

## IFIEC Europe answer to the Targeted Stakeholder Consultation Paper of the European Commission Directorate-General for Energy concerning the Amendments to the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management

IFIEC Europe represents the interests of industrial energy users in Europe for whom energy is a significant component of production costs and a key factor of competitiveness in their activities in both Europe and throughout the world.

IFIEC Europe would like to thank the European Commission for this consultation on an update of the CACM Regulation, which IFIEC Europe has identified as one of the cornerstones of the efforts towards an integrated European electricity market. In this light, IFIEC Europe insists that any modifications to the CACM Regulation are only made with the utmost care and within an endeavour to facilitate market functioning and market integration (thus going beyond mere market coupling) in order to create benefits for consumers in Europe.

### Targeted questions from the European Commission

#### Title I - General provisions

1. While in the original CACM the market coupling was based on exchange of electricity across bidding zones, ACER proposal is based on exchanges of electricity between Nominated Electricity Market Operator (NEMO) trading hubs. ACER concludes that this would make it easier for individual NEMOs in the market to get access to market coupling as they would no longer need to agree on separate multi-NEMO arrangements (MNA) with existing NEMOs/TSOs in a bidding zone. Do you agree with this approach and the stated benefits? If not, why?

*IFIEC Europe is of the opinion that the current approach is not sufficiently efficient nor agile to allow for a good functioning of the markets. IFIEC Europe has no specific preferred option on the approach that should be taken, but wants to reiterate a position it has voiced already in the past concerning market operators. IFIEC Europe takes note of the current situation but has always been more in favour of a single regulated monopolistic market operator as it believes that so-called competition between NEMOs does not bring a lot of added value, while it comes with a lot of costs (and delays because of the very burdensome multi-NEMO arrangements and technical modifications that go hand in hand with them). As order books are in the end shared to come to a market result, IFIEC Europe mostly sees risks (e.g. partial decoupling if one or more NEMOs are not able to link to the common platforms, with potentially big impacts on consumer prices), even from the current proposal of ACER. IFIEC Europe however follows the analysis of ACER on the failures and inefficiencies of the current system and insists that indeed a superior approach should be chosen. In any case, IFIEC Europe strongly opposes any solution that would imply a retrogradation of the current situation towards market functioning.*

2. Publication of information and transparency: do you consider the new article 8 sufficient to address current transparency concerns? Would you see further aspects to tackle or data to be published?

*IFIEC Europe is of the opinion that it is important to provide full transparency on all the results of the market coupling, including all related technical information on a.o. calculation models and outputs, critical network elements, remedial actions (selected and if possible also not-selected) etcetera, including the related costs (if any). IFIEC Europe considers it important that market parties (as well as any other interested parties) can check and validate the market outcomes and ensure that market coupling has been performed correctly. IFIEC Europe is also of the opinion that all this information should be made available in an accessible way and free of charge.*

3. Do you have any other comments on Title I - General Provisions?

*IFIEC Europe wants to stress in general that the amendments to the CACM Regulation should result in better market functioning and under no circumstance should entail any retrogradation as compared to the current situation. IFIEC Europe insists on improvements for both the day-ahead and intraday timeframes (as well as the forward timeframes, which are not governed by this regulation), including cross-border capacity calculations (including recalculations over time towards the realtime, thus also covering the intraday timeframe) based on solid bidding zones (including if necessary bidding zone reviews or other measures to ensure that long-term structural congestions are correctly tackled and do not impede market integration or create inefficiencies and related additional costs for consumers).*

*IFIEC Europe also insists, in general and thus applicable for any of the topics in this consultation, on very tight stakeholder involvement from the earliest stages of discussions, to ensure that not only concerns of stakeholders are taken into account but also that no time is wasted (as has been the case in the past) when proposed solutions are, after a very long development process, considered insufficient by market parties. IFIEC Europe insists that stakeholder involvement goes beyond public consultations, but is rather based on close cooperation and in some cases even cocreation.*

## **Title II - Organisation of market coupling and of capacity calculation**

### Chapter 1 – designation of NEMOs

4. Do you consider the review of national legal monopolies proposed in article 11 a necessary/sufficient measure? Which alternatives would you see?

