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Besluit van de Autoriteit Consument en Markt op grond van artikel 5, zesde lid, van de Elektriciteitswet 1998 over de *Allocation Rules for Forward Capacity Allocation* (EU HAR).

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Inhoudsopgave

1 Samenvatting 4

2 Inleiding 7

3 Procedure van totstandkoming van dit besluit 9

3.1 EU HAR 9
3.2 Codewijzigingsvoorstel 9
3.3 Shadow Allocation Rules 9
3.4 Terinzagelegging en zienswijzen 10
3.5 Notificatierichtlijn 10

4 Wettelijk kader 11

4.1 EU HAR 11
4.2 Codewijzigingsvoorstel 11
4.3 Shadow Allocation Rules 12

5 De voorstellen 13

5.1 Aanleiding voorstellen en gevolgde procedure 13
5.1.1 EU HAR 13
5.1.2 Het codewijzigingsvoorstel 15
5.1.3 Shadow Allocation Rules 15
5.2 Toelichting op de voorgestelde wijzigingen 16
5.2.1 EU HAR 16
5.2.2 Codewijzigingsvoorstel 23
5.2.3 Shadow Allocation Rules 28

6 Beoordeling 29

6.1 EU HAR 29
6.1.1 Introductie financiële transmissierechten 30
6.1.2 Beperking van transmissierechten en bijbehorende vergoedingen 37
6.1.3 Conclusie 40
6.2 Codewijzigingsvoorstel 41
6.2.1 De gevolgde procedure 41
6.2.2 Voorgestelde wijzigingen: introductie van financiële transmissierechten 41
6.2.3 Voorgestelde wijzigingen: verwijderen van overlappingen en tegenstrijdigheden 42
6.2.4 Voorgestelde wijzigingen: specifieke bepalingen voor de Nederlandse grenzen 44
6.3 Shadow Allocation Rules 44
6.4 Overgangsregeling 44

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Consument & Markt

Besluit

7 **Dictum** **46**

Bijlage 1 - *Allocation Rules for Forward Capacity Allocation* (EU HAR)
Bijlage 2 - *Annex 1 List of Bidding Zone borders and/or their subsets to which the Allocation Rules apply including information on type of allocated Long Term Transmission Rights*
Bijlage 3 - *Annex 2 to the harmonized Allocation Rules Border specific annex for the CWE region*
Bijlage 4 – Vastgestelde wijzigingen van de Netcode Elektriciteit
Bijlage 5 - *Shadow Allocation Rules*

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1 Samenvatting

1. De Nederlandse elektriciteitsmarkt is gekoppeld aan de elektriciteitsmarkten van de Centraal West Europese Regio (Duitsland, Luxemburg, België en Frankrijk), Noorwegen, en Groot-Brittannië. Verbindingen over de landsgrenzen verzorgen doorvoer van elektriciteit tussen de verschillende landen. Marktpartijen kunnen capaciteit op de grensverbindingen inkopen via veilingen die worden georganiseerd door transmissiesysteembeheerders. Op dit moment worden binnen de Europese Unie regionaal verschillende veilingregels gehanteerd door transmissiesysteembeheerders. TenneT TSO B.V. (hierna: TenneT) is de beheerder van het Nederlandse landelijk hoogspanningsnet en de voor die netten aangewezen transmissiesysteembeheerder.

2. TenneT heeft bij ACM een voorstel ingediend voor nieuwe regels voor veilingen van lange termijn capaciteit op de grensverbindingen. Deze nieuwe regels zijn opgenomen in de *Allocation Rules for Forward Capacity Allocation* (hierna: EU HAR). De EU HAR is tot stand gekomen door overleg tussen de verschillende transmissiesysteembeheerders in de Europese Unie. Daarmee lopen zij vooruit op de inwerkingtreding van de toekomstige Verordening voor *Forward Capacity Allocation* die momenteel wordt ontwikkeld. Alle transmissiesysteembeheerders hebben de EU HAR voor goedkeuring voorgelegd aan hun eigen regulerende instantie.

3. Het doel van de EU HAR is om de verschillende veilingregels binnen de Europese Unie te harmoniseren. Dat past binnen het streven om te komen tot een geïntegreerde Europese elektriciteitsmarkt. De EU HAR leidt tot uniforme regelgeving, meer transparantie en daardoor lagere drempels voor marktpartijen om deel te nemen aan deze veilingen.

4. De EU HAR ziet op de veiling van lange termijn transmissierechten (hierna: transmissierechten). Met transmissierechten dekken marktpartijen het risico af van toekomstige prijsverschillen tussen twee aangrenzende dag-vooruitmarkten. Dit is belangrijk omdat een marktpartij daardoor zeker weet welke kosten hij heeft om grensoverschrijdend te handelen en dit maakt het eenvoudiger om ook met buitenlandse marktpartijen lange termijncontracten af te sluiten. Met een lange termijncontract tussen een producent en afnemer wordt vastgelegd wat de prijs is die de afnemer dient te betalen voor de elektriciteit. Dit heeft belangrijke voordelen voor beide. De producenten hebben meer zekerheid over hun toekomstige inkomsten. Dit is bijvoorbeeld relevant voor investeringen in nieuwe productiecapaciteit. Afnemers, zoals grootverbruikers, hebben door lange termijncontracten meer inzicht in hun toekomstige kosten. Een goed werkende lange termijnmarkt is ook van belang voor consumenten: het risico op onverwachte prijsstijgingen wordt daarmee afgedekt.

Besluit

5. Er kan sprake zijn van fysieke of financiële transmissierechten. De houder van een fysiek transmissierecht heeft het recht om een deel van de beschikbare grenscapaciteit te gebruiken voor transport van elektriciteit over een grensverbinding. In plaats daarvan kan hij er ook voor kiezen om een vergoeding te ontvangen die gelijk is aan het prijsverschil tussen de dag-vooruitmarkten tussen de twee landen die worden verbonden door die grensverbinding. Een houder van een financieel transmissierecht heeft deze keuze niet en krijgt altijd een vergoeding die gelijk is aan het prijsverschil tussen de dag-vooruitmarkten.

6. Een belangrijk aspect van de EU HAR is de overstap van fysieke naar financiële transmissierechten op de Nederlands-Belgische grensverbindingen. Financiële transmissierechten hebben als belangrijk voordeel dat de dag-vooruitmarkten nog beter gaan functioneren doordat in de berekening van de dag-vooruitprijs met alle vraag en aanbod rekening wordt gehouden. Ook lossen financiële transmissierechten het risico op dat het *flow-based* domein, dat bij de *flow-based* marktkoppeling wordt bepaald, niet groot genoeg zou kunnen zijn om genomineerde transmissierechten te kunnen faciliteren.

7. Energie-Nederland en Statkraft hebben zienswijzen ingediend over de invoering van financiële transmissierechten. ACM is van oordeel dat de invoering van financiële transmissierechten een logische en positieve ontwikkeling is die de marktwerking verbetert van de dag-vooruitmarkten en daardoor de welvaart vergroot.

8. ACM heeft oog voor het probleem dat Statkraft adresseert met betrekking tot de intra-dagelijkse handel. ACM ziet echter geen grond voor het bezwaar van Statkraft dat een introductie van financiële transmissierechten een mogelijke oplossing voor het probleem van de intra-dagelijkse handel wegneemt. De oplossing die Statkraft voorstelt is bovendien in strijd met Europese regelgeving. Energie-Nederland wijst op een nadeel van invoering van financiële transmissierechten als er een extreem tekort van aanbod is in België. Een marktpartij met een financieel transmissierecht kan, indien hij verantwoordelijk is voor onbalans, in een dergelijke situatie bloot staan aan een financieel risico dat hij niet zou hebben als hij een fysiek transmissierecht heeft. De invoering van financiële transmissierechten heeft bovendien een positief effect op het vermijden van een dergelijke situatie. Ook is het doel van transmissierechten om prijsverschillen tussen dag-vooruitmarkten af te dekken en niet om een marktpartij een voordeel te bieden dat alle andere marktpartijen niet hebben in een dergelijke extreme situatie. ACM stemt dan ook in met een invoering van financiële transmissierechten en keurt de EU HAR in dit besluit goed.

9. De huidige Netcode Elektriciteit bevat bepalingen die in strijd zijn met de EU HAR of daarmee overlappen. Netbeheer Nederland heeft daarom een voorstel tot wijziging van de Netcode Elektriciteit ingediend om deze tegenstrijdigheden en overlappingen op te heffen. ACM stemt in dit besluit ook in met de wijzigingen en stelt de gewijzigde Netcode Elektriciteit vast.

Besluit

10. Naast het verzoek tot goedkeuring van de EU HAR heeft TenneT ook een verzoek ingediend tot goedkeuring van de *Shadow Allocation Rules*. De *Shadow Allocation Rules* voorzien in een *fallback* procedure indien de prijskoppeling van de dag-vooruitmarkten niet beschikbaar is. Deze regels waren tot nu toe opgenomen in de veilingregels voor de CWE-regio, de HAR 2.0, die na invoering van de EU HAR komt te vervallen. ACM keurt in dit besluit ook deze *Shadow Allocation Rules* goed.

11. Belanghebbenden kunnen tegen dit besluit bezwaar maken bij ACM.

Besluit

2 Inleiding

12. In dit besluit worden drie afzonderlijke aanvragen om een besluit beoordeeld, namelijk:
    (i) een verzoek van TenneT tot goedkeuring van de EU HAR;
    (ii) een voorstel van de gezamenlijke netbeheerders, statutair vertegenwoordigd door Vereniging Netbeheer Nederland (hierna: Netbeheer Nederland), tot wijziging van de Netcode Elektriciteit (hierna: Netcode) in verband met de EU HAR; en
    (iii) een verzoek van TenneT tot goedkeuring van de *Shadow Allocation Rules.*

13. Vanwege de samenhang tussen deze drie aanvragen worden zij gecombineerd beoordeeld.

14. De EU HAR bevat de geharmoniseerde regels voor de veiling van transmissierechten. TenneT heeft de EU HAR in samenwerking met de andere transmissiesysteembeheerders in de Europese Unie opgesteld. Aangezien de EU HAR congestiebeheersprocedures bevat, heeft TenneT deze ter goedkeuring aan ACM voorgelegd. Op grond van artikel 16, vijftiende lid, van de Elektriciteitswet 1998 (hierna: de E-wet) is TenneT namelijk verplicht om congestiebeheersprocedures ter goedkeuring voor te leggen aan ACM.

15. De huidige Netcode bevat bepalingen die in strijd zijn met de EU HAR of daarmee overlappen. Netbeheer Nederland heeft daarom een voorstel tot wijziging van de Netcode ingediend om deze tegenstrijdigheden en overlappingen op te heffen (hierna: het codewijzigingsvoorstel). Met dit besluit geeft ACM daarom ook uitvoering aan artikel 36 van de E-wet. Op grond van artikel 36 van de E-wet stelt ACM tariefstructuren en voorwaarden vast naar aanleiding van een voorstel van de gezamenlijke netbeheerders.

16. TenneT heeft ook de *Shadow Allocation Rules* bij ACM ter goedkeuring ingediend. De *Shadow Allocation Rules* voorzien in een *fallback* procedure indien de prijskoppeling van de dag-vooruitmarkten niet beschikbaar is en bevatten ook congestiebeheersprocedures.

17. De indeling van dit besluit is als volgt. Hoofdstuk 3 van dit besluit bevat de gevolgde procedures. Hoofdstuk 4 bevat de wettelijke kaders. De ontvangen voorstellen en relevante informatie die ACM naar aanleiding van de voorstellen heeft ontvangen, zijn samengevat in hoofdstuk 5. Hoofdstuk 6 bevat de beoordeling van de aanvragen en hoofdstuk 7 het dictum.

18. Dit besluit bevat vijf bijlagen. Deze bijlagen zijn onderdeel van het besluit. Bijlage 1 bevat het document EU HAR. Bijlage 2 bevat het document *Annex 1 List of Bidding Zone borders and/or their subsets to which the Allocation Rules apply including information on type of allocated Long Term Transmission Rights* (hierna: Annex 1). Bijlage 3 bevat het document *Annex 2 to the harmonised Allocation Rules Border specific annex for the CWE region* (hierna: Annex 2).

Besluit

Bijlage 4 bevat de wijzigingen in de Netcode. Bijlage 5 bevat het document *Shadow Allocation Rules*.

3 Procedure van totstandkoming van dit besluit

3.1 EU HAR

19. Op 13 juli 2015 heeft ACM van TenneT een verzoek ontvangen tot goedkeuring van de EU HAR inclusief Annex 1 en Annex 2 behorende bij de EU HAR.[1]

20. ACM heeft op 17 september 2015 een gewijzigde versie van de EU HAR van TenneT ontvangen.[2]

3.2 Codewijzigingsvoorstel

21. Op 9 juli 2015 heeft ACM een voorstel van Netbeheer Nederland ontvangen tot wijziging van de voorwaarden zoals bedoeld in artikel 31 van de E-wet.[3] Het voorstel bevat, zoals opgemerkt in randnummer 15, wijzigingen van de Netcode.

22. Op 28 augustus 2015 heeft ACM een wijzigingsopdracht verzonden naar Netbeheer Nederland.[4] Op 4 september 2015 heeft ACM een gewijzigd codewijzigingsvoorstel ontvangen.[5]

23. Op 14 september 2015 heeft ACM opnieuw een gewijzigd codewijzigingsvoorstel ontvangen.[6]

3.3 Shadow Allocation Rules

24. Op 13 juli 2015 heeft ACM van TenneT ook een verzoek ontvangen tot goedkeuring van de *Shadow Allocation Rules*.[7]

25. ACM heeft op 31 juli 2015[8] en op 22 september 2015[9] gewijzigde versies van de *Shadow Allocation Rules* van TenneT ontvangen.

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[1] Met kenmerk CR NL 15 038, en kenmerk ACM: 2015101873.

[2] Met kenmerk CR NL 15-052, en kenmerk ACM: 2015102458.

[3] Met kenmerk BR-15-063, en kenmerk ACM: 2015101851.

[4] Met kenmerk: ACM/DE/2015/204967.

[5] Met kenmerk BR-15-098, en kenmerk ACM 2015102301.

[6] Met kenmerk: BR15-1090, en kenmerk ACM: 2015102412.

[7] Met kenmerk CR NL15-038, en kenmerk ACM: 2015101873.

3.4 Terinzagelegging en zienswijzen

26. Om een zorgvuldige besluitvorming te waarborgen heeft ACM (i) het verzoek tot goedkeuring van de EU HAR, (ii) het codewijzigingsvoorstel van Netbeheer Nederland en (iii) het verzoek tot goedkeuring van de *Shadow Allocation Rules* met bijbehorende documenten voor een periode van vier weken ter inzage gelegd en gepubliceerd op haar internetpagina. Van de terinzageleggingen is kennis gegeven in Staatscourant 21562 van 20 juli 2015. ACM heeft hiermee belanghebbenden in de gelegenheid gesteld zienswijzen te geven.

27. Naar aanleiding van de mededeling in de Staatscourant zijn zienswijzen van de Vereniging Energie-Nederland (hierna: Energie-Nederland) en Statkraft Markets B.V. (hierna: Statkraft) ontvangen. Deze zienswijzen zijn gepubliceerd op de internetpagina van ACM. Op 16 september 2015 is een reactie ontvangen van TenneT op deze zienswijzen.

3.5 Notificatierichtlijn

28. Op grond van de notificatierichtlijn[10] dienen lidstaten ieder ontwerp voor technische voorschriften voor te leggen aan de Europese Commissie. ACM is van mening dat de EU HAR, Annex 1, Annex 2 en de *Shadow Allocation Rules* geen technische voorschriften bevatten zoals bedoeld in de notificatierichtlijn. Om die reden is dit besluit niet in ontwerp ter notificatie aangeboden.

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[8] Met kenmerk CR NL 15-041, en kenmerk ACM 2015102025.

[9] Met kenmerk CR NL 15-053, en kenmerk ACM: 2015102498.

[10] Richtlijn 98/34/EG van het Europees Parlement en de Raad van 22 juni 1998 betreffende een informatieprocedure op het gebied van normen en technische voorschriften en regels betreffende de diensten van de informatiemaatschappij, zoals gewijzigd bij richtlijn 98/48/EG van het Europees Parlement en de Raad van 20 juli 1998.

4 Wettelijk kader

29. In dit hoofdstuk beschrijft ACM de bepalingen die gezamenlijk het wettelijk kader vormen voor dit besluit.

4.1 EU HAR

30. Het verzoek van TenneT tot goedkeuring van de EU HAR betreft een voorstel tot wijziging van de congestiebeheersprocedures zoals bedoeld in artikel 5, zesde lid, van de E-wet. Op grond van artikel 5, zesde lid, van de E-wet beslist ACM over de goedkeuring van congestiebeheersprocedures voor landsgrensoverschrijdende netten. Op grond van artikel 16, vijftiende lid, van de E-wet legt de netbeheerder van het landelijk hoogspanningsnet de congestiebeheersprocedures ter goedkeuring voor aan ACM voordat de netbeheerder deze procedures hanteert.

31. Ten behoeve van de beoordeling van de voorgelegde congestiebeheersprocedures neemt ACM in aanmerking of deze procedures voorwaarden bevatten die redelijk, objectief en niet discriminerend zijn zoals vereist op grond van artikel 26a, eerste lid, van de E-wet.

4.2 Codewijzigingsvoorstel

32. Op grond van artikel 36, eerste lid, van de E-wet stelt ACM de tariefstructuren en voorwaarden, voorgelegd door de gezamenlijke netbeheerders, vast, met inachtneming van:
    a. het voorstel van de gezamenlijke netbeheerders bedoeld in artikel 27, 31 of 32 van de E-wet en de resultaten van het overleg, bedoeld in artikel 33, eerste lid, van de E-wet;
    b. het belang van het betrouwbaar, duurzaam, doelmatig en milieuhygiënisch verantwoord functioneren van de elektriciteitsvoorziening;
    c. het belang van de bevordering van de ontwikkeling van het handelsverkeer op de elektriciteitsmarkt;
    d. het belang van de bevordering van het doelmatig handelen van afnemers;
    e. het belang van een goede kwaliteit van de dienstverlening van netbeheerders;
    f. het belang van een objectieve, transparante en niet discriminatoire handhaving van de energiebalans op een wijze die de kosten weerspiegelt;
    g. de in artikel 26b van de E-wet bedoelde regels; en

h. Verordening 714/2009[11] en de richtlijn.

33. ACM stelt deze voorwaarden, op grond van artikel 36, tweede lid, van de E-wet, niet vast dan nadat zij zich ervan heeft vergewist dat de voorwaarden de interoperabiliteit van de netten garanderen en objectief, evenredig en niet discriminatoir zijn.

4.3 Shadow Allocation Rules

34. Het verzoek van TenneT tot goedkeuring van de *Shadow Allocation Rules* betreft een voorstel tot wijziging van de congestiebeheersprocedures zoals bedoeld in artikel 5, zesde lid, van de E-wet. Hierbij is het wettelijke kader van toepassing zoals omschreven in de randnummers 30 en 31.

[11] Verordening (EG) nr. 714/2009 van het Europees Parlement en de Raad van 13 juli 2009 betreffende de voorwaarden voor toegang tot het net voor grensoverschrijdende handel in elektriciteit en tot intrekking van Verordening (EG) nr. 1228/2003.

5 De voorstellen

35. In dit hoofdstuk wordt eerst ingegaan op de aanleiding van en de gevolgde procedures voor (i) het verzoek tot goedkeuring van de EU HAR, (ii) het codewijzigingsvoorstel en (iii) het verzoek tot goedkeuring van de *Shadow Allocation Rules*. Vervolgens wordt een toelichting gegeven op de inhoud van de voorstellen.

5.1 Aanleiding voorstellen en gevolgde procedure

5.1.1 EU HAR

36. Ingevolge artikel 3.2 van Bijlage 1 bij Verordening 714/2009[12] dienen in verschillende gedefinieerde gebieden binnen Europa gemeenschappelijke gecoördineerde congestiebeheermethoden en -procedures voor toewijzing van capaciteit aan de markt te worden toegepast. Binnen Europa zijn daarom op regionaal niveau regels voor veilingen van transmissierechten ontwikkeld. De veilingregels voor de CWE-regio zijn vastgelegd in de *Rules for Capacity Allocation by Explicit Auctions Central West Europe Region (CWE), Central South within Europe Region (CSE), France – Spain and Switzerland Version 2.0* (hierna: HAR 2.0).

37. Eén van de doelen van de Verordening voor *Forward Capacity Allocation,* die momenteel wordt ontwikkeld, is om deze verschillende regionale veilingregels te harmoniseren. Vooruitlopend op de inwerkingtreding van deze Verordening hebben de Europese transmissiesysteembeheerders die transmissierechten veilen één geharmoniseerde set van veilingregels ontwikkeld, namelijk de EU HAR. Het verzoek van TenneT tot goedkeuring van de EU HAR houdt in dat de EU HAR de HAR 2.0 vervangt.

38. Voor een grens of regio kunnen afwijkende bepalingen worden opgenomen in een Annex bij de EU HAR.[13] Het verzoek tot goedkeuring van de EU HAR omvat ook het verzoek tot goedkeuring van Annex 1 en Annex 2.

39. In Annex 1 bij de EU HAR heeft TenneT opgenomen dat financiële transmissierechten worden aangeboden op de Nederlands-Belgische grensverbindingen (zie ook de randnummers 56 en

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[12] Richtsnoeren voor congestiebeheer en toewijzing van beschikbare overdrachtcapaciteit van interconnecties tussen nationale systemen, bij Verordening 714/2009.

[13] Zie artikel 4, eerste lid, van de EU HAR.

57). Dit heeft TenneT gedaan naar aanleiding van het volgende. De nationale regulerende instanties in de CWE-regio hebben in het *Position Paper of CWE NRAs on Flow-Based Market Coupling* aan de transmissiesysteembeheerders van de CWE-regio gevraagd om een voorstel in te dienen voor introductie van financiële transmissierechten op de Nederlands-Belgische en Belgisch-Franse grensverbindingen zodat financiële transmissierechten kunnen worden ingevoerd met ingang van 2016.

40. Annex 2 is opgesteld door de transmissiesysteembeheerders van de CWE-regio.[14] Annex 2 heeft betrekking op de Nederlands-Belgische, Nederlands-Duitse, Frans-Duitse en Belgisch-Franse grensverbindingen. Deze Annex bevat bepalingen die afwijken van de hoofdtekst van de EU HAR met betrekking tot de beperking van transmissierechten en de compensatie voor transmissierechten die zijn beperkt.

5.1.1.1 Europese consultatie

41. De EU HAR en bijbehorende Annexes zijn van 2 maart 2015 tot 31 maart 2015 via de internetpagina van het *European Network of Transmission System Operators for Electricity* (hierna: ENTSO-E) geconsulteerd. De transmissiesysteembeheerders van de CWE-regio hebben als onderdeel van deze consultatie open vragen gesteld over een eventuele introductie van financiële transmissierechten op de grenzen in de CWE-regio.

42. ENTSO-E heeft halverwege de consultatieperiode een publieke workshop georganiseerd waarin een toelichting werd gegeven op de EU HAR en vragen konden worden gesteld.[15] De EU HAR die TenneT op 13 juli 2015 heeft ingediend voor goedkeuring bij ACM betreft een gewijzigde versie ten opzichte van de versie die is geconsulteerd. Ook de andere Europese transmissiesysteembeheerders leggen de EU HAR ter goedkeuring voor aan hun nationale regulerende instantie, conform de toepasselijke nationale procedures.

5.1.1.2 Annex 8

43. TenneT heeft ook Annex 8 bij de EU HAR opgesteld voor de Nederlands-Duitse en Nederlands-Belgische grensverbindingen. TenneT heeft Annex 8 echter niet ter goedkeuring voorgelegd aan ACM. In deze Annex zijn bepalingen opgenomen die alleen van toepassing zijn op de genoemde grensverbindingen. Het gaat om bepalingen met betrekking tot (i) een deadline voor het publiceren van de veilingkalender, (ii) het organiseren van twee jaarlijkse veilingen en (iii) tijdsvensters voor de veilingdata. De Annex is gelijktijdig met de EU HAR geconsulteerd. Het

[14] Dit zijn Amprion, Elia, RTE, TenneT TSO B.V., TenneT TSO GmbH en TransnetBW.

[15] Zie het document *Harmonised Allocation Rules for Forward Capacity Allocation, Summary of the assessment of the comments from the public consultation*, pagina 2.

doel van de consultatie van deze Annex was om te bekijken of marktpartijen nog behoefte hadden aan deze specifieke bepalingen. Daartoe zijn hierover open vragen gesteld in de consultatie. Aangezien geen reacties zijn ontvangen voor het behoud van de bepalingen in Annex 8, heeft TenneT voorgesteld om Annex 8 niet ter goedkeuring aan ACM voor te leggen. ACM is hiermee akkoord gegaan waardoor Annex 8 uiteindelijk niet ter goedkeuring is voorgelegd. De voorgestelde wijzigingen in de artikelen 5.6.9.1, en 5.6.9.3 tot en met 5.6.9.7 van de Netcode houden hiermee verband (zie paragraaf 4.2.2.3).

5.1.2 Het codewijzigingsvoorstel

44. Zoals opgemerkt in randnummer 15 bevat de huidige Netcode bepalingen die in strijd zijn met de EU HAR of daarmee overlappen. Het voorstel van Netbeheer Nederland houdt in dat de Netcode in overeenstemming wordt gebracht met de EU HAR.

45. Netbeheer Nederland heeft het codewijzigingsvoorstel besproken met representatieve organisaties tijdens een overleg van het gebruikersplatform elektriciteits- en gastransportnetten (hierna: Gen-overleg) op 18 juni 2015. Een verslag van het overleg is als bijlage bij het codewijzigingsvoorstel gevoegd.

46. Het op 14 september 2015 ontvangen gewijzigde codewijzigingsvoorstel[16] is tijdens het Gen-overleg van 27 augustus 2015 besproken. Een verslag van het overleg is als bijlage bij het gewijzigde codewijzigingsvoorstel gevoegd.

5.1.3 Shadow Allocation Rules

47. De HAR 2.0 bevat naast regels voor veilingen van transmissierechten ook regels voor een *fallback* procedure indien de prijskoppeling van de dag-vooruitmarkten niet beschikbaar is. Aangezien de EU HAR niet dergelijke regels bevat, hebben de transmissiesysteembeheerders van de CWE-regio de regels voor een *fallback* procedure opgenomen in een afzonderlijk document, de *Shadow Allocation Rules*.

48. Van 8 mei 2015 tot 8 juni 2015 heeft een publieke consultatie plaatsgevonden van de *Shadow Allocation Rules* via de internetsite van de *Capacity Allocating Service Company* (CASC). TenneT heeft vervolgens de *Shadow Allocation Rules* op 13 juli 2015 voor goedkeuring ingediend bij ACM (zie randnummer 24).

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[16] Met kenmerk: BR15-1090, en kenmerk ACM: 2015102412.

5.2 Toelichting op de voorgestelde wijzigingen

5.2.1 EU HAR

49. Hierna wordt een toelichting gegeven op de EU HAR, waarbij wordt ingegaan op:
    a. het doel van transmissierechten;
    b. de typen transmissierechten in de EU HAR;
    c. het voorstel tot introductie van financiële transmissierechten; en
    d. beperking van transmissierechten en de daarbij behorende vergoedingen.

5.2.1.1 Doel van transmissierechten

50. De EU HAR bevat de algemene voorwaarden voor de veiling van transmissierechten op grensoverschrijdende verbindingen. Deze voorwaarden gelden tussen het Veilingplatform[17] en deelnemers aan de veilingen. In de veilingregels staan onder meer de rechten en verplichtingen voor deelnemers, de voorwaarden voor deelname aan een veiling, het proces van de veiling, de bepaling van de veilingprijs, het proces van het beperken van de transmissierechten door het Veilingplatform en de vergoedingen die gelden voor transmissierechten die zijn beperkt.[18]

51. Transmissierechten bieden marktpartijen (zoals producenten, grootverbruikers en handelaren) een mogelijkheid om zich in te dekken tegen toekomstige prijsverschillen tussen twee dag-vooruitmarkten die zijn verbonden via grensverbindingen. Dit wordt nader uitgelegd aan de hand van het volgende voorbeeld. Indien een marktpartij in Nederland een lange termijncontract heeft afgesloten met een Belgische marktpartij om elektriciteit in te kopen, vormt het prijsverschil tussen de dag-vooruitmarkten een financiële onzekerheid voor de marktpartijen. Door middel van een transmissierecht kunnen de marktpartijen het risico op toekomstige prijsschommelingen afdekken. In de praktijk maken met name Nederlandse producenten/leveranciers die in Duitsland jaarcontracten voor levering van elektriciteit kopen, gebruik van deze transmissierechten.

52. Het primaire doel van transmissierechten is om ervoor te zorgen dat een lange termijncontract met een buitenlandse partij een volwaardig alternatief vormt voor een lange termijncontract met een binnenlandse marktpartij.

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[17] Zie de definitie van *Allocation Platform* in artikel 2, tweede lid, van de EU HAR en artikel 57, eerste lid, van de EU HAR.

[18] Zie artikel 1, eerste lid, van de EU HAR.

Besluit

5.2.1.2 Typen transmissierechten

53. Er zijn twee typen transmissierechten in de EU HAR opgenomen: fysieke transmissierechten met een *Use-It-Or-Sell-It* bepaling (hierna: fysieke transmissierechten) en financiële transmissierechten opties (hierna: financiële transmissierechten).[19] Per grens worden ofwel fysieke ofwel financiële transmissierechten aangeboden.

54. Fysieke transmissierechten stellen de deelnemer in staat om een hoeveelheid capaciteit voor gebruik te nomineren op de grensverbinding (*Use-It*).[20] Indien de deelnemer de capaciteit niet nomineert voor gebruik, wordt de capaciteit automatisch verkocht op de betreffende dag-vooruit veiling (*Sell-It*). De deelnemer ontvangt vervolgens een financiële vergoeding die gelijk is aan het prijsverschil tussen de dag-vooruitmarkten van de landen die zijn verbonden door de grensverbinding.[21]

55. In geval van een financieel transmissierecht heeft de houder niet de mogelijkheid om capaciteit te nomineren voor gebruik. De capaciteit wordt dan door het Veilingplatform automatisch doorverkocht op de dag-vooruit veiling. De deelnemer heeft vervolgens recht op een vergoeding die gelijk is aan het prijsverschil tussen de dag-vooruit markten die zijn verbonden door de grensverbinding.[22] Uitvoering van een lange termijncontract vindt in dit geval plaats via de betreffende dag-vooruitmarkten.

5.2.1.3 Voorstel introductie financiële transmissierechten

56. In Annex 1 bij de EU HAR is opgenomen op welke grensverbindingen de EU HAR van toepassing is en welk type transmissierecht op de betreffende grensverbindingen wordt aangeboden. Het verzoek tot goedkeuring van de EU HAR van TenneT heeft betrekking op de (i) Nederlands-Duitse en (ii) Nederlands-Belgische grensverbindingen.

57. In Annex 1 bij de EU HAR is opgenomen dat op de Nederlands-Duitse grensverbindingen fysieke transmissierechten worden aangeboden en op de Nederlands-Belgische grensverbindingen financiële transmissierechten. Netbeheer Nederland geeft de volgende toelichting op het voorstel voor invoering van financiële transmissierechten op de Nederlands-Belgische grensverbindingen.

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[19] Zie artikel 2, derde lid, onder j, van de EU HAR.

[20] Met nomineren wordt bedoeld dat de marktpartij aangeeft aan het Veilingplatform dat hij gebruik wil maken van de capaciteit op de grensverbinding.

[21] Zie de definities van *Market Spread*, *Physical Transmission Right* en *Use It Or Sell It* (UIOSI) in artikel 2, tweede lid, van de EU HAR.

[22] Zie de definitie van *Financial Transmission Right Option* in artikel 2, tweede lid, van de EU HAR.

Besluit

58. Netbeheer Nederland wijst erop dat het Europese doelmodel voor één geïntegreerde interne elektriciteitsmarkt aanleiding geeft om op de Nederlands-Belgische grensverbindingen een transitie te maken van fysieke transmissierechten naar financiële transmissierechten voor de productperiode 2016. Dit sluit volgens Netbeheer Nederland aan bij de verwachting die ACM heeft uitgesproken, in afstemming met de gezamenlijke toezichthouders in de CWE-regio, in het *Position Paper of CWE NRAs on Flow-Based Market Coupling* (bijlage 3 bij het besluit over de invoering van *flow-based* marktkoppeling).[23] Onzekerheid en onduidelijkheid met betrekking tot de financiële regelgeving maakte het destijds niet opportuun om de transitie van fysieke transmissierechten naar financiële transmissierechten te maken. Op basis van de huidige versie van de toekomstige Europese richtlijn *Market and Financial Instruments Directive* (hierna: MIFID II)[24] zijn de transmissiesysteembeheerders van de CWE-regio van oordeel dat deze financiële regelgeving geen additionele consequenties heeft in vergelijking met fysieke transmissierechten, omdat beide producttypen als financiële instrumenten kunnen worden gezien. De potentiële impact van financiële regelgeving staat daarmee los van het producttype, aldus Netbeheer Nederland.

59. Netbeheer Nederland wijst er verder op dat, met de transitie naar financiële transmissierechten, het doel van transmissierechten voor marktpartijen ongewijzigd blijft, namelijk het op jaar- en maandbasis mitigeren van het risico op schommelingen in het prijsverschil tussen verschillende marktgebieden dat op de dag-vooruitmarkt kan ontstaan.

60. Ondanks dat het doel van een transmissierecht ongewijzigd blijft, is het belangrijkste verschil tussen financiële transmissierechten en fysieke transmissierechten (zoals thans gehanteerd op Nederlandse grenzen), bezien vanuit marktpartijen, dat de mogelijkheid tot nominatie van transmissierechten voor jaar- en maandtransporten komt te vervallen. Een voordeel van financiële transmissierechten is dat marktpartijen die willen participeren in het veilen en gebruiken van transmissierechten niet meer te maken krijgen met nominatieprocedures en de vereisten van individuele transmissiesysteembeheerders hierover. Hierdoor kunnen financiële transmissierechten de harmonisatie van landsgrensoverschrijdende elektriciteitshandel in Europa faciliteren, aldus Netbeheer Nederland.

61. Dit voordeel wordt volgens Netbeheer Nederland vooral duidelijk op het moment dat financiële transmissierechten op alle grenzen van Nederland of zelfs op alle Europese grenzen worden ingevoerd. Met het systeem van fysieke transmissierechten moet een houder van het fysieke transmissierecht elke dag beslissen om grensoverschrijdende capaciteit te nomineren via de

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[23] Zie het besluit in zaak 13.0852.52 van 23 april 2015.

[24] Richtlijn 2014/65/EU van het Europese Parlement en de Raad van 15 mei 2014 betreffende markten voor financiële instrumenten en tot wijziging van Richtlijn 2002/92/EG en Richtlijn 2011/61/EU (herschikking).

geëigende IT-systemen om verhandelde energie van het ene land naar het andere te brengen. Met het systeem van financiële transmissierechten vervalt deze nominatiemogelijkheid, en kan een houder van een financieel transmissierecht eenduidig en alleen nog maar via de nationale beurzen die meedoen aan marktkoppeling toegang krijgen tot de grenscapaciteit en op deze wijze tot buitenlandse groothandelsmarkten. Een houder van een financieel transmissierecht heeft dan tot zo kort mogelijk voor de daadwerkelijke uitvoering van de handel de tijd de volledige energieportfolio te vullen, aldus Netbeheer Nederland.

62. Volgens Netbeheer Nederland blijkt uit gegevens over de afgelopen jaren dat een transmissierecht in het merendeel van de gevallen al als een financieel instrument wordt gebruikt. Voor de marktwerking zijn nominaties van landsgrensoverschrijdende jaar- en maandtransporten sinds de introductie van dag-vooruit marktkoppeling niet meer strikt noodzakelijk, aldus Netbeheer Nederland. Verder verwacht Netbeheer Nederland dat door het volledig financiële gebruik van transmissierechten meer liquiditeit op de dag-vooruitmarkten ontstaat. Dit zal volgens Netbeheer Nederland in principe tot iets meer prijsconvergentie leiden omdat meer capaciteit aan de marktkoppeling beschikbaar kan worden gesteld. Gelijktijdig is het effect op de prijsvorming waarschijnlijk beperkt omdat het merendeel (circa 70%) van de transmissierechten niet wordt genomineerd. Dit is ook de reden waarom Netbeheer Nederland geen groot effect op de congestieopbrengsten verwacht. Of deze toenemen of afnemen in vergelijking met fysieke transmissierechten ligt aan het toekomstige verschil tussen veilingopbrengsten van transmissierechten, het prijsverschil op de dag-vooruitmarkten en het aantal nominaties. In de context van de recentelijk geïntroduceerde *flow-based* methodiek is dit zonder ervaring moeilijk te voorspellen, aldus Netbeheer Nederland.

63. Fysieke transmissierechten hebben volgens Netbeheer Nederland en TenneT geen invloed op de *flow-based*methodiek. In deze methodiek wordt rekening gehouden met nominaties van transmissierechten. Indien deze nominaties niet plaatsvinden, kan de berekende dag-vooruit capaciteit zonder verwerking van nominaties van transmissierechten aan de marktkoppeling ter beschikking worden gesteld.

64. Netbeheer Nederland heeft aangegeven dat de introductie van financiële transmissierechten nog niet voor de Nederlands-Duitse grens is gepland. In een brief van april 2015 heeft BundesNetzAgentur (hierna: BNetzA) aan de Duitse netbeheerders aangegeven nog geen financiële transmissierechten op de grens te ondersteunen voor 2016, omdat BNetzA nog open vragen heeft rond strategische reserves in het buitenland, aldus Netbeheer Nederland.

5.2.1.4 Beperking van transmissierechten en bijbehorende vergoedingen

65. Indien op een grensverbinding de toegewezen capaciteit hoger blijkt te zijn dan de beschikbare capaciteit, gaat de transmissiesysteembeheerder er toe over om de toegewezen capaciteit te

verminderen. Dit heeft gevolgen voor de houders van fysieke en financiële transmissierechten die via expliciete veilingen georganiseerd door het Veilingplatform transmissierechten hebben aangeschaft. Het Veilingplatform beperkt in een dergelijke situatie de transmissierechten. Houders van fysieke transmissierechten kunnen daardoor niet meer (ten volle) gebruik maken van het recht op nominatie van capaciteit, en worden daarvoor gecompenseerd. Houders van fysieke transmissierechten die niet gebruik maken van de mogelijkheid tot nominatie en houders van financiële transmissierechten ontvangen een vergoeding bestaande uit het prijsverschil tussen de dag-vooruitmarkten, tenzij de bovengrens (*cap*) voor het totale bedrag van de vergoedingen dat het Veillingplatform dient uit te betalen, wordt overschreden (zie de randnummers 70 en 73 voor uitleg van de bovengrenzen).[25] De bepalingen met betrekking tot de beperking van transmissierechten en de vergoedingen waar houders van transmissierechten vervolgens recht op hebben, zijn te vinden in Hoofdstuk 9 van de EU HAR in combinatie met Annex 2 bij de EU HAR. Dit wordt hierna verder toegelicht.

66. In de EU HAR worden drie redenen genoemd die aanleiding kunnen zijn voor een beperking van transmissierechten. Het gaat om overmacht (*Force Majeure*),[26] een noodsituatie (*Emergency Situation*)[27] of om *System Security*[28] te verzekeren.[29] Alle gealloceerde transmissierechten kunnen worden beperkt, inclusief de genomineerde fysieke transmissierechten.[30]

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[25] Ten gevolge van de beperking van de toegewezen capaciteit wordt minder capaciteit automatisch doorverkocht op de dag-vooruitmarkt waardoor, vanwege de schaarste van de beschikbare capaciteit, het prijsverschil tussen de dag-vooruitmarkten toeneemt.

[26] Zie voor de definitie van overmacht artikel 2, tweede lid, van de EU HAR en artikel 2, onder 45, van Verordening 2015/1222 van de Commissie van 24 juli 2015 tot vaststelling van richtsnoeren betreffende capaciteitstoewijzing en congestiebeheer: "*elke onvoorzienbare of ongebruikelijke gebeurtenis waarover een TSB redelijkerwijs geen controle heeft en die niet door een fout van de TSB is veroorzaakt, die met redelijke vooruitziendheid of voorzorgsmaatregelen niet had kunnen worden voorkomen of kon worden verholpen en die niet kon worden opgelost door middel van uit technisch, financieel of economisch oogpunt redelijke maatregelen van de TSB, die daadwerkelijk heeft plaatsgevonden en objectief verifieerbaar is en waardoor de TSB tijdelijk of definitief niet in staat is zijn verplichtingen uit hoofde van deze verordening na te komen.*"

[27] Zie voor de definitie van noodsituatie artikel 2, tweede lid, van de EU HAR en artikel 16, tweede lid, van Verordening 714/2009: "*Procedures om transacties te beperken worden slechts toegepast in noodsituaties, wanneer de transmissiesysteembeheerder snel moet optreden en redispatching of compensatiehandel niet mogelijk is.*"

[28] Zie voor de definitie van *System Security* artikel 2, tweede lid, van de EU HAR: "*means the ability of the power system to withstand unexpected disturbances or contingencies.*"

[29] Zie artikel 56, eerste lid, van de EU HAR.

