Nevertheless, the Agency needed to make few amendments to these rules to further align them with the Harmonised Allocation Rules and remove the references to bidding zone borders outside the Core CCR. This may temporarily cause slight differences between the shadow allocation rules applied in different CCRs, but these differences are without any material effect on market participants. The Agency invites all TSOs from all CCRs to make the shadow allocation rules fully harmonised across different CCRs by addressing CCR specific issues in the fallback procedures themselves and border specific information in the list of relevant borders provided on the website of the allocation platform. The Agency also recommends changing the CACM Regulation such that these fallback procedures would be a methodology developed commonly by all EU TSOs, rather than by all TSOs of each CCR. The responses from market participants clearly show a strong interest for such an outcome.</p>
<p>2 respondents provided no comments concerning this question.</p>	
<p><b>Question 3: Do you have any other comments or concerns with regard to the Core CCR TSOs' Fallback Procedures including the annexed Shadow Allocation Rules?</b></p>	

Respondents' views	ACER views
<p><b>4 respondents provided an answer to this question.</b> The following specific comments were raised:</p> <p>a) Nasdaq, Nordpool: flag that the fallback procedures do not comply with Article(3)(i) and (h) of the CACM Regulation as it favours the NEMO with the largest order book and does not ensure a fair and orderly price formation in case of decoupling. If the order books from all locally operating NEMOs will not be shared on a local level once market coupling requires a fallback, smaller and just recently established NEMOs could face problems in the price formation caused by an order book with lacking liquidity. Decoupling without locally shared order books would lead to several prices per bidding zone (one per operating NEMO), a reduction of matched volume and a considerable uncertainty in the market. This can lead to a reduction of trust in the price formation of NEMOs with smaller order books and therefore a competitive advantage for the NEMO with the incumbent order book. The Core TSOs proposal states that NEMOs order books need to be reopened but does not describe an arrangement for local sharing of order books. Nasdaq additionally states that a split local order book would also cause problems and uncertainty for the derivative market as the reference price for derivatives should represent 100% of the liquidity. Without a shared local order book derivatives would have to reference to the price of the NEMO with the largest order book which, again, would not be an equal playing field for all operating NEMOs.</p> <p>b) EFET: The complexity of fallback procedures calls for the opportunity of preparation through testing for market participants. User friendliness of</p>	<p><b>The Agency recognises the issue</b> referred to by some comments on the consequences of locally not-shared order book in case of decoupling and is of the opinion that a locally shared order book supports the objectives of the CACM Regulation and would therefore be beneficial. However, Article 44 of the CACM Regulation explicitly limits the scope of the fallback procedures only to cross-zonal capacity allocation (i.e. TSOs “...shall develop a proposal for robust and timely fallback procedures to ensure efficient, transparent and non-discriminatory <b>capacity allocation</b> in the event that the single day-ahead coupling process is unable to produce results). Therefore, the procedures internal to bidding zones, such as locally coupled order books in case of decoupling, are out of scope of these fallback procedures.</p> <p>The Agency agrees on the need for market participants to be prepared for the case of applied shadow auctions. A harmonised approach of such procedures will reduce the required scope of preparation as it does not have to be carried out in various setups. However, the provision of the required service of testing the application of the allocation platform is not within the scope of this decision and should be addressed to the allocation platform directly.</p>

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<p>a single interface should be a priority. Harmonised Core fallback procedures organised via a single allocation platform should serve as a benchmark for an ambitious implementation of the CACM Article 44 in all CCR.</p> <p>c) HSE: A downfall of the market coupling can be understood as a consequence of a critical event in a system, which affects the inbound data in a way that a calculation cannot be carried out. This means that somewhere on the market an unusual behaviour will occur. If in addition a time frame for placing an offer and executing an auction is short, single rules on a single market must urgently apply.</p>	
<p>5 respondents provided no response to this question.</p>	



### 3 List of respondents

Organisation	Type
ČEPS, a.s.	TSO
EFET (European Federation of Energy Traders)	Association
HSE Group (Holding Slovenske elektrarne d.o.o.)	Energy company
MAVIR Ltd.	TSO
Nasdaq	NEMO
Nordpool	NEMO
SEPS (Slovenská elektrizačná prenosová sústava, a. s.)	TSO
TIWAG-Tiroler Wasserkraft AG	Energy company
Vattenfall	Energy company