FCA-CID Explanatory note

30 May 2018

Disclaimer

This explanatory document is submitted by all TSOs to all NRAs for information and clarification purposes only accompanying the "All TSOs' proposal for methodology for congestion income distribution (CID Methodology) in accordance with Article 57 of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation.

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I. Introduction

1. Purpose and Structure of the Methodology

Article 57 of the Commission Regulation 2015/1222 (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (hereinafter referred to as “FCA Regulation”) requires that by 6 months after the approval of the methodology for sharing congestion income referred to in Article 9(6) of Regulation (EU) 2015/1222 (hereinafter referred to as “CACM CID”), all TSOs shall jointly submit a proposal for a methodology for sharing congestion income from forward capacity allocation (“FCA CID Methodology”) to all National Regulatory Authorities (“NRAs”) for approval pursuant to Article 4(6)(e) of FCA Regulation. According to Article 4(8) of FCA Regulation the FCA CID Methodology proposal needs to be submitted to ACER as well, who may issue an opinion on the proposal only if requested by the NRAs.

Capitalised terms used in this document are understood as defined in FCA Regulation, Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity (hereafter referred to as “Regulation (EC) No 714/2009”), Commission Regulation (EU) 543/2013 and the FCA CID Methodology Proposal.

As put forward in Article 57 of the FCA, the FCA CID follows the same principles as the CACM CID methodology. First, the congestion income per bidding zone border is calculated for each market time unit; then the congestion income is distributed amongst the TSOs on a bidding zone border following a default of specific sharing key. As for the CACM CID, the default sharing key is 50%-50%. In specific cases the concerned TSOs may also use a sharing key different from 50%-50%. Such cases may involve, but are not limited to, different ownership shares or different investment costs. The percentages for these specific cases, as well as the underlying reasons are defined in Annex 1 to the FCA CID methodology.

It has to be noted that TSOs on bidding zone borders which do not issue LTTRs pursuant Article 30.7 of the FCA regulation shall not submit this methodology for approval.

2. Levels of Congestion Income collection and distribution

In the CACM Regulation, Congestion Income is defined as “*the revenues received as a result of capacity allocation*”. In the context of forward capacity allocation, congestion income is accrued from each auction of long term transmission rights on a bidding zone border. After the collection by the Single Allocation Platform, based on the rules described in the FCA CID Methodology, the Congestion Income is assigned to each Bidding Zone border and then, it is distributed on a monthly base to the TSOs on each side of a Bidding Zone border or, via the relevant TSOs, to third party asset owners.

Until the implementation of the FCA CID Methodology the sharing of the Congestion Income between the TSOs is based on joint agreements among the TSOs and with the relevant entities collecting the Congestion Income or national regulation.

II. Requirements and Common Criteria for Congestion Income Distribution

1. Legal framework

The legal requirements for the FCA CID Methodology are set out by **Article 57 of FCA Regulation**

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"1.Within six months after the approval of the methodology for sharing congestion income referred to in Article 9(6) of Regulation (EU) 2015/1222, all TSOs shall jointly develop a proposal for a methodology for sharing congestion income from forward capacity allocation.

2.When developing the methodology referred to in paragraph 1, TSOs shall take into account the methodology for sharing congestion income developed in accordance with Article 73 of Regulation (EU) 2015/1222.

3.When developing the methodology for sharing congestion income from forward capacity allocation, the requirements set in Article 73 of Regulation (EU) 2015/1222 shall apply."

Where the legal requirements of **Article 73 (2) of CACM Regulation are** as follows:

"2. The methodology developed in accordance with paragraph 1 shall:

(a) facilitate the efficient long-term operation and development of the electricity transmission system and the efficient operation of the electricity market of the Union;

(b) comply with the general principles of congestion management provided for in Article 16 of Regulation (EC) No 714/2009;

(c) allow for reasonable financial planning;

(d) be compatible across timeframes;

(e) establish arrangements to share congestion income deriving from transmission assets owned by parties other than TSOs."

In addition, *Article 4(8) of FCA Regulation* *provides as follows:*

The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by several or all regulatory authorities shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.

2. Interpretation

The FCA CID Methodology complies with the requirements set out by Article 73 (2) of CACM Regulation and also serves the general objectives of the FCA Regulation. In particular, the FCA CID Methodology is transparent, stable and does not provide any disincentives for TSOs to optimize capacity given to the market within accepted Operational Security Limits and within the applicable framework of TSO coordination. For example, it does not distort the provision of interconnection capacity to market participants, nor does it lead to an allocation process in favor of any party requesting capacity or energy, nor does it provide a disincentive to reduce congestion. In addition, the FCA CID Methodology does not negatively affect the processes and regulations under which TSOs fulfil their responsibility to allocate capacity to the market. The FCA CID Methodology does not give inefficient economic signals to market participants or TSOs regarding the operation and development of the transmission system and the electricity market functioning. For example, it does not distort the market signals for network investments.

The FCA CID Methodology is likewise compatible with the creation or removal of Bidding Zones and compatible with shifting the location of Bidding Zone borders between existing Bidding Zones and CCRs.