[30] Zie artikel 56, tweede lid, van de EU HAR.

Besluit

67. De vergoeding waarop een houder van het transmissierecht recht heeft na een beperking is afhankelijk van (i) de reden van de beperking (overmacht, noodsituatie of om *System Security* te verzekeren) en (ii) het moment waarop dit gebeurt.

68. Met betrekking tot het moment waarop de beperking van een transmissierecht plaatsvindt en de bepaling van de vergoeding waarop een marktpartij recht heeft, zijn de *Day Ahead Firmness Deadline* en de *Long Term Firmness Deadline* van belang. De *Long Term Firmness Deadline* is van invloed op de hoogte van de bovengrens voor vergoedingen in geval van *System Security* en een noodsituatie. Na de *Day Ahead Firmness Deadline* mogen transmissierechten worden beperkt, tenzij het gaat om een beperking om *System Security* te verzekeren. De *Day Ahead Firmness Deadline* is in de EU HAR vastgesteld op D-1 11:30 uur.[31] De *Long Term Firmness Deadline* is voor de CWE-regio in Annex 2 vastgesteld op D-1 8.30 uur.[32] Hierna zal worden uiteengezet hoe in de EU HAR wordt omgegaan met de vergoedingen waarop houders van transmissierechten recht hebben waarbij ook de *Long Term Firmness Deadline* en de *Day Ahead Firmness Deadline* nader worden toegelicht. In tabel 1 is dit ook schematisch weergegeven.

Tabel 1 vergoedingen *System Security*, noodsituatie of overmacht en bijbehorende bovengrenzen

Tijdslijn / Vergoedingen	Veiling	verzenden van Rights Document (D-2 13.00 uur)	Deadline nominatie (D-1 8.30 uur)	Sluiting dag-vooruitmarkt (D-1 12.00 uur)	Intra-dagelijks	Realisatie
Vergoeding System Security	Prijsverschil dag-vooruitmarkten (artikel 59 lid, eerste lid, onder a, EU HAR)				Beperking is niet mogelijk (artikel 56, derde lid, EU HAR)	
Vergoeding noodsituatie	Prijsverschil dag-vooruitmarkten (artikel 59, eerste lid, onder a, EU HAR)				Prijsverschil dag-vooruitmarkten (artikel 61, tweede lid, EU HAR)	
Vergoeding overmacht	prijs betaald op veiling					
Bovengrens System Security en noodsituatie	bovengrens: veilingopbrengsten betreffende maandveiling en 1/12 deel veilingopbrengsten jaarveiling in beide richtingen en congestie-inkomsten van eventuele andere tijdperiodes in de betreffende maand (artikel 59, tweede lid, onder a, EU HAR)			geen bovengrens (artikel 3, tweede lid, Annex 2)	niet van toepassing	
Bovengrens overmacht	geen bovengrens (artikel 60, eerste lid, EU HAR en artikel 61, eerste lid, EU HAR)					

Long-term Firmness Deadline: D-1 8.30 uur

Day-ahead Firmness Deadline: D-1, 11.30 uur (artikel 58, eerste lid, onder b EU HAR)

[31] Zie artikel 58, eerste lid, onder b, van de EU HAR.

[32] Zie Artikel 2 van Annex 2.

5.2.1.4.1 System Security

69. Indien sprake is van een beperking om *System Security* te verzekeren, die plaatsvindt vóór de *Day Ahead Firmness Deadline*, dan heeft de houder van een transmissierecht recht op een vergoeding bestaande uit het prijsverschil tussen de dag-vooruitmarkten voor de periode waarop het transmissierecht betrekking heeft.[33] Ná de *Day Ahead Firmness Deadline* kan het Veilingplatform transmissierechten niet meer beperken om *System Security* te verzekeren.[34]

70. Als het Veilingplatform de transmissierechten beperkt in de periode vóór de *Long Term Firmness Deadline* dan hoeft aan de houders van de beperkte transmissierechten niet altijd een volledige vergoeding te worden betaald. Er geldt namelijk een bovengrens voor het totale bedrag van de vergoedingen dat het Veillingplatform dient uit te betalen. Deze bovengrens wordt gevormd door het totaal van de veilingopbrengsten van de betreffende maandveiling, 1/12 deel van de veilingopbrengsten van de jaarveiling en congestie-inkomsten van eventuele andere tijdperiodes in de betreffende maand.[35] Ook gaat het om de veilingopbrengsten in beide richtingen.

71. In de CWE-regio geldt voor de periode tussen de *Long Term Firmness Deadline* en de *Day Ahead Firmness Deadline* geen bovengrens voor de vergoedingen.[36]

5.2.1.4.2 Noodsituatie

72. Indien transmissierechten worden beperkt vanwege een noodsituatie die plaatsvindt vóór de *Day Ahead Firmness Deadline*, dan heeft de houder van een transmissierecht, net zoals bij een beperking om *System Security* te verzekeren, recht op een vergoeding bestaande uit het prijsverschil tussen de dag-vooruitmarkten voor de periode waarop het transmissierecht betrekking heeft.[37] In tegenstelling tot bij een beperking om *System Security* te verzekeren, kan ná de *Day Ahead Firmness Deadline* wel capaciteit worden beperkt.[38] De houder heeft dan recht op een vergoeding bestaande uit het prijsverschil tussen de dag-vooruitmarkten.[39]

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[33] Zie artikel 59, eerste lid, onder a, van de EU HAR.

[34] Zie artikel 56, derde lid, van de EU HAR.

[35] Zie artikel 59, tweede lid, onder 2, van de EU HAR.

[36] Zie artikel 3, eerste lid, van Annex 2.

[37] Zie artikel 59, eerste lid onder a, van de EU HAR.

[38] Op grond van artikel 56, derde lid, van de EU HAR kunnen transmissierechten niet na de *Day Ahead Firmness Deadline* worden beperkt om *System Security* te verzekeren.

[39] Zie artikel 61, tweede lid, van de EU HAR.

73. Als het Veilingplatform transmissierechten beperkt vóór de *Long Term Firmness Deadline* vanwege een noodsituatie dan geldt, net zoals bij *System Security*, een bovengrens voor het totaal van de vergoedingen dat het Veillingplatform dient uit te betalen aan houders van de transmissierechten die zijn beperkt. Deze bovengrens wordt gevormd door het totaal van de veilingopbrengsten in de maand waarin de beperking heeft plaatsgevonden. Het gaat hierbij om de veilingopbrengsten van de betreffende maandveiling, 1/12 deel van de veilingopbrengsten van de jaarveiling en veilingopbrengsten van eventuele andere tijdperiodes in de betreffende maand.[40] Ook gaat het om de veilingopbrengsten in beide richtingen. In de CWE-regio geldt voor de periode tussen de *Long Term Firmness Deadline* en de *Day Ahead Firmness Deadline* geen bovengrens voor de vergoedingen.[41] Na de *Day Ahead Firmness Deadline* geldt eveneens geen bovengrens.

5.2.1.4.3 Overmacht

74. Als het Veilingplatform transmissierechten beperkt vanwege overmacht ontvangt de marktpartij, ongeacht op welk moment het transmissierecht wordt beperkt, een vergoeding die wordt bepaald door de prijs die de marktpartij voor het transmissierecht op de expliciete veiling heeft betaald.[42]

5.2.2 Codewijzigingsvoorstel

75. Hierna wordt een toelichting gegeven op de door Netbeheer Nederland voorgestelde aanpassingen van de Netcode die samenhangen met:
    a. de introductie van financiële transmissierechten;
    b. tegenstrijdigheden tussen de Netcode en EU HAR; en
    c. de verwijdering van specifieke bepalingen voor de Nederlands-Duitse en Nederlands-Belgische grenzen.

5.2.2.1 Aanpassingen in verband met de introductie van financiële transmissierechten

76. Om de introductie van financiële transmissierechten mogelijk te maken stelt Netbeheer Nederland voor de Netcode als volgt te wijzigen. Ten eerste stelt Netbeheer Nederland voor om in de paragraaf van de Netcode die de opzet van de expliciete veiling van jaar- en maandcapaciteit beschrijft (paragraaf 5.6.9 van de Netcode) twee artikelen in te voegen, zodat de Netcode voorziet in de mogelijkheid van fysieke en financiële

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[40] Zie artikel 59, tweede lid, onder 2, van de EU HAR.

[41] Zie artikel 3, eerste lid, van Annex 2.

[42] Zie artikel 60, eerste lid, onder a, van de EU HAR en artikel 61, eerste lid, van de EU HAR.

transmissierechten. In Annex 1 bij de EU HAR staat vervolgens gespecificeerd of fysieke dan wel financiële transmissierechten op een grens worden geveild (zie randnummer 56). De volgende onderdelen worden ingevoegd:[43]

5.6.9.8 *De opzet van de veiling van capaciteit voor jaar- en maandtransporten maakt onderdeel uit van de congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit die zijn opgenomen in het document "Allocation Rules for Forward Capacity Allocation".*

5.6.9.10 *De capaciteit voor jaar- en maandtransporten kan in overeenstemming met de regels voor toewijzing van lange termijn transportcapaciteit in de vorm van een zogenoemd financieel transportrecht of in de vorm van een fysiek transportrecht geveild worden. De regels specificeren per landsgrens in welke vorm de transportcapaciteit voor jaar- en maandtransporten geveild wordt.*

77. Daarnaast stelt Netbeheer Nederland voor dat in paragraaf 5.6.11 van de Netcode ook de mogelijkheid wordt gegeven tot het financieel uitoefenen van de transportcapaciteit. Voor de hoogte van de vergoeding die aan houders van transportcapaciteit wordt uitgekeerd, verwijst artikel 5.6.11.1 naar de EU HAR. Omdat de EU HAR en de bijbehorende Annexen de nationale regels voor nominatie van transmissierechten onverlet laat, moet de nominatiedeadline die in dit artikel was bepaald op 9.00 uur worden aangepast, aldus Netbeheer Nederland. De gezamenlijke netbeheerders zijn in het kader van harmonisatie overeengekomen dat de nominatie deadline voor fysieke transmissierechten wordt gesteld op 08.30 uur. Omdat er op de Belgisch-Nederlandse grens financiële transmissierechten worden ingevoerd, heeft deze wijziging alleen gevolgen voor het gebruik van fysieke transmissierechten op de Duits-Nederlandse grens. Partijen op die grens moeten uiterlijk 30 minuten eerder beslissen of zij gebruik willen maken van nominatie of verkoop, danwel een vergoeding op basis van dag-vooruitmarkten willen ontvangen. Netbeheer Nederland merkt daarbij op dat marktpartijen in het algemeen nu voor 08.00 uur nomineren en dat de gevolgen derhalve verwaarloosbaar zijn. Netbeheer Nederland stelt daarom voor artikel 5.6.11 van de Netcode als volgt te wijzigen:

5.6.11 *Gebruik van capaciteit voor jaar- en maandtransporten*

5.6.11.1 *Iedere persoon aan wie in de jaarveiling of de maandveiling transportcapaciteit is toegewezen of die transportcapaciteit volgens de in artikel 5.6.14 genoemde procedure heeft gekocht, heeft de mogelijkheid op de volgende wijze van deze transportcapaciteit gebruik te maken:*
a. ontvangst van een vergoeding voor de betreffende transportcapaciteit voor jaar- en maandtransporten. De vergoeding maakt onderdeel uit van de

[43] Het artikel luidt aldus na de wijziging van het codewijzigingsvoorstel (kenmerk ACM: 2015102301), naar aanleiding van de wijzigingsopdracht door ACM.

in 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit;
b. verkoop van de betreffende transportcapaciteit voor jaar- en maandtransporten volgens 5.6.14;
c. het nomineren van de betreffende capaciteit voor jaar- en maandtransporten indien de betreffende capaciteit voor jaar- en maandtransporten volgens 5.6.9 en 5.6.10 in de vorm van fysiek transportrecht geveild is. In dat geval maakt deze persoon op zijn vroegst vanaf 14.00 uur op de tweede dag voor de dag van transport en indien dit geen werkdag is op de laatste daarvoor liggende werkdag en op zijn laatst tot 8.30 uur op de dag voorafgaand aan de dag van transport, aan de netbeheerder van landelijk hoogspanningsnet bekend of, en zo ja voor welk deel men van de genoemde toegewezen transportcapaciteit voor de dag van transport gebruik wil maken (hieronder te noemen: 'de nominatie' of 'het nomineren').[44]

5.2.2.2 Tegenstrijdigheden tussen de Netcode en EU HAR

78. Netbeheer Nederland stelt daarnaast voor om de Netcode zodanig aan te passen dat er geen tegenstrijdigheden en overlappingen zijn tussen de Netcode en de EU HAR.

79. Netbeheer Nederland stelt voor om de titel van paragraaf 5.6.10 van de Netcode te wijzigen en de artikelen 5.6.10.1 tot en met 5.6.10.5, en 5.6.10.8, van de Netcode te laten vervallen omdat de toevoeging van artikel 5.6.9.8 aan de Netcode betekent dat de opzet van de veiling van capaciteit voor jaar- en maandtransporten onderdeel uitmaakt van de EU HAR. Dit hoeft niet meer te worden geregeld en daarom kunnen de artikelen in paragraaf 5.6.10 van de Netcode vervallen, onder invoeging van een nieuw artikel 5.6.10.10 in de Netcode:

5.6.10.10 *De procedure van de veiling voor jaar- en maandtransporten maakt onderdeel uit van de in 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit.*

[44] Het artikel luidt aldus na de wijzing van het codewijzigingsvoorstel, kenmerk: BR15-1090, en kenmerk ACM: 2015102412.

Besluit

80. Ook artikel 5.6.11.4 van de Netcode moet worden aangepast, volgens Netbeheer Nederland, en komt aldus te luiden:[45]

5.6.11.4 *Toegewezen transportcapaciteit die niet conform het in de artikelen 5.6.11.1, onderdeel b, en 5.6.11.2 gestelde is genomineerd komt beschikbaar voor dag-vooruittransporten. De betreffende rechtspersoon of natuurlijke persoon ontvangt daarvoor een vergoeding die gelijk is aan de vergoeding genoemd in artikel 5.6.11.1, onderdeel a.*

81. De artikelen 5.6.11.5 en 5.6.11.6 van de Netcode kunnen in verband met overlapping met de EU HAR en de kans op tegenstrijdigheden komen te vervallen, aldus Netbeheer Nederland.

82. Omdat artikel 5.6.11.7 van de Netcode en de EU HAR verschillende fysieke *firmness*[46] tijdstippen bevatten, stelt Netbeheer Nederland voor dit artikel als volgt te wijzigen:[47]

5.6.11.7 *De in artikel 5.6.11.1 genoemde nominaties dienen ongewijzigd in het E-programma van de in artikel 5.6.11.2 genoemde programmaverantwoordelijke te worden omgezet. E-programma's welke worden ingediend ten behoeve van landsgrensoverschrijdende transporten kunnen niet worden gewijzigd, tenzij:*

a. *artikel 3.6.18 van de Systeemcode elektriciteit wordt toegepast, of*

b. *indien de netbeheerder van het landelijk hoogspanningsnet de toegewezen capaciteit voor jaar- en maandtransporten overeenkomstig artikel 5.6.13.4 reduceert.*

83. Ook het artikel dat de onvoorziene transportbeperking voor impliciete en expliciete veiling zoals beschreven in artikel 5.6.13.4 van de Netcode beschrijft, maakt onderdeel uit van de EU HAR. Netbeheer Nederland stelt daarom de volgende wijziging voor aan artikel 5.6.13.4 van de Netcode:

5.6.13.4 *De procedure en compensatie voor reductie van capaciteit voor jaar- en maandtransporten maakt onderdeel uit van de in 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit.*

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[45] Het artikel luidt aldus na de wijziging van het codewijzigingsvoorstel (kenmerk ACM: 2015102301), naar aanleiding van de wijzigingsopdracht door ACM.

[46] In geval van fysieke *firmness* kan de door een houder van fysieke transmissierechten genomineerde capaciteit niet worden beperkt.

[47] Het artikel luidt aldus na de wijziging van het codewijzigingsvoorstel (kenmerk ACM: 2015102301), naar aanleiding van de wijzigingsopdracht door ACM.

Besluit

84. Hetzelfde geldt voor de verkoop van verkregen capaciteit voor jaar- en maandtransporten zoals beschreven in paragraaf 5.6.14 van de Netcode. Netbeheer Nederland stelt daarom voor de artikelen 5.6.14.1 tot en met 5.6.14a.3 van de Netcode te laten vervallen en het volgende artikel toe te voegen:

5.6.14.3 *De procedure voor verkoop van capaciteit voor jaar- en maandtransporten maakt onderdeel uit van de in 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit.*

85. Daarnaast dekt de titel van paragraaf 5.6.14 van de Netcode niet de lading omdat de capaciteit niet per definitie op de veiling hoeft te zijn verkregen. Daarom stelt Netbeheer Nederland voor de titel aan te passen naar: *"Verkoop van capaciteit voor jaar- en maandtransporten".*

5.2.2.3 Verwijdering van specifieke bepalingen voor de Nederlands-Duitse en Nederlands-Belgische grenzen

86. Naar aanleiding van de uitkomst van de Europese consultatie van de EU HAR stelt Netbeheer Nederland voor enkele specifieke bepalingen die alleen op de Nederlandse grenzen van toepassing zijn, en die een mogelijke belemmering voor verdere harmonisatie vormen, aan te passen. De Netcode kent namelijk diverse bepalingen die alleen voor de Nederlands-Belgische en de Nederlands-Duitse grenzen gelden. Het betreft de bepalingen over:
    - het publiceren van de veilingkalender voor 1 december van jaar n voor onder andere de veiling van de jaarcapaciteit voor jaar n+2;
    - twee jaarveilingen;
    - vaste tijdvensters voor de veilingdata, respectievelijk tussen:
        - 15 september en 15 oktober voor de eerste jaarveiling,
        - 15 november en 15 december voor de tweede jaarveiling, en
        - de 15e en de 25e van de maand voorafgaand aan de maand van transport voor de maandveiling; en
    - het publiceren van de regels voor de toewijzing van lange termijn transportcapaciteit tenminste 12 weken voor aanvang van het kalenderjaar waarin de voorwaarden zullen worden gehanteerd.

87. In de consultatie van de EU HAR is bij de Annex die deze specifieke bepalingen voor de Nederlandse grenzen beschrijft (Annex 8, zie randnummer 43), de vraag gesteld of men ook zonder deze bepalingen kan. Op de consultatie is geen input gekomen om nog langer aan deze vier specifieke uitzonderingen vast te houden. Om die reden stelt Netbeheer Nederland voor de artikelen 5.6.9.1 en 5.6.9.3 tot en met 5.6.9.7 van de Netcode te laten vervallen.

5.2.3 Shadow Allocation Rules

88. De *Shadow Allocation Rules* bevatten regels voor een *fallback* procedure indien de prijskoppeling van de dag-vooruitmarkten niet beschikbaar is. Indien een ontkoppeling van de Prijskoppeling[48] regio plaatsvindt dan zal de capaciteit op de grensoverschrijdende verbindingen expliciet worden geveild door middel van een *shadow auction*.

89. TenneT heeft aangegeven dat de *Shadow Allocation Rules* geen materiële wijzigingen inhouden ten opzichte van de huidige regels voor *shadow auctions* in de HAR 2.0.[49]

[48] Zie artikel 2, tweede lid, van de *Shadow Allocation Rules* voor de definitie van prijskoppeling: "*Price Coupling means the mechanism where the market clearing prices and the net positions are determined in a single step utilizing physical hourly ATC and/or Flow Based capacities.*"

[49] Zie de e-mail van TenneT van 3 juli 2015, kenmerk ACM: 2015305588.

6 Beoordeling

90. In dit hoofdstuk beoordeelt ACM (i) het verzoek van TenneT tot goedkeuring van de EU HAR, (ii) het voorstel van Netbeheer Nederland tot wijziging van de Netcode en (iii) het verzoek van TenneT tot goedkeuring van de *Shadow Allocation Rules*.

91. Zoals aangegeven in randnummer 27 hebben Energie-Nederland en Statkraft naar aanleiding van de mededeling in de Staatscourant zienswijzen ingediend. Hierna wordt waar relevant ingegaan op deze zienswijzen en de reactie van TenneT op deze zienswijzen. Waar relevant zullen ook reacties uit de Europese consultatie van de EU HAR door ENTSO-E worden weergegeven.

6.1 EU HAR

92. De toekomstige Verordening voor *Forward Capacity Allocation* is één van meerdere Europese Verordeningen die worden ontwikkeld door de Europese Commissie in het kader van de totstandbrenging van een interne energiemarkt.[50] Het belangrijkste doel van de toekomstige Verordening voor *Forward Capacity Allocation* is geharmoniseerde regels tot stand te brengen voor grensoverschrijdende verdeling van lange termijn capaciteit (zie ook randnummer 37). Op dit moment zijn er in de Europese Unie verschillende sets veilingregels. Op grond van de toekomstige Verordening voor *Forward Capacity Allocation* dienen de transmissiesysteembeheerders in de Europese Unie één gezamenlijke set van veilingregels op te stellen en ter goedkeuring voor te leggen aan hun nationale regulerende instanties. Vooruitlopend op deze verplichting hebben de transmissiesysteembeheerders al vrijwillig een dergelijke set van geharmoniseerde regels opgesteld, namelijk de EU HAR. Deze zijn ter goedkeuring voorgelegd aan de nationale regulerende instanties.

93. Voor de beoordeling van het verzoek tot goedkeuring van de EU HAR en de bijbehorende Annex 1 en Annex 2 zal hierna specifiek worden ingegaan op:
    a. het voorstel tot introductie van financiële transmissierechten; en
    b. de bepalingen met betrekking tot beperking van transmissierechten en de daarbij behorende vergoedingen voor houders van transmissierechten.

[50] Tot nu toe is Verordening 2015/1222 van de Europese Commissie van 24 juli 2015 tot vaststelling van richtsnoeren betreffende capaciteitstoewijzing en congestiebeheer de eerste van deze Verordeningen die in werking is getreden.

6.1.1 Introductie financiële transmissierechten

6.1.1.1 Opvattingen marktpartijen

94. Energie-Nederland en Statkraft zijn in hun zienswijzen ingegaan op de voorgestelde introductie van financiële transmissierechten op de Nederlands – Belgische grensverbindingen. Ook zijn er in het kader van de Europese consultatie van Annex 2 diverse reacties gegeven op een mogelijke introductie van financiële transmissierechten.

6.1.1.1.1 Zienswijze Energie-Nederland

95. Energie-Nederland ziet als nadeel van een overgang van fysieke naar financiële transmissierechten dat in geval van een tekort van aanbod in België een marktpartij bloot zal staan aan een financieel risico dat deze marktpartij niet zou hebben met een fysiek transmissierecht.

96. Energie-Nederland geeft in haar zienswijze aan dat zij op dit moment tegen een volledige introductie van financiële transmissierechten is. Terwijl in een situatie van adequaat aanbod een fysiek transmissierecht en een financieel transmissierecht kunnen worden beschouwd als gelijkwaardige producten, is dit niet meer het geval als er niet genoeg aanbod is, aldus Energie-Nederland. Volgens Energie-Nederland is het niet onwaarschijnlijk dat er op momenten in België tekorten zullen zijn, gezien de huidige situatie met betrekking tot kernenergie in België. Het beschikken over het recht om te kunnen nomineren is dan een vereiste om te kunnen voldoen aan de verplichtingen richting klanten. Energie-Nederland licht dit verder toe in een voorbeeld waarin wordt uitgegaan van een situatie waarin er een tekort aan aanbod is in België en ook de strategische reserve onvoldoende is om aan de vraag te kunnen voldoen. In een dergelijk scenario zou een producent volgens Energie-Nederland blootstaan aan een financieel verlies vanwege het verschil in de dag-vooruit prijs en de onbalans prijs in België. Dit verlies zou volgens Energie-Nederland niet optreden bij een fysiek transmissierecht waarbij kan worden genomineerd.

97. Energie-Nederland geeft aan dat het een vereiste is voor een producent dat er zekerheid is over de levering van energie aan een afnemer aan de andere kant van de grens met een hoog niveau van financiële *firmness*. Op dit moment is daar adequaat in voorzien door fysieke transmissierechten, maar dat is niet meer zo in geval van financiële transmissierechten door een potentieel verschil in prijzen tussen de dag-vooruitmarkt en de onbalansmarkt, aldus Energie-Nederland.

Besluit

98. Energie-Nederland wijst er in aanvulling op het voorgaande op dat de introductie van financiële transmissierechten zal leiden tot hogere handelskosten. Dit doet zich volgens Energie-Nederland voor in de situatie dat een marktpartij twee tegenovergestelde posities inneemt in twee verschillende landen waarvoor *netting* kan plaatsvinden door de resulterende uitwisseling via de nominatie van een fysiek transmissierecht plaats te laten vinden (waarbij niet hoeft te worden genomineerd bij de beurs), terwijl in geval van een financieel transmissierecht, op de beurs van ieder land afzonderlijk een transactie moet worden afgesloten (tegen de transactievergoedingen op de individuele beurzen).

6.1.1.1.2 Zienswijze Statkraft

99. Statkraft vraagt in zijn zienswijze om financiële transmissierechten niet in te voeren op de Nederlands-Belgische grensverbindingen. De reden daarvoor heeft te maken met de beperkte mogelijkheden voor grensoverschrijdende intra-dagelijkse handel. Volgens Statkraft is sprake van een achtergestelde behandeling van grensoverschrijdende intra-dagelijkse handel ten faveure van grensoverschrijdende dag-vooruit handel. De huidige methodologie voor grensoverschrijdende handel is ontworpen om maximale *flows* op een dag-vooruit basis te faciliteren, wat resulteert in een onjuiste waardering van grensoverschrijdende capaciteit en daardoor een inefficiënt gebruik van flexibele *assets* over grenzen. Deze inefficiëntie leidt tot welvaartsverliezen, aldus Statkraft. Vooral in periodes waarin het dag-vooruit prijsverschil laag is en waarin het waarschijnlijk is dat de intra-dagelijkse prijzen verder uiteen zullen lopen, is het efficiënter om af te zien van handel op de dag-vooruitmarkt en om de flexibele *assets* beschikbaar te houden met de mogelijkheid om flexibiliteit te leveren over grenzen afhankelijk van de prijsontwikkelingen op de intra-dagelijkse markten. Statkraft verwijst hierbij naar het rapport *Revealing the value of flexibility* van Pöyry.[51]

100. Volgens Statkraft is het afschaffen van de *Use-It-Or-Sell-It*-bepaling een relatief eenvoudige manier om dit probleem op te lossen. Dit heeft volgens Statkraft geen negatieve gevolgen. Deze oplossing zou alleen mogelijk zijn zolang er nog fysieke transmissierechten worden aangeboden. In geval van een introductie van financiële transmissierechten is deze oplossing niet meer mogelijk, aldus Statkraft. In een nadere toelichting op zijn zienswijze geeft Statkraft onder meer aan dat de voorgestelde oplossing van het afschaffen van de *Use-It-Or-Sell-It*-bepaling eenvoudig voorstelbaar is, maar dat daarmee niet wordt bedoeld dat deze oplossing ook eenvoudig kan worden geïmplementeerd.

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[51] Zie *Revealing the value of flexibility, How can flexible capability be rewarded in the electricity markets of the future?, A public report*, Pöyry, februari 2014.

Besluit

6.1.1.2 Reactie TenneT op zienswijzen

101. In de reactie van TenneT op de zienswijzen van Energie-Nederland en Statkraft, ontvangen op 16 september 2015, geeft TenneT aan dat het voorstel om financiële transmissierechten toe te passen op de Nederlands-Belgische grens in overeenstemming is met het verzoek van de regulerende instanties in de CWE-regio in Annex 1 van de ingediende EU HAR. Het voorstel is in lijn met het Europese doelmodel voor één geïntegreerde interne elektriciteitsmarkt en de bijbehorende *roadmap* om in de *forward*markt voor transmissierechten de transitie te maken naar financiële transmissierechten, aldus TenneT. TenneT geeft verder aan dat de hele discussie rond de introductie van financiële transmissierechten moet worden bezien in een internationaal perspectief. Bij de totstandkoming van de EU HAR, waar financiële transmissierechten een onderdeel van uitmaken, heeft reeds een uitgebreide internationale consultatie plaatsgevonden, waar ook Nederlandse marktpartijen ruimschoots gelegenheid hebben gekregen om visies en (inhoudelijke) argumenten over het onderhavige onderwerp in te brengen, aldus TenneT. TenneT geeft aan te begrijpen dat Nederlandse partijen bij een terinzagelegging door de ACM gelegenheid krijgen visies en argumenten (nogmaals) te ventileren, maar gezien het internationale karakter van financiële transmissierechten wil TenneT vooral verwijzen naar de internationale consultaties (én de antwoorden daarop) als de plek waar commentaar kan worden geleverd. TenneT vindt dit omdat bij deze nationale terinzagelegging buitenlandse partijen (marktpartijen, toezichthouders en transmissiesysteembeheerders) geen stem meer hebben in onderwerpen die hen net zo goed aangaan als bijvoorbeeld Statkraft en Energie-Nederland. Verder zijn internationale en nationale workshops over de introductie van financiële transmissierechten gehouden, aldus TenneT. Ook werd dit onderwerp binnen het Gen-overleg bediscussieerd, in het kader van het codewijzigingsvoorstel BR-15-1063. Daarom geeft TenneT aan geen aanleiding te zien om verder op de zienswijze van Energie-Nederland en Statkraft met betrekking tot financiële transmissierechten te reageren. TenneT zou het wel betreuren als in deze fase van het traject een andere beslissing wordt genomen, dan de voorstelde introductie van financiële transmissierechten.

6.1.1.3 Reacties Europese consultatie EU HAR en Annex 2

102. Tijdens de Europese consultatie van de EU HAR zijn specifiek met betrekking tot Annex 2 vragen gesteld over een eventuele introductie van financiële transmissierechten. Daarop zijn reacties ontvangen van Iberdrola, EURELECTRIC, EDF S.A. en EFET. Kort samengevat, komen deze reacties er op neer dat fysieke transmissierechten nu ook al de *Sell-It* optie hebben waardoor zij vergelijkbaar zijn met een financieel transmissierecht. Er zou eerst een diepgaand onderzoek, bestaande uit een kosten-batenanalyse, naar een dergelijke introductie moeten plaatsvinden, zeker gezien de recente introductie van *flow-based* marktkoppeling. Daarnaast wordt de mogelijkheid om te kunnen nomineren bij een fysiek transmissierecht als positief beoordeeld omdat dit marktdeelnemers flexibiliteit geeft. De introductie van financiële

transmissierechten zou niet tot een lagere liquiditeit van de markt mogen leiden. Iberdrola gaf in zijn zienswijze aan dat financiële transmissierechten marktrisico's niet kunnen voorkomen als extreme prijzen worden bereikt en een *pro rata* verdeling van biedingen wordt toegepast. Door een dergelijke beperking kan het zijn dat leveringen aan eindafnemers niet worden uitgevoerd, terwijl bij fysieke transmissierechten de levering is gegarandeerd door de mogelijkheid van nominatie.

103. EURELECTRIC gaf aan positief te staan tegenover een introductie van financiële transmissierechten op alle grenzen als er (i) de zekerheid is dat fysieke transmissierechten en financiële transmissierechten gelijk worden behandeld onder MIFID en de *European Market Infrastructure Regulation* (EMIR)[52] en (ii) als de gedetailleerde processen gelijk zijn voor financiële transmissierechten en niet-genomineerde fysieke transmissierechten.

6.1.1.4 Beoordeling voorstel introductie financiële transmissierechten

104. TenneT stelt voor om op de Belgisch-Nederlandse grensverbindingen over te gaan van fysieke transmissierechten naar financiële transmissierechten. Het belangrijkste gevolg hiervan voor een houder van een transmissierecht is dat deze niet meer de mogelijkheid heeft om capaciteit te nomineren voor gebruik. De capaciteit wordt in dat geval namelijk automatisch door het veilingplatform doorverkocht op de dag-vooruit veiling. De deelnemer heeft vervolgens recht op een vergoeding die gelijk is aan het prijsverschil tussen de dag-vooruitmarkten die zijn verbonden door de grensverbinding.[53] Uitvoering van een lange termijncontract vindt in dit geval plaats via de bij de betreffende grensverbinding behorende dag-vooruitmarkten. Daardoor zullen na een introductie van financiële transmissierechten meer transacties plaatsvinden op dag-vooruitmarkten. Dit is positief voor de liquiditeit op en transparantie van de dag-vooruitmarkten.

105. Een belangrijk positief effect van een dergelijke overgang is dat alle transmissierechten worden gebruikt op de dag-vooruitmarkt waardoor bij de prijsbepaling door het dag-vooruit algoritme rekening wordt gehouden met de volledige vraag en het volledige aanbod van de beurzen aan beide zijden van de grens. Dit heeft een positieve invloed op de mate waarin (i) een efficiënte marktuitkomst tot stand komt en (ii) een optimale inzet van productiecapaciteit door het algoritme wordt vastgesteld. Deze voordelen worden niet bereikt bij genomineerde fysieke transmissierechten omdat de bij het genomineerde fysieke transmissierecht behorende vraag en het aanbod niet wordt aangeboden op de beide beurzen en daardoor niet hoeft te worden meegenomen in het dag-vooruit algoritme. ACM ziet de toename van de efficiëntie van de dag-

[52] Verordening (EU) Nr. 648/2012 van het Europees Parlement en de Raad van 4 juli 2012 betreffende otc-derivaten, centrale tegenpartijen en transactieregisters.

[53] Zie de definitie van *Financial Transmission Right Option* in artikel 2, tweede lid, van de EU HAR.

vooruitmarkt als een zeer belangrijk voordeel van een overgang naar financiële transmissierechten.

106. De invoering van financiële transmissierechten heeft nog meer positieve gevolgen. In het *Position Paper of CWE NRAs on Flow-Based Market Coupling,* bijlage 3 bij het besluit over de invoering van *flow-based* marktkoppeling,[54] staat dat door het meenemen van de nominaties van lange termijn capaciteit in het dag-vooruit *flow-based* domein het risico bestaat dat het *flow-based* domein niet voldoende is om te voorzien in de genomineerde transmissierechten. De transportzekerheid kan daardoor in gevaar komen. De invoering van financiële transmissierechten beschouwt ACM als een oplossing voor deze situatie. Bij de dag-vooruit allocatie hoeft dan namelijk geen rekening meer te worden gehouden met genomineerde fysieke transmissierechten aangezien nominatie niet mogelijk is bij financiële transmissierechten. Er is dan geen risico meer dat het *flow-based* domein in fysieke zin onvoldoende is om de genomineerde transmissierechten te faciliteren. ACM ziet dit als een belangrijk voordeel van invoering van financiële transmissierechten.

107. ACM merkt verder het volgende op. In een situatie waarin blijkt dat de toegewezen capaciteit lager is dan de daadwerkelijk beschikbare capaciteit zal minder capaciteit worden gebruikt op de dag-vooruitmarkt. Hierdoor ontvangt een transmissiesysteembeheerder onvoldoende veilingopbrengsten uit de impliciete veiling van de dag-vooruitmarkt om de houders van transmissierechten te vergoeden. ACM stelt vast dat in een dergelijke situatie de transmissiesysteembeheerder de houders van transmissierechten dient te vergoeden uit de eerder ontvangen veilingopbrengsten. Dit ter uitvoering van artikel 16, zesde lid, onder a, van Verordening 714/2009 waarin is bepaald dat eventuele ontvangsten uit de toewijzing van koppelingscapaciteit wordt gebruikt voor (onder meer) het garanderen dat de toegewezen capaciteit daadwerkelijk beschikbaar is.

6.1.1.4.1 Tekort aanbod België en handelskosten

108. Een introductie van financiële transmissierechten zal, zoals hiervoor nader toegelicht, tot gevolg hebben dat een efficiëntere marktuitkomst tot stand komt en de infrastructuur optimaler wordt ingezet. Dit vermindert juist de kans dat de extreme situatie die Energie-Nederland beschrijft zich zal voordoen. Overigens heeft de situatie met extreme tekorten die Energie-Nederland beschrijft, zich tot op heden niet voorgedaan.

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[54] Zie het besluit in zaak 13.0852.52, reeds aangehaald, pagina 72.

109. Zoals hiervoor aangegeven levert de invoering van financiële transmissierechten welvaartsvoordelen op doordat er sprake zal zijn van een efficiëntere uitkomst op de dag-vooruitmarkt en het risico wordt opgelost dat het *flow-based* domein niet voldoende is om te voorzien in de genomineerde transmissierechten waardoor de transportzekerheid in gevaar zou komen. Ondanks dat deze welvaartsvoordelen niet eenvoudig zijn te kwantificeren, oordeelt ACM dat de welvaartsvoordelen voor de samenleving zonder meer de mogelijke financiële nadelen voor een houder van een financieel transmissierecht in een dergelijke extreme situatie overtreffen.

110. ACM wijst er voorts op dat in een extreme situatie, zoals Energie-Nederland beschrijft, alle marktpartijen bloot staan aan het beschreven risico. Een fysiek transmissierecht heeft niet primair als doel om in een dergelijke extreme situatie de houder van dat recht een voordeel te bieden dat andere marktdeelnemers op dat moment niet hebben. Het primaire doel van een fysiek transmissierecht is om het risico op prijsverschillen tussen aangrenzende dag-vooruitmarkten af te dekken.

111. Met betrekking tot de door Energie-Nederland geschetste toename van handelskosten doordat transacties op twee beurzen dienen plaats te vinden ten gevolge van de invoering van financiële transmissierechten (zie randnummer 98) oordeelt ACM dat de welvaartsvoordelen van de invoering van financiële transmissierechten deze kosten verre overtreffen.

112. De door Energie-Nederland genoemde bezwaren tegen een introductie van financiële transmissierechten vormen geen reden om niet over te gaan tot goedkeuring van het voorstel van TenneT voor invoering van financiële transmissierechten aangezien de overgang naar financiële transmissierechten (i) past binnen het Europese doelmodel voor één geïntegreerde interne elektriciteitsmarkt, (ii) belangrijke welvaartsvoordelen tot gevolg heeft die aanzienlijk hoger zijn dan (a) de mogelijke financiële nadelen voor een houder van een financieel transmissierecht in een extreme situatie, zoals Energie-Nederland beschrijft, en (b) de door Energie-Nederland genoemde handelskosten. Bovendien verkleint de overgang naar financiële transmissierechten juist de kans op een extreme situatie die Energie-Nederland beschrijft.

6.1.1.4.2 Intra-dagelijkse handel

113. ACM ziet het belang van verbetering van de intra-dagelijkse handel. Volgens Statkraft zou een relatief eenvoudige manier om het door Statkraft beschreven probleem op te lossen, kunnen worden gevonden in het afschaffen van de *Use-It-Or-Sell-It*-bepaling. Statkraft geeft hierbij wel aan dat deze voorgestelde oplossing niet eenvoudig kan worden geïmplementeerd. ACM ziet niet in hoe de introductie van financiële transmissierechten een toekomstige verbetering van de intra-dagelijkse handel in de weg zou staan.

114. In het rapport *Revealing the value of flexibility* van Pöyry waaraan Statkraft refereert, staat juist dat er idealiter sprake zou moeten zijn van financiële transmissierechten die de liquiditeit van de relevante *spot* markten ondersteunen en dat fysieke transmissierechten kunnen worden overwogen in een situatie waarin liquide energie optie markten nog moeten evolueren.[55]

115. Daarnaast staat in Bijlage 1 bij Verordening 714/2009 dat voor transmissierechten de beginselen van *Use-It-Or-Sell-It* of *Use-It-Or-Lose-It* dienen te gelden op het ogenblik van de nominatie.[56] Dit maakt afschaffing van de *Use-It-Or-Sell-It*-bepaling in juridische opzicht ook niet mogelijk.

