

**Approval by all Regulatory Authorities
agreed at the Energy Regulators' Forum**

on

**the all NEMOs' Proposal for products that can be taken
into account by NEMOs in single day-ahead process in
accordance with Article 40 of Commission Regulation
(EU) 2015/1222 of 24 July 2015 establishing a Guideline
on Capacity Allocation and Congestion Management**

23 January 2018

I. Introduction and legal context

This document elaborates an agreement of All Regulatory Authorities, agreed at the Energy Regulators' Forum on 23 January 2018, on the **all NEMOs' Proposal for products that can be taken into account by NEMOs in single day-ahead process in accordance with Article 40 of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management** (hereafter referred to as respectively "the DA Product Proposal" and "Regulation 2015/1222"), as submitted in December 2017.

This agreement of all Regulatory Authorities shall provide evidence that a decision on the amended DA Product Proposal does not, at this stage, need to be adopted by ACER pursuant to Article 9(11) of Regulation 2015/1222. This agreement is intended to constitute the basis on which All Regulatory Authorities will each subsequently adopt a decision to the DA Product Proposal pursuant Article 9(6)(h).

The legal provisions relevant to the submission and approval of the DA Product Proposal can be found in Articles 3, 9, 12 and 40 of Regulation 2015/1222.

Article 3 of Regulation 2015/1222:

This Regulation aims at:

- (a) Promoting effective competition in the generation, trading and supply of electricity;*
- (b) Ensuring optimal use of the transmission infrastructure;*
- (c) Ensuring operational security;*
- (d) Optimising the calculation and allocation of cross-zonal capacity;*
- (e) Ensuring fair and non-discriminatory treatment of TSOs, NEMOs, the Agency, regulatory authorities and market participants;*
- (f) Ensuring and enhancing the transparency and reliability of information;*
- (g) Contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union;*
- (h) Respecting the need for a fair and orderly market and fair and orderly price formation;*
- (i) Creating a level playing field for NEMOs;*
- (j) Providing non-discriminatory access to cross-zonal capacity*

Article 9 of Regulation 2015/1222:

1. TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the competent regulatory authorities within the respective deadlines set out in this Regulation. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO or NEMO, the participating TSOs and NEMOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, and all NEMOs shall regularly inform the competent regulatory authorities and the Agency about the progress of developing these terms and conditions or methodologies.

2. (...)

3. (...)

4. (...)

5. *Each regulatory authority shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6, 7 and 8.*

6. *The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities:*

(a) (...)

(..) (...)

(h) *products that can be taken into account by NEMOs in the single day-ahead and intraday coupling process in accordance with Articles 40 and 53;*

(m) (...)

7. (...)

8. (...)

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

10. *Where the approval of the terms and conditions or methodologies requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, within six months following the receipt of the terms and conditions or methodologies by the regulatory authority or, where applicable, by the last regulatory authority concerned.*

11. (...)

12. *In the event that one or several regulatory authorities request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6, 7 and 8, the relevant TSOs or NEMOs shall submit a proposal for amended terms and conditions or methodologies for approval within two months following the requirement from the regulatory authorities. The competent regulatory authorities shall decide on the amended terms and conditions or methodologies within two months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraphs (6) and (7) within the two-month deadline, or upon their joint request, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within six months, in accordance with Article 8(1) of Regulation (EC) No 713/2009. If the relevant TSOs or NEMOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 of this Article shall apply.*

13. (...)

14. *TSOs and NEMOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 13.*

Article 12 of Regulation 2015/1222:

1. *TSOs and NEMOs responsible for submitting proposals for terms and conditions or methodologies or their amendments in accordance with this Regulation shall consult stakeholders, including the relevant authorities of each Member State, on the draft proposals for terms and conditions or methodologies where explicitly set out in this Regulation. The consultation shall last for a period of not less than one month.*
2. *The proposals for terms and conditions or methodologies submitted by the TSOs and NEMOs at Union level shall be published and submitted to consultation at Union level...*

Article 40 of Regulation 2015/1222:

1. *No later than 18 months after the entry into force of this Regulation NEMOs shall submit a joint proposal concerning products that can be taken into account in the single day-ahead coupling. NEMOs shall ensure that orders resulting from these products submitted to the price coupling algorithm are expressed in euros and make reference to the market time.*

2. *All NEMOs shall ensure that the price coupling algorithm is able to accommodate orders resulting from these products covering one market time unit and multiple market time units.*

3. *By two years after the entry into force of this Regulation and in every second subsequent year, all NEMOs shall consult, in accordance with Article 12:*

(a) market participants, to ensure that available products reflect their needs;

(b) all TSOs, to ensure products take due account of operational security;

(c) all regulatory authorities, to ensure that the available products comply with the objectives of this Regulation.