*IFIEC Europe has no specific opinion on this topic. However, IFIEC Europe would like to refer to its previous comment on a single European regulated monopolistic market operator.*

### Chapter 2 - Market coupling governance and organisation

5. The article 13 sets that NEMOs together with TSOs shall establish a joint decision making body, taking decisions related to the management of the integrated single dayahead and intraday coupling based on the qualified majority voting rules set in article 4. Do you see any risks or inadequacies to this proposal? If so, what alternative/improvement would you suggest?

*IFIEC Europe has no specific position on this topic. However, IFIEC Europe insists that the governance for the market coupling organisation includes oversight from ACER and the NRAs, in order to ensure that the interests of the market parties are maintained in focus and that the cost structure is as efficient as possible. Furthermore, IFIEC Europe insists that stakeholders are also consulted and otherwise involved.*

6. The article 14 provides for the establishment of a single legal entity performing the MCO tasks. In your view, what would be the challenges and conditions for a successful set-up? Do you have any suggestions to improve the current proposal (for example in terms of accountability/liability of the entity, regulatory oversight, efficient and effective decision making, etc.) ?

*IFIEC Europe has no specific position on this topic. However, IFIEC Europe insists that the governance for the market coupling organisation includes oversight from ACER and the NRAs, in order to ensure that the interests of the market parties are maintained in focus and that the cost structure is as efficient as possible. Furthermore, IFIEC Europe insists that stakeholders are also consulted and otherwise involved.*

7. If no single legal entity were set up, would you have further proposals to improve the current governance framework (including current voluntary set up), and strengthen effectiveness of the decision making process?

*IFIEC Europe has no specific position on this topic. However, IFIEC Europe insists that for whichever the chosen solution the (cost) efficiency is one of the main criteria. If no single legal entity were to be set up, it should be avoided that any alternative solution would create operational but also financial risks and other negative effects.*

8. Article 16 proposes a framework for a NEMO of last resort in case no NEMO is operating in a bidding zone: Would you suggest other alternatives?

*IFIEC Europe has no specific position on this topic.*

9. Do you have any suggestions on how regulatory oversight can be further improved, in order to ensure a smooth and efficient development of the market coupling?

*IFIEC Europe has no specific position on this topic. However, IFIEC Europe insists that stakeholders are also consulted and otherwise involved throughout the decision-making and oversight processes.*

#### Chapter 3 - MCO tasks and responsibilities

10. Do you agree with the proposed definition of tasks and responsibilities, and their assignment to the different entities? If not, what would you change and why?

*IFIEC Europe has no specific position on this topic.*

#### Chapter 4 - Costs

11. Do you consider the new methodology on eligible costs of MCO and joint decision making body will increase transparency and help to improve the current cost sharing/cost recovery process? Do you have suggestions for improvement?

*IFIEC Europe insists that eligibility of costs is scrutinized closely and that only those costs which are efficient are to be included in the costs for consumers. As stated above, IFIEC Europe has no specific opinion on how the market coupling should be organised in the future. However, IFIEC Europe, in line with the analysis of ACER, considers the current approach to be burdensome, slow and cost inefficient and insists that lessons learned are applied in order to create a much more flexible and agile approach.*

12. Do you detect any risks in the current cost sharing/recovery provisions, or have any suggestions for improvement?

*IFIEC Europe insists that all costs are considered for their efficiency, in order to avoid unnecessary gold-plating, and that only those efficient costs are shared that are related to the furthering of market integration and that all other costs are rejected.*

13. Do you have any other comments on Title II- Organisation of market coupling and of capacity calculation?

### **Title III - Capacity calculation**

#### Chapter 1 – General requirements

14. Do you agree with ACER's reasoning and necessity for allowing some specific bidding zone borders to be in two Capacity Calculation Regions (CCRs)? If not, why and which alternative do you propose to solve the underlying problems?