116. ACM merkt met betrekking tot de intra-dagelijkse handel verder het volgende op. In artikel 2.6 van Bijlage 1 bij Verordening 714/2009 is bepaald dat transmissiesysteembeheerders een passende structuur dienen vast te stellen voor de toewijzing van capaciteit tussen de verschillende tijdsbestekken en dat hierin een optie kan worden opgenomen om een minimum aan interconnectiecapaciteit te reserveren voor dagelijkse of intra-dagelijkse-capaciteit. Van een dergelijke reservering is op dit moment geen sprake. ACM vraagt aan TenneT om te onderzoeken of dit tot een verbetering kan leiden van de intra-dagelijkse handel.

6.1.1.4.3 MIFID

117. Iberdrola en EURELECTRIC hebben aangegeven dat duidelijk moet zijn dat financiële transmissierechten onder MIFID II hetzelfde worden behandeld als fysieke transmissierechten. Netbeheer Nederland heeft aangegeven dat in de huidige versie van MIFID II zowel fysieke als financiële transmissierechten als financiële instrumenten worden gezien (zie ook randnummer 58). ACM ziet hierin daarom geen belemmering voor een overgang naar financiële transmissierechten.

6.1.1.5 Tussenconclusie

118. Op grond van de voorgaande overwegingen vormen de door Energie-Nederland, Statkraft en de in het kader van de Europese consultatie aangevoerde zienswijzen geen reden om niet over te gaan tot goedkeuring van de EU HAR en een introductie van financiële transmissierechten op de Nederlands-Belgische grensverbindingen.

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[55] Zie *Revealing the value of flexibility, How can flexible capability be rewarded in the electricity markets of the future?*, reeds aangehaald, pagina 17.

[56] Zie artikel 2.5 van Bijlage 1 bij Verordening 714/2009.

6.1.2 Beperking van transmissierechten en bijbehorende vergoedingen

6.1.2.1 Uitgangspunt beoordeling

119. Zoals eerder aangegeven is de toekomstige Verordening voor *Forward Capacity Allocation* momenteel in het stadium van ontwikkeling (zie randnummer 37). Daardoor is niet zeker welke bepalingen zullen gelden voor beperking van transmissierechten en de daarbij behorende vergoedingen. Bij de beoordeling van de bepalingen in de EU HAR over de beperking van transmissierechten en de bijbehorende vergoedingen hanteert ACM daarom als uitgangspunt dat deze bepalingen niet mogen verslechteren ten opzichte van de huidige situatie waarin de HAR 2.0 van toepassing is, tenzij voor deze veranderingen een valide reden is. Zodra de Verordening voor *Forward Capacity Allocation* inwerking treedt, zal TenneT een nieuw voorstel voor expliciete veilingen van transmissierechten moeten indienen conform de bepalingen in de Verordening voor *Forward Capacity Allocation* over beperking van transmissierechten en de daarbij behorende vergoedingen.

120. De bepalingen met betrekking tot de beperking van transmissierechten en de daarbij behorende vergoedingen in de EU HAR en Annex 2 wijken op een aantal punten af van soortgelijke bepalingen in de HAR 2.0. Hierna wordt beoordeeld of daar valide redenen voor zijn.

6.1.2.2 Zienswijze Energie-Nederland

121. Energie-Nederland is van mening dat er geen *Long Term Firmness Deadline* zou moeten zijn omdat dit onnodig is in aanvulling op de *Day Ahead Firmness Deadline*. Energie-Nederland geeft aan dat *firmness* van cruciaal belang is voor marktdeelnemers, daarom zouden transmissiesysteembeheerders moeten worden geprikkeld tot maximale beschikbaarheid van de transmissielijnen. Volgens Energie-Nederland is de *Long Term Firmness Deadline* niet effectief om dit te bereiken. Er is een risico dat congestie wordt "geduwd" naar de grens omdat andere maatregelen, zoals *redispatch*, duurder zijn voor een transmissiesysteembeheerder, aldus Energie-Nederland. Om dezelfde reden vindt Energie-Nederland ook dat bovengrenzen aan de vergoeding die marktpartijen krijgen als transmissierechten worden beperkt om *System Security* te verzekeren, of vanwege een noodsituatie, niet zouden moeten worden beperkt tot de veilingopbrengsten van de betreffende maandveiling en 1/12 deel van de veilingopbrengsten van de jaarveiling. Het risico dat de kosten voor vergoedingen voor een transmissiesysteembeheerder hoger zijn dan de congestie-inkomsten in een bepaalde maand is laag, en als dit zou gebeuren, zou dit worden gecompenseerd door andere maanden. Energie-Nederland is daarom van mening dat de bovengrens zou moeten worden geschrapt of ten minste significant zou moeten worden verhoogd.

6.1.2.3 Reactie TenneT op zienswijze Energie-Nederland

122. In reactie van TenneT op de zienswijzen ontvangen op 16 september 2015 geeft TenneT aan dat ook TenneT van mening is dat voor transmissierechten een hoog niveau van zekerheid moet worden geboden, om transmissierechten effectief als risicobeheersinstrument te kunnen gebruiken tegen dag-vooruit prijsverschillen. Gelijktijdig is het door de hoeveelheid aan factoren die invloed hebben op het fysieke net niet mogelijk de grensoverschrijdende capaciteit voor transmissierechten onder alle omstandigheden te garanderen. TenneT vindt dat in de bijzondere gevallen voor beperking van transmissierechten, noodsituatie en *System Security*, een eerlijke compensatie van de houder van het transmissierecht moet plaatsvinden. De Long Term Firmness Deadline biedt een mogelijkheid om een hogere compensatie toe te staan na het moment dat de netbeheerders inzicht hebben in de grensoverschrijdende dag-vooruit capaciteit. Volgens TenneT kunnen transmissierechten en de elektriciteitsmarkt goed functioneren, als een restrisico bij die marktpartijen wordt geplaatst, die uiteindelijk ook een commerciële winst door het participeren op de markt voor transmissierechten zouden ontvangen (*business risk*). TenneT geeft aan dat anders de winst wordt geprivatiseerd terwijl het volledige risico van de activiteit wordt gesocialiseerd via de kosten van de congestieopbrengsten, ten nadele van de tarievenbetaler. TenneT heeft sterke twijfel over het vermeende voordeel van compensatiegrenzen (*caps*) die gebaseerd zijn op jaarlijkse congestieopbrengsten in plaats van de voorgestelde maandelijkse congestieopbrengsten. Volgens TenneT wordt de afhandeling van compensatie van beperkte transmissierechten daardoor namelijk duidelijk complexer. Indien bijvoorbeeld meerdere marktpartijen in januari een compensatie ontvangen, is het mogelijk, dat zij aan het eind van het jaar een deel van hun compensatie aan andere marktpartijen moeten overdragen, aldus TenneT. Dit gebeurt volgens TenneT als partijen recht hebben op compensatie voor een latere maand en de jaarlijkse compensatiegrens is bereikt. Een alternatief zou dan zijn dat marktpartijen tot het eind van het jaar moeten wachten voordat zij de compensatie ontvangen, aldus TenneT. TenneT geeft aan, gezien de nadelen van compensatiegrenzen gebaseerd op jaarlijkse congestieopbrengsten, voor te stellen om de door TenneT ingediende aanpak te volgen.

6.1.2.4 Beoordeling

6.1.2.4.1 Redenen voor beperking van transmissierechten

123. De HAR 2.0 gaat uit van twee omstandigheden op grond waarvan transmissierechten kunnen worden beperkt, namelijk *Safety of the Power System* en overmacht. Zoals aangegeven in randnummer 66 bevat de EU HAR drie redenen voor beperking, namelijk om *System Security*

te verzekeren, een noodsituatie en overmacht. De bepalingen die zien op vergoedingen in een situatie van overmacht zijn identiek in de EU HAR en HAR 2.0.

6.1.2.4.2 Bovengrens ziet op beide richtingen

124. Als transmissierechten worden beperkt, is het maximumbedrag aan vergoedingen waar marktpartijen recht op hebben onder de EU HAR hoger dan onder de HAR 2.0. Dat komt doordat er rekening wordt gehouden met de congestie-inkomsten van beide richtingen in plaats van alleen de richting waarop het betreffende transmissierecht betrekking heeft.[57] Dit biedt een hogere garantie voor houders van transmissierechten dat zij, als hun transmissierechten worden beperkt, volledig worden vergoed. ACM ziet dit als een verbetering ten opzichte van de HAR 2.0.

6.1.2.4.3 Beperking transmissierechten

125. Op grond van de HAR 2.0 in combinatie met artikel 5.6.11.7 van de Netcode kunnen transmissierechten, in verband met *Safety of the Power System,* na D-2 14.00 uur niet meer worden beperkt. Op grond van de EU HAR is dit met betrekking tot het verzekeren van *System Security* het geval na D-1 11.30 uur CET (de *Day Ahead Firmness Deadline*). In plaats daarvan is er van D-2 14.00 uur tot D-1 8.30 uur sprake van een recht op vergoeding van het prijsverschil tussen de relevante dag-vooruitmarkten, met de bovengrens zoals omschreven in randnummer 69. Van D-1 8.30 uur tot D-1 11.30 uur geldt een vergoeding van het prijsverschil tussen de relevante dag-vooruitmarkten zonder bovengrens.

126. De gezamenlijke transmissiesysteembeheerders van de CWE-regio geven hierover aan[58] dat als de *Long Term Firmness Deadline* zou worden bepaald op het moment van het versturen van het *Rights Document* (D-2 13.00 uur) de beperking van transmissierechten zou worden ontkoppeld van de prognose over het dag-vooruit capaciteitsdomein. Transmissiesysteembeheerders zouden daardoor niet kunnen beoordelen welke minimum hoeveelheid grensoverschrijdende capaciteit zou moeten worden beperkt. Om een *security system* risico en een financieel risico (vanwege een verplichting tot vergoeding zonder bovengrens) te voorkomen, zouden transmissiesysteembeheerders een prikkel hebben om de hoeveelheid te beperken capaciteit te overschatten. Als de *Long Term Firmness Deadline* wordt bepaald na de berekening van de *flow-based* capaciteitsberekening resultaten zal volgens de transmissiesysteembeheerders in de CWE-regio een adequate afweging kunnen worden gemaakt zodat alleen het daadwerkelijk fysiek vereiste volume wordt beperkt.

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[57] Zie artikel 59, tweede lid, onder a, van de EU HAR en artikel 9.02 (b), onder ii, van de HAR 2.0.

[58] Zie de e-mail van 16 jun 2016, bijlage CWE proposal_rationale_12102015, kenmerk ACM: 2015305979.

127. ACM is het eens met de transmissiesysteembeheerders dat een *Long Term Firmness Deadline* voorafgaand aan het moment waarop de prognose over het dag-vooruit capaciteitsdomein bekend is het risico met zich meebrengt dat transmissiesysteembeheerders een prikkel krijgen tot overmatige beperking van transmissierechten. Zij zouden zo willen voorkomen een verplichting te krijgen om aan marktpartijen vergoedingen te verstrekken zonder een bovengrens. ACM gaat daarom akkoord met het wijzigen van het tijdstip van de *Long Term Firmness Deadline.*

6.1.2.4.4 Long Term firmness Deadline en bovengrens vergoedingen

128. Alhoewel ACM sympathie heeft[59] voor het voorstel van Energie-Nederland om de bovengrens voor vergoedingen te verhogen, in een situatie om *System Security* te verzekeren of een noodsituatie, hanteert ACM (zoals aangegeven in randnummer 119) als uitgangspunt voor de beoordeling dat bepalingen over beperking van transmissierechten en de daarbij behorende vergoedingen niet mogen verslechteren ten opzichte van de huidige situatie waarin de HAR 2.0 van toepassing is, tenzij voor deze veranderingen een valide reden is. Zodra er een bindende Verordening voor *Forward Capacity Allocation* is, zal deze vaststellen welke bovengrenzen van toepassing zijn en of er sprake is van een *Long Term Firmness Deadline*. ACM is van mening dat de voorgestelde bepalingen een goede balans waarborgen tussen de verantwoordelijkheid van TenneT om de systeemveiligheid te waarborgen en zekerheden te bieden voor marktpartijen om grensoverschrijdend te handelen.

6.1.3 Conclusie

129. Op grond van het voorgaande concludeert ACM dat niet is gebleken dat de EU HAR, Annex 1 en Annex 2 voorwaarden bevatten die onredelijk, niet-objectief of discriminerend zijn. ACM keurt daarom de EU HAR, Annex 1 en Annex 2 goed, op grond van artikel 26a, eerste lid, van de E-wet.

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[59] Zie de *Recommendation of the Agency For the Cooperation of Energy Regulators, no. 02/2014 of 22 May 2014 on the Network Code on Forward Capacity Allocation.*

6.2 Codewijzigingsvoorstel

6.2.1 De gevolgde procedure

130. ACM constateert op grond van het voorstel dat op 18 juni 2015 een overleg met representatieve organisaties heeft plaatsgevonden zoals bedoeld in artikel 33, eerste lid, van de E-wet. Het op 14 september 2015 ontvangen gewijzigde codewijzigingsvoorstel is tijdens het Gen-overleg van 27 augustus 2015 besproken. In de voorstellen is een verslag opgenomen van deze overleggen en tevens is aangegeven welke gevolgtrekkingen zijn verbonden aan de zienswijzen die de representatieve organisaties naar voren hebben gebracht.

131. Naar het oordeel van ACM voldoet het voorstel van Netbeheer Nederland daarmee aan het bepaalde bij artikel 33, tweede lid, van de E-wet.

6.2.2 Voorgestelde wijzigingen: introductie van financiële transmissierechten

132. Zoals uiteengezet in de randnummers 104 tot en met 105 bevorderen financiële transmissierechten naar het oordeel van ACM de harmonisatie van landsgrensoverschrijdende elektriciteitshandel, en ontstaat er meer prijsconvergentie. Met de introductie van artikel 5.6.9.10 in de Netcode wordt het mogelijk om naast fysieke, ook financiële transmissierechten aan te bieden. ACM heeft geconstateerd dat in het huidige codewijzigingsvoorstel artikelnummer 5.6.9.9 ontbreekt. ACM wijzigt ambtshalve de nummering: 5.6.9.10 wordt 5.6.9.9. In dit artikel wordt verwezen naar de "*veilingregels voor de lange termijn capaciteitstoewijzing*". ACM constateert dat wordt gedoeld op de EU HAR. De EU HAR wordt in de andere artikelen in de Netcode (bijvoorbeeld in artikel 5.6.10.10) omschreven als "*de in artikel 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit*". ACM wijzigt dit artikel ambtshalve om er voor te zorgen dat in de Netcode op een consistente wijze wordt gerefereerd aan de EU HAR.[60] Het artikel komt te luiden:

5.6.9.9 De capaciteit voor jaar- en maandtransporten kan in overeenstemming met de in artikel 5.6.9.8 genoemde congestiebeheersprocedures in de vorm van een zogenoemd financieel transportrecht of in de vorm van een fysiek transportrecht geveild worden. De regels specificeren per landsgrens in welke vorm de transportcapaciteit voor jaar- en maandtransporten geveild wordt.

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[60] ACM heeft op 22 september 2015 een voorstel van Netbeheer Nederland ontvangen (kenmerk: BR-15-1106, kenmerk ACM 2015102494) voor wijziging van het artikel, maar ACM neemt dit voorstel niet over.

Besluit

133. ACM constateert dat de opzet van de veiling is vastgelegd in de EU HAR. Derhalve kunnen de meeste artikelen uit paragraaf 5.6.9 van de Netcode vervallen.[61] Met de introductie van artikel 5.6.9.8 wordt expliciet gemaakt dat de opzet van de veiling van capaciteit voor jaar- en maandtransporten onderdeel is van de congestiebeheersprocedures. Deze congestiebeheersprocedures moeten ter goedkeuring worden voorgelegd aan ACM op basis van artikel 16, vijftiende lid, van de E-wet.

134. Naar het oordeel van ACM zijn de hier voorgestelde wijzigingen niet in strijd met de belangen, regels en eisen bedoeld in artikel 36, eerste en tweede lid, van de E-wet.

6.2.3 Voorgestelde wijzigingen: verwijderen van overlappingen en tegenstrijdigheden

135. De procedure voor de expliciete veiling van jaar- en maandtransporten wordt geregeld in de EU HAR. Netbeheer Nederland stelt daarom voor de artikelen 5.6.10.1 tot en met 5.6.10.5 en 5.6.10.8 van de Netcode te laten vervallen (de artikelen 5.6.10.6, 5.6.10.7 en 5.6.10.9 van de Netcode zijn al bij eerdere wijzigingen van de Netcode komen te vervallen). ACM constateert dat deze artikelen kunnen vervallen omdat de daarin geregelde onderwerpen onderdeel uitmaken van de EU HAR.[62]

136. Artikel 5.6.10.9 van de Netcode wordt ingevoegd en licht toe dat de procedure voor de expliciete veiling van jaar- en maandtransporten onderdeel uitmaakt van de in artikel 5.6.9.8 van de Netcode genoemde EU HAR.

137. De inhoud van de artikelen 5.6.11.5 en 5.6.11.6, over het vervallen van capaciteit aan de dag-vooruittransporten, is opgenomen in de EU HAR[63] en deze artikelen kunnen dan ook vervallen.

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[61] De toewijzingsprocedure (voorheen artikel 5.6.9.1) is opgenomen in hoofdstuk 4 van de EU HAR. Voorwaarden zijn opgenomen in hoofdstuk 4 van de EU HAR en daarom kan artikel 5.6.9.3 van de Netcode vervallen. Financiële voorwaarden zijn opgenomen in hoofdstuk 3 van de EU HAR, waardoor artikel 5.6.9.4 van de Netcode kan vervallen. De bepalingen over biedingen (artikel 5.6.9.5 van de Netcode) zijn opgenomen in artikelen 31 en 36 van de EU HAR. De methodes en voorwaarden (artikel 5.6.9.6 en 5.6.9.7 zijn opgenomen in arttikel 69 en 27 van de EU HAR.

[62] De bepaling dat als er voldoende capaciteit is om alle aanvragen te honoreren, de clearingprijs gelijk is aan EUR 0,--, (artikel 5.6.10.2 van de Netcode) is opgenomen in artikel 35 van de EU HAR. De prijszetting als de vraag de capaciteit overstijgt (artikelen 5.6.10.3 en 5.6.10.4 van de Netcode) is ook opgenomen in artikel 35 van de EU HAR. Artikel 64 van de EU HAR vervangt artikel 5.6.10.5 en artikel 36 van de EU HAR vervangt artikel 5.6.10.8.

[63] Zie Hoofdstuk 7 en hoofdstuk 10 van de EU HAR.

Besluit

138. In het codewijzigingsvoorstel ontvangen op 9 juli 2015 waren in artikel 5.6.11.7 van de Netcode geen wijzigingen aangebracht. Op grond van dit artikel was sprake van fysieke *firmness* vanaf 9.00 uur, de nominatiedeadline in artikel 5.6.11.1. Op grond van de EU HAR is er echter sprake van fysiek *firmness* vanaf D-1 11.30 uur (tenzij er sprake is van een noodsituatie of overmacht). Dit was naar het oordeel van ACM in strijd met artikel 36 van de E-wet omdat het voor afnemers onduidelijk was wanneer een door hen genomineerd transmissierecht fysieke *firm* zou zijn. ACM heeft daarom een wijzigingsopdracht gestuurd. ACM constateert dat de strijdigheid is opgeheven in het gewijzigde codewijzigingsvoorstel ontvangen op 4 september 2015.

139. In het gewijzigde codewijzigingsvoorstel ontvangen op 14 september 2015[64] stelt Netbeheer Nederland voor de nominatiedeadline te veranderen van D-1 9.00 uur naar D-1 8.30 uur. Marktpartijen moeten hierdoor een half uur eerder nomineren. Netbeheer Nederland heeft toegelicht dat de impact van deze wijziging beperkt is omdat de deadline slechts een half uur verschuift en omdat veel marktpartijen nu al voor 08.00 uur nomineren. Het doel hiervan is om de nominatiedeadline te harmoniseren in de CWE-regio.

140. De procedure rondom een onvoorziene reductie van transportcapaciteit van maand- en jaartransporten is opgenomen in de EU HAR.[65] Artikel 5.6.13.4 licht toe dat de procedure onderdeel uitmaakt van de in artikel 5.6.9.8 van de Netcode genoemde EU HAR.

141. Ook de bepalingen over de verkoop van jaar- en maandtransporten zijn opgenomen in de EU HAR.[66] Daarom kunnen de artikelen 5.6.14.1 tot en met 5.6.14a.3 naar het oordeel van ACM vervallen. Artikel 5.6.14.3 licht toe dat de bepalingen over de verkoop van jaar- en maandtransporten onderdeel uitmaken van de in artikel 5.6.9.8 van de Netcode genoemde EU HAR.

142. De EU HAR maakt het ook mogelijk om capaciteit onderling door te verkopen.[67] Derhalve is aanpassing van de titel van 5.6.14 noodzakelijk.

143. Naar het oordeel van ACM zijn de hier voorgestelde wijzigingen niet in strijd met de belangen, regels en eisen bedoeld in artikel 36, eerste en tweede lid, van de E-wet.

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[64] Met kenmerk: BR15-1090, en kenmerk ACM: 2015102412.

[65] Hoofdstuk 9 van de EU HAR.

[66] Hoofdstuk 5 en 6 van de EU HAR.

[67] Hoofdstuk 6 van de EU HAR.

6.2.4 Voorgestelde wijzigingen: specifieke bepalingen voor de Nederlandse grenzen

144. ACM constateert dat Netbeheer Nederland een aantal bepalingen heeft geschrapt die alleen voor de Nederlandse grenzen golden, en die niet van kracht waren in de rest van de Europese Unie. Het betreft ten eerste het feit dat er twee jaarveilingen zijn en de daaraan gerelateerde publicatie van de veilingkalender en de vaste tijdsvensters. Over dit onderwerp zijn geen zienswijzen ingediend en ACM ondersteunt de harmonisatie die hiermee wordt bereikt.

145. Naar het oordeel van ACM zijn de hier voorgestelde wijzigingen niet in strijd met de belangen, regels en eisen bedoeld in artikel 36, eerste en tweede lid, van de E-wet.

6.3 Shadow Allocation Rules

146. In het kader van de consultatie van de *Shadow Allocation Rules* is één reactie gegeven. Deze reactie zag specifiek op de Spaanse markt en is daarom niet relevant voor de beoordeling.

147. De bepalingen in de *Shadow Allocation Rules* met betrekking tot een *fallback* procedure indien de prijskoppeling van de dag-vooruitmarkten niet beschikbaar is, wijken inhoudelijk niet af van de bepalingen over ditzelfde onderwerp in de HAR 2.0.

148. Niet is gebleken dat de *Shadow Allocation Rules* voorwaarden bevatten die onredelijk, niet objectief of discriminerend zijn. ACM keurt daarom de *Shadow Allocation Rules* goed op grond van artikel 26a, eerste lid, van de E-wet.

6.4 Overgangsregeling

149. ACM constateert dat er een overlap is in de periode dat de HAR 2.0 nog van toepassing is en de periode dat de EU HAR van toepassing dient te zijn. De HAR 2.0 is namelijk nog relevant voor transmissierechten die of (i) nog kunnen worden aangeschaft, of (ii) zijn aangeschaft, op de maand-of jaarveilingen van transmissierechten die een looptijd hebben tot uiterlijk 1 januari 2016. Voor deze transmissierechten dienen eveneens de huidige bepalingen van de Netcode te gelden.

150. Aan de andere kant zijn de bepalingen uit de EU HAR relevant voor de maand- en jaarveiling die dit jaar plaatsvinden voor transmissierechten met een looptijd vanaf 1 januari 2016. Voor deze veilingen is van belang dat de EU HAR in werking is getreden en dat de wijzigingen in de Netcode zijn vastgesteld.

Besluit

151. Om duidelijkheid te creëren voor deelnemers aan de veilingen bepaalt ACM dat voor de transmissierechten zoals omschreven in randnummer 149 de HAR 2.0 en de huidige bepalingen uit de Netcode van toepassing blijven tot 1 januari 2016.

152. Voor de transmissierechten zoals omschreven in randnummer 150 oordeelt ACM dat de EU HAR en de wijzigingen in de Netcode van toepassing zijn na inwerkingtreding van dit besluit.

Autoriteit
Consument & Markt

Besluit

7 Dictum

153. De Autoriteit Consument en Markt:

(i) keurt de in de EU HAR, Annex 1 en Annex 2 neergelegde congestiebeheersprocedures goed;

(ii) stelt de voorwaarden als bedoeld in artikel 31 van de Elektriciteitswet 1998 vast, met dien verstande dat de Netcode Elektriciteit wordt gewijzigd conform de wijzigingen opgenomen in Bijlage 4 bij dit besluit; en

(iii) keurt de in de *Shadow Allocation Rules* neergelegde congestiebeheersprocedures goed.

154. Van dit besluit wordt mededeling gedaan in de Staatscourant. Voorts publiceert de Autoriteit Consument en Markt dit besluit op de internetpagina van de Autoriteit Consument en Markt.

155. Dit besluit treedt in werking op de dag na bekendmaking in de Staatscourant.

's-Gravenhage,

Datum: 2 oktober 2015

Autoriteit Consument en Markt
namens deze,

w.g.
mr. J.G. Vegter
bestuurslid

Tegen dit besluit kan degene, wiens belang rechtstreeks bij dit besluit is betrokken, binnen zes weken na de dag van bekendmaking van dit besluit een gemotiveerd bezwaarschrift indienen bij ACM, Directie Juridische Zaken, Postbus 16326, 2500 BH Den Haag. In dit bezwaarschrift kan een belanghebbende op basis van artikel 7:1a, eerste lid, van de Algemene wetbestuursrecht, ACM verzoeken in te stemmen met rechtstreeks beroep bij de administratieve rechter. Geef hierbij aan of het bezwaarschrift betrekking heeft op de goedkeuring van (i) de EU HAR, (ii) het codewijzigingsvoorstel en/of (iii) de Shadow Allocation Rules.

Bijlage 1

Allocation Rules for Forward Capacity Allocation **(EU HAR)**

entsoe

Reliable Sustainable Connected

Allocation Rules for Forward Capacity Allocation

17 June 2015

CONTENTS

CHAPTER 1 General Provisions 6
Article 1 Subject-matter and scope 6
Article 2 Definitions and interpretation 6
Article 3 Allocation Platform 10
Article 4 Regional specificities 10
Article 5 Effective date and application 10
CHAPTER 2 Requirements and process for participation in Auctions and Transfer 12
Article 6 General Provision 12
Article 7 Participation Agreement conclusion 12
Article 8 Form and content of the Participation Agreement 13
Article 9 Submission of information 13
Article 10 Warranties 14
Article 11 Declaration for participation in transfer only 15
Article 12 Dedicated Business Account 15
Article 13 Acceptance of the Information System Rules 15
Article 14 Costs related to the Participation Agreement 15
Article 15 Refusal of application 15
Article 16 Access to the Auction Tool 16
Article 17 Conclusion of additional financial terms 16
Article 18 Regulatory and legal requirements 16
CHAPTER 3 Collaterals 17
Article 19 General provisions 17
Article 20 Form of cash deposit 17
Article 21 Form of Bank Guarantee 18
Article 22 Validity and renewal of the Bank Guarantee 19
Article 23 Credit Limit 19
Article 24 Modifications of the collaterals 20
Article 25 Collateral incident 20
Article 26 Calls on collaterals 21
CHAPTER 4 Auctions 22

Article 27 General provisions for Auctions 22
Article 28 Capacity Allocation timeframe and form of product 22
Article 29 Auction Specification 23
Article 30 Reduction Periods of Offered Capacity 24
Article 31 Bids submission 24
Article 32 Bid registration 25
Article 33 Default Bid 25
Article 34 Credit Limit verification 26
Article 35 Auction Results Determination 27
Article 36 Notification of provisional Auction results 29
Article 37 Contestation of Auction Results 30
CHAPTER 5 Return of Long Term Transmission Rights 31
Article 38 General Provision 31
Article 39 Process of the return 31
Article 40 Remuneration of Long Term Transmission Right holders 32
CHAPTER 6 Transfer of Long Term Transmission Rights 33
Article 41 General provisions 33
Article 42 Process of the transfer 33
Article 43 Legal consequences of the transfer 34
Article 44 Notice board 34
CHAPTER 7 Use and remuneration of Long Term Transmission Rights 35
Article 45 General principles 35
Article 46 Nomination of Physical Transmission Rights 35
Article 47 Rights Document 36
Article 48 Remuneration of Long Term Transmission Rights holders for non-nominated Physical Transmission Rights and Financial Transmission Rights Options 36
CHAPTER 8 Fallback Procedures 38
Article 49 General provisions 38
Article 50 Fallback procedure for data exchange 38
Article 51 Fallback procedures for Auction 39
Article 52 Auction cancellation 40
Article 53 Fallback procedure for return of Long Term Transmission Rights 40
Article 54 Fallback procedure for transfer of Long Term Transmission Rights 40

Article 55 Fallback procedure for eligible person notification 41
CHAPTER 9 Curtailment 42
Article 56 Triggering events and consequences of curtailment on Long Term Transmission Rights 42
Article 57 Process and notification of curtailment 42
Article 58 Firmness deadlines 43
Article 59 Compensation for curtailments to ensure System Security and due to Emergency Situation before the Day Ahead Firmness Deadline 44
Article 60 Reimbursement for curtailments due to Force Majeure before the Day Ahead Firmness Deadline 45
Article 61 Reimbursement or compensation for curtailments due to Force Majeure or Emergency Situation after the Day Ahead Firmness Deadline 45
Article 62 Individual compensation rules 46
CHAPTER 10 Invoicing and Payment 47
Article 63 General principles 47
Article 64 Calculation of due amounts 47
Article 65 Tax Gross-up 48
Article 66 Invoicing and payment conditions 48
Article 67 Payment disputes 50
Article 68 Late payment and payment incident 51
CHAPTER 11 Miscellaneous 52
Article 69 Duration and amendment of Allocation Rules 52
Article 70 Liability 53
Article 71 Dispute resolution 54
Article 72 Suspension of the Participation Agreement 55
Article 73 Termination of the Participation Agreement 56
Article 74 Force Majeure 58
Article 75 Notices 59
Article 76 Confidentiality 59
Article 77 Assignment and subcontracting 61
Article 78 Governing law 61
Article 79 Language 61
Article 80 Intellectual property 61
Article 81 Relationship of the Parties 61

Article 82 No third party rights 62
Article 83 Waiver 62
Article 84 Entire agreement 62
Article 85 Remedies exclusive 62
Article 86 Severability 63
Annexes list 64
Annex 1 List of Bidding Zone borders and/or their subsets to which the Allocation Rules apply including information on type of allocated Long Term Transmission Rights ..... **Fout! Bladwijzer niet gedefinieerd.**

CHAPTER 1
General Provisions

Article 1
Subject-matter and scope

1. These Allocation Rules including the related regional and/ or border specific annexes, contain the terms and conditions for the allocation of Long Term Transmission Rights on the borders specified in Annex 1, it being understood that the Registered Participant will accede to these rules by the signature of the Participation Agreement. In particular, the Allocation Rules set out the rights and obligations of Registered Participants as well as the requirements for participation in Auctions, they describe the process of Auction, including the determination of Marginal Price as a result of Auction, the conditions for transfer and return of Long Term Transmission Rights, for remuneration of holders of such returned Long Term Transmission Rights, and the processes for curtailment of Long Term Transmission Rights and invoicing/payment.

2. The Auctions and transfer of Long Term Transmission Rights refer to Cross Zonal Capacity only and Registered Participants may invoke no other right in connection with the Long Term Transmission Rights allocated to them than the rights in accordance with the provisions of these Allocation Rules.

Article 2
Definitions and Interpretation

1. Capitalised terms used in these Allocation Rules shall have the meaning given to them in Article 2 of Regulation (EC) 714/2009 and Article 2 of Directive 2009/72/EC.

2. In addition, the following definitions shall apply:

   Affiliate means, in relation to any person, any other person that directly or indirectly controls, is controlled by or is under direct or indirect common control with that person as control is defined in the EU Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings;

   Allocation Platform means either the responsible TSO(s) at the respective Bidding Zone border(s) or an entity appointed and commissioned by them or nominated in accordance to national regulations to act on their behalf and on its own name it being a single allocation platform or regional platform(s) for the attribution of Long Term Cross Zonal Capacity through the Auctions as defined in the Participation Agreement;

   Allocation Rules means the rules for Forward Capacity Allocation applied by Allocation Platforms;

   Auction Tool means the information technology system used by the Allocation Platform to perform Auctions and to facilitate other procedures described in these Allocation Rules such as transfer or return of Long Term Transmission Rights;

   Auction means the process run by Allocation Platform(s) by which long term Cross Zonal Capacity is offered and allocated to market participants who submit Bid(s);

   Auction Specification means a list of specific characteristics of a particular Auction, including the nature of offered products and relevant dates;

Bank Guarantee means an unconditional and irrevocable standby letter of credit or letter of guarantee issued by a bank;

Bid means a pair of Bid Quantity and Bid Price offered by a Registered Participant participating in an Auction;

Bid Price means the price which a Registered Participant is willing to pay for one (1) MW and hour of Long Term Transmission Rights;

Bid Quantity means the amount of Long Term Transmission Rights in MW requested by a Registered Participant;

Bidding Period means the time period within which the Registered Participants wishing to participate in an Auction may submit their Bids;

Bidding Zone means the largest geographical area within which market participants are able to exchange energy without Capacity Allocation;

Business Account means a dedicated deposit account opened at the financial institution selected by the Allocation Platform in the name of the Allocation Platform or at the discretion of the Allocation Platform opened by the Registered Participant, but with the Allocation Platform as the beneficiary of the dedicated cash deposit, which may be used for payments by the Registered Participant;

Capacity Allocation means the attribution of Cross Zonal Capacity;

Congestion Income means the revenues received as a result of Capacity Allocation;

Control Area means a coherent part of the interconnected system, operated by a single system operator and shall include connected physical loads and/or generation units if any;

Countertrading means a cross zonal exchange initiated by System Operators between two Bidding Zones to relieve physical congestion;

Credit Limit means the amount of the collaterals which may be used to cover any Bid submission in subsequent Auctions and is not used for outstanding payment obligations;

Cross Zonal Capacity means the capability of the interconnected system to accommodate energy transfer between Bidding Zones;

Day Ahead Firmness Deadline means the point in time after which Cross Zonal Capacity becomes firm;

Day Ahead Market Gate Closure Time means the point in time until which orders are accepted in the day-ahead market;

EIC Code means the ENTSO-E Energy Identification Coding Scheme identifying the parties in a cross-border trade;

Emergency Situation means a situation where the Transmission System Operator must act in an expeditious manner and Redispatching or Countertrading is not possible;

Explicit Allocation means the allocation of Cross Zonal Capacity only, without the energy transfer;

Financial Transmission Right Option means a right entitling its holder to receive a financial remuneration based on the day ahead allocation results between two Bidding Zones during a specified period of time in a specific direction;

Force Majeure means any unforeseeable or unusual event or situation beyond the reasonable control of a Party and/or the relevant TSOs, and not due to a fault of the Party

and/or the relevant TSOs, which cannot be avoided or overcome with reasonable foresight and diligence, which cannot be solved by measures which are from a technical, financial or economic point of view reasonably possible for the Party and/or the relevant TSOs, which has actually happened and is objectively verifiable, and which makes it impossible for the Party and/or the relevant TSOs to fulfil, temporarily or permanently, its obligations;

Forward Capacity Allocation means the attribution of Long Term Cross Zonal Capacity through an Auction;

Implicit Allocation means a congestion management method in which energy will be obtained at the same time as Cross Zonal Capacity;

Information System Rules means the terms and conditions for access to and use of the Auction Tool by Registered Participants as published on the Allocation Platform's website;

Long Term Firmness Deadline means a defined point in time before the Day Ahead Firmness Deadline;

Long Term Transmission Right means for the purposes of these Allocation Rules either a Physical Transmission Right or a Financial Transmission Right Option acquired in the Forward Capacity Allocation;

Marginal Price means the price determined at particular Auction to be paid by all the Registered Participants for each MW and hour of acquired Long Term Transmission Right;

Market Spread means the difference between the day-ahead prices of the two concerned Bidding Zones for the respective market time period in a specific direction;

National Regulatory Authorities means the regulatory authorities referred to in Article 35(1) of Directive 2009/72/EC;

Nomination means the notification of the use of Long Term Cross Zonal Capacity by a Physical Transmission Rights holder and, where applicable, by their counterparty, to the respective Transmission System Operator(s);

Nomination Rules means the rules with regard to the notification of use of Physical Transmission Rights to the relevant Transmission System Operator(s);

Offered Capacity means Cross Zonal Capacity offered by the Allocation Platform in an Auction;

Participation Agreement means the agreement, by which the Parties undertake to comply with the terms and conditions for Cross Zonal Capacity Allocation as contained in these Allocation Rules;

Party/ Parties means the Allocation Platform and/or a Registered Participant referred to individually as Party or collectively as Parties;

Physical Transmission Right means a right entitling its holder to physically transfer a certain volume of electricity in a certain period of time between two Bidding Zones in a specific direction;

Product Period means the time and date on which the right to use the Long Term Transmission Right commences and the time and date on which the right to use the Long Term Transmission Right ends;

Redispatching means a measure activated by one or several system operators by altering the generation and/or load pattern in order to change physical flows in the transmission system and relieve a physical congestion;

Reduction Period means 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, foreseen balancing problems).

Registered Participant means a market participant which has entered into a Participation Agreement with the Allocation Platform

Rights Document means a document containing the information of the maximum amount of allocated Physical Transmission Rights that can be nominated by a market participant per Bidding Zone border per day per hour and per direction or the maximum amount of Financial Transmission Rights Options that will be considered for financial remuneration, taking into account the volume of Long Term Transmission Rights initially acquired, the subsequent transfers and returns, and any possible curtailments which occurred before the issuance of the Rights Document.

System Security means the ability of the power system to withstand unexpected disturbances or contingencies;

Transmission means the transport of electricity on the extra high-voltage and high-voltage interconnected system with a view to its delivery to final customers or to distributors, but does not include supply;

Use It Or Sell It (UIOSI) means an automatic application by which the underlying Cross Zonal Capacity of the non-nominated Physical Transmission Rights is made available for day-ahead Capacity Allocation and whereby Physical Transmission Right holders that do not nominate to use their rights receive a pay-out;

Working Day means the calendar days from Monday to Friday, with the exception of public holidays as specified on the website of the Allocation Platform;

Working Hours means the hours on Working Days specified within the Participation Agreement. .

3. In these Allocation Rules, including its annexes, unless the context requires otherwise:

   (a) Any reference to the word Bidding Zone border may cover all interconnectors collectively or only one or a subset of interconnector(s) at this Bidding Zone border as specified in Annex 1 of these Allocation Rules

   (b) the singular indicates the plural and vice versa;

   (c) references to one gender include all other genders;

   (d) the table of contents, headings and examples are inserted for convenience only and do not affect the interpretation of the Allocation Rules;

   (e) the word "including" and its variations are to be construed without limitation;

   (f) any reference to legislation, regulations, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force;

   (g) any reference to another agreement or document, or any deed or other instrument is to be construed as a reference to that other agreement, or document, deed or other

instrument as amended, varied, supplemented, substituted or novated from time to time;

(h) a reference to time is a reference to CET/CEST time unless otherwise specified;

(i) where the Allocation Platform is required to publish any information under these Allocation Rules, it shall do so by making the information or data available on its website and/or via the Auction Tool; and

(j) when using the term Long Term Transmission Rights it refers to both Physical Transmission Rights and Financial Transmission Rights Options.

Article 3
Allocation Platform

1. The Allocation Platform shall undertake the allocation functions in accordance with these Allocation Rules and in accordance with applicable European Union legislation.

2. For the purposes of these Allocation Rules the Allocation Platform shall be the party signing the Participation Agreement with the Registered Participant.

3. For the purpose of the Participation Agreement with the Registered Participant, the Allocation Platform shall publish a consolidated version of these Allocation Rules including the annexes thereto as they enter into force in accordance with the applicable national regulatory regime. In case of a conflict between the consolidated version by the Allocation Platform and the Allocation Rules including the annexes as entered into force in accordance with the applicable national regulatory regime, the latter shall prevail.

Article 4
Regional specificities

1. Regional or border specificities may be introduced for one or more Bidding Zone borders. Such regional or border specificities shall enter into force in accordance with the applicable national regulatory regime and be attached as annexes to these Allocation Rules. In case these annexes need to be amended based on a decision of the relevant National Regulatory Authorities, Article 69 shall apply.

2. If there is an inconsistency between any of the provisions in the main body of these Allocation Rules and the regional or border specific annexes, the provisions in the annexes shall prevail.

Article 5
Effective date and application

1. These Allocation Rules shall enter into force in accordance with the applicable national regulatory regime and on the date announced by the Allocation Platform.

2. These Allocation Rules apply to Capacity Allocation for Long Term Transmission Rights with the delivery period from 1 January 2016.

