European Network of
Transmission System Operators
for Electricity

190315_FCA-CID Explanatory note

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Disclaimer
This explanatory document is submitted by all TSOs to all NRAs for information and clarification purposes only accompanying the "All TSOs' proposal for methodology for congestion income distribution (CID Methodology) in accordance with Article 57 of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation.

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I. Introduction

1. Purpose and Structure of the Methodology

Article 57 of the Commission Regulation 2015/1222 (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (hereinafter referred to as "FCA Regulation") requires that by 6 months after the approval of the methodology for sharing congestion income referred to in Article 9(6) of Regulation (EU) 2015/1222 (hereinafter referred to as "CACM CID Methodology"), all TSOs shall jointly submit a proposal for a methodology for sharing congestion income from forward capacity allocation ("FCA CID Methodology") to all National Regulatory Authorities ("NRAs") for approval pursuant to Article 4(6)(e) of FCA Regulation. According to Article 4(8) of FCA Regulation the FCA CID Methodology proposal needs to be submitted to ACER as well, who may issue an opinion on the proposal only if requested by the NRAs.

Capitalised terms used in this document are understood as defined in FCA Regulation, Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity (hereafter referred to as "Regulation (EC) No 714/2009"), Commission Regulation (EU) 543/2013 and the FCA CID Methodology Proposal.

As put forward in Article 57 of the FCA Regulation, the FCA CID Methodology follows the same principles as the CACM CID Methodology. First, the congestion income per bidding zone border is calculated for each market time unit; then the congestion income is distributed amongst the TSOs on a bidding zone border following a default or specific sharing key. As for the CACM CID Methodology, the default sharing key is 50%-50%. In specific cases the concerned TSOs may also use a sharing key different from 50%-50%. Such cases may involve different ownership shares or different investment costs. The shares for these specific cases and the reasons behind them shall be published by ENTSO-E.

It has to be noted that TSOs on bidding zone borders which do not issue LTTRs pursuant Article 30.7 of the FCA Regulation shall not submit this methodology for approval.

2. Request for amendment

All NRAs have requested all TSOs to amend the FCA CID Methodology. The principle changes requested by the NRAs are:

- Improve the link between the CACM CID Methodology and the FCA CID Methodology;
- General clarification and wording improvements;
- Reduction of flexibility in the sharing keys with the goal of removing Annex 1. Since Annex 1 forms an essential element of the FCA CID Methodology, any change in sharing keys would have to be approved by all NRAs;
- Clarification of situations where multiple interconnectors are present on a bidding zone border.

To address the concerns of the NRAs, TSOs have made the following changes to the FCA CID Methodology:

- Whereas section:
    - TSOs have improved wording in several articles and clarified that the FCA CID Methodology shall be amended in case a CCR implements a Flow Based Approach for

long-term capacity calculation. TSO may also amend the FCA-CID Methodology at the implementation of a CNTC based CCM. However, TSOs do not consider it needed to oblige an amendment of the Methodology since the principles currently laid down in the FCA CID Methodology are expected to apply for a CNTC based CCM. An obligation to amend the methodology in such a case would not be efficient. In any case, when needed, TSOs shall amend the method in due time.

  - The link with Article 61 of the FCA Regulation has been clarified by stating that any negative income from the DA market (due to costs for the remuneration of long-term transmission rights exceeding the congestion income) shall not be treated in the FCA CID Methodology, but in the methodology to be developed pursuant Article 61 of the FCA Regulation.

- Article 4: Sharing Keys
  - This Article has been significantly reworked to improve clarity of the article.
  - Article 4(1) states the 50%-50% sharing key as a default rule.
  - Article 4(2) was adapted to limit the deviations of sharing keys from the default rule to the cases of different ownership shares, different shares of investment costs, exemption decisions or decisions on cross-border cost allocation by competent NRAs or the Agency. As such, there is no need for a specific Annex to the FCA CID Methodology.
  - Article 4(3) and 4(4) now follow a more logical sequence. The paragraph 4(3) clarifies the case where interconnectors auction long-term capacity on a bidding zone border separately. Paragraph 4(4) deals with cases where interconnectors jointly auction their long-term capacity. In the second case, the congestion income assigned to each interconnector is based on the contribution of each individual interconnector to the joint capacity. The principles for the determination of each interconnector contribution shall be published on the webpage of ENTSO-E.
- Article 6: Amendment of the FCA CID Methodology
  - This article was added on request of NRAs to ensure coherency between the different methodologies (resulting from CACM and FCA Regulations) related to congestion income. In addition TSOs also reflected the (potential) need for amendment in when a CCM is implemented.

