

**DECISION No 07/2023  
OF THE EUROPEAN UNION AGENCY  
FOR THE COOPERATION OF ENERGY REGULATORS**

**of 22 March 2023**

**on the TSOs' proposal for amendments to the methodology for sharing  
Firmness and Remuneration Costs (FRC) of long-term transmission rights**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY  
REGULATORS,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators<sup>1</sup>, and, in particular, Article 5(2)(b) thereof,

Having regard to Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation<sup>2</sup>, and, in particular, Articles 4(5), 4(6)(g), 4(12) and 61 thereof,

Having regard to the outcome of the consultation with the concerned regulatory authorities and transmission system operators,

Having regard to the outcome of the consultation with ACER's Electricity Working Group,

Having regard to the favourable opinion of the Board of Regulators of 17 March 2023, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

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<sup>1</sup> OJ L 158, 14.6.2019, p. 22.

<sup>2</sup> OJ L 259, 27.9.2016, p. 42.

## **1. INTRODUCTION**

- (1) Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (the ‘FCA Regulation’) lays down rules on cross-zonal capacity allocation in the forward markets. These rules include requirements for a methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights (‘LTTRs’), developed by all transmission system operators (‘TSOs’) in accordance with Article 61 of the FCA Regulation (‘FRC methodology’).
- (2) On 23 April 2020, all TSOs submitted to ACER their proposal for the FRC methodology. On 23 October 2020, ACER approved the FRC methodology with amendments. Following an appeal and remittal of ACER’s decision by ACER’s Board of Appeal,<sup>3</sup> ACER replaced the contested decision with Decision 12/2021 of 4 October 2021.
- (3) Upon ACER’s request, on 28 September 2022, all TSOs submitted to ACER a proposal for amendment of the FRC methodology, as approved by ACER Decision 12/2021.
- (4) The present Decision concerns all TSOs’ amendment proposal of 28 September 2022. Annex I to this Decision sets out the FRC methodology pursuant to Article 61 of the FCA Regulation, as amended and approved by ACER.

## **2. PROCEDURE**

- (5) In a letter dated 12 July 2021, ACER requested all TSOs under Article 4(12) of the FCA Regulation, to submit, as soon as possible, and no later than 1 June 2022, their proposals for amendments of four methodologies listed in Article 4(6), points (c), (d), (e) and (g) of the FCA Regulation for ACER’s approval. As argued in ACER’s letter, amending these methodologies, including the FRC methodology, was necessary to allow for a timely implementation of the long-term flow-based auctions in the Core and Nordic capacity calculation regions (‘CCRs’). The European Network of Transmission System Operators for Electricity (‘ENTSO-E’) asked ACER, on behalf of all TSOs, to postpone the submission date for the relevant proposals, to which ACER agreed in a letter dated 26 January 2022. The new submission date for the proposed amendments to the FRC methodology was 1 October 2022.
- (6) On 28 September 2022, ENTSO-E, on behalf of all TSOs, submitted to ACER an ‘All TSOs’ proposal for amendment of the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights in accordance with Article 61 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation’ (‘Proposal’), along with a list of submitting TSOs.

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<sup>3</sup> Decision A-009-2020 of 19 April 2021.