*IFIEC Europe has no specific position on this topic, but understands that a solution has to be provided. IFIEC Europe in any cases insists that, whichever the chosen solution, this will not represent a retro-*

*gradation compared to the current situation. Furthermore, IFIEC Europe also insists that in any process regarding capacity calculation, it considers it extremely important to provide as much cross-border capacity as soon as possible in the forward markets in order to allow for efficient hedging. As time continues towards the realtime timeframe, capacity calculations should be redone in order to provide as much additional cross-border capacity as possible for market integration and this including at least also the intraday timeframe. IFIEC Europe wants to avoid to have unused cross-border capacity that could have provided a better market integration outcome and considers this an important element in the determination of capacity calculation regions and all related discussions.*

## Chapter 2 - Capacity calculation methodologies and Chapter 3 – Capacity calculation process

15. The Electricity Regulation 2019/943 (article 16(8)) requires that a minimum target apply to capacity calculation timeframes covered by CACM Regulation, which means day-ahead and intraday market coupling: Which solution do you propose to solve any issue related to the implementation of this target across these timeframes?

*IFIEC Europe has no specific position on this topic. IFIEC Europe in any cases insists that, whichever the chosen solution, this will not represent a retro-gradation compared to the current situation.*

16. In article 27 and 32, option 1 seeks to better align flow-based and coordinated NTC methodologies. ACER concludes that this would improve transparency, reporting and monitoring of 70% requirements. Do you see any risk in this approach?

*IFIEC Europe has no specific position on this topic. However, IFIEC Europe wants to stress that it does not see any risks which would be more important than the benefits that are brought by applying a minimum target.*

## Third countries

17. Under which conditions the flows resulting from capacity calculation and allocation with third countries could be counted within the 70% of minimum capacity of critical network elements that needs to be offered to the market? Please motivate your response: why and under which conditions?

*IFIEC Europe has no specific position on this topic. IFIEC Europe nevertheless insists that any choice made should focus on the positive impact for market integration.*

*In any case, IFIEC Europe wants to point out that as consumers pay for 100% of the cross-border capacity, also with third countries, as much as possible cross-border capacity should be given as early as possible. IFIEC Europe also considers the minimum 70% minRAM to be an absolute minimum from which can only be deviated for specific reasons and for a limited period in time, under regulatory oversight.*

18. How to ensure proper coordination of capacity calculation and allocation on borders with third countries and that there is no discrimination towards internal EU trade?

*IFIEC Europe is of the opinion that third countries should be integrated to the greatest possible extent into the capacity calculation procedures in order to increase market integration and provide more benefits for consumers.*

19. Do you have any other comments on Title III- capacity calculation?

## Title IV - Market coupling

### Chapter 1 - Market coupling development

20. Regarding the SDAC and SIDC algorithm, do you agree that the algorithms' source codes should be published? Which benefits in particular would you see in the algorithm code publication? Which risks? Do you have any alternative proposals?

*IFIEC Europe has no specific position on this topic. However, IFIEC Europe wants to stress that all developments have been paid for, in fine, by consumers and as such should be used in a way that creates the largest possible benefits for them, up to sharing source code if such point is deemed to create additional value.*

21. Regarding algorithm objectives, what are your views on the possibility to introduce non-uniform pricing? Which benefits and drawbacks?

*In principle, IFIEC Europe is not in favour of non-uniform pricing. This should only be allowed in case there is a very clear benefit towards market integration, as it will lead to extra costs for consumers. Moreover, IFIEC Europe insists that these costs are as much as possible limited both in size and duration.*

22. Regarding the suspension of intraday continuous trading during intraday auctions, would you favour suspending all continuous trading (national and cross-zonal) or only cross-zonal continuous trading? Why? Do you have further views on the introduction of intraday auctions?

*IFIEC Europe, as already voiced in the past, is not in favour of intraday auctions as they interrupt continuous trading, which presumably reduces the efficiency of the system. On this specific topic, IFIEC Europe has nevertheless no specific position.*

23. Would you find it useful to centralize clearing and settlement between NEMO trading hubs (even if there is no single legal entity) and why/why not? (Please note that this refers to clearing and settlement between NEMOs or NEMOs and MCO and not to clearing and settlement between NEMOs and its clients).

