

Annex 1

Border Specific Annex for the bidding zone border Ukraine - Romania to the Harmonised allocation rules for long-term transmission rights in accordance with Article 51 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation

TSOs of Romania and Ukraine, taking into account the following,

Whereas

1. On 15 December 2022 the Decision of the Ministerial Council of Energy Community (D/2022/03/MC-EnC) on the incorporation of Regulation (EU) 2019/942, Regulation (EU) 2019/943, Regulation (EU) 2015/1222, Regulation (EU) 2016/1719, Regulation (EU) 2017/2195, Regulation (EU) 2017/2196, Regulation (EU) 2017/1485 in the Energy Community acquis, amending Annex I of the Energy Community Treaty, and on the amendments of the Ministerial Council Decisions No 2021/13/MC-EnC and No 2011/02/MC-EnC was adopted (hereinafter “EnC Ministerial Council Decision”).
2. The EnC Ministerial Council Decision defines inter alia Capacity Calculation Region Eastern Europe (hereinafter “EE CCR”) as one of the CCRs of the Energy Community with the Ukraine-Hungary, Ukraine-Slovakia and Ukraine-Romania bidding zone borders being a part of the EE CCR. However, while bidding zone borders Ukraine-Hungary, Ukraine-Slovakia and Ukraine-Romania are part of the EE CCR, at the time of drafting this Annex the EE CCR itself as a capacity calculation region (hereafter referred to as “CCR”) is not yet part of the CCRs under the Determination of Capacity Calculation Regions in accordance with Article 15(1) of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management since it is not mentioned in Annex 1 of the “Decision No 04/2024 of the European Union Agency for the Cooperation of Energy Regulators of 19 March 2024 on the amendment to the Determination of Capacity Calculation Regions”.
3. In accordance with Article 4 of the HAR, regional or border specificities may be introduced for one or more bidding zone borders. However, since the EE CCR is not included in the above-mentioned Determination of Capacity Calculation Regions, Article 51 FCA is not as such applicable to the Ukraine-Hungary, Ukraine-Slovakia and Ukraine-Romania bidding zone borders.
4. The purpose of this Annex is to apply the HAR (as amended by the respective annexes) to the bidding zone borders Ukraine-Hungary, Ukraine-Slovakia and Ukraine-Romania, which are not part of any CCR under the current Determination of Capacity Calculation Regions, i.e. to the bidding zone border between Private Joint Stock Company “National Power Company UKRENERGO” (hereafter Ukrenergo) and MAVIR ZRt. (hereafter MAVIR), resp. Ukrenergo and Slovenská elektrizačná prenosová sústava, a.s. (hereafter SEPS) and to CNTEE Transelectrica SA (hereafter Transelectrica).

TITLE 1

General provisions

Article 1

Subject matter, scope, effective date and application

1. This Annex (hereafter referred to as the “Annex”) to the Harmonised allocation rules for long-term transmission rights (hereafter referred to as “HAR”) is related to the Article 51 of Commission Regulation (EU) 2016/1719 establishing a guideline on forward capacity allocation (hereafter referred to as the “FCA Regulation”), which allows for regional and bidding zone border specificities to be introduced to the HAR.
2. The purpose of this Annex to the HAR is to apply the HAR (as amended by this Annex) to the bidding zone border Ukraine-Romania, which is not part of any CCR under the current Determination of Capacity Calculation Regions, i.e. to the bidding zone border between Private Joint Stock Company “National Power Company UKRENERGO” (hereafter Ukrenergo) and CNTEE Transelectrica SA (hereafter Transelectrica).
3. Rules described in this Annex are governed by the applicable law of the HAR, without prejudice to the approval of national regulatory authorities, which may be governed by the national legislation.
4. References to TSO or Transmission System Operator include references to EU TSOs and TSOs from contracting parties of the Energy Community Treaty. References to NRA or National Regulatory Authority include references to NRAs of the European Union and NRAs from contracting parties of the Energy Community Treaty.
5. This Annex enters into force in accordance with the applicable national regulatory regime and shall be applied for the purpose of monthly capacity allocation as per notice of the allocation platform.
6. This Annex may be reviewed based on request of the relevant NRAs. In case this Annex needs to be amended based on a decision of the relevant NRAs, Article 68 of the HAR shall apply.
7. If there is an inconsistency between any of the provisions in the main body of the HAR and this Annex, the provisions in this Annex shall prevail. The terms used in this Annex are defined in the HAR to which this Annex is attached.
8. The allocation platform on the border between bidding zones of Transelectrica and Ukrenergo shall be provided by JAO S.A.

Article 2

Definitions and interpretation

1. The term single allocation platform is replaced by the term allocation platform in whole document with the following meaning:
Allocation platform stands for JAO S.A., the Joint Allocation Office;

TITLE 2

Curtailment

Article 3

Triggering events and consequences of curtailment on long-term transmission rights

1. In deviation to paragraph 3 of Article 56 of the HAR, this Article 3 shall apply.
2. Long-term transmission rights may be curtailed after the day-ahead firmness deadline in the case of force majeure or emergency situation in accordance with Article 72 of the CACM Regulation. 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 PTRs and compensated in accordance with the applicable legislation.

Article 4

Compensation for curtailments to ensure operation remains within operational security limits before the day ahead firmness deadline

1. In deviation to paragraph 1 of Article 59 of the HAR, this Article 4 shall apply.
2. In cases of curtailment to ensure operation remains within operational security limits 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 the marginal price of the initial auction.

Article 5

Reimbursement for curtailments due to force majeure before the day ahead firmness deadline

1. In deviation to Article 60 of the HAR, this Article 5 shall apply.
2. In the event of force majeure before the day ahead firmness deadline, holders of curtailed long-term transmission rights shall be entitled to receive a reimbursement 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 the marginal price of the initial auction.

Article 6

Reimbursement or compensation for curtailments due to force majeure or emergency situation after the day ahead firmness deadline

1. In deviation to Article 61 of the HAR, this Article 6 shall apply.
2. In the event of force majeure or an emergency situation after the day ahead firmness deadline, holders of curtailed long-term transmission rights shall be entitled to receive a reimbursement 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 the marginal price of the initial auction.

TITLE 3

Design of long-term transmission rights

Article 7

Type of long-term transmission rights

In accordance with Article 4 of the HAR, the type of long-term transmission rights that shall be applied on bidding zone border Ukraine-Romania is physical transmission rights pursuant to UIOSI principle.

Article 8

Forward capacity time frames

1. This Article 8 excludes the application of paragraphs 1-2 of Article 28 of the HAR.
2. Long-term transmission rights on bidding zone border Ukraine-Romania shall be issued for the monthly forward capacity timeframe, organising at least one auction per month.

TITLE 4

Further bidding zone border specific requirements

Article 9

Force majeure

1. This Article 9 complements Article 73 of the HAR.
2. It is being understood that the state of war declared by the Decree No 64/2022 of the President of Ukraine dated 24 February 2022, or any future similar decrees, does not automatically constitute force majeure exempting a party from the legal consequences of a breach of the HAR. The party invoking the force majeure shall prove that the current state of war directly caused the damage, resulted from unforeseen circumstances beyond its control, and ultimately rendered it impossible for this party to fulfil, temporarily or permanently, its obligations. Furthermore, the invoking party must show that it had no reasonable means for preventing or mitigating the damage.