- (7) On 26 October 2022, ACER launched a public consultation on the Proposal, inviting all stakeholders to submit their comments by 28 November 2022. Annex II to this Decision provides a summary and evaluation of stakeholders' responses.
- (8) Between 28 September 2022 and 6 February 2023, ACER held regular discussions concerning the Proposal with the TSOs and the regulatory authorities. In particular, the following procedural steps were taken:
- 30 September 2022: discussion with the TSOs and regulatory authorities at the FCA coordination group meeting<sup>4</sup>;
  - 8 November 2022: discussion with the TSOs and regulatory authorities;
  - 9 November 2022: discussion with the regulatory authorities at the FCA task force ('TF') meeting<sup>5</sup>;
  - 17 November 2022: public workshop on the Proposal;
  - 22 November 2022: discussion with the regulatory authorities at ACER's Electricity Working Group ('AEWG') meeting;
  - 30 November 2022: discussion with the TSOs and regulatory authorities;
  - 2 December 2022: discussion with the TSOs and regulatory authorities;
  - 13 December 2022: discussion with the TSOs and regulatory authorities;
  - 14 December 2022: discussion with the regulatory authorities at the FCA TF meeting;
  - 11 January 2023: discussion with the regulatory authorities at the AEWG meeting;
  - 19 January 2023: discussion with the regulatory authorities at the FCA TF meeting;
  - 6 February 2023: discussion with the regulatory authorities at AEWG meeting;
- (9) On 23 December 2022, ACER shared its preliminary position on the Proposal with the TSOs and the regulatory authorities, inviting them to submit their written observations by 13 January 2023, and offering a possibility to request an oral hearing.
- (10) By 13 January 2023, ACER received written observations from the concerned TSOs and regulatory authorities. ACER received no requests for an oral hearing.
- (11) The AEWG was consulted between 1 and 8 February 2023, and provided its advice on 10 February 2023 (see Section 5.3).
- (12) On 17 March 2023, ACER's Board of Regulators issued a favourable opinion.

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<sup>4</sup> Joint platform between ACER, TSOs, the European Commission and regulatory authorities for discussing issues connected to the FCA Regulation.

<sup>5</sup> ACER's platform to discuss FCA issues with regulatory authorities;

### **3. ACER'S COMPETENCE TO DECIDE ON THE PROPOSAL**

- (13) According to Article 5(2)(b) of Regulation (EU) 2019/942, proposals for common terms and conditions or methodologies developed pursuant to network codes and guidelines adopted before 4 July 2019, which require the approval of all regulatory authorities, shall be submitted to ACER for revision and approval.
- (14) According to Article 4(5) and Article 4(6)(g) of the FCA Regulation, as initially adopted, namely as a guideline before 4 July 2019, the proposal for the FRC methodology pursuant to Article 61 of the same Regulation, was subject to approval by all regulatory authorities. Following the amendments of these provisions by Commission Implementing Regulation (EU) 2021/2808, the proposal for the FRC methodology, and any amendments thereof, have been explicitly subjected to approval by ACER.
- (15) According to Article 4(12) of the FCA Regulation, ACER may request proposals for amendments of those terms and conditions or methodologies, where ACER is responsible for their approval, and, in addition, the TSOs responsible for developing a proposal for the FRC methodology may propose amendments thereto to ACER. Those proposals for amendments are to be approved in accordance with the procedure set out in Article 4 of the FCA Regulation.
- (16) According to Article 5(6) of Regulation (EU) 2019/942 and Article 4(5) of the FCA Regulation, ACER, before approving terms and conditions or methodologies, shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of the FCA Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.
- (17) On 28 September 2022, in response to ACER's request for amendments of 12 July 2021, ENTSO-E, on behalf of all TSOs, submitted the Proposal for amendment of the FRC methodology for ACER's approval.
- (18) Therefore, ACER is competent to decide on the Proposal based on Article 5(2)(b) of Regulation (EU) 2019/942 as well as Articles 4(5), 4(6)(g) and 4(12) of the FCA Regulation.

### **4. SUMMARY OF THE PROPOSAL**

- (19) The Proposal includes the following elements:
  - a) a 'Whereas' section;
  - b) general provisions, including the scope of application and definitions, in Title 1;
  - c) provisions on sharing of remuneration costs among bidding zone borders ('BZBs') with cross-zonal capacities applying the coordinated net transmission capacity ('cNTC') approach and for BZBs with cross-zonal capacities applying the flow-based approach, in Title 2;
  - d) provisions for sharing compensation costs due to curtailment of LTTRs, in Title 3;
  - e) final provisions on the timeline for implementation and a language disclaimer, in Title 4;

(20) The Proposal therefore consists of a complete FCR methodology as approved by ACER Decision No 12/2021, but including the TSOs' proposed amendments as follows:<sup>6</sup>