3. Unless expressly stated otherwise by the regional or border specific annex(es) or otherwise required by the applicable governing law, these Allocation Rules shall govern all rights and obligations in connection with Long Term Transmission Rights acquired before the entry into force of these Allocation Rules but with the delivery date after 1 January 2016.

[redacted]

CHAPTER 2
Requirements and process for participation in Auctions and Transfer

Article 6
General Provision

1. Market participants may acquire a Long term Transmission Right only from participation in Auctions or/and via transfer.

2. The participation both in Auctions and in transfers requires that the market participant:

   (a) concludes a valid and effective Participation Agreement in accordance with Articles 7 to 15; and

   (b) has access to the Auction Tool in accordance with Article 16.

3. The participation in Auctions requires that market participants, in addition to the conditions set forth in the previous paragraph, fulfil also the following conditions:

   (a) they comply with the requirements for provision of collaterals as specified in CHAPTER 3; and

   (b) they accept additional financial terms where needed in accordance with Article 17.

4. In any case, market participants have to fulfil the obligations as specified in the relevant Chapters of these Allocation Rules.

Article 7
Participation Agreement conclusion

1. At least seven (7) Working Days before the first participation in an Auction, any market participant may apply to be a party to a Participation Agreement by submitting, to the Allocation Platform, two (2) signed copies of the Participation Agreement, as published on the website of the Allocation Platform, together with all duly completed information and documents required by Articles 8 to 16. The Allocation Platform shall assess the completeness of the information submitted in accordance with Articles 9 and 13 within five (5) Working Days of receipt of the completed and signed Participation Agreement.

2. The Allocation Platform shall before the expiration of the five (5) Working Days deadline ask the market participant to provide any outstanding information which the market participant fails to submit with its Participation Agreement. On receipt of the outstanding information, the Allocation Platform shall within an additional five (5) Working Days review the information and inform the market participant if any further information is required.

5. Once the Allocation Platform has received all necessary information, it shall return one copy of the Participation Agreement signed by it to the market participant without undue delay. Signature of the Participation Agreement by the Allocation Platform shall not itself indicate compliance with any other condition set in these Allocation Rules for the participation in the

Auctions. The Participation Agreement comes into force on the date of signature by the Allocation Platform.

Article 8
Form and content of the Participation Agreement

1. The form of the Participation Agreement and the requirements for its completion shall be published by the Allocation Platform and may be amended from time to time by the Allocation Platform without changing any terms and conditions specified in these Allocation Rules unless otherwise stated in these Allocation Rules.

2. As a minimum, the Participation Agreement will require the market participant to:

   (a) provide all necessary information in accordance with Article 9 and Article 13; and

   (b) agree to be bound by and comply with these Allocation Rules.

3. Nothing in these Allocation Rules shall prevent the Allocation Platform and the Registered Participant from agreeing in the Participation Agreement additional rules, out of the scope of these Allocation Rules, including but not limited to the participation in day-ahead or Intraday Explicit Allocation or any fall-back process for day-ahead Implicit Allocation.

4. In the event of difficulty of interpretation, contradiction or ambiguity between these Allocation Rules and the Participation Agreement, the text of the Allocation Rules shall prevail.

Article 9
Submission of information

1. The market participant shall submit the following information with its completed and signed Participation Agreement:

   (a) name and registered address of the market participant including general email, facsimile and telephone number of the market participant for notifications in accordance with Article 75.

   (b) if the market participant is a legal person, an extract of the registration of the market participant in the commercial register of the competent authority;

   (c) contact details and names of persons authorised to represent the market participant and their function;

   (d) EU VAT registration number where applicable;

   (e) Taxes and levies to be considered for invoices and collateral calculations;

   (f) Energy Identification Code (EIC);

   (g) bank account information for payment to the applicant to be used by the Allocation Platform for the purposes of Article 66 paragraphs 8 and 9.

(h) financial contact person for collaterals, invoicing and payment issues, and their contact details (email, facsimile and telephone number) for notifications where required in these Allocation Rules in accordance with Article 75;

(i) commercial contact person and their contact details (email, facsimile and telephone number) for notifications where required in these Allocation Rules in accordance with Article 75; and

(j) operational contact person and their contact details (email, facsimile and telephone number) for notifications where required in these Allocation Rules in accordance with Article 75.

2. A Registered Participant shall ensure that all data and other information that it provides to the Allocation Platform pursuant to these Allocation Rules (including information in its Participation Agreement) is and remains accurate and complete in all material respects and must promptly notify the Allocation Platform of any change.

3. A Registered Participant shall notify the Allocation Platform if there is any change to the information, submitted in accordance with paragraph 1 of this Article, at least seven (7) Working Days before the change comes into effect and, where that is not possible, as soon as practicable after the Registered Participant becomes aware of the change.

4. The Allocation Platform will confirm the registration of the change or send a refusal note of registration of the change to the Registered Participant, at the latest, five (5) Working Days after the receipt of the relevant notification of change. The confirmation or refusal note will be sent via email to the commercial and operational contact person specified by the Registered Participant in accordance with paragraph 1 of this Article. If the Allocation Platform refuses to register the change, the reason shall be provided in the refusal note.

5. The change becomes valid on the day of the delivery of the confirmation to the Registered Participant.

6. If additional information is required from a Registered Participant as a consequence of an amendment to these Allocation Rules, then the Registered Participant shall submit the additional information to the Allocation Platform within ten (10) Working Days after the request for such submission by the Allocation Platform.

Article 10
Warranties

1. By the signature of the Participation Agreement the market participant warrants that:

(a) it has not commenced any proceedings seeking a judgement of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights;

(b) no insolvency, bankruptcy or other similar legal proceeding affecting creditors' rights have been commenced in relation to the applicant;

(c) no winding-up or liquidation proceedings have been commenced with regard to the applicant; and

(d) it has no overdue payment obligations towards the Allocation Platform.

Article 11

Declaration for participation in transfer only

As part of the submission of the information in accordance with Article 7 and Article 9, the market participant shall declare to the Allocation Platform whether it intends to participate in transfer of Long Term Transmission Rights only. In such a case, it shall not be entitled to participate in any Auction.

Article 12

Dedicated Business Account

As part of the submission of the information in accordance with Article 7 and Article 9, the market participant shall declare to the Allocation Platform whether it intends to open a dedicated Business Account for the purposes of depositing cash collaterals and/or for the purposes of making payments on the basis described in Article 66(8).

Article 13

Acceptance of the Information System Rules

By signing the Participation Agreement the market participant accepts the applicable Information System Rules, as amended from time to time and published on the website of the Allocation Platform.

Article 14

Costs related to the Participation Agreement

All applications to become a Registered Participant and any subsequent participation in Auctions and/or the notification of transfer or the return of Long Term Transmission Rights shall be at the Registered Participants' own cost, expense and risk. The Allocation Platform shall not be liable to any person for any cost, damages, or expense in connection with the Registered Participant participating in Auctions and/or transfer or return of Long Term Transmission Rights unless otherwise explicitly stated in these Allocation Rules.

Article 15

Refusal of application

The Allocation Platform may refuse to enter into a Participation Agreement with a market participant in the following circumstances:

(a) when the applicant has not submitted a duly completed and signed Participation Agreement in accordance with Articles 7, 8 and 9; or

(b) the Allocation Platform has previously terminated a Participation Agreement with the applicant as a result of a breach of the Participation Agreement by the Registered Participant in accordance with Article 73(3) and (4) and unless the circumstances leading to termination have ceased to exist or the Allocation Platform is reasonably satisfied that the breach will not occure again; or

(c) if entering into a Participation Agreement with the applicant would cause the Allocation Platform to breach any condition of any mandatory legal or regulatory requirement; or

(d) if any of the warranties of the Registered Participant under Article 10 are found to be not valid or false.

Article 16

Access to the Auction Tool

1. The Allocation Platform shall grant access to the Auction Tool free of charge if the following requirements are satisfied:

   (a) the Registered Participant has signed and delivered a completed form included in the Information System Rules identifying the person(s) for which the user account(s) in the Auction Tool shall be established; and

   (b) the Registered Participant has fulfilled the requirements on authentication as set forth by the Information System Rules published by the Allocation Platform; such requirements may include but are not limited to the obligation to provide an electronic certificate for signing and encryption or other technology for authentication purposes.

2. The Allocation Platform shall confirm the creation of the user account or may send a refusal note to the Registered Participant, at the latest, five (5) Working Days after the receipt of the relevant signed and completed form by the Registered Participant. The confirmation or refusal note shall be sent via email to the operational contact person specified by the Registered Participant in accordance with Article 9.

3. The Allocation Platform shall send the duly justified refusal note if the requirements listed in paragraph 1 of this Article are not fulfilled and access to the Auction Tool will not be granted.

Article 17

Conclusion of additional financial terms

The Allocation Platform may develop and publish additional standard financial terms to be accepted by the Registered Participants. These additional financial terms may include provisions to enable joint collaterals for long term and other processes organized by the Allocation Platform in accordance with the Participation Agreement, as long as these additional financial terms comply with these Allocation Rules.

Article 18

Regulatory and legal requirements

It is the responsibility of each market participant to ensure that it complies with national and European legislation, including requirements of any relevant competent authority, and obtained all necessary authorisations in connection with its participation in Auctions or in transfer and the use of Long Term Transmission Rights.

CHAPTER 3
Collaterals

Article 19
General provisions

1. Registered Participants shall provide collaterals in order to secure payments to the Allocation Platform resulting from Auctions of Long Term Transmission Rights and, where applicable, potential other payments falling due under the additional financial terms in accordance with Article 17.

2. Only the following forms of collaterals shall be accepted:

   (a) a Bank Guarantee;

   (b) a cash deposit in a dedicated Business Account.

3. Collaterals may be provided in one of the forms mentioned in paragraph 2 of this Article or a combination of these forms, provided that the Allocation Platform is entitled as beneficiary to the full collateral.

4. Credit Limit shall always be greater or equal to zero.

5. The collaterals shall be provided in Euros (€).

Article 20
Form of cash deposit

For collaterals that are provided in the form of a cash deposit in a dedicated Business Account the following conditions shall apply:

(a) the money shall be deposited in a dedicated Business Account at a financial institution selected by the Allocation Platform;

(b) the dedicated Business Account shall be opened and used in accordance with additional financial terms to be concluded between the Allocation Platform, or where relevant the financial institution and the Registered Participant;

(c) until withdrawal as permitted by the following provisions of Article 26, the cash deposit in the dedicated Business Account belongs to the Registered Participant if not stated otherwise in the additional financial terms in accordance with Article 17;

(d) withdrawals from the dedicated Business Account pursuant to Article 24 and Article 26 may be made solely on the instruction of the Allocation Platform;

(e) the dedicated Business Account may be used in addition for settlement as set forth in Article 66 upon request of the Allocation Platform; and

(f) interest on the amount deposited in the dedicated Business Account shall accrue for the benefit of the Registered Participant, after deduction of taxes and bank charges if any.

Article 21

Form of Bank Guarantee

1. Collaterals that are provided in the form of a Bank Guarantee shall comply with the following specifications:

   (a) the Bank Guarantee shall be provided in the form of the template that is available on the website of the Allocation Platform and updated from time to time or in a form that substantially follows the template;

   (b) the Bank Guarantee shall be written in English;

   (c) the Bank Guarantee covers all Auctions organized by the Allocation Platform subject to these Allocation Rules;

   (d) the Bank Guarantee shall allow partial and multiple drawing by the Allocation Platform, up to the maximum amount guaranteed;

   (e) the Bank Guarantee shall provide for payment upon first request of the Allocation Platform. It shall further provide that, if the Allocation Platform calls upon the Bank Guarantee, the bank shall pay automatically without any other condition than the receipt of a written demand by registered letter from the Allocation Platform.

   (f) the Bank Guarantee shall be irrevocable, unconditional and non-transferable;

   (g) the bank issuing the Bank Guarantee shall be permanently established, including via a branch in a EU member state, European Economic Area or Switzerland;

   (h) the bank issuing the Bank Guarantee or the financial group it belongs to shall have a long term credit rating of not less than BBB+ by Standard and Poor's Corporation, BBB+ by Fitch or Baa1 by Moody's Investors Service Inc. If the rating requirement is not fulfilled by the issuing bank itself but by the financial group to which it belongs, the issuing bank shall provide the Allocation Platform with a parental guarantee or an equivalent document issued by the financial group. If the issuing bank or the financial group, the issuing bank belongs to ceases to have the required long term credit rating, the Registered Participant shall within five (5) Working Days submit to the Allocation Platform a substitute Bank Guarantee by a bank complying with the required long term credit rating or replace the Bank Guarantee by deposit. If there are industry-wide downgrades of financial institutions, the Allocation Platform may investigate what the new standards are and, at its own discretion if deemed necessary, decrease the required rating for a limited period of time.

   (i) the bank issuing the Bank Guarantee shall not be an Affiliate of the Registered Participant for which the Bank Guarantee is issued.

2. A Bank Guarantee shall contain the following:

   (a) a maximum amount guaranteed;

   (b) the Allocation Platform's identification as beneficiary, as specified on the website of the Allocation Platform;

   (c) the Allocation Platform's bank account, as specified on the website of the Allocation Platform;

(d) the Allocation Platform's bank's address, as specified on the website of the Allocation Platform;

(e) the Registered Participant's full identification, including name, address, commercial/company register;

(f) full identification of the providing bank; and

(g) the validity time.

3. The Registered Participant shall submit the Bank Guarantee at least two (2) Working Days before the Bidding Period closure of the Auction for which it shall be used as collateral or otherwise, it shall be considered for the subsequent Auctions.

4. The Allocation Platform shall accept the Bank Guarantee provided by a Registered Participant if the Bank Guarantee is provided in line with the specifications set out in paragraph 1 to 2 of this Article and the original of the Bank Guarantee has been received by the Allocation Platform.

5. The Allocation Platform shall confirm the acceptance of the Bank Guarantee or send a refusal note to the Registered Participant, at the latest, two (2) Working Days after the receipt of the original of the Bank Guarantee. The confirmation or refusal note shall be sent via email to the commercial and operational contact persons specified by the Registered Participant in accordance with Article 9. The refusal note shall include reasoning for refusal.

Article 22
Validity and renewal of the Bank Guarantee

1. Collaterals in the form of a Bank Guarantee shall be valid for the minimum periods as follows:

(a) for product(s) with a duration of more than one month, until at least thirty (30) days after the end of each next calendar month within the Product Period(s);

(b) for product(s) with a duration of one month, until at least thirty (30) days after the end of the Product Period(s); and

(c) for product(s) with a duration of less than one month, until at least sixty (60) days after the end of the Product Period(s).

2. The Registered Participant shall replace or renew the collaterals in form of a Bank Guarantee to fulfil the requirements of paragraph 1 of this Article.

Article 23
Credit Limit

1. The Allocation Platform shall calculate and continuously update the Credit Limit of each Registered Participant in respect of each subsequent Auction. The Credit Limit shall be equal to the amount of the collaterals in place minus any outstanding payment obligations. In case of a Bank Guarantee such Bank Guarantee shall be only considered if the requirements in Article 22 related to its validity for the respective Auction are fulfilled. The Allocation

Platform shall make this information available to each Registered Participant individually through the Auction Tool.

2. Outstanding payment obligations are calculated according to Article 64 subject to additional rules in paragraph 3 to 5 of this Article and in Article 34.

3. For the purpose of the Credit Limit calculation, outstanding payment obligations shall be increased to include the taxes and levies in force subject to Article 65.

4. Reduction Periods are taken into consideration for the calculation of the Credit Limit as set forth in Article 64.

5. Maximum payment obligations for a Registered Participant resulting from its Bid(s) registered at the closure of the Bidding Period, calculated according to Article 34, shall be considered provisionally as the outstanding payment obligations. From the publication of the provisional Auction results until the moment when the Auction Results become final the due amount notified according to Article 36 paragraph 3(b) and (c) shall be provisionally considered as outstanding payment obligations for Credit Limit calculation for any concurrent Auction. The Credit Limit shall be revised based on the actual allocated Long Term Transmission Rights when the provisional Auction results are published as described in CHAPTER 4.

Article 24
Modifications of the collaterals

1. A Registered Participant may request in written form an increase of the collaterals in form of a Bank Guarantee, a decrease of the collaterals in form of a Bank Guarantee and/or cash deposit or change of the form of the collaterals at any time in accordance to paragraphs 2 and 3 of this Article.

2. A decrease of the collaterals of a Registered Participant shall only be allowed if the Credit Limit after applying the requested decrease of the collaterals would be greater than or equal to zero.

3. The Allocation Platform shall accept the modification of the collaterals if the request for a modification of collaterals is compliant with the condition set out in paragraph 2 of this Article in case of a decrease or with the conditions set out in Articles 21 and 22 in case of an increase of collaterals in the form of a Bank Guarantee and in case of a change in the form of the collaterals from cash on deposit to Bank Guarantee.

4. The modification of the collaterals shall become valid and effective only when the Allocation Platform has made the requested modification of the collaterals of the Registered Participant within the Auction tool.

5. The Allocation Platform shall assess the request for modification of collaterals and confirm the acceptance or send a refusal note to the Registered Participant, at the latest, two (2) Working Days after the receipt of the request. The confirmation or refusal note shall be sent via email to the commercial and operational contact persons specified by the Registered Participant in accordance with Article 9. The refusal note shall include reasoning for refusal.

Article 25
Collateral incident

1. A collateral incident occurs in the following cases:

(a) the collaterals are insufficient to secure the amount due for the Long Term Transmission Rights held by a Registered Participant on the next payment date as set forth in Article 66 considering the amount and the validity of the collaterals; or

(b) the collaterals are not renewed in accordance with Article 22 paragraph 2; or

(c) the collaterals are not restored after a payment incident in accordance with Article 26 or new collateral was provided that is not compliant with the conditions specified in Articles 19(3), 20 and 21.

2. The Allocation Platform shall notify the collaterals incident to the Registered Participant by email. The Registered Participant shall increase its collaterals within two (2) Working Days from sending of the notification if this is done during Working Hours or two (2) Working Days starting from the next Working Day if sent after Working Hours. If the collaterals provided by the Registered Participant remains insufficient after this period, the Allocation Platform may suspend or terminate the Participation Agreement in accordance with Articles 72 and 73.

Article 26
Calls on collaterals

1. The Allocation Platform is entitled to call upon collaterals of a Registered Participant in the event of a registered payment incident in accordance with Article 68.

2. The Registered Participant shall restore its collaterals after a payment incident or collaterals incident by following the conditions as set forth in Articles 19(3), 20 and 21 unless the Participation Agreement is suspended or terminated in accordance with Articles 72 and 73.

CHAPTER 4
Auctions

Article 27
General provisions for Auctions

1. The Allocation Platform shall allocate Long Term Transmission Rights to Registered Participants by way of Explicit Allocation. Prior to the Auction the Allocation Platform shall publish Auction Specifications on its website.

2. The Auctions shall be organised via the Auction Tool. Each Registered Participant fulfilling the requirements for participating in the Auction may place Bids in the Auction Tool until the relevant deadline for placing Bids in the specific Auction expires according to the respective Auction Specification.

3. After the relevant deadline for placing Bids in the specific Auction has expired, the Allocation Platform shall evaluate the Bids including against the respective Credit Limits of the Registered Participants.. The results of the Auction will be notified to Registered Participants via the Auction Tool.

4. The Allocation Platform shall provide information on forthcoming Auctions by publishing on its website a provisional Auction calendar with the dates of Auctions reasonably in advance before the Auctions take place. For standard Forward Capacity Allocation timeframes specified in Article 28(1) a provisional Auction calendar for each calendar year shall be published no later than 1 December of the year preceeding including provisional information on the form of the product, Product Period and Bidding Period.

Article 28
Capacity Allocation timeframe and form of product

1. The standard Forward Capacity Allocation timeframes, subject to product availability, are defined as follows:

   (a) yearly timeframe: it starts on the first day and ends on the last day of a calendar year; and

   (b) monthly timeframe: it starts on the first day and ends on the last day of a calendar month.

2. For the standard timeframes listed in paragraph 1 and subject to Cross Zonal Capacity availability, the Allocation Platform shall organise by default at least one Auction per year for the yearly timeframe and one Auction per month for the monthly timeframe. For the avoidance of doubt, this shall not exclude the possibility to perform a joint Auction of Cross Zonal Capacity of several Bidding Zones' borders and directions or to allocate Cross Zonal Capacity on individual or different subsets of interconnector(s) of a Bidding Zone border separately.

3. The standard form of the Auction product shall be a base product by which a fixed amount of MW throughout the Product Period is allocated subject to announced Reduction Periods.

4. Additional timeframes and/or an additional form of products other than the standard products and timeframes described in paragraph 1, 2 and 3 of this Article may be offered.

Article 29

Auction Specification

1. The Allocation Platform shall publish a provisional version of the Auction Specification and a final version of the Auction Specification as set forth in paragraphs 2 to 3 of this Article.

2. For yearly Auctions the Allocation Platform shall publish the provisional and the final Auction Specification no later than one (1) week and for any other shorter Capacity Allocation timeframe no later than two (2) Working Days before the end of the Bidding Period of an Auction. The provisional Auction Specification shall state in particular:

   (a) the code identifying the Auction in the Auction Tool;

   (b) type of Long Term Transmission Rights (e.g. Physical Transmission Rights with UIOSI or Financial Transmission Rights Options);

   (c) Capacity Allocation timeframe (e.g. yearly, monthly or other, as described in Article 28);

   (d) form of product (e.g. base, peak, off-peak as described in Article 28);

   (e) identification of the Bidding Zone border(s) or a subset of the Interconnectors on the Bidding Zone border and direction covered;

   (f) deadline for return of the Long Term Transmission Rights allocated in previous Auctions for the respective Bidding Zone border(s).

   (g) the Product Period;

   (h) Reduction Period(s) associated with the Product Period when applicable;

   (i) the Bidding Period;

   (j) the deadline for the publication of the provisional Auction results;

   (k) the contestation period in accordance with Article 37;

   (l) the provisional Offered Capacity which shall not include Cross Zonal Capacity released via return of Long Term Transmission Rights and Cross Zonal Capacity released in accordance with Articles 72 and 73.

   (m) any other relevant information or terms applicable to the product or the Auction.

3. Not earlier than four (4) hours after publication of the provisional Auction Specification, the Allocation Platform shall publish the final Auction Specification for that Auction stating the final Offered Capacity and any other update of relevant information or terms applicable to the product or the Auction

4. The final Offered Capacity shall consist of:

   (a) the provisional Offered Capacity;

(b) the available Cross Zonal Capacity already allocated to Registered Participants for which a valid request for return of Long Term Transmission Rights has been submitted for this Auction in accordance with Articles 38 and 39; and

(c) the available Cross Zonal Capacity already allocated to Registered Participants which will be reallocated as a result of suspension or termination in accordance with Articles 72 and 73.

Article 30

Reduction Periods of Offered Capacity

1. The Allocation Platform may announce one or more Reduction Periods in the Auction Specification. In this case, the Auction Specification shall include for each Reduction Period information on the duration of the Reduction Period and the amount of Offered Capacities.

2. For the avoidance of doubt, Reduction Periods do not apply to already allocated Long Term Transmission Rights and shall not be considered for any purpose including compensation as a curtailment according to CHAPTER 9.

Article 31

Bids submission

1. The Registered Participant shall submit a Bid or set of Bids to the Allocation Platform in accordance with following requirements:

   (a) it shall be submitted electronically using the Auction Tool and during the Bidding Period as specified in the Auction Specification;

   (b) it shall identify the Auction via an identification code as specified in Article 29 paragraph 2 (a);

   (c) it shall identify the Registered Participant submitting the Bid through its EIC code;

   (d) it shall identify the Bidding Zones border and the direction for which the Bid is submitted;

   (e) it shall state the Bid Price, exclusive of taxes and levies, in Euros per MW for one hour of the Product Period, i.e. Euro/MW and hour, expressed to a maximum of two (2) decimal places, and equal to or greater than zero;

   (f) it shall state the Bid Quantity in full MW which must be expressed without decimals, minimum amount of a single Bid is one (1) MW.

2. The Registered Participant may modify its previously registered Bid or set of Bids at any time during the Bidding Period including its cancellation. In case the Bid has been modified only the last valid modification of the Bid or set of Bids shall be taken into account for the Auction results determination.

3. If a Bid Quantity, or a quantity calculated as a sum of the Bid Quantity for several Bids submitted for the same Auction, by a Registered Participant exceeds the Offered Capacity announced in the final Auction Specification, this Bid or these Bids shall be completely rejected. Where a modification of previously submitted Bids results in exceeding the Offered Capacity, the modification shall be rejected and the previously registered Bids will stand.

4. If a Bid Quantity or a quantity calculated as a sum of the Bid Quantity for several Bids submitted for the same Auction by a Registered Participant exceeds the relevant Offered Capacity announced after the Bids submission, the Bids with the lowest Bid Price will be rejected one (1) by one (1) until the total allowed Bid Quantity is lower than or equal to the Offered Capacity. In case where the Information System Rules allows submission of Bids with the same Bid Price by one Registered Participant the Allocation Platform may apply additional criteria or rules to decide which Bid shall be rejected. Such additional criteria or rules shall be included in the information System Rules and shall be one or more from the following:

   (a) chronological submission (time stamp); and/or

   (b) Bid identification assigned by the Auction Tool; and/or

   (c) rejection of all relevant Bids with the same Bid Price.

5. The above mentioned process shall apply to all forms of an Auction product and all Forward Capacity Allocation timeframes.

Article 32
Bid registration

1. The Allocation Platform shall not register a Bid that:

   (a) does not comply with the requirements of Article 31; or

   (b) is submitted by a Registered Participant who is suspended in accordance with Article 72.

2. Provided that a Bid or a set of Bids fulfils the requirements set forth in Articles 31, the Allocation Platform shall confirm to the Registered Participant that such Bid(s) have been correctly registered by an acknowledgment of receipt via the Auction Tool. If the Allocation Platform does not issue an acknowledgment of receipt for a Bid, such Bid shall be deemed not to have been registered.

3. The Allocation Platform shall notify a Registered Participant whose Bid is rejected as invalid and the reason for this rejection, without undue delay after the Bid is rejected.

4. The Allocation Platform shall maintain a record of all valid Bids received.

5. Each valid Bid registered at closure of the Bidding Period shall constitute an unconditional and irrevocable offer by the Registered Participant to buy Long Term Transmission Rights up to the Bid Quantity and at prices up to the Bid Price and under the terms and conditions of these Allocation Rules and the relevant Auction Specification.

Article 33
Default Bid

1. The Registered Participant has the option to place default Bids for Auctions.

2. A default Bid, once identified as such by the Registered Participant, shall apply automatically to each subsequent relevant Auction as defined by the Registered Participant when placing the default Bid. At the opening of a relevant Bidding Period, the registered default Bid shall be considered as a Bid submitted by the Registered Participant for the relevant Auction. This

Bid shall be considered as a delivered when the Allocation Platform sends an acknowledgment of receipt to the Registered Participant.

3. If a default Bid Quantity or a quantity calculated as a sum of the Bid Quantity for several default Bids submitted for the same Auction by a Registered Participant exceeds the final Offered Capacity, the Bids with the lowest Bid Price shall be rejected one (1) by one (1) until the total allowed Bid Quantity is lower than or equal to the Offered Capacity . In case where the Information System Rules allows submission of Bids with the same Bid Price by one Registered Participant the Allocation Platform may apply additional criteria or rules to decide which Bid shall be rejected. Such additional criteria or rules shall be included in the information System Rules and shall be one or more from the following:

   (a) chronological submission (time stamp); and/or

   (b) Bid identification assigned by the Auction Tool; and/or

   (c) rejection of all relevant Bids with the same Bid Price.

4. A Registered Participant who wants to modify a default Bid for a future Auction shall change the Bid Quantity and the Bid Price of its default Bids before the applicable Auction Bidding Period opening.

5. A Registered Participant not wishing to submit the default Bid on the Auction Tool for future Auctions can cancel its default Bids before the subsequent Auction Bidding Period opening.

Article 34
Credit Limit verification

1. Upon submission by a Registered Participant of a Bid or set of Bids to the Auction Tool the Allocation Platform shall check whether the maximum payment obligations (MPO) connected with that Registered Participant's registered Bid(s) calculated according to paragraphs 4 and 5 of this Article at the time of Bid(s) submission exceed the Credit Limit. If the maximum payment obligation connected with such registered Bids exceed the Credit Limit, the Allocation Platform shall issue automatically via the Auction Tool a warning to the Registered Participant to modify the Credit Limit. Bids shall not be rejected automatically if the maximum payment obligation attributed to registered Bids exceeds the Credit Limit at Bid submission but only after the process described in paragraph 2 of this Article.

2. At closure of the Bidding Period the Allocation Platform shall check again whether the maximum payment obligations connected with registered Bids calculated according to paragraph 5 of this Article exceed the Credit Limit. If the maximum payment obligations connected with these Bids exceed the Credit Limit, these Bids, starting with the Bid with the lowest Bid Price, shall be one (1) by one (1) excluded, until the maximum payment obligations are less than or equal to the Credit Limit. The Allocation Platform may apply additional criteria or rules to decide which Bid shall be rejected. Such additional criteria or rules shall be included in the information System Rules and shall be one or more from the following:

   (a) chronological submission (time stamp); and/or

   (b) Bid identification assigned by the Auction Tool; and/or

   (c) rejection of all relevant Bids with the same Bid Price.

3. The Allocation Platform shall indicate insufficient collaterals as the reason for the Bid exclusion in the Auction results notification to the Registered Participant.

4. The Allocation Platform shall continuously assess all the Bids irrespectively to which Auction and with regard to which Bidding Zone border and direction they are submitted. In case of Bids connected with various and overlapping Auctions the Allocation Platform shall consider all calculated maximum payment obligations as outstanding payment obligations according to Article 23

5. For the calculation of the maximum payment obligations related to one Bidding Zone border and direction the Allocation Platform shall sort the registered Bids of a Registered Participant by Bid Price in descending order (merit-order). Bid 1 shall be the Bid with the highest Bid Price and Bid n shall be the Bid with the lowest Bid Price. The Allocation Platform shall calculate the maximum payment obligations according to the following equation:

$$MPO = \sum_{hours} Max \left[Bid\ Price\ (1) * Bid\ Quantity\ (1);\ Bid\ Price\ (2) * \sum_{i=1}^{2} Bid\ Quantity\ (i);\ \ldots \right.$$
$$\left. \ldots;\ Bid\ Price\ (n-1) * \sum_{i=1}^{n-1} Bid\ Quantity\ (i);\ Bid\ Price\ (n) * \sum_{i=1}^{n} Bid\ Quantity\ (i) \right]$$

6. When calculating the maximum payment obligations according to paragraph 5 of this Article, the Allocation Platform shall also take the following into account:

   (a) if applicable, for each individual hour of the Reduction Period the maximum quantity of Long Term Transmission Rights which can be allocated to the Registered Participant during the Reduction Period;

   (b) increase of the maximum payment obligations with applicable taxes and levies in force subject to Article 65; and

   (c) in respect of Long Term Transmission Rights with a Product Period of one (1) or more months, one (1) or two (2) monthly instalments respectively should be secured in compliance with due amount calculation according to Article 64(5).

Article 35
Auction Results Determination

1. After the expiration of the Bidding Period for an Auction and the Credit Limit verification pursuant to Article 34, the Allocation Platform shall determine the Auction results and allocate the Long Term Transmission Rights in accordance with this Article.

2. The Auction results determination shall include the following:

   (a) determination of the total quantity of the allocated Long Term Transmission Rights per Bidding Zone border and direction;

   (b) identification of winning Bids to be fully or partially satisfied; and

   (c) determination of the Marginal Price per Bidding Zone border and direction.

3. The Allocation Platform shall determine the Auction results using an optimisation function aiming at maximisation of the sum of the Registered Participants' Surplus and the Congestion Income generated by the winning Bids while respecting the constraints of the optimisation function in form of relevant Offered Capacities. The Allocation Platform shall publish additional explanatory information on the optimisation function of the algorithm on its website.

4. The Allocation Platform shall determine the Marginal Price at each Bidding Zone border and direction based on the following criteria:

   (a) if the total quantity of Cross Zonal Capacity for which valid Bids have been submitted is lower than or equal to the relevant Offered Capacity for the relevant Auction, then the Marginal Price shall be zero;

   (b) if the total quantity of Cross Zonal Capacity for which valid Bids have been submitted exceeds the relevant Offered Capacity for the relevant Auction, the Marginal Price shall be set at the lowest Bid(s) Price(s) allocated in full or in part using the respective Offered Capacities.

5. If two (2) or more Registered Participants have submitted for one Bidding Zone border and direction valid Bids with the same Bid Price, that cannot be accepted in full for the total requested quantity of Long Term Transmission Rights, the Allocation Platform shall determine the winning Bids and the quantity of the allocated Long Term Transmission Rights per Registered Participant as follows:

   (a) the Cross Zonal Capacity available for the Bids which set the Marginal Price shall be divided equally between the number of the Registered Participants which submitted these Bids;

   (b) in case the quantity of Long Term Transmission Rights requested by a Registered Participant at Marginal Price is lower than or equal to the share calculated according to item (a) above, the request of this Registered Participant shall be fully satisfied;

   (c) in case the requested quantity of Long Term Transmission Rights by a Registered Participant at Marginal Price exceeds the share calculated according to item (a) above, the request of this Registered Participant shall be satisfied up to the amount of the share as calculated according to item (a) above;

   (d) any remaining Cross Zonal Capacity after the allocation according to items (b) and (c) shall be divided by the number of the Registered Participants whose requests have not been fully satisfied and allocated to them applying the process described in items (a), (b) and (c) above.

6. Where a Reduction Period is indicated in the Auction Specification for an Auction, the Allocation Platform shall determine the Auction Results in accordance with the provisions of paragraphs 3 to 5 of this Article, modified as follows:

   (a) winning Bids and Marginal Prices for respective Bidding Zone border and direction are determined according to paragraphs 3 to 5 of this Article;

   (b) for each Reduction Period the quantity of Long Term Transmission Rights to be allocated to individual Registered Participants shall be calculated on a pro-rata basis taking into account the quantity of Long Term Transmission Rights corresponding to

the respective winning Bids of each Registered Participant and the respective reduced Offered Capacities. The Allocation Platform shall publish on its website clarifications and examples concerning the calculation of the quantity of Long Term Transmission Rights to be allocated to individual Registered Participants in the Reduction Period.

7. Whenever the calculation set forth in paragraphs 3 to 6 of this Article does not result in a whole MW amount in accordance with Article 31 paragraph 1(f), the Long Term Transmission Rights shall be rounded down to the nearest full MW.

8. The Long Term Transmission Rights are deemed to have been allocated to a Registered Participant from the moment the Registered Participant has been informed of the Results and the contestation period is closed in accordance with Article 37. In the event that the Auction was not successfully performed, the fallback procedures as set forth in CHAPTER 8 shall apply.

Article 36

Notification of provisional Auction results

1. The Allocation Platform shall publish on its website the provisional Auction results as soon as possible but not later than specified in the final Auction Specification.

2. The publication of the provisional Auction results for each Bidding Zone border included in the Auction shall comprise at least the following data:

   (a) total requested Long Term Transmission Rights in MW;

   (b) total allocated Long Term Transmission Rights in MW;

   (c) Marginal Price in Euros/MW per hour;

   (d) number of Registered Participants participating in the Auction;

   (e) list of names and number of Registered Participants who placed at least one winning Bid in the Auction;

   (f) list of registered Bids without identification of the Registered Participants (bid curve); and

   (g) Congestion Income per Bidding Zone.

3. No later than 30 minutes after the publication of the provisional Auction results the Allocation Platform shall make available via the Auction Tool to each Registered Participant who submitted a Bid to a specific Auction for each Bidding Zone border included in the Auction at least the following data:

   (a) allocated Long Term Transmission Rights for each hour of the Product Period in MW;

   (b) Marginal Price in Euros/MW per hour; and

   (c) due amount for allocated Long Term Transmission Rights in Euro, rounded to two decimal places; and

   (d) due amount for one monthly instalment for allocated Long Term Transmission Rights in Euro, rounded to two decimal places, in the event that the Product Period is longer than one month.

4. In the event that the Auction Tool is unavailable, the Allocation Platform shall inform the Registered Participants of the provisional Auction Results in accordance with CHAPTER 8.

Article 37
Contestation of Auction Results

1. Registered Participants shall check the Auction results and, where reasonably appropriate, may contest Auction results within the contestation period set out in paragraph 2 of this Article. The Allocation Platform shall only consider a contestation where the Registered Participant is able to demonstrate an error by the Allocation Platform in the Auction results.

2. The Registered Participant may contest the Auction results within the deadline set out in the relevant Auction Specification but no later than two (2) Working Days after the provisional Auction results have been notified to the Registered Participant.

3. The contestation shall be notified to the Allocation Platform and headed as "contestation".

4. Any contestation shall contain the following:

   (a) Date of contestation;

   (b) identification of contested Auction;

   (c) identification of the Registered Participant;

   (d) name, e-mail address and telephone number of the Registered Participant;

   (e) detailed description of the facts and the reason for contestation; and

   (f) evidence of erroneous Auction results;

5. The Allocation Platform shall notify its decision on the contestation to the Registered Participant no later than four (4) Working Days after the provisional Auction results have been notified to the Registered Participant.

6. At the end of the fourth (4^{th}) Working Day after the publication of the provisional Auction Results and unless an Auction is cancelled, the provisional Auction results shall be considered as final and binding with no further notification.

CHAPTER 5
Return of Long Term Transmission Rights

Article 38
General Provision

1. Long Term Transmission Right holder(s) may return their Long Term Transmission Rights to the Allocation Platform for reallocation at any subsequent long term Auction once the final Auction results are published.

2. Returned Long Term Transmission Rights shall be a constant band of whole MW(s) over the specific timeframe of the subsequent Auction. The Auction at which the Long Term Transmission Rights were allocated and the subsequent Auction to which the Long Term Transmission Rights are to be returned shall be for the same form of products.

3. The minimum volume for a returned Long Term Transmission Right shall be one (1) MW over the specific timeframe of the subsequent Auction.

4. The Allocation Platform shall make the volumes of returned Long Term Transmission Rights available at the subsequent long term Auction, increasing the Offered Capacity announced in the provisional Auction Specification accordingly and equally for each hour of the Product Period. The same applies for where the Offered Capacity announced in the provisional Auction Specification for the subsequent long term Auction contains a Reduction Period.

5. If the returned Long Term Transmission Rights are rounded down in accordance with the process described in Article 35(7), the Allocation Platform shall remunerate the Market Participant for the full amount of the returned Long Term Transmission Rights in accordance with Article 40.

Article 39
Process of the return

1. Long Term Transmission Right holder(s) wishing to return their Long Term Transmission Rights shall send a notification via the Auction Tool to the Allocation Platform in line with the corresponding Information System Rules no later than the deadline specified in the provisional Auction Specification for the subsequent Auction to which the Long Term Transmission Right is to be returned.

2. A valid notification of the return pursuant to paragraph 1 of this Article shall contain the following information:

   (a) EIC code of the Long Term Transmission Right holder;

   (b) identity of the subsequent Auction to which the Long Term Transmission Right is returned; and

   (c) the volume of the Long Term Transmission Rights for return.

3. In order to be able to return Long Term Transmission Rights the Registered Participant shall:

   (a) have a valid and effective Participation Agreement with the Allocation Platform;

(b) hold the relevant Long Term Transmission Rights at the time of the notification of the return;

(c) send the notification before the deadline pursuant to paragraph 1 of this Article; and

(d) fulfil or secure its financial obligations pursuant to these Allocation Rules .

4. If the requirements set forth in paragraph 3 of this Article are fulfilled, the Allocation Platform shall send without undue delay a notification to the Registered Participant via the Auction Tool containing:

(a) a message confirming the acceptance of the return subject to paragraph 7 of this Article; or

(b) a message rejecting the return including the reasons for rejection subject to paragraph 7.

5. If the return is accepted, the Allocation Platform shall decrease the total volume of the Long Term Transmission Rights held by the respective Long Term Transmission Right holder by the amount returned.

6. Long Term Transmission Right holder(s) wishing to modify their return as notified in accordance with paragraphs 1 and 2 of this Article, shall send a notification via the Auction Tool with the adjusted volume of the Long Term Transmission Rights to be returned before the deadline for return of Long Term Transmission Rights pursuant to paragraph 1 expires. Where the volume of the Long Term Transmission Rights to be returned is adjusted to zero (0) MW, the related return shall be deemed as cancelled.

7. If the Allocation Platform is unable to register a return as set forth in this Chapter, the Allocation Platform may apply a fallback procedure for data exchange pursuant to Article 53. If no fallback procedure for return is technically possible, no financial compensation may be claimed by the Registered Participants.

