

DÉCISION ILR/E17/32 DU 19 JUIN 2017

PORTANT DEMANDE DE MODIFICATION DE LA PROPOSITION RELATIVE AUX HEURES D'OUVERTURE ET DE FERMETURE DU GUICHET INFRAJOURNALIER ENTRE ZONES

SECTEUR ÉLECTRICITÉ

La Direction de l'Institut Luxembourgeois de Régulation,

Vu le règlement (UE) 2015/1222 de la Commission du 24 juillet 2015 établissant une ligne directrice relative à l'allocation de la capacité et de la gestion de la congestion, et notamment son article 9, paragraphe 6, lettre k) et paragraphe 12 ainsi que son article 59 ;

Vu la demande d'approbation de la société Creos Luxembourg S.A. du 14 décembre 2016, introduisant une proposition relative aux heures d'ouverture et de fermeture du guichet intrajournalier entre zones « *All TSO's proposal for intraday cross-zonal gate opening and gate closure times in accordance with Article 59 of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management* » accompagnée d'une note explicative, dans sa version du 7 décembre 2016, qui a été élaborée conjointement par tous les gestionnaires de réseau de transport européens par le biais de l'ENTSO-E, et qui a fait l'objet d'une consultation publique à l'échelon de l'Union européenne organisée par l'ENTSO-E du 18 avril 2016 au 18 mai 2016 ;

Considérant l'opinion émise par toutes les autorités de régulation lors de la réunion de l'Energy Regulators' Forum du 14 juin 2017, demandant aux gestionnaires de réseau de transport d'apporter certaines modifications à leur proposition commune relative aux heures d'ouverture et de fermeture du guichet intrajournalier entre zones ;

Décide :

Art. 1^{er}. La proposition relative aux heures d'ouverture et de fermeture du guichet intrajournalier entre zones, telle que décrite dans le document portant l'intitulé de « *All TSO's proposal for intraday cross-zonal gate opening and gate closure times in accordance with Article 59 of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management* », dans sa version du 7 décembre 2016, est à modifier conformément aux indications données par toutes les autorités de régulation dans leur opinion conjointe annexée à la présente.

Art. 2. La présente décision sera notifiée à la société Creos Luxembourg S.A. et publiée, ensemble avec le document mentionné à l'article 1^{er}, sur le site internet de l'Institut.

L'Institut informe la société Creos Luxembourg S.A. qu'un recours en annulation est ouvert contre la présente décision, à introduire devant le Tribunal Administratif de Luxembourg par ministère d'avocat à la Cour, au plus tard dans les trois mois qui suivent la notification de la présente décision.

Pour l'Institut Luxembourgeois de Régulation

La Direction

(s.) Michèle Bram
Directrice adjointe

(s.) Camille Hierzig
Directeur adjoint

(s.) Luc Tapella
Directeur

Annexe: *Request for amendment by all regulatory authorities agreed at the Energy Regulators' Forum of all TSO's Proposal for Intraday Cross-Zonal Gate Opening and Gate Closure Times*

**REQUEST FOR AMENDMENT BY ALL
REGULATORY AUTHORITIES AGREED AT THE
ENERGY REGULATORS' FORUM**

ON

**ALL TSO's PROPOSAL FOR
INTRADAY CROSS-ZONAL GATE OPENING AND
GATE CLOSURE TIMES**

14 June 2017

I. Introduction and legal context

This document elaborates an agreement of All Regulatory Authorities, agreed at the Energy Regulators' Forum on 14 June 2017, on the All TSOs' proposal for intraday cross-zonal gate opening and gate closure times (IDCZGT) submitted in **accordance with Article 59 of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management** (Regulation 2015/1222).

This agreement of All Regulatory Authorities shall provide evidence that a decision does not, at this stage, need to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 9(11) of the Regulation 2015/1222. This agreement is intended to constitute the basis on which All Regulatory Authorities will each subsequently request an amendment to the IDCZGT proposal pursuant to Article 9(12) of Regulation 2015/1222.