- a) In the 'Whereas' section, the TSOs proposed to:
  - i. add a recital referring to the 2020 and 2021 approvals of the FRC methodology;
  - ii. add a recital referring to ACER's request for amendments of 12 July 2021;
  - iii. add a recital referring to the principles and objectives of Regulation (EU) 2019/943 of 5 June 2019 on the internal market for electricity ('Electricity Regulation');
  - iv. add a recital listing the TSOs responsible for the development of the FCA methodology under the relevant legislation;
- b) In Article 1, the TSOs proposed to:
  - i. add a paragraph defining the application of the FRC methodology in situations where there are several TSOs on the same side of a BZB;
  - ii. add a paragraph defining the application of the FRC methodology in case where the regulatory authorities decide that the relevant TSOs do not issue LTTRs;
- c) In Article 3, the TSOs proposed to:
  - i. amend the title of Article 3 to specify that it addresses BZBs with cross-zonal capacities applying the cNTC approach ;
  - ii. add an introductory paragraph;
  - iii. clarify, in paragraph (4)(a), that the provisions of Article 3 do not apply to BZBs with long-term cross-zonal capacities applying the cNTC approach;
  - iv. add a sub-paragraph defining the conditions that would apply in case the single day-ahead coupling process is unable to produce results;
- d) In Article 4, the TSOs proposed to:

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<sup>6</sup> Amendments of editorial nature, i.e. not affecting the content of the methodology, are not listed here.

- i. add a new article describing the sharing of remuneration costs of LTTRs on BZBs with long-term cross-zonal capacities applying the flow-based approach; and
- e) In Article 6, the TSOs proposed to:
  - i. delete provisions specifying that an amendment of the FRC methodology is required for considering long-term flow-based allocation and added an amendment requirement considering the consistency among the congestion income distribution methodologies under Article 57 of the FCA Regulation ('FCA-CID methodology') and Article 73 of the of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management ('CACM Regulation')<sup>7</sup> ('CACM-CID methodology').

## **5. OBSERVATIONS RECEIVED BY ACER**

### **5.1. Public consultation one the Proposal**

(21) Responses to ACER's public consultation are summarised in Annex II to this Decision.

### **5.2. Consultation on ACER's preliminary position**

(22) ACER's preliminary position envisaged introducing the following main changes to the Proposal<sup>8</sup>:

- a) In the 'Whereas' section:
  - i. adding recital 5 to define the exceptions regarding the application of the methodology to certain TSOs;
  - ii. Introducing changes to the assessment of the Proposal against the objectives of the FCA Regulation;
  - iii. clarifying the scope of application of the FRC methodology to BZBs on which congestion income would be generated;
- b) In Article 1 ('Subject matter and scope'): specifying the scope of application of the FRC methodology, by referring to a new Annex 1 with a list of TSOs to which the FRC methodology applies.
- c) In Article 2 ('Definitions and interpretation'):

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<sup>7</sup> OJ L 197, 25.7.2015, p. 24.

<sup>8</sup> Numbering corresponds to Annex I to this Decision.

- i. adding definitions from the CACM-CID methodology which are also used in the FRC methodology (e.g. slack hub);
    - d) In Article 3 ('Sharing of remuneration costs of eligible LTTRs among BZBs of a CCR applying long-term cNTC-based allocation'):
      - i. deleting the TSOs' proposed introductory paragraph, since its content is reiterated in other parts of this Article;
      - ii. adding clarifications to paragraphs (3) and (4) to ensure consistency with the corresponding paragraphs of Article 4 proposed by the TSOs;
      - iii. clarifying the treatment of remuneration costs for the return of LTTRs in paragraph (4);
    - e) In Article 4 ('Sharing of remuneration costs of eligible LTTRs among BZBs of a CCR applying long-term flow-based capacity allocation'):
      - i. deleting the TSOs' proposed introductory paragraph, since its content is reiterated in other parts of this Article;
      - ii. deleting the general reference to remuneration costs for the return of LTTRs in paragraph (1) and instead, clarifying the treatment of such costs in paragraph (3).
      - iii. In paragraph (5), introducing the concept of a 'slack hub' (defined in the CACM-CID methodology) as being more accurate than the reference to 'external borders' in the Proposal.
    - f) Annex 1:
      - i. introducing a list of the TSOs subject to the approved methodology, containing all TSOs submitting the Proposal, except for the TSOs exempted from issuing LTTRs according to Article 30(7) of the FCA Regulation and Creos.
- (23) The following paragraphs provide a summary of views on ACER's preliminary position. ACER received written comments from:
  - a) Austrian regulatory authority ('E-Control');
  - b) Danish regulatory authority ('DUR');
  - c) Luxembourgish regulatory authority ('ILR');
  - d) all TSOs;
- (24) E-Control proposed to remove the TSO 'Vorarlberger Übertragungsnetz GmbH' ('VUEN') from the list of TSOs in Annex 1, as the competent Austrian ministry has formally designated responsibilities under Article 1(3) of FCA-Regulation to the TSO 'Austrian Power Grid AG' ('APG');
- (25) DUR proposed to amend recital (5) with criteria for exempting the TSOs referring to a particular exempted BZB;