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To ensure the above, a 50/50 sharing key for Congestion Income Distribution on the Bidding Zone border in accordance with the FCA Regulation is suggested. This sharing key is proposed for the following reasons:

a. it is widely applied, simple to understand and easy to administrate;
b. the disadvantages of taking a wrong decision with the 50/50 solution versus the risk of having an unknown but eventually more optimal solution are reasonably low; and
c. in case there is a lack of strong and clear justification for different arrangements, the 50/50 rule is deemed appropriate.

In addition, the 50/50 sharing key avoids the contestable and challenging exercise of a mandatory cost benefit analysis (CBA) for the sharing of Congestion Income. Performing a CBA for FCA CID would have the following concrete disadvantages:

a. complexity: using CBA for FCA CID would add tremendous complexity and could even hamper the development of new Interconnectors. It seems more convenient to opt for a simple approach for FCA CID and let other sharing mechanisms (e.g. agreements between TSOs on cost sharing, inter transmission system operators compensation (ITC), cross border cost allocation (CBCA for PCIs)) as closing variables for the efficient allocation of costs and benefits at European level;

b. lack of proportionality: it is questionable whether the results of a CBA for FCA CID would justify the heavy work load for TSOs and NRAs connected to such CBA. Moreover, CBA uncertainties are likely to be higher than the potential imbalances due to the application of the 50/50 sharing key; and

c. requirement for very frequent updates of the CBA in order to guarantee that it is really representing the current situation.

In cases like a deviating ownership structure or an uneven distribution of investment costs of the interconnectors a sharing key different from 50/50 may be justified. For both Coordinated NTC and FB Approach the corresponding sharing keys will ensure, for example, the investment on future Interconnectors and will take into account the respective benefits of the investments for the different investors. By this means a fair treatment of owners of Interconnectors and incentives for investments in Interconnectors will be maintained.

The requirement of Article 73(2)(e) of CACM Regulation is interpreted to imply that the FCA CID Methodology and its implementation should also apply to third party transmission asset owners. Third party assets could be, for example, interconnectors which are not certified as TSOs but generate Congestion Income that has to be shared with one or more TSOs according to the FCA CID Methodology.

III. Collection of Congestion Income and distribution to the Bidding Zone border

The single entity responsible for the collection and distribution of the congestion income accrued from the auction of Long Term Transmission Rights is the Single Allocation Platform. The process of collecting payments from market parties is already described in the EU HAR, therefore the FCA CID methodology makes reference to this document.

The congestion income generated during each auction of Long Term Transmission Rights is equal to the allocated capacity times the marginal price of the auction. The allocated capacity may be lower than the sum

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of the offered capacity (by TSOs) and the volume of returns from previous auctions (from Rights Holders) due to the requirement that only whole MWs are allocated. When calculating the congestion income it is important to consider possible reduction period, meaning a period of time, i.e. specific calendar days and/or hours, within the Product Period in which Cross Zonal Capacities with a reduced amount of MW are offered, taking into account a foreseen specific network situation (e.g. planned maintenance, long-term outages).

The congestion income assigned to a bidding zone border is reduced by the costs for return of long term transmission rights to be paid in accordance with Article 43 of the FCA Regulation. After, the Single Allocation Platform shall distribute the long-term congestion income to the TSOs or to an entity appointed by the TSOs on a monthly base, which shall distribute this long-term congestion income to the relevant TSOs based on the rules set forth in the FCA CID.

IV. Congestion Income Distribution on the Bidding Zone border

For the bidding zone borders where congestion income was calculated based on allocated Long Term capacities, the TSOs on each side of the bidding zone border shall receive their share of Long Term Congestion Income based on a 50%-50% sharing key. In specific cases the concerned TSOs may also use a sharing key different from 50%-50%. Such cases may involve, but are not limited to, different ownership shares or different investment costs. The percentages for these specific cases, as well as the underlying reasons are defined in Annex 1 to the FCA CID.

In case the bidding zone border consists of several interconnectors with different sharing keys, or which are owned by different TSOs, the Long Term Congestion Income shall be assigned first to the respective interconnectors on that bidding zone border based on each interconnector’s contribution to the allocated long term capacity. The parameters defining the contribution of each interconnector will be agreed by the TSOs on the bidding zone border. They shall be published in a common document by ENTSO-E on its web page. The congestion income assigned to each interconnector shall subsequently be shared between the TSOs on each side of the interconnector using the principles described in paragraph 1 whereas the exemptions for specific interconnectors are also defined in Annex 1 to this methodology.

For bidding zone borders where the capacity is auctioned directly for the specific interconnector , the Long Term Congestion Income is directly allocated to the owners of that interconnector.

V. Implementation

The FCA CID can only be implemented when two preconditions are met. First, the capacity calculation methodology within the respective CCR in accordance with Articles 10 of the FCA Regulation is implemented. Second, the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights (art. 61) is implemented. The second prerequisite is needed to ensure coherency of FCA CID, CACM CID and the methodology to be developed under art 61 of the FCA Regulation.

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