Article 40

Remuneration of Long Term Transmission Right holders

1. Registered Participants who returned Long Term Transmission Right are entitled to receive a remuneration equal to the value of the returned Long Term Transmission Rights set during the relevant subsequent Auction(s) calculated for each hour as follows:

(a) the Marginal Price of the Auction at which the returned Long Term Transmission Right was reallocated in Euros/MW per hour multiplied by

(b) the amount of MW which was reallocated.

2. On return the Registered Participant ceases to be holder of Long Term Transmission Right for the returned amount of Long Term Transmission Right. This means that all rights and obligations of the Registered Participant connected to the returned amount of Long Term Transmission Right will cease except those connected to its payments obligations pursuant to CHAPTER 10 and the remuneration set forth in this CHAPTER 5. All rights and obligations of the Registered Participant related to the not returned proportion of Long Term Transmission Right will remain unaffected.

CHAPTER 6
Transfer of Long Term Transmission Rights

Article 41
General provisions

1. Long Term Transmission Right holder(s) may transfer their Long Term Transmission Rights to another Registered Participant once the Auction results in respect of those rights are final. Regardless of how the transfer was concluded, it shall be notified to the Allocation Platform following the process pursuant to Article 42 and via the Auction Tool according to a format specified on the Allocation Platform's website.

2. The minimum volume of Long Term Transmission Rights that may be transferred shall be one (1) MW over one (1) hour.

Article 42
Process of the transfer

1. The transferor shall send a notification of the transfer to the Allocation Platform via the Auction Tool with the following information:

   (a) the EIC codes of the transferor and transferee;

   (b) the time period of the transfer including the start and end dates and hours; and

   (c) the volume (MW) of the transferred Long Term Transmission Right in whole MW(s) defined per hour.

2. The notification of the transfer shall be delivered to the Allocation Platform no later than at 12:00 p.m. on the second (2^{nd}) day preceding the day of delivery.

3. In order to be able to transfer the Long Term Transmission Rights the following requirements shall be fulfilled:

   (a) the transferor and transferee have a valid and effective Participation Agreement with the Allocation Platform at least for transfer of Long Term Transmission Rights;

   (b) the transferor holds the concerned Long Term Transmission Rights at the time of the notification of the transfer;

   (c) the transferor has fulfilled or secured its financial obligations pursuant to this Allocation Rules regardless whether the transferor transfers all or only part of its Long Term Transmission Rights and even in the case of multiple transfers among several Registered Participants; and

   (d) the transferor has delivered the notification of the transfer before the deadline pursuant to paragraph 2 of this Article.

4. The Allocation Platform shall issue without undue delay an acknowledgement of receipt of the notification to the transferor. Where the notification fulfils the requirements pursuant to paragraph 3 of this Article the Allocation Platform shall inform the transferee about the notification of the transfer.

5. In the event that the acknowledgement is not sent by the Allocation Platform, the concerned notification shall be deemed not to have been submitted.

6. The notification of transfer shall be confirmed by the transferee within four (4) hours upon receiving the transfer information from the Allocation Platform and no later than at 12:00 p.m. the second (2^{nd}) day preceding the day of delivery

7. In the event that the transferee does not confirm the transfer by the deadline pursuant to paragraph 6, the Allocation Platform shall automatically cancel the process of the transfer notification.

8. The Allocation Platform shall then issue without undue delay to the transferor and the transferee a second acknowledgement via the Auction Tool stating either:

   (a) that the transfer notification has been accepted and is effective; or

   (b) that the transfer notification has been rejected including the reason(s).

9. If for any technical reason the acknowledgement is not sent by the Allocation Platform, the concerned transfer is deemed not to have been submitted.

10. The Transferor shall not be entitled to withdraw the transfer notification once the transferee has accepted it. The transferee may initiate another transfer to transfer the Long Term Transmission Rights further.

11. In the event of Auction Tool failure, a fallback procedure pursuant to CHAPTER 8 shall apply. If the process of the transfer notification cannot be completed in accordance with this Article due to an IT system and/or fallback procedure failure, Registered Participants shall not be entitled to claim any financial compensation from the Allocation Platform.

Article 43

Legal consequences of the transfer

All rights and obligations resulting from these Allocation Rules, with exception of the payment obligation of the original Long Term Transmission Right holder regarding the allocation of Long Term Transmission Right pursuant to Article 63(1), shall be transferred together with the Long Term Transmission Right.

Article 44

Notice board

1. The notice board shall facilitate only the exchange of information between the Registered Participants regarding their interest in buying and/or selling Long Term Transmission Rights. No agreements may be concluded via this notice board. Use of the notice board is free of charge.

2. No action via the notice board by the Registered Participants shall be considered as an evidence for a valid and effective contract for the transfer of Long Term Transmission Rights.

3. The Allocation Platform shall not be held liable for the accuracy and completeness of the information published by a Registered Participant on the notice board.

4. The Allocation Platform may delete from the notice board any information not relevant for the purpose of the notice board. In case of such a deletion, the Allocation Platform shall provide the reasons for the deletion to the respective Registered Participant.

CHAPTER 7
Use and remuneration of Long Term Transmission Rights

Article 45
General principles

1. Physical Transmission Rights, shall be subject to the Use it or Sell It principle.

2. The holder of allocated Physical Transmission Rights may nominate the Physical Transmission Rights for its physical use in accordance with Article 46. The holder of allocated Financial Transmission Rights Options shall not be entitled to nominate them for physical delivery.

3. In case the Registered Participant does not nominate its Physical Transmission Rights, the Allocation Platform shall make the underlying Cross Zonal Capacity of the non-nominated Physical Transmission Rights available for the relevant daily allocation. The Physical Transmission Right holders who do not nominate their Physical Transmission Rights for physical use of their rights or has not reserved its Physical Transmission Rights for the balancing services shall be entitled to receive remuneration in accordance with Article 48.

4. In case of Financial Transmission Rights Options the Financial Transmission Right Option holders shall be entitled to receive remuneration in accordance with Article 48.

5. In case the Long Term Transmission Rights holder reserves its Physical Transmission Rights for the balancing services, such Cross Zonal Capacity shall be excluded from the application of the Use It Or Sell It principle. The process of notification of such reservation shall be subject to the relevant rules entered into force in accordance with the applicable national regulatory regime and published by the responsible Allocation Platform.

Article 46
Nomination of Physical Transmission Rights

1. Persons eligible to nominate Physical Transmission Rights shall fulfil the requirement described in applicable Nomination Rules. Eligible persons may be the following:

   (a) the Physical Transmission Rights' holder; or

   (b) the person notified by the Physical Transmission Rights' holder during the Nomination process to the respective TSOs in line with the relevant Nomination Rules; or

   (c) the person authorised by the Physical Transmission Rights' holder to nominate in line with the relevant Nomination Rules and notified to the Allocation Platform.

2. The Allocation Platform shall provide on its website an overview of the options listed in paragraph 1 of this Article which are applicable on each Bidding Zone border.

3. For the process of the notification of the eligible persons to the Allocation Platform in accordance with paragraph 1(c) of this Article the following criteria should be met:

   (a) the eligible person shall have an EIC Code in order to allow its identification in the Rights Document; and

(b) the Physical Transmission Rights' holder shall notify the eligible person to the Allocation Platform via the Auction Tool in accordance with the Information System Rules and at the latest one (1) hour before the sending of the Rights Document for a specific day.

4. The Allocation Platform shall not take into account notifications of eligible persons which do not meet the criteria in accordance with paragraph 3 of this Article when sending the Rights Document in respect of a day of delivery of electricity.

5. The Nomination shall be done in compliance with the Rights Document.

6. The Allocation Platform shall publish a list with the relevant Nomination Rules for the Bidding Zone borders on its website.

7. The long term nomination deadlines for respective Bidding Zone borders are set forth in the relevant Nomination Rules. The Allocation Platform shall publish information on its website on the long term nomination deadlines per Bidding Zone border. In case of any discrepancy between the deadlines published by the Allocation Platform and those of the valid and legally binding relevant Nomination Rules, the latter shall prevail and the Allocation Platform shall not be held liable for any damages due to such a discrepancy.

Article 47

Rights Document

1. The Rights Document shall contain the information about the volume in MW that eligible persons are entitled to nominate at specific Bidding Zone borders or subsets of interconnectors of Bidding Zone borders and directions and for hourly periods in case of Physical Transmission Rights. In case of Financial Transmission Rights Options the Rights Document shall contain the information about the volume in MW at specific Bidding Zone borders or subsets of interconnectors of Bidding Zone borders and directions and for hourly periods for which the holder is entitled to financial remuneration in accordance with Article 48.

2. The Allocation Platform shall send the Rights Document daily and no later than at 1:00 p.m. on the second (2nd) day preceding the delivery day via the Auction Tool to the eligible person according to Article 46(1) a) and/or c) .

Article 48

Remuneration of Long Term Transmission Rights holders for non-nominated Physical Transmission Rights and Financial Transmission Rights Options

1. The Allocation Platform shall remunerate the Long Term Transmission Rights holder for the Long Term Transmission Rights which are reallocated at the relevant daily allocation. The Allocation Platform shall remunerate the Long Term Transmission Rights holder for each MW which was non-nominated for the relevant hourly period in the case of Physical Transmission Rights and for all allocated MW per relevant hourly period in the case of Financial Transmission Rights Options. The remuneration shall be calculated in the case of Physical Transmission Rights as the difference between the volumes stated in the Rights Document and the final volumes nominated and accepted by the relevant TSO, in the case of Financial Transmission Rights Options as the volumes stated in the Rights Document , multiplied by a price, depending on the type of the day-ahead allocation, as follows:

(a) in case of day-ahead Implicit Allocation, the price shall be the Market Spread at the concerned Bidding Zone border for the concerned hourly period only in case the price difference is positive in the direction of the Long Term Transmission Rights of the day-ahead Implicit Allocation in which that Cross Zonal Capacity was reallocated, and 0€/MWh, otherwise. If applicable this price shall be adjusted to reflect transmission losses on interconnections between Bidding Zones, where these losses are included in the day-ahead Cross Zonal Capacity allocation process.

(b) in case of day-ahead Explicit Allocation, including in case of fallback allocation for Implicit Allocation, the price shall be the Marginal Price of the daily Auction at which that Long Term Transmission Right was reallocated, for the concerned hourly period; and

(c) in case of fallback allocation of Implicit Allocation or Explicit Allocation where no reference price is calculated for the daily allocation timeframe the price for the Long Term Transmission Rights remuneration shall be the Marginal Price of initial Auction.

2. The Allocation Platform shall compensate the Long Term Transmission Rights holder for the non-nominated Long Term Transmission Rights which are not reallocated at the relevant daily allocation in accordance with CHAPTER 9 in case of the triggering event listed Article 56.

3. The Allocation Platform shall compensate the Long Term Transmission Rights holder in accordance with Article 59(1) letter (a) and (b) for the Financial Transmission Rights Options and non-nominated Physical Transmission Rights which are not reallocated at the relevant daily allocation for other reasons than these mentioned in paragraph 2 of this Article.

CHAPTER 8
Fallback Procedures

Article 49
General provisions

1. The Allocation Platform shall, to the extent reasonably practicable, organize a fallback procedure in the following cases of failure of a standard process:

   (a) if it is technically not possible to hold an Auction following the process set forth in CHAPTER 4;

   (b) if it is technically not possible to register a return of Long Term Transmission Rights following the process as set forth in CHAPTER 5;

   (c) if it is technically not possible to register a notification of transfer of Long Term Transmission Rights following the process as set forth in CHAPTER 6; and

   (d) if it is technically not possible to register a notification of an eligible person in following the process as set forth in CHAPTER 7.

2. The Allocation Platform may use one or all of the following fallback procedures:

   (a) introduction of a fallback procedure for data exchange according to Article 50;

   (b) postponement of the Auction to a later date/time;

   (c) another ad hoc fallback procedure if considered appropriate by the Allocation Platform to overcome the technical obstacles.

3. The Allocation Platform shall, to the extent practicable and without undue delay, inform Registered Participants of possible deviations from the standard processes and the application of a fallback procedure via email and the Allocation Platform's website and using the Auction Tool.

4. Registered Participants shall immediately inform the Allocation Platform of any observed problems with the use of the Auction Tool and all potential consequences via e-mail. In case of an urgent problem, which shall be solved immediately and which is identified during Working Hours, the Registered Participant shall immediately contact the Allocation Platform by phone at the telephone number indicated on the website of the Allocation Platform for this type of problems.

Article 50
Fallback procedure for data exchange

1. In case of a failure at the site of the Allocation Platform of the standard processes for data exchange via the Auction Tool as described in these Allocation Rules, the Allocation Platform may inform Registered Participants that a fallback procedure for data exchange may be used as follows:

   (a) by the applicable deadlines unless otherwise announced by the Allocation Platform the Registered Participant shall request via email the Allocation Platform to enter the relevant data into the Auction Tool by using this fallback procedure for data exchange;

(b) with the request the Registered Participant shall provide to the Allocation Platform in the format specified in the Information System Rules the relevant data to be entered in the Auction Tool;

(c) the Allocation Platform shall enter the submitted data into the Auction Tool;

(d) the Allocation Platform may set in Information System Rules an identification process for the Registered Participant at the moment when the Registered Participant submits the relevant operational or commercial data and requests the Allocation Platform to enter this data into the Auction Tool on its behalf by means of the fallback procedure. If the Registered Participant or the person authorized by the Registered Participant for this purpose does not clearly identify itself, the Allocation Platform shall be entitled not to perform the data entry;

(e) the Registered Participant shall provide the Allocation Platform with a telephone number, which can be used in case of a necessary communication;

(f) once the Allocation Platform has entered the provided data into the Auction Tool on behalf of the Registered Participant, the Allocation Platform shall inform, without undue delay, the Registered Participant by telephone and/or via e-mail of the entry; and

(g) the Allocation Platform shall under no circumstances be held responsible if it fails to reach the Registered Participant through the means of communication above.

2. In case of application of the fallback procedure for data exchange , all necessary information which is made available via the Auction Tool during the standard processes may be distributed to the Registered Participants via email by the Allocation Platform or where appropriate published on the website of the Allocation Platform.

Article 51
Fallback procedures for Auction

1. The postponement of the Auction shall be the default fallback procedure for Auctions before the Bidding Period has opened. The Allocation Platform may postpone an Auction by notifying Registered Participants of the revised date and/or time of the new Auction.

2. After the Bidding Period has opened, the Allocation Platform shall:

   (a) where reasonably practicable postpone the end of the Bidding Period by notifying Registered Participants about the revised deadlines in the Auction Specification; or

   (b) cancel the initial Auction according to Article 52 and organise a new Auction for the same Product Period.

3. If the fallback procedure described in paragraph 1 and 2 of this Article cannot be implemented for the same Product Period, the respective Cross Zonal Capacities shall be offered in subsequent Capacity Allocation process.

4. The Allocation Platform shall inform all Registered Participants, without undue delay, of the postponement by notification published in the Auction Tool and/or on the webpage of the Allocation Platform and/or by e-mail.

Article 52

Auction cancellation

1. In case the Allocation Platform cancels an Auction, all Bids already submitted, all returns already accepted and any results of the respective Auction shall be deemed null and void.

2. The Allocation Platform shall inform all Registered Participants without undue delay, of the Auction cancellation by notification published in the Auction Tool or on webpage of Allocation Platform and by e-mail.

3. An Auction cancellation may be announced in the following cases:

   (a) before the end of the contestation period in case the Allocation Platform faces technical obstacles during the Auction process like a failure of standard processes and fallback procedures and in the event of erroneous results due to incorrect Marginal Price calculation or incorrect allocation of Long Term Transmission Rights to Registered Participants or similar reasons; and

   (b) after the end of the contestation period, in the event of erroneous results due to incorrect Marginal Price calculation or incorrect allocation of Long Term Transmission Rights to Registered Participants or similar reasons.

4. In case of Auction cancellation before the contestation period elapses, no compensation shall be paid to the Registered Participants.

5. The Allocation Platform shall publish on its website, without undue delay, the reasons for the Auction cancellation.

Article 53

Fallback procedure for return of Long Term Transmission Rights

1. In case of failure in the standard process for the registration of the return of Long Term Transmission Rights via the Auction Tool as set forth in CHAPTER 5, the Allocation Platform may apply the fallback procedure for data exchange in accordance with Article 50.

2. The Allocation Platform shall publish information about the possibility to use the fallback procedure for data exchange in due time before the expiration of the deadline for Long Term Transmission Rights return.

3. In case the fallback procedure for data exchange cannot be executed as necessary to enable the registration of the return of Long Term Transmission Rights, all requests for Long Term Transmission Rights return already submitted that cannot be registered in the Auction Tool shall be automatically cancelled.

Article 54

Fallback procedure for transfer of Long Term Transmission Rights

1. In case of failure in the standard process for the registration of the transfer of Long Term Transmission Rights organised via the Auction Tool as set forth in CHAPTER 6 the Allocation Platform may apply the fallback procedure for data exchange in accordance with Article 50.

2. The Allocation Platform shall publish information about the possibility to use the fallback procedure for data exchange in due time before the expiration of the deadline for Long Term Transmission Rights transfer.

3. In case the fallback procedure for data exchange cannot be executed as necessary to enable the registration of the transfer of Long Term Transmission Rights, all requests for Long Term Transmission Rights transfer already submitted and not confirmed by transferee shall be automatically cancelled.

Article 55

Fallback procedure for eligible person notification

1. In case of failure in the standard process of eligible person notification to the Allocation Platform via the Auction Tool as set forth in CHAPTER 6, the Allocation Platform may apply the fallback procedure for data exchange in accordance with Article 50.

2. The Allocation Platform shall publish information about the possibility to use the fallback procedure for data exchange in due time before the expiration of the deadline for eligible person notification.

3. In case the fallback procedure for data exchange cannot be executed as necessary to enable the registration of the eligible person, the eligible person shall be deemed notified as set forth in Information System Rules.

CHAPTER 9
Curtailment

Article 56

Triggering events and consequences of curtailment on Long Term Transmission Rights

1. Long Term Transmission Rights irrespectively of the Product Period may be curtailed in the event of Force Majeure, an Emergency Situation or to ensure System Security according to applicable legislation.

2. Curtailment may be applied on allocated Long Term Transmission Rights including, where the case may be, on nominated Physical Transmission Rights.

3. Long Term Transmission Rights shall not be curtailed after the Day Ahead Firmness Deadline except in the case of Force Majeure or Emergency Situation in accordance with Article 72 of Commission Regulation (EU) No. 1222/2015. For the avoidance of doubt, Long Term Transmission Rights when curtailed after the Day Ahead Firmness Deadlines shall be curtailed in the same way as day-ahead and intraday capacity and compensated in accordance with the applicable allocation rules.

4. In the case of Physical Transmission Rights, each Registered Participant affected by curtailment shall lose its right to transfer, return or nominate for physical use the concerned Physical Transmission Rights or to receive remuneration based on the Use-It-Or-Sell-It principle. In the case of Financial Transmission Rights, each Registered Participant affected by curtailemt shall lose its right to transfer or return the concerned Financial Transmission Rights or to receive remuneration in accordance to Article 48.

5. In case of curtailment, the affected Registered Participant is entitled to receive reimbursement or compensation according to Articles 59 to 61 and where applicable Article 62.

Article 57

Process and notification of curtailment

1. In all cases curtailment shall be carried out by the Allocation Platform based on a request by one or more TSO(s) at the Bidding Zone border where Long Term Transmission Rights have been allocated.

2. Allocation Platform shall notify the affected holders of Long Term Transmission Rights as soon as possible of a curtailment of Long Term Transmission Rights including the triggering event via email and on the webpage of the Allocation Platform. The notification shall identify the affected Long Term Transmission Rights, the affected volume in MW per hour for each concerned period,the triggering events for curtailment as described in Article 56 and the amount of Long Term Transmission Rights that remain after the curtailment.

3. The Allocation Platform shall publish the triggering events for curtailment in accordance with Article 56 including their estimated duration on its website as soon as possible.

4. Subject to paragraph 6 of this Article the curtailment of Long Term Transmission Rights during a specific time period shall be applied to all Long Term Transmission Rights of the concerned periods on a pro rata basis, which means in proportion to the held Long Term Transmission Rights, regardless of the time of allocation.

5. Compensation rules according to Articles 59 to 61 and where applicable Article 62 also apply if offered day-ahead Cross Zonal Capacities are lower than the amount of non-nominated Long Term Transmission Rights in case of Physical Transmission Rights and the total amount of Long Term Transmission Rights in the case of Financial Transmission Rights Options after the Long Term Firmness Deadline.

6. After the Long Term Firmness Deadline and before the Day Ahead Firmness Deadline, Long Term Transmission Rights shall be curtailed on a pro-rata basis. In case of Physical Transmission Rights, and until the capacity has not been reallocated in the day-ahead allocation, the ratio between the allocated Physical Transmission Rights after the curtailment to the Physical Transmission Rights before the curtailment shall be applied to both nominated and non-nominated Physical Transmission Right.

7. For each affected Registered Participant, remaining Long Term Transmission Rights which have not been curtailed shall be rounded down to the nearest MW. The same rounding applies for the curtailment of both nominated and non-nominated Physical Transmission Rights according to paragraph 6 second sentence of this Article.

8. In cases of curtailment, any transfer of Long Term Transmission Rights to be curtailed, which is not yet accepted by the transferee, shall be automatically cancelled and the transferor shall remain the holder of the Long Term Transmission Rights. If the transfer has already been notified to the Allocation Platform and accepted by the transferee, the compensation or reimbursement for curtailed Long Term Transmission Rights shall be paid to the transferee.

9. The Allocation Platform shall cancel all notifications for return of Long Term Transmission Right that have been accepted for a subsequent long term Auction for which curtailment is necessary and for which the final Auction Specifications have not yet been published. By this cancellation, the Long Term Transmission Rights are given back to the Long Term Transmission Right holders that have requested the return. If the final Auction Specification has already been published the return shall not be cancelled and the compensation or reimbursement for curtailed Long Term Transmission Rights shall be paid to the holder who returned the Long Term Transmission Rights.

Article 58
Firmness deadlines

1. The Allocation Platform shall publish on its website and take the following deadlines into account for the calculation of compensation for curtailed Long Term Transmission Rights :

   (a) the Long Term Firmness Deadline which is set at the deadline for final submission of nominations of Physical Transmission Rights for each Bidding Zone border which shall be the ones described in the respective Nomination Rules in the case of Physical Transmission Rights and two (2) hours before the respective Day Ahead Market Gate Closure Time in the case of Financial Transmission Rights Options; and

   (b) the Day Ahead Firmness Deadline which for the purpose of these Allocation Rules is set thirty (30) minutes before the respective Day Ahead Market Gate Closure Time. This is without prejudice to the development of a common proposal for a single day-ahead deadline pursuant to Article 69 of the Commission Regulation (EU) No. 1222/2015.

Article 59

Compensation for curtailments to ensure System Security and due to Emergency Situation before the Day Ahead Firmness Deadline

1. In cases of curtailment to ensure System Security and due to Emergency Situation before the Day Ahead Firmness Deadline the compensation for each affected hour and Registered Participant shall be calculated as the Long Term Transmission Rights in MW per hour corresponding to the difference between the allocated Long Term Transmission Rights held by the Registered Participant before and after the curtailment multiplied by a price calculated as follows:

   (a) the Market Spread at the concerned Bidding Zone border for the concerned hourly period only in case the price difference is positive in the direction of the curtailed Long Term Transmission Rights, and 0€/MWh, otherwise. If applicable this price shall be adjusted to reflect transmission losses on interconnections between Bidding Zones, where these losses are included in the day-ahead Cross Zonal Capacity allocation process. The Market Spread shall be equal to the day-ahead hourly price of the destination Bidding Zone minus the day-ahead hourly price of the origin Bidding Zone, where the destination and the origin Bidding Zones are those defined in the Auction Specifications of the concerned Long Term Transmission Right; or

   (b) the Marginal Price of the initial Auction if the day-ahead price is not calculated at least in one of the two relevant Bidding Zones.

2. The compensations calculated according to paragraph 1 which occurred within one calendar month shall be further subject to the following caps:

   (a) for curtailments before the Long Term Firmness Deadline:

   the cap shall be determined as the Congestion Income from the allocation of Long Term Transmission Rights in the month of curtailment at the respective Bidding Zone border or subset of interconnectors of the Bidding Zone border in both directions, i.e. the cap is defined for each month as the sum of the part of the yearly Auction revenues corresponding to that month (a twelfth of the revenues raised at yearly Auction on the concerned Bidding Zone border) and the revenues generated by the monthly Auction and congestion income from other long term timeframes which occurred during this month on the concerned Bidding Zone border, and where applicable for each interconnection, deducting all remunerations paid according to Articles 40 and 48 and compensations paid according to Articles 60 to 61 and where applicable Article 62 for the considered month;

   (b) for curtailments after the Long Term Firmness Deadline and before the Day Ahead Firmness Deadline,

   the cap shall be determined as the Congestion Income from the daily allocations and the allocation of Long Term Transmission Rights with delivery in the month of the curtailment at the respective Bidding Zone border or subset of interconnectors of the Bidding Zone border in both directions and where applicable for each interconnection, deducting all remunerations paid according to Articles 40 and 48 and compensations paid according to Articles 60 to 61 and where applicable Article 62 for the considered month.

3. The cap is applied in two steps as follows:

(a) first, the Allocation Platform shall compensate the holders of Long Term Transmission Rights which are curtailed after the Long Term Firmness Deadline. When the cap described in paragraph 2(b) of this Article is reached, the compensations of curtailed Long Term Transmission Rights after the Long Term Firmness Deadline shall be reduced on a pro rata basis based on the volume of compensation of allocated Long Term Transmission Rights for each Registered Participant.

(b) second, if the cap described in paragraph 2(b) of this Article decreased by compensation paid according to paragraph 3(a) of this Article is not reached, the compensation of Long Term Transmission Rights which are curtailed before the Long Term Firmness Deadline shall be paid in full amount. When the cap described in paragraph 2(a) decreased by compensation paid according to paragraph 3(a) of this Article is reached the compensations of curtailed Long Term Transmission Rights before the Long Term Firmness Deadline shall be reduced on a pro rata basis based on the volume of compensation of allocated Long Term Rights for each Registered Participant.

Article 60

Reimbursement for curtailments due to Force Majeure before the Day Ahead Firmness Deadline

1. In the case of Force Majeure before the Day Ahead Firmness Deadline, holders of curtailed Long Term Transmission Rights shall be entitled to receive a reimbursement equal to the price of the Long Term Transmission Rights set during the Long Term Transmission Rights Allocation Process, which for each affected hour and Registered Participant shall be calculated as:

   (a) the Marginal Price of the initial Auction; or

   (b) in case the curtailment takes place after the Long Term Firmness Deadline and when the Marginal Price of the initial Auction cannot be identified, the weighted average of Marginal Prices of all the Auctions for which the Registered Participant holds Long Term Transmission Rights where the weight is given by Long Term Transmission Rights which the Registered Participant holds before the curtailment; multiplied by

   (c) the volume in MW per hour corresponding to the difference between the Long Term Transmission Rights held by the Registered Participant before and after the curtailment.

Article 61

Reimbursement or compensation for curtailments due to Force Majeure or Emergency Situation after the Day Ahead Firmness Deadline

1. In the event of Force Majeure after the Day Ahead Firmness Deadline, holders of curtailed Long Term Transmission Rights shall be entitled to receive a reimbursement equal to the price of the Long Term Transmission Rights set during the Long Term Transmission Rights Allocation Process as described in Article 60.

2. In an Emergency Situation after the Day Ahead Firmness Deadline, holders of curtailed Long Term Transmission Rights shall be entitled to compensation equal to the price difference of relevant markets as described in Article 59(1).

Article 62

Individual compensation rules

1. TSOs may propose to the relevant NRAs compensation rules related to outages which last for a long period of time or outages which affect Bidding Zone borders consisting of one single Interconnector. Such compensation rules shall be included in regional or border specific annexes to these Allocation Rules.

2. In derogation to paragraphs 1 to 3 of Article 59, on Bidding Zone borders where market coupling has not been introduced, the compensation rules listed in regional or border specific annexes to these Allocation Rules shall apply during a transitional period. As soon as market coupling is introduced and implemented on these Bidding Zone borders, this transitional period shall end and the provisions of paragraphs 1 to 3 of Article 59 shall apply.

CHAPTER 10
Invoicing and Payment

Article 63
General principles

1. A Registered Participant shall pay the amounts due as calculated in accordance with Article 64 for all Long Term Transmission Rights allocated to him. This obligation shall be fulfilled irrespective of any return or transfer or curtailment of all or some of these Long Term Transmission Rights in accordance with these Allocation Rules.

2. The Registered Participant may upon payment use the Cross Zonal Capacity connected with the allocated Long Term Transmission Rights as described in these Allocation Rules only. Any right for physical use of the transmission system in case of a Physical Transmission Rights may be subject to separate agreements between the Registered Participant and the concerned TSOs.

3. All financial information, prices and amounts due shall be expressed in Euros (€), except if deviations are required by applicable law or regulations.

4. The payment shall be settled on the date upon which the given amount is credited to the account of the beneficiary. Any interest for late payment shall be considered as settled on the date when the payment was credited from the account of the payer.

5. Payments shall be done in Euros (€).

6. The Allocation Platform shall consider taxes and levies at the rate and to the extent applicable when assessing payment obligations and issuing invoices under these Allocation Rules subject to Article 65.

7. The Registered Participant shall provide the Allocation Platform with relevant information for justifying whether or not respective taxes and levies are applicable when signing the Participation Agreement as well as any changes in this respect without undue delay.

Article 64
Calculation of due amounts

1. Registered Participants shall pay for each of the Long Term Transmission Rights allocated to them an amount equal to:

   (a) the Marginal Price (per MW per hour); multiplied by

   (b) the sum of Long Term Transmission Rights in MW allocated in individual hours of the Product Period incorporating any Reduction Period where relevant in accordance with Article 35.

2. The amount due plus any applicable taxes and levies, duties or other charges subject to Article 65, shall be rounded to two decimal places.

3. The Allocation Platform shall calculate the due payments in monthly instalments when the Cross Zonal Capacity product has a duration of more than a month.

4. Monthly instalments shall be equal for each month and determined by dividing the amount due as set forth in paragraph 1 of this Article by the duration of the Cross Zonal Capacity products expressed in months and rounded to two decimal places. The last instalment shall in addition include the balance due to the rounding down applied in the other monthly instalments.

5. If the first payment date of the Cross Zonal Capacity product with a duration of more than one (1) month occurs after the start of the Product Period, then the first payment shall include two (2) monthly instalments.

Article 65
Tax Gross-up

1. Each Registered Participant must make all payments to be made by it under the Allocation Rules without any tax deduction, unless a tax deduction is required by law.

2. If a tax deduction is required by law to be made by a Registered Participant, the amount of the payment due from the Registered Participant to the Allocation Platform will be increased to an amount which (after making the tax deduction) leaves an amount equal to the payment which would have been due if no tax deduction had been required.

3. Paragraph 2 of this Article does not apply with respect to any tax assessed on the Allocation Platform on any payment received in connection with the Allocation Rules under the laws of the jurisdiction in which the Allocation Platform is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Allocation Platform is treated as resident for tax purposes or has or is deemed for tax purposes to have a permanent establishment or a fixed place of business to which any payment under the Allocation Rules is attributable. Paragraph 2 of this Article does not apply to value added tax as provided for in the VAT directive 2006/112/EC as amended from time to time and any other tax of a similar nature.

Article 66
Invoicing and payment conditions

1. Payments shall be settled before the start of the Product Period if the Auction timeline allows so. If the Cross Zonal Capacity product has a duration of more than one (1) month, each monthly instalment shall be settled before the start of each respective month if the Auction timeline allows so. If the settlement of an amount due for allocated Long Term Transmission Rights is not possible before the start of the Product Period then the payment will be settled at the next fixed invoice date.

2. The Allocation Platform shall issue invoices for payments for all Long Term Transmission Rights on a monthly basis and no later than the tenth (10^{th}) Working Day of each month.

3. The invoices shall be issued for the following payments:

   (a) the amount of the monthly instalment(s) if the Long Term Transmission Right has a duration of more than a month as set forth in Article 64(4) and Article 64(5);

   (b) the amount due set forth in Article 64(2) if the Long Term Transmission Right has a duration equal to a month or less;

   (c) if requested by the Registered Participant amounts for advanced payment of monthly instalments that would otherwise be settled with subsequent invoices; and

(d) any relevant taxes and levies subject to Article 65.

4. The Allocation Platform shall send the invoice only by e-mail to the Registered Participant at the e-mail address of the financial contact person submitted in accordance with Article 9(h) or it should make it available to the Registered Participant viathe Auction Tool. The date of issuance of the invoice shall be the date on which the email is sent or the date when the invoice is made available via the Auction Tool if this is done during Working Hours or the next day if sent after Working Hours.

5. In the cases of curtailment of Long Term Transmission Rights, return of Long Term Transmission Rights according to Article 40 or remuneration of Long Term Transmission Rights according to Article 48, the invoices shall take into account any payments to be credited to the Registered Participant. The payments to be credited to the Registered Participants shall:

   (a) be settled through self billing mechanism which shall allow the Allocation Platform to issue invoices in the name and on behalf of the Registered Participant; and

   (b) be notified through the same invoice as the one used for the payments of the Registered Participant as set forth in paragraph 3 of this Article.

6. The payments due shall be netted by the Allocation Platform taking into account the amount as set forth in paragraph 3 and 5 of this Article.

7. If the balance of the payments as set forth in paragraph 3 and 5 of this Article results in a net payment from the Registered Participant to the Allocation Platform, the Registered Participant shall settle this balance within five (5) Working Days after the date of issuance of the invoice.

8. Payments by the Registered Participant as set forth in paragraph 7 of this Article shall be collected as follows:

   (a) based on the standard procedure, the Allocation Platform shall collect the payment automatically from the dedicated Business Account of the Registered Participant on the respective due date of the invoice; or

   (b) alternatively, the Registered Participant shall ensure payment through a non-automated transaction to the account of the Allocation Platform specified on the invoice by indicating the invoice reference.

   The alternative procedure may be used upon request of the Registered Participant and with the consent of the Allocation Platform. The Registered Participant shall notify the Allocation Platform by email the request to use the alternative procedure at least two (2) Working Days before the date of issuing of the next invoice as set forth in paragraph 2 of this Article. Once the alternative procedure is agreed, it shall be deemed to be valid until otherwise agreed between the Registered Participant and the Allocation Platform.

9. If the balance of the payments as set forth in paragraph 3 and 5 of this Article results in a net payment from the Allocation Platform to the Registered Participant, the Allocation Platform shall pay this balance within seven (7) Working Days after the date of issuance of the invoice to the bank account as announced during the accession process in accordance with Article 9 paragraph 1(g) by the Registered Participant who is entitled to the payments at the due date.

10. Upon the collection of the payment as set forth in paragraph 8 of this Article, the Allocation Platform shall update the Credit Limit accordingly.

11. In case of an erroneous invoice resulting in an additional payment of the Allocation Platform or the Registered Participant the Allocation Platform shall correct the invoice and any due amount shall be settled as soon as they have been notified to Registered Participant.

12. Bank fees of the payer's bank shall be covered by the payer. Bank fees of the receiving bank shall be covered by the beneficiary. Bank fees of any intermediary bank, shall be covered by the Registered Participant.

13. The Registered Participant shall not be entitled to offset any amount, or withhold any debts arising in connection with obligations resulting from an Auction, against any claims towards the Allocation Platform, whether or not arising out of an Auction. Nevertheless, the right to offset and the right to withhold are not excluded in case the Registered Participant's claim against Allocation Platform is established by a legally binding judgement or is uncontested.

Article 67
Payment disputes

1. A Registered Participant may dispute the amount of an invoice, including any amounts to be credited to the Registered Participant. In this case, the Registered Participant shall notify the nature of the dispute and the amount in dispute to the Allocation Platform as soon as practicable and in any event within fifteen (15) Working Days after the date of issuance of the invoice or credit note by registered mail and email. Beyond this period, the invoice shall be deemed to have been accepted by the Registered Participant.

2. If the Registered Participant and the Allocation Platform are unable to resolve the difference within ten (10) Working days after the notification, the procedure for the dispute resolution in accordance with Article 71 shall apply.

3. A dispute shall in no way relieve the Party from the obligation to pay the amounts due as set forth in Article 66.

4. If it is agreed or determined based upon the dispute resolution procedure as set forth in Article 71 that an amount paid or received by the Registered Participant was not properly payable, the following process shall apply:

   (a) the Allocation Platform shall refund any amount including interest to be calculated according Article 63(4) to the Registered Participant in case that the amount paid by the Registered Participant as set forth in Article 66(3) and Article 66(6) was higher or the amount paid by the Allocation Platform was lower than the due amount. The Allocation Platform shall make the payment to the bank account indicated by the Registered Participant for this reimbursement in accordance with Article 9 paragraph 1 (g).

   (b) the Registered Participant shall pay any amount including interest to be calculated according to Article 63(4) to the Allocation Platform in case that the amount paid by the Registered Party as set forth in Article 66(3) and Article 66(6) was lower or the amount paid by the Allocation Platform was higher than the due amount. The Registered Participant shall make the payment in accordance with the procedure set forth in Article 66(8). Upon such payment the Allocation Platform shall update the Credit Limit of the Registered Participant as set forth in Article 66(10).

5. The interest paid in case of a payment in accordance with paragraph 4 of this Article shall be applied from the first (1st) day following the date on which the payment was due up to the date on which the disputed amount was refunded and it shall apply also to all taxes and levies required by law.

Article 68

Late payment and payment incident

1. In case the Registered Participant has not fully paid an invoice by the due date specified on the invoice, the Allocation Platform shall notify the Registered Participant that a payment incident will be registered if the amount including applicable interest due is not received within three (3) Working Days upon sending of the notification. In case of no payment within the deadline, the Allocation Platform shall notify the Registered Participant that the payment incident was registered.

2. Immediately after registration of the payment incident the Allocation Platform may invoke the collaterals.

3. The Allocation Platform may suspend or terminate the Participation Agreement in case of registered payment incident in accordance with Articles 72 and 73.

4. In case of late payment or refund, the Parties shall pay interest on the amount due including taxes and levies from the first (1st) day following the date on which the payment was due until the date on which the payment is done. The interest shall be equal to the highest amount of:

   (a) a flat rate of 100 €; or

   (b) in accordance with Article 5 of Directive 2011/7/EU, eight (8) percentage points per annum above the reference interest rate as officially published by the national authorities of the country in which the Allocation Platform is located and round up to the nearest half percentage point.

CHAPTER 11
Miscellaneous

Article 69
Duration and amendment of Allocation Rules

1. The Allocation Rules are of indefinite duration and are subject to amendment in accordance with this Article. These Allocation Rules and any amendments thereof shall be consulted upon subject to paragraph 7 of this Article, proposed by the relevant TSOs and enter into force in accordance with the applicable national regulatory regime. The Allocation Platform shall publish the amended Allocation Rules and send an amendment notice to Registered Participants.

2. Subject to paragraph 7 of this Article, an amendment shall enter into force at the date and time specified in the amendment notice but not earlier than thirty (30) calendar days after the amendment notice is sent to Registered Participants by the Allocation Platform.

3. Each amendment shall apply to all aspects of these Allocation Rules, including but not limited to all Auctions conducted after the date on which the amendment takes effect.

4. Unless expressly stated otherwise by the Allocation Platform the amended Allocation Rules shall govern all rights and obligations in connection with these Allocation Rules including those acquired before the date of amendment but with the delivery date after the amendment takes effect. In case Financial Transmission Rights Options are introduced at a respective Bidding Zone border replacing Physical Transmission Rights, transitional arrangements may be introduced in a regional or border specific annex with regards to the return of already acquired Physical Transmission Rights according to CHAPTER 5 and with regards to the right to nominate such Physical Transmission Rights according to CHAPTER 7 after the amendment takes place.

5. Any amendment of these Allocation Rules shall apply automatically to the Participation Agreement in force between the Allocation Platform and the Registered Participant, without the need for the Registered Participant to sign a new Participation Agreement but without prejudice to the Registered Participant's right to request the termination of its Participation Agreement in accordance with Article 73(1). By participating in the Auction after the Registered Participant was informed about the changes and/or adaptations of the Allocation Rules and after these changes and/or adaptations of the Allocation Rules entered into force, it is deemed that the Registered Participant has accepted the changed, i.e. the valid and effective version of the Allocation Rules.

6. The Allocation Rules and the border and /or regional specific annexes included thereto shall be periodically reviewed by the Allocation Platform and the relevant TSOs at least every two years involving the Registered Participants. In case the relevant TSOs consider the amendment of these Allocation Rules as a result of this review, the procedure described in this Article shall apply. This biennialreview is without prejudice of the competence of National Regulatory Authorities to request at any time amendments of the Allocation Rules and the annexes included thereto in accordance with the existing legislation.