- (26) ILR proposed to amend the word “which” with “as long as it” in recital 5(b), in order to provide flexibility in terms of potential change of the application of the FRC methodology to the Luxembourgish TSO (‘Creos’);
- (27) All TSOs provided the following written observations in response to ACER’s preliminary position:
- a) Whereas:
    - i. all TSOs welcomed the exemption for Creos;
    - ii. all TSOs regretted that the Baltic Cable (‘BCAB’) has not been exempted, considering that regulatory authorities are considering to exempt BCAB;
    - iii. all TSOs also considered that the paragraphs on the exemption conditions would be better placed under Article 1 (‘Subject, matter and scope’), and not in the Whereas section.
  - b) Article 1 (‘Subject matter and scope’): all TSOs highlighted that the approach to list in Annex 1 the TSOs subject to the methodology deviates from the recommendations from ACER Informal Guidance to ENTSO-E and TSOs on how to draft proposals for terms and conditions or methodologies. Instead, the TSOs would rather include a similar wording as in recital (5).
  - c) Annex 1 (the new annex added by ACER): all TSOs suggested to remove VUEN and BCAB from the list of the TSOs subject to the approved methodology, and to rename HOPS according to their new status (joint stock company);

### **5.3. Consultation of the AEWG**

- (28) The AEWG provided its advice on 10 February 2023 and endorsed the draft Decision.
- (29) During the AEWG’s consultation period, ILR suggested minor linguistic changes to the draft Decision and provided the following comment. ILR suggested to remove “such as currently Creos Luxembourg S.A.” from Recital (5)(b) of Annex I to the draft Decision. In ILR’s view, it was not necessary to explicitly name Creos in point (b), noting that point (a) of the same Recital also doesn’t name the relevant TSOs.

## **6. ASSESSMENT OF THE PROPOSAL**

### **6.1. Legal framework**

- (30) Article 61 of the FCA Regulation sets out specific requirements for the FRC methodology.
- (31) In particular, according to Article 61(1) of the FCA Regulation, the cost of ensuring firmness shall include costs incurred from compensation mechanisms associated with ensuring firmness of cross-zonal capacities as well as the cost of re-dispatching, countertrading and imbalance associated with compensating market participants and be borne by TSOs. In addition, according to Article 61(3) of the FCA Regulation, the FRC



methodology shall be consistent with the FCA-CID methodology pursuant to Article 57 of the same Regulation.

- (32) Article 4(8) of the FCA Regulation requires that a proposal for amendments includes a proposed timescale for its implementation and a description of the expected impact of such amendments on the objectives of the FCA Regulation.
- (33) Article 30(7) of the FCA Regulation provides that Article 61 of the same Regulation shall not apply to the TSOs of the bidding zone borders in the event that regulatory authorities decide that long-term transmission rights shall not be issued by the respective TSOs or that other long-term cross-zonal hedging products shall be made available by the respective TSOs.

