Authority for Consumers & Markets

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Agency for the Cooperation of Energy Regulators (ACER)
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SLOVENIA

The Hague, 21 February 2024

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Our reference	: ACM/UIT/615642
Subject	: ACM/16/031317

Dear Mr. Zinglersen,

I am writing to you with regard to our investigation in accordance with Article 30 of the FCA Regulation for the bidding zone border NO2-NL. Unfortunately, at this moment ACM and NVE-RME have been unable to reach coordinated decisions in this case within the six months decision period of Article 30(2) of the FCA Regulation. In this letter ACM requests ACER to extend the period to reach coordinated decisions with six months. NVE-RME will send a similar request to the EFTA Surveillance Authority (ESA).

Below, I will first explain the background of this case. Then, I will inform you of ACM's assessment and the process and agreement to extend the decision period with NVE-RME. Lastly, you will find ACM's request to ACER to extend the period to reach coordinated decisions.

Background

Article 30, paragraph 2, of the FCA Regulation stipulates that, if long-term transmission rights do not exist on a bidding zone border at the entry into force of the FCA Regulation, the competent regulatory authorities of the bidding zone border shall adopt coordinated decisions on the introduction of long-term transmission rights no later than six months after the entry into force of the Regulation. Since the FCA Regulation is now also applicable in Norway, and the bidding zone border NO2-NL has been included in a capacity calculation region, and no transmission rights are currently offered for the bidding zone border NO2-NL, this Article also applies to the bidding zone border NO2-NL.[1]

As a result thereof, ACM and NVE-RME must, under Article 30 of the FCA Regulation, adopt coordinated decisions for the bidding zone border NO2-NL on whether or not to introduce long-term transmission rights or other long-term cross-zonal hedging products.

The period of six months mentioned in Article 30, paragraph 2, of the FCA Regulation commenced after NVE-RME adopted a decision on 18 August 2023 on the basis of which the inclusion of the bidding zone

[1] In 2021, the FCA Regulation became applicable in Norway after the adoption thereof in the Agreement on the European Economic Area (EEA Agreement). In March 2023, ACER adopted a decision on the inclusion of the bidding zone border between the Netherlands and Norway (hereafter: NO2-NL) to the Hansa capacity calculation region. On 18 August 2023, NVE-RME adopted a decision on the basis of which the inclusion of the bidding zone border NO2-NL to the Hansa capacity calculation region also came into force for the Norwegian transmission system operator Statnett.

border NO2-NL to the Hansa capacity calculation region also came into force for the Norwegian transmission system operator Statnett. The final day of the decision period is thus 18 February 2024.

ACM's assessment

ACM has carried out the assessment as prescribed by Article 30(3) of the FCA Regulation that consist of an evaluation and a consultation.

In the evaluation ACM has specifically investigated if the yearly, quarterly, and monthly products for the Dutch bidding zone that are traded via the exchanges (EEX and ICE Endex) and OTC represent an appropriate hedge against the risk of change in the Dutch day-ahead price (as prescribed by Article 30(4)(a) of the FCA Regulation). ACM concluded that these products represent appropriate hedges against the risk of change in the Dutch day-ahead price.

In the second part of the evaluation ACM has assessed for these products the (i) the trading horizon, (ii) the bid-ask spread, (iii) the traded volumes in relation to physical consumption, and (iv) the open interest in relation to physical consumption (as prescribed by Article 30(4)(b) of the FCA Regulation). ACM used data from the period 1 July 2018 through 31 December 2023 for its assessment of the indicators. Based on this ACM cannot conclude that these products are efficient.

As prescribed by Article 30(3)(a) of the FCA Regulation ACM carried out a consultation with market participants about their needs for cross-zonal risk hedging opportunities on the concerned bidding zone borders.[2] The conclusion of this consultation was that there is a need for cross-zonal risk hedging opportunities for the bidding zone border NO2-NL.[3]

Given the above ACM concludes that there is insufficient basis to be able to conclude that the electricity forward market provides sufficient hedging opportunities for the Dutch bidding zone.

Considering the conclusion in the previous paragraph, ACM must, in accordance with Article 30, paragraph 5, of the FCA Regulation, request TenneT (i) to issue transmission rights, or (ii) to make sure that other long-term cross-zonal hedging products are made available to support the functioning of wholesale electricity markets.

The responses to the consultation have unequivocally shown that the market participants that have responded are favorable to transmission rights. In addition, an introduction of transmission rights on the NO2-NL bidding zone border is also a logical step given the presence of transmission rights on all other Dutch bidding zone borders. Considering the previous, ACM sees as the way forward to request TenneT to issue transmission rights for the bidding zone border NO2-NL.

Process with NVE-RME

ACM has shared its conclusions with NVE-RME. NVE-RME also concludes that there are insufficient hedging opportunities for its bidding zone(s). During several meetings in the last months ACM and NVE-RME have discussed the way forward. It has become clear that, at the moment, ACM and NVE-RME are unable to reach coordinated decisions.

As a way forward, ACM and NVE-RME have agreed to update their analyses in light of upcoming relevant development. In particular, European Energy Exchange AG (EEX) has announced that zonal futures will be introduced in the Nordic market from 25 March 2024. This implies that the same type of products will be offered in Norwegian and Dutch bidding zones. Further, in order to provide sufficient hedging opportunities in NO2, NVE-RME has requested the Norwegian TSO (Statnett SF) to assess other hedging products in

[2] ACM consultation regarding long-term hedging opportunities (FCA Regulation) | ACM.nl.
[3] See Reacties consultatie ACM LT indekkingsmogelijkheden (FCA Verordening) | ACM.nl.

Norwegian bidding zones that are suitable for cross-zonal hedging. ACM and NVE-RME have agreed that it would be beneficial to await this upcoming development in order to take it into consideration in their assessment of hedging opportunities for their bidding zones.

ACM and NVE-RME have specifically agreed on the following next steps, which are deemed necessary to be able to adopt coordinated decisions, in accordance with Article 30(2) of the FCA Regulation:

- ACM will update its analysis of liquidity indicators (churn rate, bid-ask spread, and open interest) for monthly, quarterly, and yearly products for the Dutch bidding zone with data until 30 June 2024;

- ACM will assess whether or not this updated analysis leads to the same or a different conclusion on hedging opportunities for the Dutch bidding zone;

- NVE-RME will update their liquidity analysis with data until 30 June 2024; and

- NVE-RME will assess whether or not this updated analysis leads to the same or a different conclusion on hedging opportunities for the NO2 bidding zone.

If the conclusion of the analysis remains that there are insufficient hedging opportunities in the Dutch bidding zone and/or the NO2 bidding zone, ACM and NVE-RME intend to jointly request respectively ACER (for the EU) and the EFTA Surveillance Authority (for Norway) to take a decision in accordance with Article 30(5) of the FCA Regulation.

Request

Based on the aforementioned, ACM hereby requests ACER to extend the period for ACM and NVE-RME to reach coordinated decisions in accordance with Article 30(2) of the FCA Regulation with six months until 18 August 2024.

The content of this request for a six months extension corresponds to the request for extension made by NVE-RME to the EFTA Surveillance Authority (ESA) by e-mail of 16 February 2024.

We remain available to assist ACER in its preparation of the decision, including by providing any additional information as appropriate.

Yours sincerely,

the Netherlands Authority for Consumers and Markets,

Mr. M. Denkers
Director
Energy Department