

**Approval by by all Regulatory Authorities
agreed at the Energy Regulators' Forum**

on

**the all NEMOs' Proposal for Back-up Methodology
in accordance with Article 36(3) of Commission
Regulation (EU) 2015/1222 of 24 July 2015
establishing a Guideline on Capacity Allocation and
Congestion Management**

23 January 2018

I. Introduction and legal context

This document elaborates an agreement of All Regulatory Authorities, agreed at the Energy Regulators' Forum on 23 January 2018, on the **All NEMOs' proposal for a Back-up Methodology submitted in accordance with Article 36(3) of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management** (hereafter "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 Regulation 2015/1222. This agreement is intended to constitute the basis on which All Regulatory Authorities will each subsequently adopt the decision to back-up methodology pursuant Article 9(6)(f).

The legal provisions relevant to the submission and approval of the proposal and this All Regulatory Authority agreement on the proposal, can be found in Articles 3, 7, 9, 36, 39, and 52 of 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 7 of Regulation 2015/1222

1. *NEMOs shall act as market operators in national or regional markets to perform in cooperation with TSOs single day-ahead and intraday coupling. Their tasks shall include receiving orders from market participants, having overall responsibility for matching and allocating orders in accordance with the single day-ahead and intraday coupling results, publishing prices and settling and clearing the contracts resulting from the trades according to relevant participant agreements and regulations.*

With regard to single day-ahead and intraday coupling, NEMOs shall in particular be responsible for the following tasks:

- a. (...)

- b. (...)
- c. (...)
- d. (...)
- e. (...)
- f. (...)
- g. (...)
- h. *establishing jointly with relevant NEMOs and TSOs back-up procedures for national or regional market operation in accordance with Article 36(3) if no results are available from the MCO functions in accordance with Article 39(2), taking account of fallback procedures provided for in Article 44;*
- i. (...)
- j. (...)
- 2. (...)
- 3. (...)
- 4. (...)
- 5. (...)
- 6. (...)

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) (...)
 - (..) (...)
 - (f) *back-up methodology in accordance with Article 36(3);*
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 to 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 713/2009. 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 36 of Regulation 2015/1222:

1. (...)
2. (...)
3. *By 18 months after the entry into force of this Regulation, all NEMOs shall in cooperation with TSOs develop a proposal for a back-up methodology to comply with the obligations set out in articles 39 and 52 respectively*
4. (...)

Article 39 of Regulation 2015/1222:

1. *In order to produce results, the price coupling algorithm shall use:*
 - a. *allocation constraints established in accordance with Article 23(3);*
 - b. *cross-zonal capacity results validated in accordance with Article 30;*
 - c. *orders submitted in accordance with Article 40..*
2. *The price coupling algorithm shall produce at least the following results simultaneously for each market time unit:*
 - a. *a single clearing price for each bidding zone and market time unit in EUR/MWh;*
 - b. *a single net position for each bidding zone and each market time unit;*
 - c. *the information which enables the execution status of orders to be determined.*
3. *All NEMOs shall ensure the accuracy and efficiency of results produced by the single price coupling algorithm.*
4. *All TSOs shall verify that the results of the price coupling algorithm are consistent with cross-zonal capacity and allocation constraints.*

Article 52 of Regulation 2015/1222:

1. *All NEMOs, as part of their MCO function, shall ensure that the continuous trading matching algorithm produces at least the following results:*
 - a. *the execution status of orders and prices per trade;*

- b. *a single net position for each bidding zone and market time unit within the intraday market.*
2. *All NEMOs shall ensure the accuracy and efficiency of results produced by the continuous trading matching algorithm.*
3. *All TSOs shall verify that the results of the continuous trading matching algorithm are consistent with cross-zonal capacity and allocation constraints in accordance with Article 58(2).*

II. The All NEMO Proposal

The All NEMO Back-up methodology proposal, dated 14 February 2017, was received by the last Regulatory Authority on 17 February 2017.

