
**Proposal for nomination rules for Physical Transmission
Rights for the bidding zone border DE/LU-NL in accordance
with Article 36 of Commission Regulation (EU) 2016/1719 of 26
September 2016 establishing a Guideline on Forward Capacity
Allocation**

17 October 2017

All TSOs of the bidding zone border DE/LU - NL, taking into account the following,

Whereas

- (1) This document is the common proposal developed by the Transmission System Operators of the bidding zone border DE/LU - NL (hereafter referred to as “TSOs”) for nomination rules for Physical Transmission Rights (hereafter referred to as the “**nomination rules Proposal**”) in accordance with Article 36 of Commission Regulation (EU) 2016/1719 establishing a guideline on Forward Capacity Allocation (hereafter referred to as the “**FCA Regulation**”).
- (2) Article 31 of the FCA Regulation foresees that long-term cross-zonal capacity shall be allocated to market participants in the form of physical transmission rights pursuant to the UIOSI principle or in the form of FTRs — options or FTRs — obligations. This nomination rules Proposal only applies to the physical transmission rights acquired in forward capacity allocation. It lays down the rules for nomination of physical transmission rights for the bidding zone border DE/LU – NL.
- (3) In accordance with Article 36(2) of the FCA Regulation, this nomination rules Proposal is subject to consultation. Article 6 of the FCA Regulation requires that proposals submitted at bilateral or at multilateral level shall consult at least the Member States concerned and that the consultation shall last for a period not less than one month. Accordingly, this nomination rules Proposal was consulted from 27 June 2017 until 18 August 2017.
- (4) This nomination rules Proposal is submitted for the approval of all National Regulatory Authorities (hereafter referred to as the “NRAs”) of the bidding zone border DE/LU - NL.
- (5) TSOs on the bidding zone border DE/LU – NL consider that the FCA Regulation allows the submission of this Proposal on bidding zone border level, since proposals for nomination rules for Scheduled Exchanges between bidding zones are not listed in Article 4 of the FCA Regulation. They acknowledge that Article 36(3) of the FCA Regulation requires all TSOs to progressively harmonise the nomination rules on all bidding zone borders on which physical transmission rights are applied. The TSOs therefore undertake to progressively examine the potential and the need for harmonisation of these rules, taking into account their technical nature.
- (6) This nomination rules Proposal generally contributes to the achievement of the objectives of Article 3 of the FCA Regulation. In particular, this nomination rules Proposal serves the objective of promoting effective long-term cross-zonal trade with long-term hedging opportunities for market participants by promoting a transparent framework for the nomination rules for Physical Transmission Rights.
- (7) This nomination rules Proposal contributes to the provision of non-discriminatory access to long-term cross-zonal capacity by detailing the process of nominating the Physical Transmission Rights already allocated in the long-term auctions (or the process of transferring that right in accordance with Article 44 of the FCA Regulation).
- (8) Furthermore, this nomination rules Proposal ensures fair and non-discriminatory treatment of all affected parties, as it sets rules to be applied by all parties. Before being approved, the rules detailed in this Proposal are subject to public consultation in accordance with Article 6 of the FCA Regulation.
- (9) Regarding the objective of transparency and reliability of information on forward capacity allocation, this nomination rules Proposal includes provisions on the necessary exchange of information between the holder of the transmission rights and the nomination platform for executing the nomination.

- (10) In conclusion, this nomination rules Proposal contributes to the general objectives of the FCA Regulation to the benefit of all market participants and electricity end consumers.

SUBMIT THE FOLLOWING PROPOSAL TO ALL REGULATORY AUTHORITIES OF THE BIDDING ZONE BORDER DE/LU - NL:

TITLE 1

General provisions

Article 1

Subject matter and scope

1. This nomination rules Proposal contains the terms and conditions for the nomination of Physical Transmission Rights on the bidding zone border DE/LU - NL.
2. In accordance with the FCA Regulation and the applicable harmonised allocation rules for long-term transmission rights developed as per Article 51 of the FCA Regulation, these nomination rules Proposal shall bind the holders of Physical Transmission Rights, their counterparties where applicable, and authorised third parties acting on their behalf.