7. These Allocation Rules are subject to the legislation prevailing at the time at which they take effect. In the event that there is a change in legislation or any action by competent authorities at national or European Union level which have an effect on these Allocation

Rules and/or their annexes then, notwithstanding any other provision of these Allocation Rules, the Allocation Rules shall be amended accordingly and pursuant to this Article.

Article 70
Liability

1. The Allocation Platform and the Registered Participants are solely responsible for the fulfilment of any obligation they undertake or are subject to and which arises from or is in connection with the Allocation Rules and the Participation Agreement.

2. Subject to any other provisions of these Allocation Rules the Allocation Platform shall only be liable for damages caused by:

   (a) fraud, gross negligence or wilful misconduct.

   (b) death or personal injury arising from its negligence or that of its employees, agents or subcontractors.

3. A Registered Participant shall indemnify and keep indemnified the Allocation Platform and its officers, employees and agents from and against any and all loss or liability (including legal costs) related to a damage that it has caused, which any of them may suffer or incur by reason of any claim by any third party on account of any and all loss (whether direct or indirect) suffered by the claimant or any of the claimant's officers, agents, subcontractors or employees in connection with these Allocation Rules.

4. The Allocation Platform and each Registered Participant acknowledges and agrees that it holds the benefit of paragraph 3 of this Article for itself and as trustee and agent for its officers, employees and agents.

5. The Registered Participant shall be solely responsible for its participation in Auctions including but not limited to the following cases:

   (a) the timely arrival of Bids and transfer and return notifications by the Registered Participant;

   (b) technical failure of the information system on the side of the Registered Participant preventing the communication via the channels foreseen in accordance with these Allocation Rules.

6. In case of remuneration in accordance with Article 48 or curtailment compensation due to Force Majeure, System Security or Emergency Situation in accordance with Article 59 and Article 60 or in accordance with any regional or border specific annex Registered Participants shall not be entitled to other compensation than the compensation described in these Allocation Rules.

7. The Registered Participant shall be liable with respect to any sanctions, penalties, or charges that may be imposed by financial authorities on the Allocation Platform for incorrect tax treatment due to wrong or incomplete information provided by the Registered Participant.

8. This Article survives the termination of the Registered Participant's Participation Agreement.

Article 71

Dispute resolution

1. Without prejudice to paragraphs 6 and 8 of this Article, where there is a dispute the Allocation Platform and the Registered Participant shall first seek amicable settlement through mutual consultation pursuant to paragraph 2. For this purpose, the Party raising the dispute shall send a notification to the other party indicating:

   (a) the existence of a Participation Agreement between the Parties;

   (b) the reason for the dispute; and

   (c) a proposal for a future meeting, physical or not, with a view to settle the dispute amicably.

2. The Parties shall meet within twenty (20) Working Days after the matter has been referred to them and seek to resolve the dispute. If no agreement is reached or no response received within a period of thirty (30) Working Days from the date of the aforementioned notification, either Party may refer the matter to the senior management of the Parties to resolve the dispute pursuant to paragraph 3.

3. The senior representative of each of the Allocation Platform and the Registered Participant with authority to resolve the dispute shall meet within twenty (20) Working Days of a request to meet and seek to resolve the dispute. If the representatives are unable to resolve the dispute within twenty (20) Working Days of the meeting or such longer time as may be agreed then the dispute shall be determined by arbitration in accordance with paragraph 4.

4. Where a dispute is to be referred to arbitration under paragraph 3, either the Allocation Platform or the Registered Participant may give notice to the other stating the nature of the dispute and referring the dispute to arbitration. Arbitration shall be conducted in accordance with the Rules of Arbitration of the Chamber of Commerce (ICC). The arbitration shall be conducted before one (1) arbitrator to be nominated upon agreement of the Parties unless a Party requests the appointment of three (3) arbitrators. In case of one (1) arbitrator, the Parties shall agree on the nomination of the arbitrator within two (2) months after the notice was given by the Party referring the dispute to arbitration. If no agreement can be found, the arbitrator shall be appointed by the ICC Court. In case of three (3) arbitrators the claimant shall nominate one (1) arbitrator and the respondent shall nominate one (1) arbitrator. The arbitrators nominated by each Party shall then nominate the chairman of the arbitral tribunal within three (3) Working Days from the confirmation of the appointment of the second arbitrator by the respondent. If the arbitrators nominated by each party cannot agree on the appointment of the chairman, the chairman shall be appointed by the ICC Court. The arbitration shall take place in the location of the Allocation Platform unless otherwise defined in the Participation Agreement and in accordance with the governing law of these Allocation Rules while the language of the arbitration proceedings shall be English. The emergency arbitrator provisions according to the Rules of Arbitration of the Chamber of Commerce shall not apply but the interim or injunctive relief measures under the governing law shall apply.

5. Arbitration awards shall be final and binding on the Allocation Platform and the relevant Registered Participant as from the date that they are made. The Allocation Platform and the Registered Participant shall carry out any award of an arbitration relating to any dispute

without delay and each waive their right to any form of appeal or recourse to a court of law or other judicial authority, in so far as such waiver may validly be made.

6. Notwithstanding paragraphs 3 and 4 of this Article, the Parties may jointly agree to apply court proceedings instead of arbitration to settle a dispute arisen in connection with these Allocation Rules.

7. In cases of late payment and notwithstanding Article 68 and paragraphs 1 to 4 of this Article, a Party may bring court proceedings against the other Party for any amount due under or in connection with these Allocation Rules and unpaid for more than twenty (20) Working Days after the date the amounts were due.

8. The Parties agree that proceedings referred to in paragraph 6 or paragraph 7 may be brought in any competent court to hear such claim. The Registered Participant irrevocably waives any objection which it may have now or hereafter regarding the venue of such proceedings in any competent court and any claim that any such proceedings have been brought in an inconvenient forum.

9. Notwithstanding any reference to amicable settlement, expert resolution or arbitration under this Article, the Allocation Platform and the Registered Participant shall continue to perform their respective obligations under these Allocation Rules and the Registered Participant's Participation Agreement.

10. This Article survives the termination of the Registered Participant's Participation Agreement.

Article 72

Suspension of the Participation Agreement

1. The Allocation Platform may by notice to the Registered Participant suspend temporarily the Registered Participant's rights in connection with these Allocation Rules with immediate effect if the Registered Participant commits a major breach of an obligation in connection with these Allocation Rules which may have a significant impact to the Allocation Platform as follows:

   (a) if a Registered Participant fails to pay any amount properly due and owing to the Allocation Platform pursuant to Article 68;

   (b) if a Registered Participant fails to provide and maintain collaterals in accordance with Article 25;

   (c) any breach which may have a significant financial impact to the Allocation Platform;

   (d) the Allocation Platform has reasonable grounds to believe that the Registered Participant no longer satisfies one or more of any other conditions to participate in Auctions according to these Allocation Rules unless termination applies according to Article 73.

2. In any case of a minor breach in relation to these Allocation Rules such as but not limited to the failure of the Registered Participant to notify a change in the submitted information in accordance with Article 9, the Allocation Platform may by notice to the Registered Participant inform the Registered Participant's that its rights in connection with these Allocation Rules may be suspended unless the Registered Participant remedies the suspension event in the time period specified in the notice. The suspension shall take effect

when the period specified for remedy has elapsed without that such remedy has taken place. After the suspension takes effect in accordance with paragraphs 1 and 2 of this Article, the suspended Registered Participant may no longer participate in an Auction or in the transfer or return of Long Term Transmission Rights and unless the payment of the Long Term Transmission Right is fully settled or fully secured by collaterals by the suspended Registered Participant, the suspended Registered Participant shall not be entitled to use Long Term Transmission Rights according to CHAPTER 7. For the avoidance of doubt, the Long Term Transmission Rights which the Registered Participant is prohibited from using as a result of such suspension may be offered by the Allocation Platform in subsequent Auctions and the Allocation Platform shall not return the remuneration for Long Term Transmission Rights in accordance with Article 48.

3. The Allocation Platform may withdraw a notice under paragraphs 1 or 2 of this Article at any time. Having given a notice under paragraphs 1 or 2 of this Article, the Allocation Platform may give a further or other notice at any time in respect of the same or a different suspension event.

4. Once the Registered Participant has fulfilled or remedied the suspension event as notified to it in the notice sent by the Allocation Platform, the Allocation Platform shall reinstate as soon as reasonably practicable the Registered Participant's rights in relation to use of its allocated Long Term Transmission Rights and its ability to participate in Auctions and/or the transfer and return of Long Term Transmission Rights by written notice to the Registered Participant. As from the date of effect of the reinstatement, the Long Term Transmission Rights allocated prior to the suspension and which remain unused may be nominated in the case of Physical Transmission Rights and the Registered Participant may participate in Auctions and/or the transfer and return of Long Term Transmission Rights and is entitled to receive remuneration for Long Term Transmission Rights in accordance with Article 48.

5. If the Allocation Platform gives a notice to a Registered Participant under paragraph 1 or 2 of this Article, such notice of suspension does not relieve the Registered Participant from its payment obligations under CHAPTER 10, including its payment obligations in relation to the Long Term Transmission Rights for which the Registered Participant loses the right of use pursuant to paragraph 2.

Article 73

Termination of the Participation Agreement

1. A Registered Participant may at any time request the Allocation Platform to terminate the Participation Agreement to which the Registered Participant is a Party. The termination shall take effect after thirty (30) Working Days upon receipt of the termination request by the Allocation Platform and if all outstanding payment obligations are settled.

2. A Registered Participant may terminate the Participation Agreement to which the Registered Participant is a Party for good cause when the Allocation Platform has committed a major breach of an obligation connected with these Allocation Rules or the Participation Agreement in the following cases:

   (a) where the Allocation Platform repeatedly fails to pay any amount properly due and owing to the Registered Participant with a significant financial impact;

   (b) where there is a significant breach of the confidentiality obligations in accordance with Article 76.

The Registered Participant shall send a notice to the Allocation Platform stating the reason for termination and giving the Allocation Platform twenty (20) Working Days to remedy the breach. Unless the Allocation Platform remedies the breach within the abovementioned deadline, the termination shall take effect immediately upon expiration of such deadline. A holder of Long Term Transmission Rights whose Participation Agreement is terminated under this paragraph is under no obligation to pay remaining instalments for the Long Term Transmission Rights' and is entitled to a refund to the extent that any instalment includes an amount in respect of use after the date of termination, to be calculated pro-rata from the date termination takes effect.

3. If any of the termination events in paragraph 4 occurs in relation to a Registered Participant, the Allocation Platform may by notice to the Registered Participant terminate the Participation Agreement, including the Registered Participant's rights connected with these Allocation Rules. A termination under this paragraph takes effect from the time of the notice or any later time specified in it. The Registered Participant may not at a later stage enter into the Participation Agreement with the Allocation Platform until the circumstances of termination continue to exist or it is not sufficiently guaranteed that the breach may not occure again.

4. The termination events referred to in paragraph 3 shall be the following:

   (a) if the rights of the Registered Participant are suspended for longer than thirty (30) Working Days;

   (b) if a Registered Participant does not qualify for the participation in the Auction as set forth in Article 10;

   (c) if a Registered Participant repeatedly breaches these Allocation Rules or a Participation Agreement, whether or not the breach is capable of remedy;

   (d) if a competent authority (i) determines that the Registered Participant has committed a misuse or fraudulent act and (ii) requests the Allocation Platform to terminate the Participation Agreement to which such Registered Participant is a Party or (iii) agrees that the Allocation Platform has reasonable grounds to believe that the Registered Participant has committed a misuse or fraudulent act in participating in Auctions and transfer/return of Long Term Transmission Rights; or

   (e) if the Registered Participant has taken any action which may lead to the damaging or reduction in effectiveness of the Auction Tool (it being understood that such an action is deemed to happen in case of any behaviour that can be assimilated to an attack on the information system such as, but not limited to, deny of service, spam, virus, brute forcing, Trojan horse attack).

5. After the termination takes effect in accordance with paragraphs 1 to 3 of this Article and from that time, the Registered Participant may no longer participate in an Auction or in the transfer or return of Long Term Transmission Rights it has acquired. CHAPTERS 5, 6 and 7 shall not apply to such acquired Long Term Transmission Rights. For the avoidance of doubt, the Long Term Transmission Rights, which the Registered Participant is prohibited from using as a result of termination, may be offered by the Allocation Platform in subsequent Auctions and the Allocation Platform shall not return the remuneration for Long Term Transmission Rights in accordance with Article 48 .

6. Termination of a Participation Agreement does not affect any rights and obligations under or in connection with the Participation Agreement and these Allocation Rules which arose prior to that termination unless otherwise specified in this Article. Accordingly, any Registered Participant whose Participation Agreement is terminated will remain liable, subject to and in accordance with the Allocation Rules, in respect of all such rights and liabilities. This paragraph shall apply without prejudice to other remedies available to the Allocation Platform under these Allocation Rules.

Article 74
Force Majeure

1. The Allocation Platform or a Registered Participant, which invokes Force Majeure, shall promptly send to the other Party a notification describing the nature of Force Majeure and its probable duration and shall continue to furnish reports with respect thereto with reasonable frequency during the period of Force Majeure. The Party invoking the Force Majeure shall make every possible effort to limit the consequences of the Force Majeure.

2. The affected obligations, duties and rights of a Party subject to Force Majeure shall be suspended from the beginning of Force Majeure, with the exception of the confidentiality provisions in accordance with Article 76.

3. Suspension under paragraph 2 is subject to the following:

   (a) suspension will be of no greater scope and of no longer duration than is required by the Force Majeure;

   (b) the suspension applies only for so long as the Party invoking to Force Majeure is using reasonable efforts to remedy their inability to perform.

4. The consequences of a Force Majeure event, which is not subject to any discussion or litigation between the Allocation Platform and the Registered Participant, are:

   (a) the Party invoking Force Majeure cannot be held responsible to pay compensation for any damage suffered, due to the non-performance or partial performance of all or any of its obligations during the Force Majeure and when such non-performance or partial performance is due directly to Force Majeure;

   (b) the acquired Long Term Transmission Rights which have been entirely paid and become subject to Force Majeure are reimbursed for the duration of the Force Majeure in accordance with any applicable legislation and these Allocation Rules; and

   (c) where the Long Term Transmission Rights' holder is the party claiming the Force Majeure event, the Allocation Platform may, for its own benefit, reallocate the holder's Long Term Transmission Rights to the subsequent Auctions and for the duration of the Force Majeure event.

5. If the Force Majeure continues for a period longer than six (6) months, the Allocation Platform or each Registered Participant may, by notice to the other given at any time while the Force Majeure continues beyond that period, unilaterally terminate the Participation Agreement. The termination shall take effect ten (10) Working Days after the notice is given or any later date specified in the notice. A holder of Long Term Transmission Rights whose Participation Agreement is terminated under this paragraph is under no obligation to pay remaining instalments for the Long Term Transmission Rights' and is entitled to a refund to

the extent that any instalment includes an amount in respect of use after the date of termination, to be calculated pro-rata from the date termination takes effect.

6. For avoidance of doubt this Article is without prejudice to the provisions of CHAPTER 9 regarding the curtailment of Long Term Transmission Rights.

Article 75
Notices

1. Any notice or other communication to be given under or in connection with these Allocation Rules shall be in English.

2. Unless otherwise expressly provided in these Allocation Rules, all notices or other communications shall be in writing between the Allocation Platform and each Registered Participant and shall be sent to the email address and if not possible, by facsimile number and marked for the attention of the other Party's representative as set out in the Participation Agreement or as notified by the Registered Participant from time to time in accordance with Article 9.

3. All notices or other communications shall be given by letter delivered by hand against receipt or sent by registered mail or courier in the following cases:

   (a) the conclusion of the Participation Agreement in accordance with Article 6;

   (b) the suspension and termination according to Article 73 and Article 72; and

   (c) the submission of the bank Guarantee in accordance with Article 21 paragraph 34.

4. All notices or other communications shall be deemed to have been received:

   (a) in the case of delivery by hand, when delivered against receipt; or

   (b) in the case of recorded delivery prepaid post, on the day following the recorded day of delivery; or

   (c) in the case of facsimile, on acknowledgement of receipt by the addressee's facsimile receiving equipment; or

   (d) in the case of email, when delivered to the other party but only if an acknowledgement of receipt is requested and obtained by the Party sending the e-mail.

5. If a notice or other communication has been received outside normal Working Hours on a Working Day), it is deemed to have been received at the opening of business on the next Working Day.

Article 76
Confidentiality

1. The Participation Agreement and any other information exchanged relating to its preparation and the application of a market participant shall be considered as confidential.

2. Subject to paragraph 3 of this Article, the Allocation Platform and each Registered Participant who is a recipient of confidential information in relation to these Allocation Rules shall preserve the confidentiality of such information and shall not directly or indirectly reveal,

report, publish, disclose, transfer or use any item of the confidential information otherwise than for the purpose for which it was disclosed.

3. Notwithstanding paragraph 2 of this Article, the Allocation Platform or a Registered Participant may disclose confidential information of a disclosing Party to a third party with the other Party's prior consent expressed in writing and subject to the condition that the receiving Party has given assurance that such third party is bound by equivalent confidentiality obligations as set out in these Allocation Rules directly enforceable by the other Party.

4. Notwithstanding paragraph 2 of this Article the Allocation Platform or a Registered Participant may disclose confidential information of a disclosing Party:

   (a) to the extent expressly permitted or contemplated by the Allocation Rules;

   (b) to any person who is one of the directors, officers, employees, agents, advisers or insurers of the recipient and who needs to know the confidential information in connection with these Allocation Rules;

   (c) as far as required in order to comply with applicable national or EU legislation such as REGULATION (EU) No 1227/2011 and REGULATION (EU) No 543/2013 or any other relevant domestic administrative acts such as grid codes;

   (d) as far as required by a court, arbitrator or administrative tribunal or an expert in the course of proceedings before it to which the recipient is a Party;

   (e) as may be required by the relevant TSOs for the proper fulfilment of their mission and their obligations in accordance with applicable laws and these Allocation Rules by themselves or through agents or advisers; or

   (f) as far as required in order to obtain clearances or consents from a competent authority.

5. Moreover, the obligations arising from this Article shall not apply:

   (a) if the Party which receives the information can prove that at the time of disclosure, such information was already publicly available;

   (b) if the receiving Party provides proof that, since the time of disclosure, the said information has been legally received from a third party or has become publicly available;

   (c) to confidential information communicated, in accordance with the legal and regulatory provisions, in an incorporated form from which no item of information specific to a market participant can be deduced;

   (d) to information whose publication is explicitly provided for by the present Allocation Rules.

6. The obligations of confidentiality in this Article shall remain valid for a period of five (5) years after termination of the Registered Participant's Participation Agreement.

7. The signature of a Participation Agreement and the exchange of confidential information do not confer any rights to patents, knowledge or any other form of intellectual property

concerning information or tools made available or sent by one Party to the other under the terms of these Allocation Rules.

Article 77
Assignment and subcontracting

1. The Allocation Platform may assign, novate or otherwise transfer any of its rights or obligations under a Participation Agreement or these Allocation Rules to another Allocation Platform. The Allocation Platform shall notify the Registered Participants of the change by sending an email with acknowledgment of receipt as soon as possible and in any event at least ten (10) Working Days before the date on which the change takes effect.

2. Without prejudice to Article 41, a Registered Participant may not assign, novate or otherwise transfer any of its rights or obligations under its Participation Agreement or these Allocation Rules without the prior written consent of the Allocation Platform.

3. Nothing in this Article shall prevent an Allocation Platform or Registered Participant from entering into a subcontracting agreement in relation to this Allocation Rules. Entry into a subcontracting agreement by a Registered Participant does not relieve the Registered Participant of any obligation or liability under its Participation Agreement or these Allocation Rules.

Article 78
Governing law

These Allocation Rules shall be governed by and construed in all respects in accordance with the law of the location of the registered office of the Allocation Platform unless otherwise specified in the Participation Agreement.

Article 79
Language

The applicable language for these Allocation Rules shall be English. For the avoidance of doubt, where TSOs need to translate these Allocation Rules into their national language, in the event of inconsistencies between the English version published by the Allocation Platform and any version in another language, the English version published by the Allocation Platform shall prevail.

Article 80
Intellectual property

No Party shall acquire any right, title, licence or interest in or to any intellectual property rights of the other Party in connection with these Allocation Rules.

Article 81
Relationship of the Parties

1. The relationship of the Allocation Platform and the Registered Participant is that of service provider and service user respectively. Except as expressly provided in these Allocation Rules, nothing contained or implied in these Allocation Rules constitutes or is deemed to constitute the Allocation Platform or a Registered Participant, the partner, agent or legal representative of the other for any purpose whatsoever including transfer of Long Term Transmission Rights or create or be deemed to create any partnership, agency or trust between the Parties.

2. The Registered Participant acknowledges that neither the Allocation Platform nor any person acting on behalf of or associated with the Allocation Platform makes any representation,

gives any advice or gives any warranty or undertaking of any kind in respect of these Allocation Rules, the Participation Agreements or the disclosed information or otherwise in relation to or in connection with these Allocation Rules, the Participation Agreements and the disclosed information or any transaction or arrangement contemplated by these Allocation Rules, the Participation Agreements and the disclosed information except as specifically provided in these Allocation Rules or the Participation Agreement.

Article 82
No third party rights

The Allocation Platform and each Registered Participant acknowledge and agree that a person who is not a party to the Participation Agreement between them, including any other market participant, has no rights to enforce these Allocation Rules or the Participation Agreement as between the Allocation Platform and that Registered Participant.

Article 83
Waiver

1. No omission to exercise or delay in exercising any right, power or remedy provided by law or under these Allocation Rules shall impair or constitute a waiver of such or any other right, power or remedy. No single or partial exercise of any such right, power or remedy precludes or impairs any other or further exercise thereof or the exercise of any other right, power or remedy provided by law or under these Allocation Rules.

2. Any waiver of any right, power or remedy under these Allocation Rules must be in writing and may be given subject to any conditions thought fit by the grantor. Unless otherwise expressly stated, any waiver is effective only in the instance and only for the purpose for which it is given.

Article 84
Entire agreement

These Allocation Rules and the Participation Agreement contain or expressly refer to the entire agreement between the Allocation Platform and each Registered Participant with respect to the subject matter hereof and expressly exclude any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between the Allocation Platform and each Registered Participant with respect thereto. The Allocation Platform and each Registered Participant acknowledge and confirm that none of them accede to these Allocation Rules or the Participation Agreement in reliance on any representation, warranty or other undertaking (other than where made fraudulently) not fully reflected in the terms of these Allocation Rules or the Participation Agreement.

Article 85
Remedies exclusive

The rights and remedies provided by these Allocation Rules and the Participation Agreement to the Allocation Platform and each Registered Participant are exclusive and not cumulative and, to the extent permissible by law, shall exclude and be in place of all substantive (but not procedural) rights or remedies expressed or implied and provided by law or statute in respect of the subject matter of these Allocation Rules and the Participation Agreement. Accordingly, the Allocation Platform and each Registered Participant hereby waives to the fullest extent possible all such rights and remedies provided by law or statute, and releases each other of them if it is liable to any other of them, its officers, employees and agents to the same extent

from all duties, liabilities, responsibilities or obligations provided by law or statute in respect of the matters dealt with in these Allocation Rules and the Participation Agreement and undertakes not to enforce any of the same except as expressly provided herein.

Article 86

Severability

If any provision of these Allocation Rules or a Participation Agreement is declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject or pursuant to arbitration or by order of any competent authority, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of these Allocation Rules and the Participation Agreement which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality. Any invalid, illegal, void and/or unenforceable part(s) or provision(s) shall be replaced by valid, legal and/or enforceable part(s) or provision(s) in order to achieve the intended economic and legal effect.

Annexes list

Annex 1: List of Bidding Zone borders and/or their subsets to which the Allocation Rules apply including information on type of allocated Long Term Transmission Rights

Annex 2: Regional specific annex for the CWE region

Annex 3: Border specific annex for the border France-Switzerland

Annex 4: Border specific annex for the border Austria-Switzerland

Annex 5: Border specific annex for the border Germany-Switzerland

Annex 6: Border specific annex for the border France-Spain

Annex 7: Regional specific annex for the border Germany-Denmark and for the interconnector between Denmark West and Denmark East (Great Belt)

~~**Annex 8**: Border specific annex for the borders Belgium-Netherlands and Germany-Netherlands~~

Annex 9: Border specific annex for the border Greece-Italy

Annex 10: Regional specific annex for the Northern Italian borders

Annex 11: Border specific annex for the borders of Italy relevant day-ahead spot market price to calculate Market Spread

Annex 12: Regional specific annex for the borders Great Britain-Ireland and Great Britain-Norther Ireland (SEM-GB)

Article 13: Border specific annex for the border Netherlands-Great Britain (BritNed Interconnector)

Article 14: Border specific annex for the border France-Great Britain (IFA Interconnector)

Article 15: Border specific annex for the border Hungary –Romania

Article 16: Border specific annex for the border Estonia- Latvia

Article 17: Regional specific annex for CEE Region

Article 18: Border specific annex for the borders Croatia-Hungary and Croatia-Slovenia

Article 19: Border specific annex for the border Portugal-Spain

Bijlage 2

Annex 1 List of Bidding Zone borders and/or their subsets to which the Allocation Rules apply including information on type of allocated Long Term Transmission Rights

Annex 1
List of Bidding Zone borders and/or their subsets to which the Allocation Rules apply including information on type of allocated Long Term Transmission Rights

List of Bidding Zone borders and/or their subsets of interconnectors List of responsible TSOs			Type of Long Term Transmission Rights	Applicable Annex
Austria (AT) APG	<>	**Czech Republic (CZ)** CEPS	**PTRs**	**Annex 17**
Austria (AT) APG	<>	**Hungary (HU)** MAVIR	**PTRs**	**Annex 17**
Austria (AT) APG	<>	**Italy (IT)** TERNA	**PTRs**	**Annex 10, Annex 11**
Austria (AT) APG	<>	**Slovenia (SI)** ELES	**PTRs**	**Annex 17**
Austria (AT) APG	<>	**Switzerland (CH)** Swissgrid	**PTRs**	**Annex 4**
Belgium (BE) ELIA	<>	**France (FR)** RTE	**FTR Options**	**Annex 2**
Belgium (BE) ELIA	<>	**Netherlands (NL)** TenneT TSO B.V.	**FTR Options**	**Annex 2,**
Croatia (HR) HOPS	<>	**Hungary (HU)** MAVIR	**PTRs**	**Annex 18**
Croatia (HR) HOPS	<>	**Slovenia (SI)** ELES	**PTRs**	**Annex 18**
Czech Republic (CZ)	<>	**Germany (DE)**	**PTRs**	**Annex 17**

CEPS		50 Hertz		
Czech Republic (CZ) CEPS	<>	**Germany (DE)** TenneT TSO GmbH	**PTRs**	**Annex 17**
Czech Republic (CZ) CEPS	<>	**Poland (PL)** PSE	**PTRs**	**Annex 17**
Denmark (DK1) Energinet.dk	<>	**Denmark (DK2)** Energinet.dk	**PTRs or FTR Options**	**Annex 7**
Denmark (DK1) Energinet.dk	<>	**Germany (DE)** TenneT TSO GmbH	**PTRs or FTR Options**	**Annex 7**
Denmark (DK2) Energinet.dk	<>	**Germany (DE)** 50 Hertz	**PTRs or FTR Options**	**Annex 7**
France (FR) RTE	<>	**Germany (DE)** Amprion, Transnet BW	**PTRs or FTR Options**	**Annex 2**
France (FR) RTE	<>	**Italy (IT)** TERNA	**PTRs**	**Annex 10, Annex 11**
France (FR) RTE	<>	**Spain (ES)** REE	**PTRs**	**Annex 6**
France (FR) RTE	<>	**Switzerland (CH)** Swissgrid	**PTRs**	**Annex 3**
Germany (DE) Amprion, TenneT TSO GmbH	<>	**Netherlands (NL)** TenneT TSO B.V.	**PTRs**	**Annex 2**
Germany (DE) Amprion, TransnetBW	<>	**Switzerland (CH)** Swissgrid	**PTRs**	**Annex 5**

Greece (GR) IPTO	<>	**Italy (IT)** TERNA	**PTRs**	**Annex 9, Annex 11**
Hungary (HU) MAVIR	<>	**Slovakia (SK)** SEPS	**PTRs**	**Annex 17**
Italy (IT) TERNA	<>	**Slovenia (SI)** ELES	**PTRs**	**Annex 10, Annex 11**
Italy (IT) TERNA	<>	**Switzerland (CH)** Swissgrid	**PTRs**	**Annex 10, Annex 11**
Poland (PL) PSE	<>	**Slovakia (SK)** SEPS	**PTRs**	**Annex 17**
Poland (PL) PSE	<>	**Germany (DE)** 50 Hertz	**PTRs**	**Annex 17**
Portugal (PT) REN	<>	**Spain (ES)** REE	**FTRs Options**	**Annex 19**
Great Britain (GB) IFA Interconnector (NGIC)	<>	**France (FR)** IFA Interconnector (RTE)	**PTRs**	**Annex 14**
Great Britain (GB) BritNeD	<>	**Netherland (NL)** BritNeD	**PTRs**	**Annex 13**
Great Britain (GB)[1] East West Interconnector	<>	**Ireland (IE)**[1] East West Interconnector	**FTR Options**[1]	**Annex 12**

[1] The Allocation Rules for Forward Capacity Allocation shall apply to the allocation of Long Term Transmission Rights on the GB-IE and GB-NI bidding zone borders with a Product Period beginning on or after the go-live date of the Integrated Single Electricity Market (I-SEM) on the island of Ireland subject to the rules in the SEM-GB Border Specific Annex. In the event that the National Regulatory Authorities in Ireland, Northern Ireland and Great Britain introduce Financial Transmission Right Obligations on these bidding zone borders there will be a requirement to develop appropriate harmonised Allocation Rules for Financial Transmission Right Obligations. Those rules would be subject to consultation prior to coming into force.

Great Britain (GB)[2] Moyle Interconnector	<>	**Northern Ireland (NI)**[1] Moyle Interconnector	**FTR Options**[1]	**Annex 12**
Estonia (EE) Elering	<>	**Latvia (LV)** AST	**FTR Options**	**Annex 16**
Hungary (HU) MAVIR	<>	**Romania (RO)** Transelectrica	**PTRs**	**Annex 15**

[2] The Allocation Rules for Forward Capacity Allocation shall apply to the allocation of Long Term Transmission Rights on the GB-IE and GB-NI bidding zone borders with a Product Period beginning on or after the go-live date of the Integrated Single Electricity Market (I-SEM) on the island of subject to the rules in the SEM-GB Border Specific Annex. In the event that the National Regulatory Authorities in Ireland, Northern Ireland and Great Britain introduce Financial Transmission Right Obligations on these bidding zone borders there will be a requirement to develop appropriate harmonised Allocation Rules for Financial Transmission Right Obligations. Those rules would be subject to consultation prior to coming into force.

Bijlage 3

Annex 2 to the harmonised Allocation Rules Border specific annex for the CWE region

Annex 2 to the harmonised Allocation Rules

Border specific annex for the CWE region

Article 1

Subject-matter and scope

1. In accordance with Article 4 and 62 of the Allocation Rules for Forward Capacity Allocation, regional or border specificities may be introduced for one or more Bidding Zone borders. Rules described in this border specific annex apply to the borders France-Germany, France-Belgium, Belgium-Netherlands and Netherlands-Germany.

2. This annex is effective at the date of entry into force of the Allocation Rules subject to an approval of the relevant National Regulatory Authorities. In case this annex needs to be amended based on a decision of the relevant National Regulatory Authorities, Article 69 of the Allocation Rules shall apply.

3. If there is an inconsistency between any of the provisions in the main body of the Allocation Rules and this annex, the provisions in this annex shall prevail. The capitalised terms used in this annex are defined in the harmonised Allocation Rules to which this annex is attached.

Article 2

Firmness deadlines

1. In deviation to Article 58 paragraph 1 (a) of the Allocation Rules, the Long Term Firmness Deadline is set at D-1, 8:30 a.m. for both, Physical Transmission Rights and Financial Transmission Right Options.

Article 3

Compensation for curtailments to ensure System Security

1. Article 59 paragraph 2 (b) shall not apply, i.e. the compensations for curtailments to ensure System Security and due to Emergency Situation after the Long Term Firmness Deadline and before the Day-Ahead Firmness Deadline are not subject to caps.

2. In deviation to Article 59 paragraph 3, the cap described in Article 59 paragraph 2 (a) shall be applied as follows: When the cap described in Article 59 paragraph 2 (a) is reached, the compensations of curtailed Long Term Transmission Rights before the Long Term Firmness

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Deadline shall be reduced on a pro rata basis based on the volume of compensation of allocated Long Term Transmission Rights for each Registered Participant.

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Bijlage 4 – Vastgestelde wijzigingen van de Netcode Elektriciteit

Bijlage behorende bij het besluit in zaak 15.0730.52 van de Autoriteit Consument en Markt tot wijziging van de voorwaarden bedoeld in artikel 31 van de Elektriciteitswet 1998.

Artikel I

De Netcode Elektriciteit wordt als volgt gewijzigd:

A
Artikel 5.6.9.1 vervalt.

B
Artikel 5.6.9.3 vervalt.

C
Artikel 5.6.9.4 vervalt.

D
Artikel 5.6.9.5 vervalt.

E
Artikel 5.6.9.6 vervalt.

F
Artikel 5.6.9.7 vervalt.

G
Na artikel 5.6.9.2 worden twee nieuwe artikelen ingevoegd, luidende:

5.6.9.8	De opzet van de veiling van capaciteit voor jaar- en maandtransporten maakt onderdeel uit van de congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit die zijn opgenomen in het document "Allocation Rules for Forward Capacity Allocation".
5.6.9.9	De capaciteit voor jaar- en maandtransporten kan, in overeenstemming met de in artikel 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit, in de vorm van een zogenoemd financieel transportrecht of in de vorm van een fysiek transportrecht geveild worden. De regels specificeren per landsgrens in welke vorm de transportcapaciteit voor jaar- en maandtransporten geveild wordt.

H
In de titel van paragraaf 5.6.10 vervalt: in artikel 5.6.9.1 genoemde

I

Artikel 5.6.10.1 vervalt.

J

Artikel 5.6.10.2 vervalt.

K

Artikel 5.6.10.3 vervalt.

L

Artikel 5.6.10.4 vervalt.

M

Artikel 5.6.10.5 vervalt.

N

Artikel 5.6.10.8 vervalt.

O

In paragraaf 5.6.10 wordt een nieuw artikel ingevoegd, luidende:

5.6.10.10 De procedure van de veiling voor jaar- en maandtransporten maakt onderdeel uit van de in artikel 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit.

P

Het opschrift van paragraaf 5.6.11 komt te luiden:

Gebruik van capaciteit voor jaar- en maandtransporten.

Q

Artikel 5.6.11.1 komt te luiden:

5.6.11.1 Iedere persoon aan wie in de jaarveiling of de maandveiling transportcapaciteit is toegewezen of die transportcapaciteit volgens de in artikel 5.6.14 genoemde procedure heeft gekocht, heeft de mogelijkheid op de volgende wijze van deze transportcapaciteit gebruik te maken;

a. ontvangst van een vergoeding voor de betreffende transportcapaciteit voor jaar- en maandtransporten. De vergoeding maakt onderdeel uit van de in artikel 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit;

b. verkoop van de betreffende transportcapaciteit volgens artikel 5.6.14;

c. nomineren van de betreffende capaciteit voor jaar- en maandtransporten indien de betreffende capaciteit voor jaar- en maandtransporten volgens de artikelen 5.6.9

en 5.6.10 in de vorm van fysiek transportrecht geveild is. In dat geval maakt deze persoon op zijn vroegst vanaf 14:00 uur op de tweede dag voor de dag van transport en indien dit geen werkdag is op de laatste daarvoor liggende werkdag en op zijn laatst tot 08.30 uur op de dag voorafgaand aan de dag van transport, aan de netbeheerder van het landelijk hoogspanningsnet bekend of, en zo ja voor welk deel men van de genoemde toegewezen transportcapaciteit voor de dag van transport gebruik wil maken (hieronder te noemen: de 'nominatie' of het 'nomineren').

R

Artikel 5.6.11.4 komt te luiden:

5.6.11.4 Toegewezen transportcapaciteit die niet conform het in de artikelen 5.6.11.1, onderdeel b, en 5.6.11.2 gestelde is genomineerd komt beschikbaar voor dag-vooruittransporten. De betreffende rechtspersoon of natuurlijke persoon ontvangt daarvoor een vergoeding die gelijk is aan de vergoeding genoemd in artikel 5.6.11.1, onderdeel a.

S

Artikel 5.6.11.5 vervalt.

T

Artikel 5.6.11.6 vervalt.

U

Artikel 5.6.11.7 komt te luiden:

5.6.11.7 De in artikel 5.6.11.1 genoemde nominaties dienen ongewijzigd in het E-programma van de in artikel 5.6.11.2 genoemde programmaverantwoordelijke te worden omgezet. E-programma's welke worden ingediend ten behoeve van landsgrensoverschrijdende transporten kunnen niet worden gewijzigd, tenzij:

a. artikel 3.6.18 van de Systeemcode Elektriciteit wordt toegepast, of
b. indien de netbeheerder van het landelijk hoogspanningsnet de toegewezen capaciteit voor jaar- en maandtransporten overeenkomstig artikel 5.6.13.4 reduceert.

V

Artikel 5.6.13.4 komt te luiden:

5.6.13.4 De procedure en compensatie voor reductie van capaciteit voor jaar- en maandtransporten maakt onderdeel uit van de in artikel 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit.

W

In het opschrift van 5.6.14 wordt "verkregen op de jaar- of maandveiling" vervangen door: voor jaar-

en maandtransporten

X
Artikel 5.6.14.1 vervalt.

Y
Artikel 5.6.14.2 vervalt.

Z
In paragraaf 5.6.14 wordt een nieuw artikel ingevoegd, luidende:

5.6.14.3 De procedure voor verkoop van capaciteit voor jaar- en maandtransporten maakt onderdeel uit van de in artikel 5.6.9.8 genoemde congestiebeheersprocedures voor landsgrensoverschrijdende transportcapaciteit.

AA
Artikel 5.6.14a vervalt.

AB
Artikel 5.6.14a.1 vervalt.

AC
Artikel 5.6.14a.2 vervalt.

AD
Artikel 5.6.14a.3 vervalt.

Bijlage 5 - *Shadow Allocation Rules*

SHADOW ALLOCATION RULES

Version 1.2

17/07/2015

CONTENTS

CHAPTER 1 GENERAL PROVISIONS 4

Article 1 Subject-matter and scope 4

Article 2 Definitions and interpretation 4

Article 3 Allocation Platform 7

Article 4 Effective date and application 7

CHAPTER 2 Requirements and process for participation in Shadow Allocation 9

Article 5 General Provision 9

Article 6 Participation Agreement conclusion 9

Article 7 Form and content of the Participation Agreement 10

Article 8 Submission of information 10

Article 9 Warranties 11

Article 10 Dedicated Business Account 11

Article 11 Acceptance of the Information System Rules 12

Article 12 Costs related to the Participation Agreement 12

Article 13 Refusal of application 12

Article 14 Access to the Auction Tool 12

Article 15 Conclusion of additional financial terms 13

Article 16 Regulatory and legal requirements 13

CHAPTER 3 Shadow Auctions 14

Article 17 General provisions for Shadow Auctions 14

Article 18 Shadow Auction Process 14

Article 19 Auction Specification 14

Article 20 Default Bid 15

Article 21 Bids submission 16

Article 22 Bid registration 16

Article 23 Credit Limit verification 16

Article 24 Shadow Auction Results Determination 16

Article 25 Notification of Shadow Auction results 18
Article 26 Contestation of provisional Shadow Auction Results 18
Article 27 Shadow Auction cancellation 19
CHAPTER 4 Use of Transmission Rights 20
Article 28 General principles 20
Article 29 Nomination of Transmission Rights 20
Article 30 Rights Document 21
Article 31 TSO Designation 21
CHAPTER 5 Fallback Procedures 22
Article 32 General provisions 22
Article 33 Fallback procedure for data exchange 22
Article 34 Fallback procedure for eligible person notification 23
CHAPTER 6 Curtailment 24
Article 35 Triggering events and consequences of curtailment on Transmission Rights 24
Article 36 Process and notification of curtailment 24
Article 37 Reimbursement for curtailments due to Force Majeure 24
Article 38 Reimbursement or compensation for curtailments due to an Emergency Situation 25
CHAPTER 7 Invoicing and Payment 26
Article 39 General principles 26
Article 40 Calculation of due amounts 26
Article 41 Tax Gross-up 26
Article 42 Invoicing and payment conditions 27
Article 43 Payment disputes 28
Article 44 Late payment and payment incident 29
CHAPTER 8 Miscellaneous 30
Article 45 Duration and amendment of Shadow Allocation Rules 30
Article 46 Liability 31
Article 47 Dispute resolution 31
Article 48 Suspension of the Participation Agreement 33
Article 49 Termination of the Participation Agreement 33
Article 50 Force Majeure 35
Article 51 Notices 36

Article 52 Confidentiality 36
Article 53 Assignment and subcontracting 37
Article 54 Governing law 38
Article 55 Language 38
Article 56 Intellectual property 38
Article 57 Relationship of the Parties 38
Article 58 No third party rights 38
Article 59 Waiver 39
Article 60 Entire agreement 39
Article 61 Remedies exclusive 39
Article 62 Severability 39
Annexes list 41

CHAPTER 1
GENERAL PROVISIONS

Article 1
Subject-matter and scope

1. In the event of unavailability of the Multiregional Price Coupling a fallback procedure for the Multiregional Price Coupling is established. The fallback procedure for the allocation of Cross Zonal Capacity in the day-ahead market timeframe, is an Explicit Allocation in the form of Physical Transmission Rights (PTR) of electrical energy on a daily basis.