4. *All NEMOs shall amend the products if needed pursuant to the results of the consultation referred to in paragraph 3.*

II. The DA Product Proposal

NEMOs jointly submitted a proposal concerning products that can be taken into account in the single day-ahead coupling. The All NEMO DA Product Proposal, dated 14 February 2017, was received by the last Regulatory Authority on 16 February 2017.

On 14 August 2017, all NRAs issued a Request for Amendment to the DA Product Proposal.

The amended version of the All NEMO DA Product Proposal, dated 13 November 2017, was received by the last Regulatory Authority on 1 December 2017. The proposal includes a proposed timescale for its implementation and a description of its expected impact on the objectives of Regulation 2015/1222.

Regulation 2015/1222 requires All Regulatory Authorities to consult and closely cooperate and coordinate with each other in order to reach agreement, and make decisions within six months following receipt of submissions of the last Regulatory Authority concerned and on the amended terms and conditions or methodologies within two months following their submission. A decision is therefore required by each Regulatory Authority by 1 February 2018.

III. All Regulatory Authorities' position

a) On Editing

All Regulatory Authorities acknowledge that NEMOs have substantially improved the DA Product Proposal compared to the initial version.

b) On Article with definitions

All Regulatory Authorities requested NEMOs to include an article with definitions and reference the MCO Plan where appropriate. The amended NEMO proposal is regarded compliant with both of these requests.

c) On compliance with Article 3

The DA Product Proposal comprises a description of its expected impact on the objectives of Regulation 2015/1222. All NRAs noted that local regulatory constraints on market design were stated to be taken into account in the initial proposal. Further it was requested to make a reference to relevant regulations and comment on the potential impact on the compliance with Regulation 2015/1222 Article 3. All NEMOs have addressed the request by deleting the text on local regulatory constraints. All NRAs consider the approach sufficient in respect to the Request for Amendment.

d) On the implementation timeline

All Regulatory Authorities raised concerns in the Request for Amendment that the proposed timeline was not justified and further information on dependencies with other methodologies was needed. All NEMOs have revised the proposal decreasing the dependencies and provided a new implementation time line which will be after the approval by the NRAs of the DA Products Proposal, and with respect to the operation of the SDAC immediately after the MCO function has been implemented in accordance with the approved MCO Plan. The revised plan is regarded in line with the Request for Amendment.

e) On orders for one and several market time units

All Regulatory Authorities noted in the Request for Amendment that the initial DA Product Proposal was prescribing orders based on the current market time unit of one hour while the price coupling algorithm should be able to accommodate orders from the products for one market time unit and multiple time units. All NEMOs have taken the request into account and the DA Product Proposal now refers to market time units.

f) On accommodated products and changes based on defined products

All Regulatory authorities concluded in the Request for Amendment that the products defined in the DA Products Proposal form a framework of functionalities. Within this framework any product or combination of products can be applied without changing the proposal itself. This ensures that processes for introducing new products can be done with a minimum of bureaucracy. Further it was requested that the DA Product Proposal should state that for the introduction of new products based on the functionalities in the product list or a combination of functionalities should not require regulatory approval. However, any change in functionalities which result in a change to the DA Products Proposal approved by All Regulatory Authorities would require an amendment procedure according to article 9(13) of Regulation 2015/1222. All NEMOs have not explicitly included the consideration in the DA Product Proposal but refer to the Algorithm Proposal for change management. As the setup of Regulation 2015/1222 implies that changes done within the frame of the methodology not changing the method does not require approval by all Regulatory Authorities the approach taken by NEMOs is acceptable.

IV. Actions / conclusion

All Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to reach the agreement that the DA Product Proposal meets the requirements of Regulation 2015/1222 and as such can be approved by all Regulatory Authorities.

All Regulatory Authorities must therefore make their decisions, on the basis of this agreement, by 1 February 2018. The DA Product Proposal will be adopted upon the decision of the last Regulatory Authority concerned.

Following the national decisions by all Regulatory Authorities, all NEMOs will be required to publish the DA Product Proposal as approved, in line with Article 9(14) of Regulation 2015/1222. All NEMOs must respect the implementation deadlines provided in Article 5 of the DA Product Proposal.