3. Levels of Congestion Income collection and distribution

In the CACM Regulation, Congestion Income is defined as "*the revenues received as a result of capacity allocation*". In the context of forward capacity allocation, congestion income is accrued from each auction of long-term transmission rights on a bidding zone border. After the collection by the Single Allocation Platform based on the rules described in the FCA CID Methodology and the European Harmonised Allocation Rules (HAR) according to Article 51 FCA Regulation respectively, the Congestion Income is assigned to each Bidding Zone border and then, it is distributed on a monthly base to the TSOs on each side of a Bidding Zone border or, via the relevant TSOs, to third party asset owners.

Until the implementation of the FCA CID Methodology the sharing of the Congestion Income between the TSOs is based on joint agreements among the TSOs and with the relevant entities collecting the Congestion Income or national regulation.

II. Requirements and Common Criteria for Congestion Income Distribution

1. Legal framework

The legal requirements for the FCA CID Methodology are set out by **Article 57 of FCA Regulation**

“1.Within six months after the approval of the methodology for sharing congestion income referred to in Article 9(6) of Regulation (EU) 2015/1222, all TSOs shall jointly develop a proposal for a methodology for sharing congestion income from forward capacity allocation.

2.When developing the methodology referred to in paragraph 1, TSOs shall take into account the methodology for sharing congestion income developed in accordance with Article 73 of Regulation (EU) 2015/1222.

3.When developing the methodology for sharing congestion income from forward capacity allocation, the requirements set in Article 73 of Regulation (EU) 2015/1222 shall apply.”

Where the legal requirements of **Article 73 (2) of CACM Regulation are** as follows:

“2. The methodology developed in accordance with paragraph 1 shall:

(a) facilitate the efficient long-term operation and development of the electricity transmission system and the efficient operation of the electricity market of the Union;

(b) comply with the general principles of congestion management provided for in Article 16 of Regulation (EC) No 714/2009;

(c) allow for reasonable financial planning;

(d) be compatible across timeframes;

(e) establish arrangements to share congestion income deriving from transmission assets owned by parties other than TSOs.”

In addition, *Article 4(8) of FCA Regulation* *provides as follows:*

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.

2. Interpretation

The FCA CID Methodology complies with the requirements set out by Article 73 (2) of CACM Regulation and also serves the general objectives of the FCA Regulation. In particular, the FCA CID Methodology is transparent, stable and does not provide any disincentives for TSOs to optimize capacity given to the market within accepted Operational Security Limits and within the applicable framework of TSO coordination. For example, it does not distort the provision of interconnection capacity to market participants, nor does it lead to an allocation process in favor of any party requesting capacity or energy, nor does it provide a disincentive to reduce congestion. In addition, the FCA CID Methodology does not

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negatively affect the processes and regulations under which TSOs fulfil their responsibility to allocate capacity to the market. The FCA CID Methodology does not give inefficient economic signals to market participants or TSOs regarding the operation and development of the transmission system and the electricity market functioning. For example, it does not distort the market signals for network investments.

The FCA CID Methodology is likewise compatible with the creation or removal of Bidding Zones and compatible with shifting the location of Bidding Zone borders between existing Bidding Zones and CCRs.

To ensure the above, a 50%-50% sharing key for Congestion Income Distribution on the Bidding Zone border in accordance with the FCA Regulation is suggested. This sharing key is proposed for the following reasons:

a. it is widely applied, simple to understand and easy to administrate;
b. the disadvantages of taking a wrong decision with the 50%-50% solution versus the risk of having an unknown but eventually more optimal solution are reasonably low; and
c. in case there is a lack of strong and clear justification for different arrangements, the 50%-50% rule is deemed appropriate.

In addition, the 50%-50% sharing key avoids the contestable and challenging exercise of a mandatory cost benefit analysis (CBA) for the sharing of Congestion Income. Performing a CBA for FCA CID would have the following concrete disadvantages:

a. complexity: using CBA for FCA CID would add tremendous complexity and could even hamper the development of new Interconnectors. It seems more convenient to opt for a simple approach for FCA CID and let other sharing mechanisms (e.g. agreements between TSOs on cost sharing, inter transmission system operators compensation (ITC), cross border cost allocation (CBCA for PCIs)) as closing variables for the efficient allocation of costs and benefits at European level;

b. lack of proportionality: it is questionable whether the results of a CBA for FCA CID would justify the heavy work load for TSOs and NRAs connected to such CBA. Moreover, CBA uncertainties are likely to be higher than the potential imbalances due to the application of the 50%-50% sharing key; and

c. requirement for very frequent updates of the CBA in order to guarantee that it is really representing the current situation.