## **6.2. Assessment of the legal requirements**

### **6.2.1. Assessment of the requirements of Article 61 of the FCA Regulation**

- (34) Article 61(1) of the FCA Regulation requires that the Proposal covers cost of ensuring firmness which include costs incurred from compensation mechanisms associated with ensuring firmness of cross-zonal capacities as well as the cost of re-dispatching, countertrading and imbalance associated with compensating market participants.
- (35) In its Articles 3, 4 and 5, the Proposal provides for the costs of remuneration of eligible LTTRs attributed to the implicit daily allocation process based on flow-based capacity calculation and coordinated net transmission capacity calculation, to be shared among and paid by the TSOs.
- (36) Article 6 of the Proposal requires that the costs for ensuring firmness of LTTRs are shared and paid by the TSOs. Article 1(6) of the Proposal further clarifies that imbalance costs do not occur in case of curtailed LTTRs.
- (37) Article 1(5) of the Proposal includes provisions on re-dispatching and countertrading by referring to ‘costly remedial actions’ and the provisions set out in Article 74(1) of the CACM Regulation.
- (38) Given the above, the Proposal complies with Article 61(1) of the FCA Regulation.
- (39) Article 61(3) of the FCA Regulation requires that the Proposal for amendment is consistent with the FCA-CID methodology, whereby the latter methodology needs to take into account the CACM-CID methodology (as required by Article 57(2) of the FCA Regulation).
- (40) Articles 3 and 4 of the Proposal provide for an approach as to how to consider the costs of remuneration of eligible LTTRs attributed to the implicit daily allocation process based on flow-based capacity calculation and cNTC calculation. The proposed approach is to share costs per market time unit, as used in the FCA-CID methodology and the CACM-CID methodology. Further, following the principles described in Articles 3 and 4 of the Proposal, distribution of these costs should follow the same proportional distributions as the distribution of congestion income in accordance with the FCA-CID methodology and the CACM-CID methodology.

- (41) For clarification and consistency with the CACM-CID methodology, ACER has replaced the reference to ‘external borders’ in Article 4(6) of the Proposal with ‘slack hubs’, and added the related definition of ‘slack hubs’ in Article 2(1) of the Proposal. ACER has also added clarifications to Article 3, paragraphs (4) and (5), to ensure consistency with the corresponding provisions in paragraphs (3) and (4) of Article 4, which were proposed by the TSOs.
- (42) Furthermore, consistency with the related CID methodologies is ensured by Article 7 which, in paragraphs (3) and (4), requires an amendment of the FRC methodology in case of amendments to the CID methodologies.
- (43) Therefore, the Proposal complies with Article 61(3) of the FCA Regulation.

#### 6.2.2. Assessment of the requirements of Article 4(8) of the FCA Regulation

- (44) The Proposal meets the requirement of Article 4(8) of the FCA Regulation concerning the implementation timescale, because it contains, in Article 7(2), a timeline for its implementation.
- (45) Article 4(8) of the FCA Regulation also requires the Proposal for amendment to include a description of its impact on the objectives of the FCA Regulation. The Proposal complies with this requirement by assessing the Proposal against the objectives of the FCA Regulation in recitals (11) to (16) of the ‘Whereas’ section. ACER has introduced a number of amendments to these recitals to clarify and complete the assessment.

#### 6.2.3. Assessment of other points of the Proposal

- (46) ACER found it necessary to add a new paragraph 2 in Article 1 of the Proposal, referring to a new Annex 1, which describes the personal scope of application of the FRC methodology and lists the TSOs to which the FRC methodology applies. The new recital (5) explains the categories of TSOs for which the non-application of the FRC methodology is legally justified.
- (47) In that regard, ACER fully considered the input received from E-Control, DUR and ILR and detailed in recitals (24), (25), (26) and (29) of this Decision. As far as the input from all TSOs, detailed in recital (27), is concerned, ACER disagrees with exempting BCAB from the scope of application of the FRC methodology and with including the reasons for which the FRC methodology is not applicable to certain TSOs in Article 1. First, no valid legal ground for justifying the exemption of BCAB has been invoked or identified. As BCAB has not been exempted under Article 30(7) of the FCA Regulation, and is commercializing its transmission capacity on the single day-ahead market Article 61 of the FCA Regulation applies to it. Second, since Article 1(2) in conjunction with Annex 1 defines the personal scope of application of the FRC methodology positively, by listing all the TSOs covered, it is neither necessary nor appropriate to include additional criteria to explain why TSOs are not listed. Those criteria are only of secondary relevance and explanatory nature, and are therefore better placed in the corresponding recital (5).
- (48) ACER has clarified the consideration of costs from the returns of LTTRs in Article 4(3) of Annex I, and, as a consequence, deleted the reference to returned LTTRs in Article

4(2) of the Proposal. ACER has also added a corresponding provision in Article 3(5) of the Proposal.