*IFIEC Europe has no specific position on this topic.*

24. Do you have any other comments on Title IV- market coupling?

*IFIEC Europe wants to refer to its position on the firmness of capacity. While it is important that firmness of allocated capacity is guaranteed or reimbursed in almost all instances, IFIEC Europe sees one exception and that is in case of decoupling in the markets due to a non-physical cause (e.g. IT failure), as guaranteeing firmness or reimbursing based on market spreads could become extremely expensive (and paid for by consumers), while a decoupling which is not caused by a physical incident can always be remedied away in subsequent time periods (which is not necessarily possible in case of a physical incident such as a line failure). As such, IFIEC Europe would propose to amend article 57/72 to reflect this exception.*

**Title V - Bidding zone review process In the Commission's view, some further adaptations are needed to this chapter to fully align the CACM text with the bidding zone review process defined in the Electricity regulation.**

25. In addition, further clarification could be provided on the process when one Member State intends to review its internal bidding zones or establish a new bidding zone to improve locational price signals. Do you agree and what are the most important considerations in these cases?

*IFIEC Europe has no specific position on this topic. However, IFIEC Europe insists on a good definition of solid bidding zones in order to ensure that the value from market integration for consumers is maximised.*

26. In order to reach the decarbonisation targets, a significant rollout of offshore renewable energy is expected, and the TEN-E Regulation sets out the process for developing integrated offshore network development plans for each sea-basin. Do you agree that these plans should be used as a basis for establishing or reviewing offshore bidding zones, instead of doing so on an ad-hoc basis as projects are developed? If not, why not and what alternatives do you propose?

*IFIEC Europe has no specific position on this topic. Nevertheless, IFIEC Europe considers CACM a market design which ensures that markets deliver a correct and fair price for producers and consumers alike. Any imposed deviations away from this market design unavoidably lead to welfare losses and undesired secondary effects.*

27. Do you have any other comments on Title V- Bidding zone review process?

#### **Title VI - Reporting and implementation monitoring**

28. In article 62 detailing the regular reporting on current bidding zone configuration by ENTSO-E, it is envisaged to introduce an objective criterion for reporting purposes. Do you agree with the proposal to define a threshold for frequency of occurrence when reporting on structural congestion, to ensure consistency in reporting among Member States? If not, why and which alternative do you propose?

*IFIEC Europe has no specific position on this topic. However, IFIEC Europe finds it more important that this topic is treated with care, as a pre-defined threshold might lead to the inclusion or exclusion of elements leading to future structural congestion (or de-congestion) and as such might not lead to the desired outcome towards market integration. Moreover, structural congestion might vary or shift over time, even in some case due to investments to alleviate other congestions (or might appear as a result of such endeavours elsewhere). IFIEC Europe thus suggests to not restrict this topic to a pre-defined value but also allow for a more discretionary approach on top of the proposed criterion. IFIEC Europe also insists that stakeholders are closely involved in this topic.*

29. Do you have any other comments on Title VI- Reporting and implementation monitoring?

#### **Provisions moved to Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation**

30. The new article 76 “Proposal for regional operational security coordination” envisages two options for sharing of costs of remedial actions, one simply referring to article 16(13) of the Electricity Regulation, the other providing more detail in its interpretation. Which option do you favour and why?

*IFIEC Europe is in favour of Option 2, as it would allow to anchor the cost sharing principles currently applied in the CORE region based on the ACER decision in the CACM Regulation. IFIEC Europe thus supports the option proposed by ACER and some regulatory authorities in order to remove all ambiguities following article 16(13) of the Electricity Regulation and thus preventing further legal disputes. IFIEC Europe also insists that stakeholders are closely involved in this topic.*

#### **Other comments:**

31. Do you find any gaps in the current ACER proposal (for example, due to existing provisions in the original CACM that are not reflected in the current text following its restructuration). If so, which ones?