The legal provisions relevant to the submission and approval of the IDCZGT proposal and this All Regulatory Authority agreement on the IDCZGT proposal, can be found in Articles 3, 8, 9, and 59 of the Regulation 2015/1222. They are set out here for reference.

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 8 of Regulation 2015/1222

1. (...)
2. TSOs shall:
 - (a) (...);
 - (..) (...);
 - (j) propose the intraday cross-zonal gate opening and intraday cross-zonal gate closure times in accordance with Article 59;
 - (k) (...);
 - (l) (...).

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) (...)
 - (..) (...)
 - (k) *the intraday cross-zonal gate opening and intraday cross-zonal gate closure times in accordance with Article 59(1);*
 - (l) (...);
 - (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 719/2009. 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.*

Article 59 of Regulation 2015/1222:

1. *By 16 months after the entry into force of this Regulation, all TSOs shall be responsible for proposing the intraday cross-zonal gate opening and intraday cross-zonal gate closure times. The proposal shall be subject to consultation in accordance with Article 12.*
2. *The intraday cross-zonal gate closure time shall be set in such a way that it:*
 - (a) *maximises market participants' opportunities for adjusting their balances by trading in the intraday market time- frame as close as possible to real time; and*
 - (b) *provides TSOs and market participants with sufficient time for their scheduling and balancing processes in relation to network and operational security.*
3. *One intraday cross-zonal gate closure time shall be established for each market time unit for a given bidding zone border. It shall be at most one hour before the start of the relevant market time unit and shall take into account the relevant balancing processes in relation to operational security.*
4. *The intraday energy trading for a given market time unit for a bidding zone border shall start at the latest at the intraday cross-zonal gate opening time of the relevant bidding zone borders and shall be allowed until the intraday cross-zonal gate closure time.*

5. *Before the intraday cross-zonal gate closure time, market participants shall submit to relevant NEMOs all the orders for a given market time unit. All NEMOs shall submit the orders for a given market time unit for single matching immediately after the orders have been received from market participants.*
6. *Orders matched in single intraday coupling shall be considered firm.*
7. *MCO functions shall ensure the anonymity of orders submitted via the shared order book.*

II. The All TSO Proposal

The All TSO IDCZGT proposal, dated 7 December 2016, was received by the last Regulatory Authority on 20 December 2016. The proposal includes a proposed timescale for its implementation per bidding zone border and a description of its expected impact on the objectives of Regulation 2015/1222, in line with Article 9(9) of Regulation 2015/1222.

Article 9(10) of the Regulation 2015/1222 requires All Regulatory Authorities to consult and closely cooperate and coordinate with each other to reach agreement, and make decisions within six months following receipt of submissions by the last Regulatory Authority concerned. A decision is therefore required by each Regulatory Authority by 20 June 2017.

The main elements of the IDCZGT proposal as understood by All Regulatory Authorities are summarised here for reference.

- The IDCZGT proposal covers the Intraday Cross Zonal Gate Opening Time (IDCZGOT) and the Intraday Cross Zonal Gate Closure Time (IDCZGCT).
- The default IDCZGOT is set 22:00 market time day ahead.
- The proposal sets out a number of specifications for the IDCZGOT at Capacity Calculation Region (CCR) level, including the possibility to specify a different IDCZGOT at CCR level, subject to further approval by relevant NRAs and following the process outlined in Article 9 (3) of the CACM Regulation, at the same time as the submission of the Capacity Calculation Methodology required under Article 20(2) of the CACM regulation.
- The default IDCZGCT is set 60 minutes before the start of the relevant intraday market time unit.
- The TSOs shall implement the IDCZGOT and IDCZGCT on a Bidding Zone Border, immediately after implementation on this Bidding Zone Border of:
 - o the common grid model;
 - o the capacity calculation methodology
 - o the MCO-function;
 - o and the relevant Coordinated Capacity Calculator (CCC) had been set up.

