



- Consultation Response –

Public consultation on the ACER decision on harmonised allocation rules for long-term electricity transmission rights

Brussels, 26 September 2023

Do you consider Option 1, using the average value of the market spread, an acceptable solution?

Strongly disagree.

In your opinion, what is the preferred method on how to address the described issue of collateral requirements, which could still be implemented by the deadline of November 2024?

Before answering this question, we would like to remind that according to the Article 30 of the Forward Capacity Allocation (FCA) Guideline, TSOs can issue LTTRs pending the NRA's assessment of "whether the electricity forward market provides sufficient hedging opportunities in the concerned bidding zones", considering the markets participants' "needs for cross-zonal risk hedging opportunities on the concerned bidding zone borders". As such, the FCA recognises that market-based tools designed as obligations (e.g., Nasdaq's EPADs, EEX's locational spread contracts and equivalent contracts traded bilaterally/OTC) can provide sufficient cross-border hedging possibilities for market participants. These products are very valuable to forward markets, as their availability is not limited by transmission capacities.

In addition, we remind that LTTRs serve as a complementary instrument to market-based hedging tools. Differently from market-based tools for hedging cross-border risk, LTTRs are only issued up to a portion of the calculated maximum capacity to limit the losses for TSOs. Hence, LTTRs support cross-border hedging only to a certain extent. This is the case regardless which capacity calculation is used, namely the current (NTC) capacity calculation method or the flow-based method. Finally, it is unclear whether in the future LTTRs would be designed as options or obligations. This is a key element for further discussion.

Having said that, we are also sceptical about the need to introduce LTFBA without having a proper impact assessment outlining the benefits and costs of such a drastic change. It remains highly questionable whether LTFBA will improve forward hedging opportunities for market participants, and overall, the functioning of forward markets.

Moreover, the introduction of LTFBA will create unequal treatment between different borders. It is unclear whether the allocated capacities under LTFBA will be larger than the current NTC methodology. Due to the flow-based optimisation, allocated capacity per border varies over time and the very long lead time of the auctions (one year or more head) increases the uncertainty, leading to higher contingency in the Flow Reliability Margins. Furthermore, the simulations of ACER indicate that the capacity which different borders receive under LTFBA differ greatly, some of them even being allocated 0 capacity, even at time of clear price spreads between relevant adjacent bidding zones (i.e., exactly the times when the market participants need cross-border hedging possibilities the most). There is no plausible reason, why the hedging possibilities of market participants should be limited by physical capacity in the first place. Equally, there is no rational reason why the hedging possibilities should differ so greatly between borders, and certainly not at times of large price spread which indicates that the exchange at these borders would create high economic benefits.

However, the mere availability of LTTRs is not the only problem that is exacerbated by the introduction of LTFBA. This issue combined with the fact that LTTRs for all borders would be auctioned at the same time leads to an additional risk for market participants. These would bear the risk of being awarded a transmission right for one border, but not for another one, when a combination of two (or more) LTTRs might have been needed.

Having said that, we believe that LTFBA should only be introduced when all these severe issues are addressed, and not by the imposed deadline of November 2024. ACER should focus on implementing the most efficient, secure and fair method to address the issue of collateral requirements rather than opting for a second-best solution only to respect the deadline. Furthermore, we are not convinced that the challenges indicated by ACER to consider better models for determining collateral calls (e.g., evaluation of existing market-based transparent forward/future prices) would be a blocking point for the application of the November 2024 deadline, in case this was upheld.

In conclusion, we not only have doubts on the need to introduce LTFBA but also oppose the proposed solution to cap the prices for collateral calculation – as explained in the following question 3.

If such model and cap are implemented nonetheless, it would be more accurate to use the actual observed forward market spread for calculation of the cap, meaning using current and not historic prices.

Do you have any comments on the TSOs' proposal for the cap calculation?

Europex believes that capping the prices used for collateral calculation exacerbates the lack of a level-playing field between LTTRs and market-based cross-border hedging instruments such as EPADs or locational spread contracts. While exchanges are forced to assess and secure the real risk of all exchange-traded products, the risk of LTTR trading would be transferred from market participants to TSOs, thus, to grid tariff payers. It is highly questionable why grid

tariff payers should bear this additional cost. In addition, the LTTR volume purchased by the “defaulting” market party will have a direct impact on the determined marginal price for all LTTRs in a given auction. As such, this bears the risk of causing a price distortion if the party is released from its obligations, in case the volume given up is not distributed based on the marginal price of the remaining participants in the given LTTRs auction.

Nonetheless, in case the cap was applied, since LTTRs auctions concern forward maturities, it would be more adequate to use actual observed forward market spread for the calculation of the cap, meaning use current and not historic prices.

Lastly, as also admitted by ACER in the 5 September workshop, using forward market prices would be a better option than using day-ahead prices, since using past day-ahead prices for the collaterals calculation does not reflect the reality of bidding in the forward market.

Do you consider Option 2 of using forward prices an acceptable solution?

Agree.

If you agree, please provide a detailed description on how you consider the calculation of the price cap using forward prices can be done in the best way possible (i.e., how should the described problems be addressed most efficiently).

If regulators were to introduce the cap, willingly accepting that related risks and costs are transferred from market participants to the grid tariff payers, it should be set according to forward spreads observed as close to the auction as possible, yearly spread for year-ahead auction and quarterly/monthly/weekly spread for quarter/month/week-ahead auction.

Do you consider that Option 3 should be further explored as a long-term solution (i.e., after the go-live of the first LTFBA auctions)?

Disagree.

Do you have any other comments concerning Option 3?

Europex believes that ex-post bid filtering is not a transparent solution to address the collateral requirements issue. Any filtering should be made upfront, before the auction is performed. Even on that basis, it is difficult to assess how bid filtering could be made in a sufficiently transparent, efficient and fair manner.

Do you have any comments on the proposed timing for publishing the cap on collaterals?

Enough time should be given to market participants on the calculated cap, namely few days rather than few hours. That said, as explained in previous questions, we have strong reservations against the proposed model for capping collaterals. Moreover, we are also

concerned that the cap determination based on pre-existing or expected spot market bidding zone price spread could markedly influence the bidding behaviour of market parties. Moreover, we see the risk of TSOs providing estimates of short-term prices that would be published possibly before that these spot prices have even been set.

Do you have any comments on strengthening the sanctioning regime as proposed by ACER?

Europex is concerned that the sanctioning regime currently proposed might not be strict enough to avoid market manipulation. Whereas we believe it is reasonable to exclude firms from auctions, it remains highly problematic that the respective market participant may be relieved from the payment obligation.

Do you have any comments on other amendments proposed by the TSOs?

For the reasons outlined in question 2, while flow-based capacity calculation is applied for large regional portions of SDAC, it does make little sense to implement it in long-term markets. If it is implemented nevertheless, capping collateral requirements would create unfair competition between LTTRs and market-based cross-border hedging instruments. As such, we would call for a full collateralisation of the risk.

About

Europex is a not-for-profit association of European energy exchanges with 34 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

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