2. These Shadow Allocation Rules including the annexes containing the terms and conditions for the allocation of Transmission Rights, on the borders specified in Annex 1, as fallback procedure for the MRC in day-ahead market timeframe, it being understood that the Registered Participant will accede these rules by the signature of the Participation Agreement. In particular, the Shadow Allocation Rules set out the rights and obligations of Registered Participants as well as the requirements for participation in Shadow Auctions, they describe the process of the Shadow Auction, including the determination of Marginal Price as a result of Shadow Auction and invoicing/payment.

3. The fallback procedure refer to Cross Zonal Capacity only and Registered Participants may invoke no other right in connection with the allocated Physical Transmission Rights allocated to them than the rights in accordance with the provisions of these Shadow Allocation Rules.

Article 2
Definitions and interpretation

1. Capitalised terms used in these Allocation Rules shall have the meaning given to them in Article 2 of Regulation (EC) 714/2009 and Article 2 of Directive 2009/72/EC.
2. In addition, the following definitions shall apply:

Allocation Platform means either the responsible TSO(s) at the respective Bidding-Zone border(s) or an entity appointed and commissioned by them or nominated in accordance to national regulations to act on their behalf and on its own name it being a single allocation platform or regional platform(s) for the attribution of Cross Zonal Capacity through the Shadow Auctions as defined in the Participation Agreement;

Auction Specification means a list of specific characteristics of a particular Shadow Auction, including the nature of offered products and relevant dates;

Auction Tool means the information technology system used by the Allocation Platform to perform Auctions and to facilitate other procedures described in these Shadow Allocation Rules;

Bid means a pair of Bid Quantity and Bid Price offered by a Registered Participant participating in an Auction;

Bid Price means the price which a Registered Participant is willing to pay for one (1) MW and hour of Transmission Rights;

Bid Quantity means the amount of Transmission Rights in MW requested by a Registered Participant;

Bidding Period means the time period within which the Registered Participants wishing to participate in an Auction may submit their Bids. Bidding Period is only available for Shadow Auction known in advance;

Bidding Zone means the largest geographical area within which market participants are able to exchange energy without Capacity Allocation;

Business Account means, a dedicated deposit account opened at the financial institution selected by the Allocation Platform in the name of the Allocation Platform or at the discretion of the Allocation Platform opened by the Registered Participant, but with the Allocation Platform as the beneficiary of the dedicated cash deposit, which may be used for payments by the Registered Participant;

Capacity Allocation means the attribution of Cross Zonal Capacity;

Congestion Income means the revenues received as a result of Capacity Allocation;

Countertrading means a cross zonal exchange initiated by System Operators between two Bidding Zones to relieve physical congestion;

Cross Zonal Capacity means the capability of the interconnected system to accommodate energy transfer between Bidding Zones;

EIC Code means the ENTSO-E Energy Identification Coding Scheme identifying the parties in a cross-border trade;

Emergency Situation means a situation where the Transmission System Operator must act in an expeditious manner and Redispatching or Countertrading is not possible;

Explicit Allocation means the allocation of Cross Zonal Capacity only, without the energy transfer;

Flow Based means Price Coupling made by defining available Cross-Zonal Capacities and the remaining margin on the critical branches;

Force Majeure means any unforeseeable or unusual event or situation beyond the reasonable control of a Party and/or the relevant TSOs, and not due to a fault of the Party and/or the relevant TSOs, which cannot be avoided or overcome with reasonable foresight and diligence, which cannot be solved by measures which are from a technical, financial or economic point of view reasonably possible for the Party and/or the relevant TSOs, which has actually happened and is objectively verifiable, and which makes it impossible for the Party and/or the relevant TSOs to fulfil, temporarily or permanently, its obligations;

Information System Rules means the terms and conditions for access to and use of the Auction Tool by Registered Participants as published on the Allocation Platform's website;

Implicit Allocation means a congestion management method in which energy will be obtained at the same time as Cross Zonal Capacity;

Marginal Price means the price determined at particular Auction to be paid by all the Registered Participants for each MW and hour of acquired Transmission Right;

Market Spread means the difference between the day-ahead prices of the two concerned Bidding Zones for the respective market time period in a specific direction

Multiregional Price Coupling (MRC) means the mechanism where the market clearing prices and the net positions are determined in the day-ahead timeframe in a single step in accordance with the multi-regional procedures using physical hourly ATC and/or Flow Based capacities between Parties. ATC based means Price Coupling made by using coordinated ATC (Available Transfer Capacities) values to define the available Cross-Zonal Capacities.

National Regulatory Authorities means the regulatory authorities of Directive 2009/72/EC;

Nomination means the notification of the use of Cross Zonal Capacity by a Physical Transmission Rights holder and, where applicable, by their counterparty, to the respective Transmission System Operator(s);

Nomination Rules means the rules with regard to the notification of use of Transmission Rights to the relevant Transmission System Operator(s);

Offered Capacity means Cross Zonal Capacity offered by the Allocation Platform in a Shadow Auction;

Participation Agreement means, the agreement, by which the Parties undertake to comply with the terms and conditions for daily Cross Zonal Capacity Allocation as contained in these Shadow Allocation Rules;

Party/ Parties means the Allocation Platform and/or a Registered Participant referred to individually as Party or collectively as Parties;

Physical Transmission Right means a right entitling its holder to physically transfer a certain volume of electricity in a certain period of time between two Bidding Zones in a specific direction;

Price Coupling means the mechanism where the market clearing prices and the net positions are determined in a single step utilizing physical hourly ATC and/or Flow Based capacities;

Product Period means the time and date on which the right to use Transmission Right commences and the time and date on which the right to use the Transmission Right ends For Shadow Allocation the Product Period covers a calendar day of a period of 24 hours beginning at 0:00 and ending at 23:59:59. The days on which the legal time changes (daylight saving time) will be composed of either 23 hours or 25 hours;

Redispatching means a measure activated by one or several system operators by altering the generation and/or load pattern in order to change physical flows in the transmission system and relieve a physical congestion;

Registered Participant means a market participant which has entered into a Participation Agreement with the Allocation Platform

Rights Document means a document containing the information of the maximum amount of allocated Transmission Rights that can be nominated by a market participant per Bidding Zone border per day per hour and per direction taking into account the volume of Transmission Rights initially acquired and any possible curtailments which occurred before the issuance of the Rights Document;

Shadow Allocation Rules means the rules for the fallback procedure for the allocation of Cross Zonal Capacity in the day-ahead market timeframe applied by the Allocation Platform;

Shadow Auction means the explicit auction run by Allocation Platform(s) by which daily Cross Zonal Capacity is offered as fallback procedure for the MRC and allocated to market participants who submit Bid(s);

TSO Border means set of power lines interconnecting two TSOs, this specificity only concerns Bidding Zone borders linked to German TSOs

Transmission means the transport of electricity on the extra high-voltage and high-voltage interconnected system with a view to its delivery to final customers or to distributors, but does not include supply;

Transmission Right means for the purposes of these Shadow Allocation Rules a Physical Transmission Right acquired in the fallback procedure of MRC;

Working Day means the calendar days from Monday to Friday, with the exception of public holidays as specified on the website of the Allocation Platform location;

Working Hours means the hours on Working Days specified within the participation agreement.

3. In these Shadow Allocation Rules, including its annexes, unless the context requires otherwise:

   (a) Any reference to the word Bidding Zone border may cover all interconnectors collectively or only one or a subset of interconnector(s) at this Bidding Zone border as specified in Annex 1 of these Allocation Rules

   (b) the singular indicates the plural and vice versa;

(c) references to one gender include all other genders;

(d) the table of contents, headings and examples are inserted for convenience only and do not affect the interpretation of the Shadow Allocation Rules;

(e) the word "including" and its variations are to be construed without limitation;

(f) any reference to legislation, regulations, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force;

(g) any reference to another agreement or document, or any deed or other instrument is to be construed as a reference to that other agreement, or document, deed or other instrument as amended, varied, supplemented, substituted or novated from time to time;

(h) a reference to time is a reference to CET/CEST time unless otherwise specified;

(i) where the Allocation Platform is required to publish any information under these Shadow Allocation Rules, it shall do so by making the information or data available on its website and/or via the Auction Tool and /or sending an email to the Registered Participants; and

(j) when using the term Transmission Rights it refers to Physical Transmission Rights.

Article 3
Allocation Platform

1. The Allocation Platform shall undertake the allocation functions in accordance with these Shadow Allocation Rules and in accordance with applicable European Union legislation.

2. The Allocation Platform shall run the Shadow Auction for both unforeseen and foreseen unavailability of the enduring day-ahead price coupling solution on the concerned Bidding Zone borders. It shall perform the registration process, handle necessary financial risk management, prepare and conduct the Shadow Allocations, provide all necessary information to the Registered Participants and the TSOs and collect payments and/or pay according to these Shadow Allocation Rules.

3. For the sake of clarity, the Allocation Platform hereby enters into a contractual relationship with the Registered Participants. The appointment of a new Allocation Platform shall not affect the rights and obligations resulting from a Shadow Allocation Rules.

4. For the purposes of these Shadow Allocation Rules the Allocation Platform shall be the party signing the Participation Agreement with the Registered Participant.

5. For the purpose of the Participation Agreement with the Registered Participant, the Allocation Platform shall publish a consolidated version of these Shadow Allocation Rules thereto as they enter into force in accordance with the applicable national regulatory regime. In case of a conflict between the consolidated version by the Allocation Platform and the annexes as entered into force in accordance with the applicable national regulatory regime, the latter shall prevail.

Article 4
Effective date and application

1. These Shadow Allocation Rules shall enter into force in accordance with the applicable national regulatory regime upon the approval by or, where applicable, notification to the relevant National Regulatory Authorities and on the date announced by the Allocation Platform

2. These Shadow Allocation Rules apply to Capacity Allocation with the delivery period from 1st January 2016.

3. These Shadow Allocation Rules are subject to the legislation prevailing at the time at which they take effect. In the event that there is a change in legislation or any action by competent authorities at national or European Union level which have an effect on these Shadow Allocation Rules and/or their annexes then, notwithstanding any other provision of these Shadow Allocation Rules, the Shadow Allocation Rules shall be amended accordingly and pursuant to Article 45.

4. In the event of an inconsistency between the Shadow Allocation Rules and the Nomination Rules, for matters relating to the implementation of Shadow Auctions in accordance with the Shadow Allocation Rules, the Shadow Allocation Rules shall prevail.

CHAPTER 2
Requirements and process for participation in Shadow Allocation

Article 5
General Provision

1. Market participants may acquire a Transmission Right in the day-ahead market framework via Shadow Auctions only if Shadow Auctions are triggered by a fallback procedure of the MRC.

2. The participation in Shadow Auctions requires that the market participant:

   (a) concludes a valid and effective Participation Agreement indicating on which Bidding Zone borders a registration for Shadow Auctions is desired in accordance with Articles 6 to 13; and

   (b) has access to the Auction Tool in accordance with Article 14;

   (c) Is compliant with the specific provisions per TSO Border and where applicable per direction as listed in annex 2:

3. The participation in Shadow Auctions requires that market participants, in addition to the conditions set forth in the previous paragraph, accept additional financial terms where needed in accordance with Article 15.

4. In any case, market participants have to fulfil the obligations as specified in the relevant Chapters of these Shadow Allocation Rules.

Article 6
Participation Agreement conclusion

1. At least seven (7) Working Days before the first participation in a Shadow Auction, any market participant may apply to be a party to a Participation Agreement by submitting, to the Allocation Platform, two (2) signed copies of the Participation Agreement, as published on the website of the Allocation Platform, together with all duly completed information and documents required by Articles 6 to 15. The Allocation Platform shall assess the completeness of the information submitted in accordance with Articles 8 and 11 within five (5) Working Days of receipt of the completed and signed Participation Agreement.

2. The Allocation Platform shall before the expiration of the five (5) Working Days deadline ask the market participant to provide any outstanding information which the market participant failed to submit with its Participation Agreement. On receipt of the outstanding information, the Allocation Platform shall within an additional five (5) Working Days review the information and inform the market participant if any further information is required.

3. Once the Allocation Platform has received all necessary information, it shall return one copy of the Participation Agreement signed by it to the market participant without undue delay. Signature of the Participation Agreement by the Allocation Platform shall not itself indicate compliance with any other condition set in these Allocation Rules for the participation in the Shadow Auctions. The Participation Agreement comes into force on the date of signature by the Allocation Platform.

4. In case market participant is already a Registered Participant at the Allocation Platform it only has to complete the missing/extra requirements described under these Shadow Allocation Rules

respecting the specificities of the previous paragraph of this article.

Article 7
Form and content of the Participation Agreement

1. The form of the Participation Agreement and the requirements for its completion shall be published by the Allocation Platform and may be amended from time to time by the Allocation Platform without changing any terms and conditions specified in these Shadow Allocation Rules unless otherwise stated in these Shadow Allocation Rules.

2. As a minimum, the Participation Agreement will require the market participant to:

   (a) provide all necessary information in accordance with Article 8 and Article 11; and

   (b) agree to be bound by and comply with these Shadow Allocation Rules.

3. Nothing in these Shadow Allocation Rules shall prevent the Allocation Platform and the Registered Participant from agreeing in the Participation Agreement additional rules, out of the scope of these Shadow Allocation Rules.

4. In the event of difficulty of interpretation, contradiction or ambiguity between these Shadow Allocation Rules and the Participation Agreement, the text of the Shadow Allocation Rules shall prevail.

Article 8
Submission of information

1. The market participant shall submit the following information with its completed and signed Participation Agreement:

   (a) name and registered address of the market participant including general email, facsimile and telephone number of the market participant for notifications in accordance with Article 51;

   (b) an extract of the registration of the market participant in the commercial register of the competent authority;

   (c) contact details and names of persons authorised to represent the market participant and their function;

   (d) EU VAT registration number where applicable;

   (e) Taxes and levies to be considered for invoices;

   (f) Energy Identification Code (EIC);

   (g) bank account information for payment to the applicant to be used by the Allocation Platform for the purposes of Article 42 paragraph 6.

   (h) financial contact person for invoicing and payment issues, and their contact details (email, facsimile and telephone number) for notifications where required in these Shadow Allocation Rules;

   (i) commercial contact person and their contact details (email, facsimile and telephone number) for notifications where required in these Shadow Allocation Rules;

(j) operational contact person and their contact details (email, facsimile and telephone number) for notifications where required in these Shadow Allocation Rules; and

(k) The list of Bidding Zone borders where the Registered Participant wants to participate in Shadow Auctions and copies of the signed agreements needed with the concerned TSOs or other legal entities depending on the relevant national legislation to be entitled nominate the allocated Transmission for the corresponding Bidding Zone borders as specified in Annex 2.

2. A Registered Participant shall ensure that all data and other information that it provides to the Allocation Platform pursuant to these Shadow Allocation Rules (including information in its Participation Agreement) is and remains accurate and complete in all material respects and must promptly notify the Allocation Platform of any change.

3. A Registered Participant shall notify the Allocation Platform if there is any change to the information, submitted in accordance with paragraph 1 of this Article, at least seven (7) Working Days before the change comes into effect and, where that is not possible, as soon as practicable after the Registered Participant becomes aware of the change.

4. The Allocation Platform will confirm the registration of the change or send a refusal note of registration of the change to the Registered Participant, at the latest, five (5) Working Days after the receipt of the relevant notification of change. The confirmation or refusal note will be sent via email to the commercial and operational contact person specified by the Registered Participant in accordance with paragraph 1 of this Article. If the Allocation Platform refuses to register the change, the reason shall be provided in the refusal note.

5. The change becomes valid on the day of the delivery of the confirmation to the Registered Participant.

6. If additional information is required from a Registered Participant as a consequence of an amendment to these Shadow Allocation Rules, then the Registered Participant shall submit the additional information to the Allocation Platform within ten (10) Working Days after the request for such submission by the Allocation Platform.

Article 9
Warranties

1. By the signature of the Participation Agreement the market participant warrants that:

(a) it has not commenced any proceedings seeking a judgement of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights;

(b) no insolvency, bankruptcy or other similar legal proceeding affecting creditors' rights have been commenced in relation to the applicant;

(c) no winding-up or liquidation proceedings have been commenced with regard to the applicant; and

(d) it has no overdue payment obligations towards the Allocation Platform.

Article 10
Dedicated Business Account

As part of the submission of the information in accordance with Article 6 and Article 8, the market participant shall declare to the Allocation Platform whether it intends to open a dedicated Business

Account for the purposes of depositing cash collaterals and/or for the purposes of making payments on the basis described in Article 42.

Article 11
Acceptance of the Information System Rules

By signing the Participation Agreement the market participant accepts the applicable Information System Rules, as amended from time to time and published on the website of the Allocation Platform.

Article 12
Costs related to the Participation Agreement

All applications to become a Registered Participant and any subsequent participation in Shadow Auctions shall be at the Registered Participants' own cost, expense and risk. The Allocation Platform shall not be liable to any person for any cost, claim, or expense in connection with the Registered Participant participating in Shadow Auctions unless otherwise explicitly stated in these Shadow Allocation Rules.

Article 13
Refusal of application

The Allocation Platform may refuse to enter into a Participation Agreement with a market participant in the following circumstances:

(a) when the applicant has not submitted a duly completed and signed Participation Agreement in accordance with Articles 6, 7 and 8; or

(b) the Allocation Platform has previously terminated a Participation Agreement with the applicant as a result of a breach of the Participation Agreement by the Registered Participant in accordance with Article 49(3) and (4) and unless the circumstances leading to termination have ceased to exist or the Allocation Platform is reasonably satisfied that the breach will not occur again; or

(c) if entering into a Participation Agreement with the applicant would cause the Allocation Platform to breach any condition of any mandatory legal or regulatory requirement; or

(d) if any of the warranties of the Registered Participant under Article 9 are found to be not valid or false.

Article 14
Access to the Auction Tool

1. The Allocation Platform shall grant access to the Auction Tool free of charge if the following requirements are satisfied:

   (a) the Registered Participant has signed and delivered a completed form included in the Information System Rules identifying the person(s) for which the user account(s) in the Auction Tool shall be established; and

   (b) the Registered Participant has fulfilled the requirements on authentication as set forth by the Information System Rules published by the Allocation Platform; such requirements may include but are not limited to the obligation to provide an electronic certificate for signing and encryption or other technology for authentication purposes.

2. The Allocation Platform shall confirm the creation of the user account(s) or may send a refusal note to the Registered Participant, at the latest, five (5) Working Days after the receipt of the relevant signed and completed form by the Registered Participant. The confirmation or refusal note shall be

sent via email to the operational contact person specified by the Registered Participant in accordance with Article 8.

3. The Allocation Platform shall send the duly justified refusal note if the requirements listed in paragraph 1 of this Article are not fulfilled and access to the Auction Tool will not be granted.

Article 15

Conclusion of additional financial terms

The Allocation Platform may develop and publish additional standard financial terms to be accepted by the Registered Participants, as long as these additional financial terms comply with all the Shadow Allocation Rules and other allocation rules governed by the Participation Agreement.

Article 16

Regulatory and legal requirements

It is the responsibility of each market participant to ensure that it complies with national and European legislation, including requirements of any relevant competent authority, and obtained all necessary authorisations in connection with its participation in Shadow Auctions and the use of Transmission Rights allocated in the day-ahead market timeframe.

CHAPTER 3
Shadow Auctions

Article 17
General provisions for Shadow Auctions

1. Shadow Auctions can be either triggered during a daily session of MRC when an unforeseeable incident occurs or can be activated in advance if it is known that MRC will not be available for the next sessions. In either case the Allocation Platform will notify as soon as possible the concerned Registered Participants that Shadow Auctions may be triggered. In case of Market Coupling unavailability on the Slovenia-Italy border Shadow Auctions shall be performed only in the latter case (unavailability of MRC known in advance).

2. The Allocation Platform shall allocate Transmission Rights to Registered Participants by way of explicit Allocation. The Shadow Auctions shall be organised via the Auction Tool. Each Registered Participant fulfilling the requirements for participating in the Shadow Auction may place default Bids for the Bidding Zone borders for which they are entitled according to Article 20.

Article 18
Shadow Auction Process

1. If Shadow Auctions are triggered during a daily session of the MRC, Shadow Auctions may be launched in parallel of the resolution of the problem of the MRC but the Shadow Auction results will only be considered if a MRC decoupling is declared. The Allocation Platform will inform the concerned Registered Participants that Shadow Auctions may be triggered. The Allocation Platform imports the default Bids submitted for Shadow Auctions according to Article 21 and informs Registered Participants that they cannot update their Bids anymore. Results of the Shadow Auctions are not published at this moment. If the decoupling of the MRC is finally declared, Registered Participants are notified of the results of their Bids according to Article 25.

   If the activation of the Shadow Auctions is known in advance for one or several daily sessions of the MRC, the Allocation Platform informs as soon as possible individually, by an email, the Registered Participants that the Shadow Auctions are performed with the corresponding new time schedule. The Offered Capacity for the Shadow Auctions and the information related to the time schedule will be published in the Auction Specification on the Allocation Platform's Website as specified in Article 19 in order to give the opportunity to Participants to update their Bids according to Articles 20, 21 and 22.

2. The Allocation Platform may under no circumstances be held responsible if it is unable to contact the Registered Participants, or if it is unable to publish an announcement on its website.

Article 19
Auction Specification

1. If Shadow Auctions are triggered during a daily session of the MRC, no Auction Specification is published, only the Offered Capacity is published on the website

2. If the activation of the Shadow Auctions is known in advance for one or several daily sessions of the MRC, the Allocation Platform informs as soon as possible the Registered Participants for which daily sessions and for which Bidding Zone Borders belonging to MRC the Shadow Auctions are performed.

3. The Allocation Platform shall publish the Auction Specification for the Shadow Auctions which are known in advance as soon as possible in order to give the opportunity to Registered Participants to update their Bids according to Article 20, Article 21, and Article 22.

4. If an Auction Specification is published, they shall state in particular:

   (a) the code identifying the Auction in the Auction Tool;

   (b) identification of the Bidding Zone border(s) or a subset of the Interconnectors on the Bidding Zone border and direction covered;

   (c) the Product Period;

   (d) The Bidding Period;

   (e) the deadline for the publication of the provisional Shadow Auction results;

   (f) the contestation period if the Shadow Auction is decided in advance in accordance with Article 26;

   (g) the Offered Capacity;

   (h) any other relevant information or terms applicable to the product or the Shadow Auction.

Article 20
Default Bid

1. Registered Participants willing to participate in Shadow Auctions shall via the Auction Tool place default Bids for Shadow Auctions per Bidding Zone border and per direction for which they are entitled as stated in the Participation Agreement.

2. A default Bid, once identified as such by the Registered Participant, shall apply automatically to each subsequent relevant Shadow Auction for a specific Bidding Zone border, period and direction.

3. If a default Bid Quantity or a quantity calculated as a sum of the Bid Quantity for several default Bids submitted for the same hour, Bidding Zone border and direction by a Registered Participant exceeds the relevant Offered Capacity, the Bids with the lowest Bid Price shall be rejected one (1) by one (1) until the total allowed Bid Quantity is lower than or equal to the Offered Capacity. In case where the Information System Rules allows submission of Bids with the same Bid Price by one Registered Participant the Allocation Platform may apply additional criteria or rules to decide which Bid shall be rejected. Such additional criteria or rules shall be included in the information System Rules and shall be one or more from the following:

   (a) chronological submission (time stamp); and/or

   (b) Bid identification assigned by the Auction Tool; and/or

   (c) rejection of all relevant Bids with the same Bid Price.

4. A Registered Participant who wants to modify a default Bid for a future Shadow Auction shall change the Bid Quantity and the Bid Price of its default Bids before the launch of a Shadow Auction.

5. If the Shadow Auctions are decided in advance for one or several daily sessions of the MRC, Registered Participants have the opportunity to modify their Bids according to the information published in the relevant Auction Specification. A Registered Participant not wishing to submit the default Bid on the Auction Tool for future Shadow Auctions shall set the Bid Quantity and the Bid Price of its default Bids to zero before the subsequent launch of a Shadow Auction.

Article 21

Bids submission

The Registered Participant shall submit a default Bid or set of default Bids to the Allocation Platform in accordance with Article 20 and the following requirements:

(a) it shall be submitted electronically using the Auction Tool and can be modified before the launch of a Shadow Auction;

(b) it shall identify the Registered Participant submitting the Bid;

(c) it shall identify the Bidding Zone border and the direction for which the Bid is submitted;

(d) it shall state the Bid Price, exclusive of taxes, duties or other charges, in Euros per MW for one hour of the Product Period, i.e. Euros/MWh, expressed to a maximum of two (2) decimal places, and equal to or greater than zero;

(e) it shall state the Bid Quantity in full MW which must be expressed without decimals, minimum amount of a single Bid is one (1) MW.

Article 22

Bid registration

1. The Allocation Platform shall not register a Bid that:

   (a) does not comply with the requirements of Article 21; or

   (b) is submitted by a Registered Participant who is suspended in accordance with Article 49.

2. Provided that a Bid or a set of Bids fulfils the requirements set forth in Article 21, the Allocation Platform shall confirm to the Registered Participant that such Bid(s) have been correctly registered into the system and will deliver an acknowledgment of receipt via the Auction Tool only once the Shadow Auction is run. If the Allocation Platform does not issue an acknowledgment of receipt for a Bid, such Bid shall be deemed not to have been registered.

3. The Allocation Platform shall notify a Registered Participant whose Bid is rejected as invalid and the reason for this rejection, without undue delay after the Bid is rejected.

4. The Allocation Platform shall maintain a record of all valid Bids received.

5. Each valid Bid registered shall constitute an unconditional and irrevocable offer by the Registered Participant to buy Transmission Rights up to the Bid Quantity and at prices up to the Bid Price and under the terms and conditions of these Shadow Allocation Rules and, where applicable, the relevant Auction Specification.

Article 23

Credit Limit verification

No Credit Limit verification is performed for the Shadow Auctions.

Article 24

Shadow Auction Results Determination

1. After the expiration of the Bidding Period for a Shadow Auction, the Allocation Platform shall determine the provisional Shadow Auction results if Shadow Auctions are announced in advance or the final Shadow Auction results if Shadow Auctions are triggered during a daily session of MRC and allocate the Transmission Rights in accordance with this Article.

2. The provisional or final Shadow Auction results determination shall include the following:

   (a) determination of the total quantity of the allocated Transmission Rights per Bidding Zone border and direction;

   (b) identification of winning Bids to be fully or partially satisfied; and

   (c) determination of the Marginal Price per Bidding Zone border and direction.

3. The Allocation Platform shall determine the provisional or final Shadow Auction results using an optimisation function aiming at maximisation of the sum of the Registered Participants' surplus and the Congestion Income generated by the winning Bids while respecting the constraints of the optimisation function in form of relevant Offered Capacities. The Allocation Platform shall publish additional explanatory information on the optimisation function of the algorithm on its website.

4. The Allocation Platform shall determine the Marginal Price at each Bidding Zone border and direction based on the following criteria:

   (a) if the total quantity of Cross Zonal Capacity for which valid Bids have been submitted is lower than or equal to the relevant Offered Capacity for the relevant Auction, then the Marginal Price shall be zero;

   (b) if the total quantity of Cross Zonal Capacity for which valid Bids have been submitted exceeds the relevant Offered Capacity for the relevant Auction, the Marginal Price shall be set at the lowest Bid(s) Price(s) allocated in full or in part using the respective Offered Capacities.

5. If two (2) or more Registered Participants have submitted for one Bidding Zone border and direction valid Bids with the same Bid Price, that cannot be accepted in full for the total requested quantity of Transmission Rights, the Allocation Platform shall determine the winning Bids and the quantity of the allocated Transmission Rights per Registered Participant as follows:

   (a) the Cross Zonal Capacity available for the Bids which set the Marginal Price shall be divided equally between the number of the Registered Participants which submitted these Bids;

   (b) in case the quantity of Transmission Rights requested by a Registered Participant at Marginal Price is lower than or equal to the share calculated according to item (a) above, the request of this Registered Participant shall be fully satisfied;

   (c) in case the requested quantity of Transmission Rights by a Registered Participant at Marginal Price exceeds the share calculated according to item (a) above, the request of this Registered Participant shall be satisfied up to the amount of the share as calculated according to item (a) above;

   (d) any remaining Cross Zonal Capacity after the allocation according to items (b) and (c) shall be divided by the number of the Registered Participants whose requests have not been fully satisfied and allocated to them applying the process described in items (a), (b) and (c) above.

6. For the Bidding Zone Borders between Germany and Eastern Denmark (DK2) and between the Netherlands and Norway, a ramping constraint is considered. The load flow on these Bidding Zone borders cannot change from one hour to the next one by more than 600 MW.

7. Whenever the calculation set forth in paragraphs 4 to 7 of this Article does not result in a whole MW amount in accordance with Article 21, the Transmission Rights shall be rounded down to the nearest full MW.

Article 25

Notification of Shadow Auction results

1. The Transmission Rights are deemed to have been allocated to a Registered Participant from the moment the Registered Participant has been informed of the Results and, where applicable, at the latest 1 hour and 30 minutes after the provisional Auction results are notified in accordance with Article 26.

2. The Allocation Platform shall publish on its website the Shadow Auction results as soon as the MRC decoupling is finally declared, no later than at 1.50 p.m. on the preceding delivery day and auction results have been determined according to Article 24.
   For Shadow auctions known in advance, results will be published accordingly to article 19.

3. The publication of the Shadow Auction results for each Bidding Zone border included in the Shadow Auction shall comprise at least the following data:

   (a) total requested Transmission Rights in MW;

   (b) total allocated Transmission Rights in MW;

   (c) Marginal Price in EUR/MW per hour;

   (d) number of Registered Participants participating in the Shadow Auction;

   (e) number of Registered Participants who placed at least one winning Bid in the Shadow Auction;

   (f) list of registered Bids without identification of the Registered Participants (bid curve); and

   (g) Congestion Income Shadow Auctions per Bidding Zone border.

4. No later than 15 minutes after the publication of the Shadow Auction results the Allocation Platform shall make available via the Auction Tool and shall notify to each Registered Participant who submitted a Bid to a specific Shadow Auction for each Bidding Zone border included in the Shadow Auction at least the following data:

   (a) allocated Transmission Rights for each hour of the Product Period in MW;

   (b) Marginal Price in EUR/MW per hour; and

   (c) due amount for allocated Transmission Rights in Euros, rounded to two decimal places.

5. In the event that the Shadow Auction Tool is unavailable, the Allocation Platform shall inform the Registered Participants of the Auction Results in accordance with CHAPTER 5.

Article 26

Contestation of provisional Shadow Auction Results

1. For Shadow Auctions triggered during a daily session of MRC no contestation of provisional Shadow Auction results is possible.

2. For Shadow Auctions decided in advance, the contestation period will be communicated in the Auction Specifications in accordance with Article 19.

3. The contestation shall be notified to the Allocation Platform and headed as "contestation".

4. Any contestation shall contain the following:

   (a) date;

(b) identification of contested Shadow Auction;

(c) identification of the Registered Participant;

(d) name, e-mail address and telephone number of the Registered Participant;

(e) detailed description of the facts and the reason for contestation; and

(f) evidence of erroneous Shadow Auction results;

5. The Allocation Platform shall reply to the Registered Participant no later than 1 hour and 30 minutes after the provisional Auction results have been notified to the registered participants.

6. 1 hour and 30 minutes after the provisional Shadow Auction Results have been notified and unless a Shadow Auction is cancelled due to erroneous results, the provisional Shadow Auction results shall be considered as final and binding with no further notification.

7. If the Registered Participant does not contest the provisional auction results within the deadline and under the condition specified above or in the Auction Specification, the Registered Participant shall be irrevocably deemed to renounce to any contestation. After the contestation period, the Shadow Auction results shall be considered as final and binding with no further notification.

Article 27
Shadow Auction cancellation

1. In case the Allocation Platform cancels a Shadow Auction, all Bids already submitted and any results of the respective Auction shall be deemed null and void.

2. The Allocation Platform shall inform all Registered Participants without undue delay, of the Shadow Auction cancellation by notification published in the Auction Tool and on webpage of Allocation Platform and by e-mail.

3. A Shadow Auction cancellation may be announced in the following cases:

   (a) before the Cross Zonal Capacity is deemed to be allocated in case the Allocation Platform faces technical obstacles during the Shadow Auction process like a failure of standard processes; and

   (b) during the contestation period, in the event of erroneous results due to incorrect Marginal Price calculation or incorrect allocation of Transmission Rights to Registered Participants or similar reasons.

4. In case of Shadow Auction cancellation before the Cross Zonal Capacity is deemed to be allocated, no compensation shall be paid to the Registered Participants.

5. Capacity is deemed to have been allocated to a Registered Participant from the moment the Registered Participant has been informed of the Auction results and the Contestation Period is closed if relevant.

6. The Allocation Platform shall publish on its website, without undue delay, the reasons for the Shadow Auction cancellation.

CHAPTER 4
Use of Transmission Rights

Article 28
General principles

The holder of allocated Transmission Rights may nominate the Transmission Rights for its physical use in accordance with Article 29. The non-nominated Transmission Rights after nomination deadline are not financially compensated also when these rights are curtailed.

Article 29
Nomination of Transmission Rights

1. By default, the Registered Participant to Shadow Auctions is designated as Nomination Agent on both sides of the Bidding Zone border for all its allocated Transmission Rights. If allowed by the Nomination Rules this designation may however be modified in accordance with this Article.

2. Persons eligible to nominate Transmission Rights shall fulfil the requirement described in applicable Nomination Rules. Eligible persons may be the following:

   (a) the Transmission Rights' holder; or

   (b) the person notified by the Transmission Rights' holder during the Nomination process to the respective TSOs in line with the relevant Nomination Rules; or

   (c) the person authorised by the Transmission Rights' holder to nominate in line with the relevant Nomination Rules and notified to the Allocation Platform.

3. The Allocation Platform shall provide on its website an overview of the options listed in paragraph 2 of this Article which are applicable on each Bidding Zone border.

4. For the process of the notification of the eligible persons to the Allocation Platform in accordance with paragraph 2 (c) of this Article, the following criteria should be met:

   (a) the eligible person shall have an EIC Code in order to allow its identification in the Rights Document; and

   (b) the Transmission Rights' holder shall notify the eligible person to the Allocation Platform via the Auction Tool in accordance with the Information System Rules and at the latest one (1) hour before the launch of the Shadow Auctions.

5. The Allocation Platform shall not take into account notifications of eligible persons which do not meet the criteria in accordance with paragraph 4 of this Article when sending the Rights Document in respect of a day of delivery.

6. The Nomination shall be done in compliance with the Rights Document.

7. The Allocation Platform shall publish a list with the relevant Nomination Rules for the Bidding Zone borders on its website.

8. The nomination deadlines for respective Bidding Zone borders are set forth in the relevant Nomination Rules. The Allocation Platform shall publish information on its website on the nomination deadlines per Bidding Zone border. In case of any discrepancy between the deadlines published by the Allocation Platform and those of the valid and legally binding relevant Nomination

Rules, the latter shall prevail and the Allocation Platform shall not be held liable for any damages due to such a discrepancy.

Article 30
Rights Document

1. The Rights Document shall contain the information about the volume in MW that eligible persons are entitled to nominate at specific Bidding Zone borders or subsets of interconnectors of Bidding Zone borders and directions and for hourly periods.

2. No later than fifteen (15) minutes after the Registered Participant to Shadow Auctions has been notified of the final results of its Bids, the Rights Document will be sent to the eligible person indicating the Transmission Rights acquired, for each Hourly Block, allocated at the Shadow Auction.

Article 31
TSO Designation

1. On the borders Germany-France, Germany-Netherlands and Denmark-Germany Transmission Rights shall be attributed to one (1) or where applicable two (2) of the respective TSO Borders.

2. When signing the Participation Agreement, Registered Participants shall determine to which TSO border Transmission Rights shall be attributed according to the following the process:

   (a) the initial TSO designation is defined, by the Registered Participant when signing the Participation Agreement;

   (b) this designation may however be modified in accordance with the form published on the website of the Allocation Platform; and

   (c) the Notification of the modification of the TSO designation must be made to the Allocation Platform no later than 7 Working Days before the start of the delivery period

CHAPTER 5
Fallback Procedures

Article 32
General provisions

1. The Allocation Platform shall, to the extent reasonably practicable organize a fallback procedure in case of failure of a standard process:

   (a) introduction of a fallback procedure for data exchange according to Article 33;

   (b) introduction of a fallback procedure for eligible person notification to the Allocation Platform, according to Article 34.

   (c) another ad hoc fallback procedure if considered appropriate by the Allocation Platform to overcome the technical obstacles.

2. The Allocation Platform shall inform Registered Participants of possible deviations from the standard processes and the application of a fallback procedure via email and the Allocation Platform's website and using the Auction Tool.

3. Registered Participants shall immediately inform the Allocation Platform of any observed problems with the use of the Auction Tool and all potential consequences via e-mail. In case of an urgent problem, which shall be solved immediately and which is identified during Working Hours, the Registered Participant shall immediately contact the Allocation Platform by phone at the telephone number indicated on the website of the Allocation Platform for this type of problems.

Article 33
Fallback procedure for data exchange

1. In case of a failure at the site of the Allocation Platform of the standard processes for data exchange via the Auction Tool as described in these Shadow Allocation Rules, the Allocation Platform may inform Registered Participants that a fallback procedure for data exchange may be used as follows:

   (a) by the applicable deadlines unless otherwise announced by the Allocation Platform the Registered Participant shall request via email the Allocation Platform to enter the relevant data into the Auction Tool by using this fallback procedure for data exchange;

   (b) with the request the Registered Participant shall provide to the Allocation Platform in the format specified in the Information System Rules the relevant data to be entered in the Auction Tool;

   (c) the Allocation Platform shall enter the submitted data into the Auction Tool;

   (d) the Allocation Platform may set in Information System Rules an identification process for the Registered Participant at the moment when the Registered Participant submits the relevant operational or commercial data and requests the Allocation Platform to enter this data into the Auction Tool on its behalf by means of the fallback procedure. If the Registered Participant or the person authorized by the Registered Participant for this purpose does not clearly identify itself, the Allocation Platform shall be entitled not to perform the data entry;

   (e) the Registered Participant shall provide the Allocation Platform with a telephone number, which can be used in case of a necessary communication;

(f) once the Allocation Platform has entered the provided data into the Auction Tool on behalf of the Registered Participant, the Allocation Platform shall inform, without undue delay, the Registered Participant by telephone and/or via e-mail of the entry; and

(g) the Allocation Platform shall under no circumstances be held responsible if it fails to reach the Registered Participant through the means of communication above or if it fails to enter the data correctly via the fallback procedure.

2. In case of application of the fallback procedure for data exchange , all necessary information which is made available via the Auction Tool during the standard processes may be distributed to the Registered Participants via email by the Allocation Platform or where appropriate published on the website of the Allocation Platform.

Article 34

Fallback procedure for eligible person notification

1. **In case of failure in the standard process of eligible person notification to the Allocation Platform via the Auction Tool as set forth in Article 29, the Allocation Platform may apply the fallback procedure for data exchange in accordance with Article 33.**

2. **The Allocation Platform shall publish information about the possibility to use the fallback procedure for data exchange in due time before the expiration of the deadline for eligible person notification.**

3. **In case the fallback procedure for data exchange cannot be implemented as necessary to enable the registration of the eligible person, the eligible person shall be deemed notified as set forth in Information System Rules and the Allocation Platform may not be held responsible for the failure of the fallback procedure.**

CHAPTER 6
Curtailment

Article 35

Triggering events and consequences of curtailment on Transmission Rights

1. Transmission Rights allocated in Shadow Auctions shall not be curtailed except in the case of Force Majeure or Emergency Situation.

