

TSO Obligations under Forward Capacity Allocation

Consultation Paper

SEM-17-068

6th September 2017

1 BACKGROUND

The SEM Committee has committed to implement the Integrated Single Electricity Market (I-SEM) that will go live in Q2 2018 and will be consistent with the European Union Target Model for electricity. The Target Model requires implementation of network codes or guidelines, which are Commission Regulations containing legally binding rules. These govern all cross-border electricity market transactions and system operation and include the Regulation establishing a guideline on forward capacity allocation (FCA), which entered into force on 17 October 2016. The provisions of FCA establish a framework for the calculation and allocation of interconnection capacity, and for cross-border trading, in forward markets (i.e. timeframes longer than day-ahead).

The FCA regulation lays down detailed rules on cross-zonal capacity allocation in the forward markets; the establishment of a common methodology to determine long-term cross-zonal capacity; the establishment of a single allocation platform at European level offering long-term transmission rights; and the possibility to return long-term transmission rights for subsequent forward capacity allocation or transfer of long-term transmission rights between market participants.

2 TSO OBLIGATIONS UNDER FCA REGULATION

The FCA Regulation places a number of obligations on all Transmission System Operators (TSOs) in EU Member States. All TSOs within a Member State are required to comply with the obligations placed on them under the FCA unless, in the case of a Member State where more than one transmission system operator exists, these obligations are assigned under Article 1(3) of the FCA. Article 1(3) of the FCA Regulation provides:

“In Member States where more than one TSO exists, this Regulation shall apply to all TSOs within that Member State. Where a TSO does not have a function relevant to one or more obligations under this Regulation, Member States may provide that the responsibility for complying with those obligations is assigned to one or more different, specific TSOs.”

The CER and UR consider that Article 1(3) of FCA Regulation provides a discretion to a Member State, where a transmission system operator in that Member State “does not have a function relevant to one or more obligations under [the FCA Regulation]”, to determine whether all TSOs in that Member State are obliged to comply with all of the new obligations placed on TSOs under the FCA Regulation.

The current consultation will mimic the approach taken with the CACM regulation where the relevant departments in both Ireland and Northern Ireland asked the relevant Regulatory

Authority to use the discretion under Article 1(3) of the CACM Regulation. It is therefore considered that both the Department of Communications, Climate Action and Environment in Ireland and the Department for the Economy in Northern Ireland have asked their respective Regulatory Authority, the Commission for Energy Regulation (the CER) and the Utility Regulator (UR) to consider whether each Regulatory Authority would propose to use the discretion under Article 1(3) of the FCA regulation. The CER has the responsibility for determining the assignment of TSO responsibilities under the FCA in Ireland. The UR has the responsibility for determining the assignment of TSO responsibilities under the FCA in Northern Ireland.

There are currently a number of TSOs which operate in the all-island market. These include EirGrid plc and SONI, Moyle Interconnector Limited and EirGrid Interconnector Designated Activity Company (EIDAC) (which is expected to be certified as a TSO), and all are required to comply with the FCA regulation upon its entry into force. It may be the case that not all of the TSOs operating in the all-island market will be required to comply with all of the obligations under the FCA Regulation as outlined above. In line with the similar process constructed by Ofgem for TSOs operating in Great Britain, the CER and UR will therefore assign responsibilities between the TSOs operating in Ireland and Northern Ireland as per Article 1(3) of FCA.

It should be noted that we do not consider that Article 1(3) requires us to decide how TSOs will comply with obligations once assigned. We are of the view that the TSOs are best placed to determine the method of compliance with these new obligations. It should also be noted that any TSO may choose to delegate all or part of any task assigned to it under FCA to one or more third parties under Article 62 of FCA.

Annex 1 sets out our minded to position on assignment of TSO roles and responsibilities.

3 PROCESS TO DETERMINE ASSIGNMENT OF TSO RESPONSIBILITIES

The CER and UR are engaging with TSOs to provide information to inform their decisions on TSO assignment of Responsibilities.

We are inviting comments and submissions on our minded to decision to matanasova@cer.ie and Ian.McClelland@uregni.gov.uk to be received by 17:00 on Wednesday 4th October 2017.

A final decision on the assignment of TSO Responsibilities under FCA will be published on Tuesday 24th October 2017.

4 CONSULTATION ON MINDED TO DECISION

We invite stakeholders to provide their views on our minded to decision with particular reference to the following questions:

1. Do you agree with the CER and UR's application of Article 1(3) in assigning obligations to the TSOs operating in the all-island market as outlined in the Annex to this Consultation Paper?
2. Do you agree that we have correctly identified the Articles of FCA Regulation which place an obligation on the TSOs?
3. How do you think the CER and UR should determine future changes to the assignment of TSO obligations under the FCA Regulation?

5 NEXT STEPS

The CER and UR recognise that the assignment of obligations under the FCA Regulation for TSOs in Ireland and Northern Ireland may change over time. Accordingly, our minded to position is to oblige the TSOs to provide evidence as to why their obligations should change and to justify any such position. We welcome views on this.

Any comments or queries in relation to this paper should be sent to Mariela Atanasova (matanasova@cer.ie) and Ian McClelland (Ian.McClelland@uregni.gov.uk) by Wednesday 4th October 2017.