Article 2

Definitions and interpretation

1. Capitalised terms used in this nomination rules Proposal shall have the meaning given to them in Article 2 of Regulation (EC) 714/2009, Article 2 of Regulation (EC) 2013/543, Article 2 of Regulation (EC) 2015/1222, Article 2 of Directive 2009/72/EC, Regulation (EU) 2016/1719, Regulation (EU) 2017/1485 and in the applicable harmonised allocation rules for long-term transmission rights.
2. In this nomination rules Proposal, unless the context requires otherwise:
 - a) the singular indicates the plural and vice versa;
 - b) the headings are inserted for convenience only and do not affect the interpretation of the nomination rules Proposal;
 - c) references to an “Article” are, unless otherwise stated, references to an article of this nomination rules Proposal; and
 - d) any reference to legislation, regulations, directives, orders, instruments, codes or any other enactment shall include any modification, extension or re-enactment of it when in force.
3. In addition, the following definitions shall apply:
 - (a) “BRP Contract” means a contract confirming the accreditation as balance responsible party in accordance with applicable national terms and conditions regarding the rights and obligations of the relevant parties¹.

¹ The BRP Contracts are available on the website of the relevant TSOs.

Article 3

Effective date and application

This nomination rules Proposal shall enter into force in accordance with the applicable national regulatory regimes. The rules described in this Proposal shall apply on the earliest possible date following the approval of the respective NRAs in accordance with Article 4 of the FCA Regulation. This date will be published by the TSOs of the bidding zone border DE/LU - NL on their website.

TITLE 2

Nomination rules

Article 4

Entitlement of a physical transmission rights holder to nominate Scheduled Exchanges

Physical transmission rights can be nominated by eligible persons fulfilling the minimum technical requirements to nominate pursuant to Article 5. Eligible persons may be the following:

- (a) the Physical Transmission Rights' holder; or
- (b) the person notified by the Physical Transmission Rights' holder to the Single Allocation Platform and TSOs.

Article 5

Minimum technical requirements to nominate

Persons eligible to nominate Physical Transmission Rights for the bidding zone border DE/LU - NL need to fulfil the following minimum technical requirements:

- (a) having a valid and effective BRP Contract with both concerned TSOs; and
- (b) having a connection to the nomination system of both concerned TSOs.

Article 6

Description of the nomination process

1. To nominate Physical Transmission Rights for the bidding zone border DE/LU - NL, eligible persons shall send the Scheduled Exchanges to both concerned TSOs before the long term nomination deadline pursuant to Article 7.
2. The owner of the Physical Transmission Right is only entitled to nominate the amount corresponding to the rights document. If the nomination exceeds the amount of PTRs, the nomination is rejected.

Article 7

Nomination timings

1. The long term nomination gate opening time is 2:00 p.m. two days preceding the delivery day.
2. The long term nomination deadline shall be 8:30 a.m. on the day preceding the delivery day.

3. In case the nomination gate is cancelled due to technical failures, the unused capacity is made available to the day-ahead market. The owner of the Physical Transmission Right will be refunded for the non-nominated capacity via the UIOSI principle.
4. The Single Allocation Platform shall publish information on its website on the long term nomination deadline. In case of any discrepancy between the deadline published by the Single Allocation Platform and those of this valid and legally binding nomination rules Proposal, the latter shall prevail and the Single Allocation Platform shall not be held liable for any damaged due to such a discrepancy.

Article 8

Format of nomination and communication

1. The eligible person shall nominate Physical Transmissions Rights following the standard and formats provided in the valid and effective BRP Contracts with both concerned TSOs.
2. The eligible person and TSOs shall communicate following the standard and formats provided in the valid and effective BRP Contracts with both concerned TSOs.

TITLE 3

Miscellaneous

Article 9

Amendment of the nomination rules

Any change of the rules related to nomination of PTRs of TSOs on the bidding zone border DE/LU - NL shall lead to an amendment of the present nomination rules proposal.

Article 10

Language

The reference language for this nomination rules Proposal shall be English. For the avoidance of doubt, where TSOs need to translate this nomination nrules Proposal into their national language(s), in the event of inconsistencies between the English version published by TSOs in accordance with Article 4(13) of the FCA Regulation and any version in another language the relevant TSOs shall, in accordance with national legislation, provide the relevant NRAs with an updated translation of the nomination rules Proposal