2. Each Registered Participant affected by curtailment shall lose its right to nominate for physical use the concerned Physical Transmission Rights.

3. In case of curtailment, the affected Registered Participant is entitled to receive reimbursement according to Articles 37 to 38.

Article 36

Process and notification of curtailment

1. In all cases curtailment shall be carried out by the Allocation Platform based on a request by one or more TSO(s) at the Bidding Zone border and direction where Transmission Rights have been allocated.

2. Allocation Platform shall notify the affected holders of Transmission Rights as soon as possible of a curtailment of Transmission Rights, including the triggering event via email, the Auction Tool and on the webpage of the Allocation Platform. The notification shall identify the affected Transmission Rights, the affected volume in MW per hour for each concerned period, the triggering event for curtailment as described in Article 35 and the amount of Transmission Rights that remain after the curtailment.

3. The Allocation Platform shall publish the triggering events for curtailment in accordance with Article 35 including their estimated duration on its website as soon as possible.

4. The curtailment of Transmission Rights during a specific time period shall be applied to all Transmission Rights from Shadow Allocation, Long Term, Daily and Intraday Allocation of the concerned periods on a pro rata basis, depending on when the curtailment takes place, which means in proportion to the held Transmission Rights, regardless of the time of allocation.

5. For each affected Registered Participant, remaining aggregate Transmission Rights which have not been curtailed shall be rounded down to the nearest MW.

Article 37

Reimbursement for curtailments due to Force Majeure

1. In the event of Force Majeure, holders of curtailed Transmission Rights shall be entitled to receive a reimbursement equal to the price of the Transmission Rights set during Transmission Rights Allocation Process, which for each affected hour and Registered Participant shall be calculated as:

   (a) the Marginal Price of the initial Auction; multiplied by

(b) the volume in MW per hour corresponding to the difference between the Transmission Rights held by the Registered Participant before and after the curtailment.

Article 38

Reimbursement or compensation for curtailments due to an Emergency Situation

In an Emergency Situation, holders of curtailed Transmission Rights shall be entitled to compensation equal to the day-ahead price difference of relevant markets as described in this Article. The compensation for each affected hour and Registered Participant shall be calculated as the Transmission Rights in MW per hour corresponding to the difference between the allocated Transmission Rights held by the Registered Participant before and after the curtailment multiplied by a price calculated as follows:

(a) the Market Spread [1] at the concerned Bidding Zone border for the concerned hourly period only in case the price difference is positive in the direction of the curtailed Transmission Rights and 0€/MWh, otherwise. If applicable this price shall be adjusted to reflect transmission losses on interconnections between Bidding Zones, where these losses are included in the day-ahead Cross Zonal Capacity allocation process The Market Spread shall be equal to the day-ahead hourly price of the destination Bidding Zone minus the day-ahead hourly price of the origin Bidding Zone, where the destination and the origin Bidding Zones are those defined in the Auction Specifications of the concerned Transmission Right.

(b) the Marginal Price of the initial Auction if the day-ahead price is not calculated at least in one of the two relevant Bidding Zones.

1 For Italy the relevant day-ahead spot market price is the daily price related to the Italian internal bidding zone adjacent to the neighboring market involved

CHAPTER 7
Invoicing and Payment

Article 39
General principles

1. A Registered Participant shall pay the amounts due as calculated in accordance with Article 40 for all Transmission Rights allocated to him. This obligation shall be fulfilled irrespective of any curtailment of all or some of these Transmission Rights in accordance with these Shadow Allocation Rules.

2. The Registered Participant may upon payment use the Cross Zonal Capacity connected with the allocated Transmission Rights as described in these Shadow Allocation Rules only. Any right for physical use of the transmission system in case of a Physical Transmission Rights may be subject to separate agreements between the Registered Participant and the concerned TSOs.

3. All financial information, prices and amounts due shall be expressed and paid in Euros (€) except if deviations are required by applicable law or regulations.
4. The payment shall be settled on the date upon which the given amount is credited to the account of the beneficiary. Any interest for late payment shall be considered as settled on the date when the payment was credited from the account of the payer.

5. The Allocation Platform shall consider taxes and levies at the rate and to the extent applicable when assessing payment obligations and issuing invoices under these Shadow Allocation Rules subject to article 41.

6. The Registered Participant shall provide the Allocation Platform with relevant information for justifying whether or not respective taxes and levies are applicable when signing the Participation Agreement as well as any changes in this respect without undue delay.

Article 40
Calculation of due amounts

1. Registered Participants shall pay for each of the Transmission Rights allocated to them and for each individual hour an amount equal to:

   (a) the Marginal Price (per MW per hour); multiplied by

   (b) the sum of Transmission Rights in MW allocated in individual hours of the Product Period in accordance with Article 24.

2. The Transmission Rights will be invoiced on a monthly basis. The Allocation Platform shall calculate the due amount to be paid retroactively for the preceding month. The amount due plus any applicable taxes, duties or other charges, shall be rounded to two decimal places.

Article 41
Tax Gross-up

1. Each Registered Participant must make all payments to be made by it under the Shadow Allocation Rules without any tax deduction, unless a tax deduction is required by law.

2. If a tax deduction is required by law to be made by a Registered Participant, the amount of the payment due from the Registered Participant to the Allocation Platform will be increased to an amount which (after making the tax deduction) leaves an amount equal to the payment which would have been due if no tax deduction had been required ("Tax Gross-up").

3. Paragraph 2 of this Article does not apply with respect to any tax assessed on the Allocation Platform on any payment received in connection with the Shadow Allocation Rules under the laws of the jurisdiction in which the Allocation Platform is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Allocation Platform is treated as resident for tax purposes or has or is deemed for tax purposes to have a permanent establishment or a fixed place of business to which any payment under the Shadow Allocation Rules is attributable. Paragraph 2 of this Article does not apply to value added tax as provided for in the VAT directive 2006/112/EC as amended from time to time and any other tax of a similar nature.

Article 42

Invoicing and payment conditions

1. The payment will be settled at the next fixed invoice date.

2. The Allocation Platform shall issue invoices for payments for all Transmission Rights on a monthly basis and no later than the tenth (10th) Working Day of each month.

3. The invoices shall be issued for the amount due set forth in Article 40.

4. The Allocation Platform shall send the invoice only by e-mail to the Registered Participant at the e-mail address of the financial contact person submitted in accordance with Article 8(h) or it should make it available to the Registered Participant via the Auction Tool. The date of issuance of the invoice shall be the date on which the email is sent or the date when the invoice is made available via the Auction Tool if this is done during Working Hours or the next day if sent after Working Hours.

5. In the cases of curtailment of Transmission Rights, the invoices shall take into account any payments to be credited to the Registered Participant. The payments to be credited to the Registered Participants shall:

   (a) be settled through self-billing mechanism which shall allow the Allocation Platform to issue invoices in the name and on behalf of the Registered Participant; and

   (b) be notified through the same invoice as the one used for the payments of the Registered Participant as set forth in paragraph 4 of this Article.

6. The payments due shall be netted by the Allocation Platform taking into account the amount as set forth in paragraph 3 and 5 of this Article.

7. If the balance of the payments as set forth in paragraph 3 and 5 of this Article results in a net payment from the Registered Participant to the Allocation Platform, the Registered Participant shall settle this balance within five (5) Working Days after the date of issuance of the invoice.

8. Payments by the Registered Participant as set forth in paragraph 5 of this Article shall be collected as follows:

   (a) based on the standard procedure, the Allocation Platform shall collect the payment automatically from the dedicated Business Account of the Registered Participant on the respective due date of the invoice; or

   (b) alternatively, the Registered Participant shall ensure payment through a non-automated transaction to the account of the Allocation Platform specified on the invoice by indicating the invoice reference.

9. The alternative procedure may be used upon request of the Registered Participant and with the consent of the Allocation Platform. The Registered Participant shall notify the Allocation Platform by

email the request to use the alternative procedure at least two (2) Working Days before the date of issuing of the next invoice as set forth in paragraph 2 of this Article. Once the alternative procedure is agreed, it shall be deemed to be valid until otherwise agreed between the Registered Participant and the Allocation Platform.

10. If the balance of the payments as set forth in paragraph 3 and 5 of this Article results in a net payment from the Allocation Platform to the Registered Participant, the Allocation Platform shall pay this balance within seven (7) Working Days after the date of issuance of the invoice to the bank account as announced during the accession process in accordance with Article 8 paragraph 1(g) by the Registered Participant who is entitled to the payments at the due date

11. In case of an erroneous invoice resulting in an additional payment of the Allocation Platform or the Registered Participant the Allocation Platform shall correct the invoice and any due amount shall be settled as soon as they have been notified to Registered Participant.

12. Bank fees of the payer's bank shall be covered by the payer. Bank fees of the receiving bank shall be covered by the beneficiary. Bank fees of any intermediary bank, shall be covered by the Registered Participant.

13. The Registered Participant shall not be entitled to offset any amount, or withhold any debts arising in connection with obligations resulting from a Shadow Auction, against any claims towards the Allocation Platform, whether or not arising out of a Shadow Auction. Nevertheless, the right to offset and the right to withhold are not excluded in case the Registered Participant's claim against Allocation Platform is established by a legally binding judgement or is uncontested.

Article 43
Payment disputes

1. A Registered Participant may dispute the amount of an invoice including any amounts to be credited to the Registered Participant. In this case, the Registered Participant shall notify the nature of the dispute and the amount in dispute to the Allocation Platform as soon as practicable and in any event within fifteen (15) Working Days after the date of issuance of the invoice or credit note by registered mail and email. Beyond this period, the invoice shall be deemed to have been accepted by the Registered Participant.

2. If the Registered Participant and the Allocation Platform are unable to resolve the difference within ten (10) Working days after the notification, the procedure for the dispute resolution in accordance with Article 47 shall apply.

3. A dispute shall in no way relieve the Party from the obligation to pay the amounts due as set forth in Article 42.

4. If it is agreed or determined based upon the dispute resolution procedure as set forth in Article 47 that an amount paid by the Registered Participant was not properly payable, the following process shall apply:

   (a) the Allocation Platform shall refund any amount including interest to be calculated according to Article 40 the Registered Participant in case that the amount paid by the Registered Participant as set forth in Article 42 was higher or the amount paid by the Allocation Platform was lower than the due amount. The Allocation Platform shall make the payment to the bank account indicated by the Registered Participant for this reimbursement in accordance with Article 8.

   (b) the Registered Participant shall pay any amount including interest to be calculated according to Article 40 to the Allocation Platform in case that the amount paid by the Registered Party

as set forth in Article 42 was lower than the due amount. The Registered Participant shall make the payment in accordance with the procedure set forth in Article 42.

5. The interest paid in case of a payment in accordance with paragraph 4 of this Article shall be applied from the first (1st) day following the date on which the payment was due up to the date on which the disputed amount was refunded and it shall apply also to all taxes and levies required by law.

Article 44

Late payment and payment incident

1. In case the Registered Participant has not fully paid an invoice by the due date specified on the invoice, the Allocation Platform shall notify the Registered Participant that a payment incident will be registered if the amount including applicable interest due is not received within three (3) Working Days upon sending of the notification. In case of no payment within the deadline, the Allocation Platform shall notify the Registered Participant that the payment incident was registered.

2. The Allocation Platform may suspend or terminate the Participation Agreement in case of registered payment incident in accordance with Articles 48 and 49.

3. In case of late payment or refund, the Parties shall pay interest on the amount due from the date of the payment until the date on which the payment is done. The interest shall be equal to the highest amount of:

   (a) a flat rate of 100 €; or

   (b) in accordance with Article 5 of Directive 2011/7/EU, eight (8) percentage points per annum above the reference interest rate as officially published by the national authorities of the country in which the Allocation Platform is located and round up to the nearest half percentage point.

CHAPTER 8
Miscellaneous

Article 45

Duration and amendment of Shadow Allocation Rules

1. The Shadow Allocation Rules are of indefinite duration and are subject to amendment in accordance with this Article. These Shadow Allocation Rules and any amendments thereof shall be consulted upon, are proposed by the relevant TSOs, enter into force in accordance with the applicable national regulatory regime. The Allocation Platform shall publish the amended Shadow Allocation Rules and send an amendment notice to Registered Participants.

2. Subject to Article 4(3), an amendment shall enter into force at the date and time specified in the amendment notice but not earlier than thirty (30) calendar days after the amendment notice is sent to Registered Participants by the Allocation Platform.

3. Each amendment shall apply to all aspects of these Shadow Allocation Rules, including but not limited to all Shadow Auctions conducted after the date on which the amendment takes effect.

4. Unless expressly stated otherwise by the Allocation Platform the amended Shadow Allocation Rules shall govern all rights and obligations in connection with these Shadow Allocation Rules including those acquired before the date of amendment but with the delivery date after the amendment takes effect.

5. Any amendment of these Shadow Allocation Rules shall apply automatically to the Participation Agreement in force between the Allocation Platform and the Registered Participant, without the need for the Registered Participant to sign a new Participation Agreement but without prejudice to the Registered Participant's right to request the termination of its Participation Agreement in accordance with Article 49. By participating in the Shadow Auction after the Registered Participant was informed about the changes and/or adaptations of the Shadow Allocation Rules and after these changes and/or adaptations of the Shadow Allocation Rules entered into force, it is deemed that the Registered Participant has accepted the changed, i.e. the valid and effective version of the Shadow Allocation Rules.

6. The Shadow Allocation Rules and the annexes included thereto shall be periodically reviewed by the Allocation Platform and the relevant TSOs at least every two years involving the Registered Participants. In case amendments the relevant TSOs consider the amendment of these Allocation Rules as a result of this review, the procedure described in this Article shall apply. This biennial review is without prejudice of the competence of National Regulatory Authorities to request at any time amendments of the Shadow Allocation Rules and the annexes included thereto in accordance with the existing legislation.

7. These Allocation Rules are subject to the legislation prevailing at the time at which they take effect. In the event that there is a change in legislation or any action by competent authorities at national or European Union level which have an effect on these Allocation Rules and/or their annexes then, notwithstanding any other provision of these Allocation Rules, the Allocation Rules shall be amended accordingly and pursuant to this Article.

Article 46

Liability

1. The Allocation Platform and the Registered Participants are solely responsible for the fulfilment of any obligation they undertake or are subject to and which arises from or is in connection with the Shadow Allocation Rules and the Participation Agreement.

2. Subject to any other provisions of these Shadow Allocation Rules the Allocation Platform shall only be liable for damages caused by:

   (a) fraud, gross negligence or wilful misconduct.

   (b) death or personal injury arising from its negligence or that of its employees, agents or subcontractors.

3. A Registered Participant shall indemnify and keep indemnified the Allocation Platform and its officers, employees and agents from and against any and all loss or liability (including legal costs) related to a damage that it has caused, which any of them may suffer or incur by reason of any claim by any third party on account of any and all loss (whether direct or indirect) suffered by the claimant or any of the claimant's officers, agents, subcontractors or employees in connection with these Shadow Allocation Rules.

4. The Allocation Platform and each Registered Participant acknowledges and agrees that it holds the benefit of paragraph 3 of this Article for itself and as trustee and agent for its officers, employees and agents.

5. The Registered Participant shall be solely responsible for its participation in Shadow Auctions including but not limited to the following cases:

   (a) the timely arrival of Bids by the Registered Participant;

   (b) technical failure of the information system on the side of the Registered Participant preventing the communication via the channels foreseen in accordance with these Shadow Allocation Rules.

6. In case of curtailment compensation due to Force Majeure or Emergency Situation in accordance with Article 37 and Article 38 Registered Participants shall not be entitled to other compensation than the compensation described in these Shadow Allocation Rules

7. The Registered Participant shall be liable with respect to any sanctions, penalties, or charges that may be imposed by financial authorities on the Allocation Platform for incorrect tax treatment due to wrong or incomplete information provided by the Registered Participant.

8. This Article survives the termination of the Registered Participant's Participation Agreement.

Article 47

Dispute resolution

1. Without prejudice to paragraphs 6 and 8 of this Article, where there is a dispute the Allocation Platform and the Registered Participant shall first seek amicable settlement through mutual consultation pursuant to paragraph 2. For this purpose, the Party raising the dispute shall send a notification to the other party indicating:

   (a) the existence of a Participation Agreement between the Parties;

   (b) the reason for the dispute; and

(c) a proposal for a future meeting, physical or not, with a view to settle the dispute amicably.

2. The Parties shall meet within twenty (20) Working Days after the matter has been referred to them and seek to resolve the dispute. If no agreement is reached or no response received within a period of thirty (30) Working Days from the date of the aforementioned notification, either Party may refer the matter to the senior management of the Parties to resolve the dispute pursuant to paragraph 3.

3. The senior representative of each of the Allocation Platform and the Registered Participant with authority to resolve the dispute shall meet within twenty (20) Working Days of a request to meet and seek to resolve the dispute. If the representatives are unable to resolve the dispute within twenty (20) Working Days of the meeting or such longer time as may be agreed then the dispute shall be determined by arbitration in accordance with paragraph 4.

4. Where a dispute is to be referred to arbitration under paragraph 3, either the Allocation Platform or the Registered Participant may give notice to the other stating the nature of the dispute and referring the dispute to arbitration. Arbitration shall be conducted in accordance with the Rules of Arbitration of the Chamber of Commerce (ICC). The arbitration shall be conducted before one (1) arbitrator to be nominated upon agreement of the Parties unless a Party requests the appointment of three (3) arbitrators. In case of one (1) arbitrator, the Parties shall agree on the nomination of the arbitrator within two (2) months after the notice was given by the Party referring the dispute to arbitration. If no agreement can be found, the arbitrator shall be appointed by the ICC Court. In case of three (3) arbitrators, the claimant shall nominate one (1) arbitrator and the respondent shall nominate one (1) arbitrator. The arbitrators nominated by each Party shall then nominate the chairman of the arbitral tribunal within three (3) Working Days from the confirmation of the appointment of the second arbitrator by the respondent. If the arbitrators nominated by each party cannot agree on the appointment of the chairman, the chairman shall be appointed by the ICC Court. The arbitration shall take place in the location of the Allocation Platform unless otherwise defined in the Participation Agreement and in accordance with the governing law of these Shadow Allocation Rules while the language of the arbitration proceedings shall be English. The emergency arbitrator provisions according to the Rules of Arbitration of the Chamber of Commerce shall not apply but the interim or injunctive relief measures under the governing law shall apply.

5. Arbitration awards shall be final and binding on the Allocation Platform and the relevant Registered Participant as from the date that they are made. The Allocation Platform and the Registered Participant shall carry out any award of an arbitrator relating to any dispute without delay and each waive their right to any form of appeal or recourse to a court of law or other judicial authority, in so far as such waiver may validly be made.

6. Notwithstanding paragraphs 3 and 4 of this Article, the Parties may jointly agree to apply court proceedings instead of arbitration to settle a dispute arisen in connection with these Shadow Allocation Rules.

7. In cases of late payment and notwithstanding Article 44 and paragraphs 1 to 4 of this Article, a Party may bring court proceedings against the other Party for any amount due under or in connection with these Shadow Allocation Rules and unpaid for more than twenty (20) Working Days after the date the amounts were due.

8. The Parties agree that proceedings referred to in paragraph 6 or paragraph 7 may be brought in any competent court to hear such claim. The Registered Participant irrevocably waives any objection which it may have now or hereafter regarding the venue of such proceedings in any competent court and any claim that any such proceedings have been brought in an inconvenient forum.

9. Notwithstanding any reference to amicable settlement, expert resolution or arbitration under this Article, the Allocation Platform and the Registered Participant shall continue to perform their

respective obligations under these Shadow Allocation Rules and the Registered Participant's Participation Agreement.

10. This Article survives the termination of the Registered Participant's Participation Agreement.

Article 48
Suspension of the Participation Agreement

1. The Allocation Platform may by notice to the Registered Participant suspend temporarily the Registered Participant's rights in connection with these Shadow Allocation Rules with immediate effect if the Registered Participant commits a major breach of an obligation in connection with these Allocation Rules which may have a significant impact to the Allocation Platform as follows:

   (a) if a Registered Participant fails to pay any amount properly due and owing to the Allocation Platform pursuant to Article 44;

   (b) any breach which may have a significant financial impact to the Allocation Platform;

   (c) the Allocation Platform has reasonable grounds that the Registered Participant no longer satisfies one or more of any other conditions to participate in Shadow Auctions according to these Shadow Allocation Rules unless termination applies according to Article 49.

2. In any case of a minor breach in relation to these Shadow Allocation Rules such as but not limited to the failure of the Registered Participant to notify a change in the submitted information in accordance with Article 8, the Allocation Platform may by notice to the Registered Participant inform the Registered Participant's that its rights in connection with these Shadow Allocation Rules may be suspended unless the Registered Participant remedies the suspension event in the time period specified in the notice. The suspension shall take effect when the period specified for remedy has elapsed without that such remedy has taken place. After the suspension takes effect in accordance with paragraphs 1 and 2 of this Article, the suspended Registered Participant may no longer participate in Shadow Auction and, unless the payment of the Transmission Right is fully settled by the suspended Registered Participant, the suspended Registered Participant shall not be entitled to use Transmission Rights according to CHAPTER 4.

3. The Allocation Platform may withdraw a notice under paragraphs 1 or 2 of this Article at any time. Having given a notice under paragraphs 1 or 2 of this Article, the Allocation Platform may give a further or other notice at any time in respect of the same or a different suspension event.

4. Once the Registered Participant has fulfilled or remedied the suspension event as notified to it in the notice sent by the Allocation Platform, the Allocation Platform shall reinstate as soon as reasonably practicable the Registered Participant's rights in relation to use of its allocated Transmission Rights and its ability to participate in Shadow Auctions by written notice to the Registered Participant. As from the date of effect of the reinstatement, the Transmission Rights allocated prior to the suspension and which remain unused may be nominated and the Registered Participant may participate in Shadow Auctions.

5. If the Allocation Platform gives a notice to a Registered Participant under paragraph 1 or 2 of this Article, such notice of suspension does not relieve the Registered Participant from its payment obligations under CHAPTER 7, including its payment obligations in relation to the Transmission Rights for which the Registered Participant loses the right of use pursuant to paragraph 2.

Article 49
Termination of the Participation Agreement

1. A Registered Participant may at any time request the Allocation Platform to terminate the Participation Agreement to which the Registered Participant is a Party. The termination shall take

effect after thirty (30) Working Days upon receipt of the termination request by the Allocation Platform and all outstanding payment obligations are settled.

2. A Registered Participant may terminate the Participation Agreement to which the Registered Participant is a Party for good cause when the Allocation Platform has committed a major breach of an obligation connected with these Shadow Allocation Rules or the Participation Agreement in the following cases:

   (a) where the Allocation Platform repeatedly fails to pay any amount properly due and owing to the Registered Participant with a significant financial impact;

   (b) where there is a significant breach of the confidentiality obligations in accordance with Article 52.

   The Registered Participant shall send a notice to the Allocation Platform stating the reason for termination and giving the Allocation Platform twenty (20) Working Days to remedy the breach. Unless the Allocation Platform remedies the breach within the abovementioned deadline, the termination shall take effect immediately upon expiration of such deadline. A holder of Transmission Rights whose Participation Agreement is terminated under this paragraph is under no obligation to pay remaining instalments for the Transmission Rights' and is entitled to a refund to the extent that any instalment includes an amount in respect of use after the date of termination, to be calculated pro-rata from the date termination takes effect.

3. If any of the termination events in paragraph 4 occurs in relation to a Registered Participant, the Allocation Platform may by notice to the Registered Participant terminate the Participation Agreement, including the Registered Participant's rights connected with these Shadow Allocation Rules. A termination under this paragraph takes effect from the time of the notice or any later time specified in it. The Registered Participant may not at a later stage enter into the Participation Agreement with the Allocation Platform until the circumstances of termination continue to exist or it is not sufficiently guaranteed that the breach may not occur again.

4. The termination events referred to in paragraph 3 shall be the following:

   (a) if the rights of the Registered Participant are suspended for longer than thirty (30) Working Days;

   (b) if a Registered Participant does not qualify for the participation in the Shadow Auction as set forth in Article 13 ;

   (c) if a Registered Participant repeatedly breaches these Shadow Allocation Rules or a Participation Agreement, whether or not the breach is capable of remedy;

   (d) if a competent authority (i) determines that the Registered Participant has committed a misuse or fraudulent act and (ii) requests the Allocation Platform to terminate the Participation Agreement to which such Registered Participant is a Party or (iii) agrees that the Allocation Platform has reasonable grounds to believe that the Registered Participant has committed a misuse or fraudulent act in participating in Shadow Auctions; or

   (e) if the Registered Participant has taken any action which may lead to the damaging or reduction in effectiveness of the Auction Tool (it being understood that such an action is deemed to happen in case of any behaviour that can be assimilated to an attack on the information system such as, but not limited to, deny of service, spam, virus, brute forcing, Trojan horse attack).

5. After the termination takes effect in accordance with paragraphs 1 to 3 of this Article and from that time, the Registered Participant may no longer participate in a Shadow Auction. CHAPTER 4 shall not

apply to such acquired Transmission Rights. For the avoidance of doubt, the Transmission Rights, which the Registered Participant is prohibited from using as a result of termination, may be offered by the Allocation Platform in subsequent Auctions.

6. Termination of a Participation Agreement does not affect any rights and obligations under or in connection with the Participation Agreement and these Shadow Allocation Rules which arose prior to that termination unless otherwise specified in this Article. Accordingly, any Registered Participant whose Participation Agreement is terminated will remain liable, subject to and in accordance with the Shadow Allocation Rules, in respect of all such rights and liabilities. This paragraph shall apply without prejudice to other remedies available to the Allocation Platform under these Shadow Allocation Rules.

7. Registered Participant that have terminated their Participation Agreement may registered again in accordance with CHAPTER 2

Article 50
Force Majeure

1. The Allocation Platform or a Registered Participant, which invokes Force Majeure, shall promptly send to the other Party a notification describing the nature of Force Majeure and its probable duration and shall continue to furnish reports with respect thereto with reasonable frequency during the period of Force Majeure. The Party invoking the Force Majeure shall make every possible effort to limit the consequences of the Force Majeure.

2. The affected obligations, duties and rights of a Party subject to Force Majeure shall be suspended from the beginning of Force Majeure, with the exception of the confidentiality provisions in accordance with Article 52.

3. Suspension under paragraph 2 is subject to the following:

   (a) suspension will be of no greater scope and of no longer duration than is required by the Force Majeure;

   (b) the suspension applies only for so long as the Party invoking to Force Majeure is using reasonable efforts to remedy their inability to perform.

4. The consequences of a Force Majeure event, which is not subject to any discussion or litigation between the Allocation Platform and the Registered Participant, are:

   (a) the Party invoking Force Majeure cannot be held responsible to pay compensation for any damage suffered, due to the non-performance or partial performance of all or any of its obligations during the Force Majeure and when such non-performance or partial performance is due directly to Force Majeure;

   (b) the acquired Transmission Rights which have been entirely paid and become subject to Force Majeure are reimbursed for the duration of the Force Majeure in accordance with any applicable legislation and these Shadow Allocation Rules; and

   (c) where the Transmission Rights' holder is the party claiming the Force Majeure event, the Allocation Platform may, for their own benefits, reallocate the holder's Transmission Rights to the subsequent Auctions and for the duration of the Force Majeure event.

5. If the Force Majeure continues for a period longer than six (6) months, the Allocation Platform or each Registered Participant may, by notice to the other given at any time while the Force Majeure continues beyond that period, unilaterally terminate the Participation Agreement. The termination shall take effect ten (10) Working Days after the notice is given or any later date specified in the

notice. A holder of Transmission Rights whose Participation Agreement is terminated under this paragraph is under no obligation to pay the due amount for the Transmission Rights' and is entitled to a refund to the extent that any payment includes an amount in respect of use after the date of termination, to be calculated pro-rata from the date termination takes effect.

Article 51
Notices

1. Any notice or other communication to be given under or in connection with these Shadow Allocation Rules shall be in English.

2. Unless otherwise expressly provided in these Shadow Allocation Rules, all notices or other communications shall be in writing between the Allocation Platform and each Registered Participant and shall be sent to the email address and if not possible, by facsimile number and marked for the attention of the other Party's representative as set out in the Participation Agreement or as notified by the Registered Participant from time to time in accordance with Article 8.

3. All notices or other communications shall be given by letter delivered by hand against receipt or sent by registered mail or courier in the following cases:

   (a) the conclusion of the Participation Agreement in accordance with Article 6; and

   (b) the suspension and termination according to Article 48 and Article 49.

4. All notices or other communications shall be deemed to have been received:

   (a) in the case of delivery by hand, when delivered against receipt; or

   (b) in the case of recorded delivery prepaid post, on the day following the recorded day of delivery; or

   (c) in the case of facsimile, on acknowledgement of receipt by the addressee's facsimile receiving equipment; or

   (d) in the case of email, when delivered to the other party but only if an acknowledgement of receipt is requested and obtained by the Party sending the e-mail.

5. If a notice or other communication has been received outside normal Working Hours on a Working Day), it is deemed to have been received at the opening of business on the next Working Day.

Article 52
Confidentiality

1. The Participation Agreement and any other information exchanged relating to its preparation and the application of a market participant shall be considered as confidential. A Registered Participant shall determine by all means available any other information of any type or on any support, which it considers confidential, without prejudice to the rights of the Allocation Platform concerning disclosure of information.

2. Subject to paragraph 3 of this Article, the Allocation Platform and each Registered Participant who is a recipient of confidential information in relation to these Shadow Allocation Rules shall preserve the confidentiality of such information and shall not directly or indirectly reveal, report, publish, disclose, transfer or use any item of the confidential information otherwise than for the purpose for which it was disclosed.

3. Notwithstanding paragraph 2 of this Article, the Allocation Platform or a Registered Participant may disclose confidential information of a disclosing Party to a third party with the other Party's prior

consent expressed in writing and subject to the condition that the receiving Party has given assurance that such third party is bound by equivalent confidentiality obligations as set out in these Allocation Rules directly enforceable by the other Party.

4. Notwithstanding paragraph 2 of this Article the Allocation Platform or a Registered Participant may disclose confidential information of a disclosing Party:

   (a) to the extent expressly permitted or contemplated by the Shadow Allocation Rules;

   (b) to any person who is one of the directors, officers, employees, agents, advisers or insurers of the recipient and who needs to know the confidential information in connection with these Shadow Allocation Rules; as far as required in order to comply with applicable national or EU legislation or any other relevant domestic administrative acts such as grid codes;

   (c) as far as required in order to comply with applicable national or EU legislation such as REGULATION (EU) No 1227/2011 and REGULATION (EU) No 543/2013 or any other relevant domestic administrative acts such as grid codes;

   (d) as far as required by a court, arbitrator or administrative tribunal or an expert in the course of proceedings before it to which the recipient is a Party;

   (e) as may be required by the relevant TSOs for the proper fulfilment of their mission and their obligations in accordance with applicable laws and these Shadow Allocation Rules by themselves or through agents or advisers; or

   (f) as far as required in order to obtain clearances or consents from a competent authority.

5. Moreover, the obligations arising from this Article shall not apply:

   (a) if the Party which receives the information can prove that at the time of disclosure, such information was already publicly available;

   (b) if the receiving Party provides proof that, since the time of disclosure, the said information has been legally received from a third party or has become publicly available;

   (c) to confidential information communicated, in accordance with the legal and regulatory provisions, in an incorporated form from which no item of information specific to a market participant can be deduced;

   (d) to information whose publication is explicitly provided for by the present Shadow Allocation Rules.

6. The obligations of confidentiality in this Article shall remain valid for a period of five (5) years after termination of the Registered Participant's Participation Agreement.

7. The signature of a Participation Agreement and the exchange of confidential information do not confer any rights to patents, knowledge or any other form of intellectual property concerning information or tools made available or sent by one Party to the other under the terms of these Shadow Allocation Rules.

Article 53
Assignment and subcontracting

1. The Allocation Platform may assign, novate or otherwise transfer any of its rights or obligations under a Participation Agreement or these Allocation Rules to another Allocation Platform. The Allocation Platform shall notify the Registered Participants of the change by sending an email with

acknowledgment of receipt as soon as possible and in any event at least ten (10) Working Days before the date on which the change takes effect.

2. A Registered Participant may not assign, novate or otherwise transfer any of its rights or obligations under its Participation Agreement or these Shadow Allocation Rules without the prior written consent of the Allocation Platform.

3. Nothing in this Article shall prevent an Allocation Platform or Registered Participant from entering into a subcontracting agreement in relation to this Shadow Allocation Rules. Entry into a subcontracting agreement by a Registered Participant does not relieve the Registered Participant of any obligation or liability under its Participation Agreement or these Shadow Allocation Rules.

Article 54
Governing law

These Shadow Allocation Rules shall be governed by and construed in all respects in accordance with the law of the location of the registered office of the Allocation Platform unless otherwise specified in the Participation Agreement.

Article 55
Language

The applicable language for these Shadow Allocation Rules shall be English. For the avoidance of doubt, where TSOs need to translate these Shadow Allocation Rules into their national language, in the event of inconsistencies between the English version published by the Allocation Platform and any version in another language, the English version published by the Allocation Platform shall prevail.

Article 56
Intellectual property

No Party shall acquire any right, title, licence or interest in or to any intellectual property rights of the other Party in connection with these Shadow Allocation Rules.

Article 57
Relationship of the Parties

1. The relationship of the Allocation Platform and the Registered Participant is that of service provider and service user respectively. Except as expressly provided in these Allocation Rules, nothing contained or implied in these Shadow Allocation Rules constitutes or is deemed to constitute the Allocation Platform or a Registered Participant, the partner, agent or legal representative of the other for any purpose whatsoever including create or be deemed to create any partnership, agency, trust or comprising of any nature whatsoever.

2. The Registered Participant acknowledges that neither the Allocation Platform nor any person acting on behalf of or associated with the Allocation Platform makes any representation, gives any advice or gives any warranty or undertaking of any kind in respect of these Shadow Allocation Rules, the Participation Agreements or the disclosed information or otherwise in relation to or in connection with these Shadow Allocation Rules, the Participation Agreements and the disclosed information or any transaction or arrangement contemplated by these Shadow Allocation Rules, the Participation Agreements and the disclosed Information except as specifically provided in these Shadow Allocation Rules or the Participation Agreement.

Article 58
No third party rights

The Allocation Platform and each Registered Participant acknowledge and agree that a person who is not a party to the Participation Agreement between them, including any other market participant,

has no rights to enforce these Shadow Allocation Rules or the Participation Agreement as between the Allocation Platform and that Registered Participant.

Article 59
Waiver

1. No omission to exercise or delay in exercising any right, power or remedy provided by law or under these Shadow Rules shall impair or constitute a waiver of such or any other right, power or remedy. No single or partial exercise of any such right, power or remedy precludes or impairs any other or further exercise thereof or the exercise of any other right, power or remedy provided by law or under these Shadow Allocation Rules.

2. Any waiver of any right, power or remedy under these Shadow Allocation Rules must be in writing and may be given subject to any conditions thought fit by the grantor. Unless otherwise expressly stated, any waiver is effective only in the instance and only for the purpose for which it is given.

Article 60
Entire agreement

These Shadow Allocation Rules and the Participation Agreement contain or expressly refer to the entire agreement between the Allocation Platform and each Registered Participant with respect to the subject matter hereof and expressly exclude any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between the Allocation Platform and each Registered Participant with respect thereto. The Allocation Platform and each Registered Participant acknowledge and confirm that none of them accede to these Shadow Allocation Rules or the Participation Agreement in reliance on any representation, warranty or other undertaking (other than where made fraudulently) not fully reflected in the terms of these Shadow Allocation Rules or the Participation Agreement.

Article 61
Remedies exclusive

The rights and remedies provided by these Shadow Allocation Rules and the Participation Agreement to the Allocation Platform and each Registered Participant are exclusive and not cumulative and, to the extent permissible by law, shall exclude and be in place of all substantive (but not procedural) rights or remedies expressed or implied and provided by law or statute in respect of the subject matter of these Allocation Rules and the Participation Agreement. Accordingly, the Allocation Platform and each Registered Participant hereby waives to the fullest extent possible all such rights and remedies provided by law or statute, and releases each other of them if it is liable to any other of them, its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations provided by law or statute in respect of the matters dealt with in these Shadow Allocation Rules and the Participation Agreement and undertakes not to enforce any of the same except as expressly provided herein.

Article 62
Severability

If any provision of these Shadow Allocation Rules or a Participation Agreement is declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject or pursuant to arbitration or by order of any competent authority, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of these Shadow Allocation Rules and the Participation Agreement which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality. Any invalid, illegal, void and/or unenforceable part(s) or provision(s) shall be replaced by valid, legal and/or enforceable part(s) or provision(s) in order to achieve the intended economic and legal effect.

Annexes list

Annex 1 List of Bidding Zone borders and/or their subsets to which the Shadow Allocation Rules apply

Annex 2 List of agreements per Bidding Zone Border needed with the concerned TSOs or other legal entities depending on the relevant national legislation to be entitled to nominate the allocated Transmission Rights required

Annex 1 List of Bidding Zone borders and/or their subsets to which the Shadow Allocation Rules apply

List of Bidding Zone borders and/or their subsets of interconnectors List of responsible TSOs		
Austria (AT) APG	<>	**Italy (IT)** TERNA
Belgium (BE) ELIA	<>	**France (FR)** RTE
Belgium (BE) ELIA	<>	**Netherlands (NL)** TenneT TSO B.V.
Belgium (BE) ELIA	<>	**Luxembourg (LU)** CREOS
Denmark (DK1) Energinet.dk	<>	**Denmark (DK2)** Energinet.dk
Denmark (DK1) Energinet.dk	<>	**Germany (DE)** TenneT TSO GmbH
Denmark (DK2) Energinet.dk	<>	**Germany (DE)** 50Hertz
France (FR) RTE	<>	**Germany (DE)** Amprion, TransnetBW
France (FR) RTE	<>	**Italy (IT)** TERNA
France (FR) RTE	<>	**Spain (ES)** REE
Slovenia (SI) ELES	<>	**Italy (IT)** TERNA
Germany (DE) Amprion, TenneT TSO GmbH	<>	**Netherlands (NL)** TenneT TSO B.V.
Norway (NO) STATNETT SF	<>	**Netherlands (NL)** TenneT TSO B.V.

Annex 2 List of agreements per Bidding Zone Border needed with the concerned TSOs or other legal entities depending on the relevant national legislation to be entitled to nominate the allocated Transmission

Per Bidding Zone Borders and per direction	**Agreements needed with the concerned TSOs or other legal entities depending on the relevant national legislation to be entitled to nominate the allocated Transmission**		
BE<>FR	ARP Contract with ELIA	and	Import/Export Rules with RTE
BE<>NL	ARP Contract with ELIA	and	PV Contract with TenneT TSO BV
BE<>LU	ARP Contract with ELIA	and	Manuel décrivant le système des périmètres d'équilibre de la zone de réglage luxembourgeoise
DE<>NL	At least one Bilanzkreisvertrag with TenneT TSO GmbH and/or AMPRION	and	PV Contract with TenneT TSO BV
DE<>FR	At least one Bilanzkreisvertrag with TransnetBW and/or AMPRION	and	Import/Export Rules with RTE
FR<>IT	Import/Export Rules with RTE	and	Contratto di Dispacciamento with TERNA **and** Congestion Management Rules on Italian Interconnections
FR<>ES	Import/Export Rules with RTE	and	Certificado del Operador del Sistema-Sujeto del Mercado issued by REE
AT<>IT	Two Datenübermittlungsverträge with APG and a BGV-Vertrag with APCS which together result in a valid Genehmigungsbescheid from Energie-Control Austria	and	Contratto di Dispacciamento with TERNA **and** Congestion Management Rules on Italian Interconnections with TERNA
SI>IT	Balance Group Contract signed with Slovenian Market Operator **or** Contract for settlement of imbalances with the Balance Responsible Party in Slovenia.		
IT>SI,	Contratto di Dispacciamento with TERNA **and** Congestion Management Rules on Italian Interconnections with TERNA		

Per Bidding Zone Borders and per direction	Agreements needed with the concerned TSOs or other legal entities depending on the relevant national legislation to be entitled to nominate the allocated Transmission		
DK1<>DE	Balance Responsible Agreement with Energinet.dk	and	Bilanzkreisvertrag with TenneT TSO GmbH
DK2<>DE	Balance Responsible Agreement with Energinet.dk	And	Bilanzkreisvertrag with 50Hertz Transmission
NO<>NL	Balance Responsible Agreement with Statnett	And	PV Contract with TenneT TSO BV