III. All Regulatory Authorities' position

All Regulatory Authorities request All TSOs amend a number of areas of the proposal pursuant Article 9(12) of the Regulation 2015/1222. The details of the request for amendment is explained in this section, followed by the requested actions.

1. Intraday cross-zonal gate opening time

All Regulatory Authorities consider the proposed default IDCZGOT not compliant with Article 3 of the Regulation 2015/1222, specifically Promoting effective competition in the generation, trading and supply of electricity requires the IDCZGOT to be set as early as possible.

All Regulatory Authorities consider that eventually the IDCZGOT should be harmonised across Europe. Therefore all Regulatory Authorities request all TSOs to set a future default IDCZGOT at the earliest possible time, taking into account scheduling and balancing processes in relation to network and operational security.

All Regulatory Authorities request harmonization of IDCZGOT across CCRs as a first step. The IDCZGOTs should be specified within the amended proposal. The IDCZGOT in a CCR should be set at the earliest possible time. In particular, the IDCZGOT in a relevant CCR can not be set later than the current IDCZGOT in this CCR.

All Regulatory Authorities request that the future default IDCZGOT be set at the IDCZGOT of the CCR with the earliest IDCZGOT defined in the amended proposal. In cases where the proposed IDCZGOT for a CCR is later than the proposed future default IDCZGOT, the proposed IDCZGOT for a CCR should be duly justified against the future default IDCZGOT.

All Regulatory Authorities understand that the draft all TSO proposal for the Single Methodology For Pricing Cross-zonal Intraday Capacity (CZIDCP) appears to only make available and price intraday capacity from 22:00. All Regulatory Authorities request that the interaction between IDCZGOT and CZIDCP is considered further.

2. Intraday cross-zonal gate closure time

Article 2 of Regulation 2015/1222 defines the IDCZGCT as the point in time where cross-zonal capacity allocation is no longer permitted for a given market time unit.

Article 59(2) requires the proposed IDCZGCT to *maximise* market participants' opportunities for adjusting their balances by trading in the intraday market time-frame as close as possible to real time, and to provide TSOs and market participants with sufficient time for their scheduling and balancing processes in relation to network and operational security.

Article 59(3) requires that the IDCZGCT shall be at most one hour before the start of the relevant market time unit and shall take into account the relevant balancing processes.

All Regulatory Authorities request all TSOs to set, within the proposal, IDCZGCTs per BZBs. These IDCZGCTs per BZB should be set taking into account the requirements of article 59(2) and 59(3) of Regulation 2015/1222 specific to the relevant BZB. It therefore may be set at most one hour before the start of the relevant MTU. When appropriate on a specific BZB, the IDCZGCT should be set closer to the start of the relevant MTU. All Regulatory Authorities

consider the Electricity Balancing Guideline to be relevant to the consideration of article 59(2)b of Regulation 2015/1222.

All Regulatory Authorities consider that future assessments and changes to the IDCZGCT should be dealt with as a cross-cutting issue of the implementation of Regulation 2015/1222 and the requirements under the Electricity Balancing Guideline.

IV. Actions

Based on the above rationale, all Regulatory Authorities agree to request an amendment to the IDCZGT Proposal. This amendment should contain the following elements:

1. To propose a IDCZGOT per CCR by setting a IDCZGOT at the earliest possible time in each CCR.
2. To set a future harmonised default IDCZGOT as the earliest IDCZGOT at CCR level as defined in the amended proposal, taking into account scheduling and balancing processes in relation to network and operational security.
3. To duly justify the proposed IDCZGOT per CCR against the proposed future default IDCZGOT in cases where the proposed IDCZGOT in a CCR is later than the future default IDCZGOT.
4. To set, within the proposal, a IDCZGCT per BZB at most one hour before the start of the relevant MTU. The IDCZGCT per BZB should be set taking into account the requirements of article 59(2) and 59(3) of Regulation 2015/1222 and therefore should be set closer than one hour to the start of the relevant MTU where appropriate.