In cases like a deviating ownership structure or an uneven distribution of investment costs for the interconnectors a sharing key different from 50%-50% may be justified. For both Coordinated NTC and FB Approach the corresponding sharing keys will ensure, for example, the investment on future Interconnectors and will take into account the respective benefits of the investments for the different investors. By this means a fair treatment of owners of Interconnectors and incentives for investments in Interconnectors will be maintained.

The requirement of Article 73(2)(e) of CACM Regulation is interpreted to imply that the FCA CID Methodology and its implementation should also apply to third party transmission asset owners. Third party assets could be, for example, interconnectors which are owned by entities not certified as TSOs but generate Congestion Income that has to be shared with one or more TSOs according to the FCA CID Methodology.

III. Collection of Congestion Income on the Bidding Zone border

The single entity responsible for the collection and distribution of the congestion income accrued from the auction of LTTRs is the Single Allocation Platform. The process of collecting payments from market parties is already described in the EU HAR, therefore the FCA CID Methodology makes reference to this document.

The congestion income generated during each auction of LTTRs is equal to the allocated capacity times the marginal price of the auction. The allocated capacity may be lower than the sum of the offered capacity (by TSOs) and the volume of returns from previous auctions (from Rights Holders) due to the requirement that only whole MWs are allocated. When calculating the congestion income it is important to consider possible reduction periods, meaning periods of time, i.e. specific calendar days and/or hours within the Product Period in which Cross Zonal Capacities with a reduced amount of MW are offered, taking into account a foreseen specific network situation (e.g. planned maintenance, long-term outages).

The congestion income assigned to a bidding zone border is reduced by the costs for return of long-term transmission rights to be paid in accordance with Article 43 of the FCA Regulation. After that, the Single Allocation Platform shall distribute the long-term congestion income to the TSOs or to an entity appointed by the TSOs on a monthly base, which shall distribute this long-term congestion income to the relevant TSOs based on the rules set forth in the FCA CID Methodology.

IV. Distribution of Congestion Income on the Bidding Zone border

For the bidding zone borders where congestion income was calculated based on allocated long-term capacities, the TSOs on each side of the bidding zone border shall receive their share of long-term Congestion Income based on a 50%-50% sharing key. In specific cases the concerned TSOs may also use a sharing key different from 50%-50%. Such cases may involve different ownership shares, different shares of investments costs, exemption decisions or decisions on cross-border cost allocation by competent NRAs. The percentages for these specific cases, as well as the underlying reasons are defined in a common document published by ENTSO-E.

In case the bidding zone border consists of several interconnectors with different sharing keys, or which are owned by different TSOs, the long-term Congestion Income shall be assigned first to the respective interconnectors on that bidding zone border based on each interconnector’s contribution to the allocated long-term capacity. The parameters defining the contribution of each interconnector will be agreed by the TSOs on the bidding zone border according to the technical evaluation of the TSOs on the bidding zone border. They shall be published in a common document by ENTSO-E on its web page. The congestion income assigned to each interconnector shall subsequently be shared between the TSOs on each side of the interconnector using the principles described in this paragraph.

For bidding zone borders consisting of several interconnectors where the capacity is auctioned separately for the specific interconnectors, the long-term Congestion Income is directly allocated to the TSO(s) of that interconnector. Such a situation might occur when different interconnectors apply different loss factors in the auction.

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V. Implementation

The FCA CID Methodology can only be implemented when two preconditions are met:

- First, the capacity calculation methodology within the respective CCR in accordance with Article 10 of the FCA Regulation is implemented. Second, the methodology for sharing costs incurred to ensure firmness and remuneration of LTTRs (Article 61) is implemented.
- The second prerequisite is needed to ensure coherency of FCA CID Methodology, CACM CID Methodology and the methodology to be developed under Article 61 of the FCA Regulation.

The implementation requirements are clearly interlinked. There exists a strong link between the CACM CID Methodology, FCA CID Methodology and the methodology pursuant to Article 61 of the FCA Regulation. A key point for all these methodologies (and what binds them together) is the remuneration of LTTRs. The remuneration of LTTRs introduces certain cross time frame financial implications, especially for regions where flow based will be applied in DA. It is commonly understood by all TSOs that a socialization of the costs linked to the remuneration of LTTRs needed in a Flow Based context requires a common approach on the calculation of the volume of LT capacity. Hence, the implementation of the CCM in the respective CCRs is considered a prerequisite.

TSOs do expect that the impact of the implementation is small. The FCA CID Methodology reflects the current practice for the distribution of congestion income.