(49) Finally, ACER has introduced some necessary editorial changes to improve the readability and the structure of the Proposal.

## **7. CONCLUSION**

(50) For all the above reasons, ACER considers that the Proposal is in line with the requirements of the FCA Regulation, as long as the amendments described in this Decision are integrated in the Proposal, as presented in Annex I to this Decision. The amendments, which have been consulted with the TSOs, are necessary to ensure that the Proposal is in line with the purpose of the FCA Regulation and contributes to market integration, non-discrimination, effective competition and the proper functioning of the market.

(51) Therefore, ACER approves the Proposal subject to the necessary amendments. Annex I to this Decision sets out the FRC methodology, as amended and approved by ACER,

HAS ADOPTED THIS DECISION:

### *Article 1*

The methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights pursuant to Article 61 of Regulation (EU) 2016/1719 is amended and approved as set out in Annex I to this Decision.

### *Article 2*

This Decision is addressed to:

1. 50Hertz - 50Hertz Transmission GmbH
2. Amprion - Amprion GmbH
3. APG - Austrian Power Grid AG
4. Augstsprieguma tīkls - AS Augstsprieguma tīkls
5. BCAB - Baltic Cable AB
6. ČEPS - ČEPS a.s.
7. CREOS Luxembourg - CREOS Luxembourg S.A.
8. EirGrid - EirGrid plc
9. Elering - Elering AS
10. ELES - ELES, d.o.o.

11. Elia - Elia Transmission Belgium S.A.
12. Energinet - Energinet
13. ESO – Electroenergien Sistemen Operator EAD
14. Fingrid - Fingrid OyJ
15. HOPS d.d. - Croatian Transmission System Operator Plc
16. IPTO - Independent Power Transmission Operator S.A.
17. Kraftnät Åland - Kraftnät Åland Ab
18. LITGRID - LITGRID AB
19. MAVIR ZRt. - MAVIR Magyar Villamosenergia-ipari Átviteli Rendszerirányító Zártkörűen Működő Részvénytársaság ZRt.
20. PSE - Polskie Sieci Elektroenergetyczne S.A.
21. REE - Red Eléctrica de España S.A.
22. REN - Rede Eléctrica Nacional, S.A.
23. RTE - Réseau de Transport d'Electricité S.A.
24. SEPS - Slovenská elektrizačná prenosová sústava, a.s.
25. SONI - System Operator for Northern Ireland Ltd
26. Svenska Kraftnät - Affärsverket Svenska Kraftnät
27. TenneT GER - TenneT TSO GmbH
28. TenneT TSO - TenneT TSO B.V.
29. Terna - Terna S.p.A.
30. Transelectrica - Compania Nationala de Transport al Energiei Electrice S.A.
31. TransnetBW - TransnetBW GmbH

Done at Ljubljana, on 22 March 2023.

**- SIGNED -**

*For the Agency  
The Director*

C. ZINGLERSEN

Annexes:

Annex I – Amendment to the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights according to Article 61 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on Forward Capacity Allocation Regulation

Annex Ia – Amendment to the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights according to Article 61 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on Forward Capacity Allocation Regulation in track change compared to the Proposal (for information only)

Annex II - Evaluation of responses to ACER’s public consultation on the Proposal (for information only)

*In accordance with Article 28 of Regulation (EU) 2019/942, the addressee(s) may appeal against this Decision by filing an appeal, together with the statement of grounds, in writing at the Board of Appeal of ACER within two months of the day of notification of this Decision.*

*In accordance with Article 29 of Regulation (EU) 2019/942, the addressee(s) may bring an action for the annulment before the Court of Justice only after the exhaustion of the appeal procedure referred to in Article 28 of that Regulation.*