According to Article 9(10) of Regulation 2015/1222, all Regulatory Authorities shall approve or request amendments regarding terms and conditions or methodologies submitted by TSOs or NEMOs within 6 months after the receipt of the proposal. Therefore, the deadline for approving the Backup methodology or requesting amendments was on 17 August 2017. On 25 July 2017 all Regulatory Authorities at the Energy Regulators' Forum unanimously agreed to request an amendment to the Back-up methodology proposal submitted by All NEMOs. On this basis each Regulatory Authority took individual decisions and sent the request for amendment to their respective NEMO.

The request for amendment was received by the last NEMO on 30 August 2017.

The amended All NEMO's Back-up methodology proposal was received by the last NRA on 1 December 2017, after the deadline under Article 9(12) of Regulation 2015/1222.

The amended proposal includes proposed timescales for its implementation and a description of its expected impact on the objectives of Regulation 2015/1222 as requested by Article 9(9) of Regulation 2015/1222.

III. All Regulatory Authorities' position

All Regulatory Authorities requested NEMOs to modify the Back-up methodology proposal in accordance with the following elements:

1. To justify the timescale for implementation.
2. To properly define all the expressions used in the proposal.
3. To replace any ambiguous expression with a corresponding expression which makes the provision clearly enforceable.
4. To elaborate measures aiming at closing only the NEMO Trading Hub affected by an incident and at preventing the impact on other NEMO Trading Hubs.
5. To specify back-up procedures for any normal procedure mentioned in the proposal.
6. To specify in the algorithm proposal the deadline when fallback procedures shall be activated.
7. To introduce more flexibility in back-up communication for ID market.
8. To assign the responsibilities for analyzing the arising issues and for deciding to activate the corresponding back-up procedure.
9. In those instances where the fallback procedures developed by TSOs (according to Article 44 of Regulation 2015/1222, but also Articles 45 and 57 when relevant) describe national or regional coupling, the back-up methodology should include a general obligation for NEMOs to execute national and regional coupling in case of partial decoupling, in accordance with regional and local procedures developed by TSOs.

The amended Back-up methodology proposal is compliant with all the abovementioned requests. In particular:

1. The timescale for implementation is defined in Article 20 of the proposal. The date for the implementation of the Back-up methodology, envisaged immediately after the implementation of the MCO function and the implementation of the Multi NEMO Agreements, is considered appropriate.
2. Many previously missing definitions have been introduced. In particular, “intermediate timelines” are defined in Articles 3(5) and “extreme circumstances” are defined in Article 3(6)..
3. Many ambiguous expressions have been replaced. In particular, clear distinction between “local issue” and “global issue” is made in Article 2; the expression “local pre/post coupling issues” has been replaced by “local issues” in Article 3(3) and in Article 14(3). The wrong reference to Article 52 of Regulation 2015/1222 has been deleted from Article 3(7). Furthermore, the availability of a secondary datacenter on a voluntary basis has been set out more explicitly in Article 5(2). However the use of the word “area” in Article 18 might be still subject to alternative interpretations, since it has not been clearly defined.
4. The provision stating that the continuous trading in all areas /interconnectors not affected by the incident shall continue is introduced in Article 18(2).
5. Missing procedures have been specified. In particular, procedures in case of results rejection by NEMOs are specified in Article 10(3) and procedures in case of results rejection by TSOs are specified in Article 11(4).
6. With regard to the deadline when fallback procedures shall be activated, according to NRAs’ request it has to be mentioned in the Algorithm proposal, therefore it does not fall into the domain of the present approval procedure.
7. With regard to the request for more flexibility, the possibility of manual switch between primary and secondary communication is introduced in Article 15(3) and the possibility for TSOs to act as a backup for Capacity Calculation Coordinators or other TSOs is introduced in Article 15(4).
8. With regard to the assignment of responsibilities in case of backup procedures activation in DA, the obligation for the Coordinator to trigger the incident committee is set forth in Article 3(9) and in case of backup procedure activation in ID, the obligation for affected parties to contact the ID MCO Function Service Provider responsible for communication lines is set forth in Article 15(5).
9. With regard to partial decoupling, the methodology establishes that NEMOs commit to apply the fallback procedures developed by TSOs for the part of their competence.

IV. Conclusions

All Regulatory Authorities welcome the amended Backup methodology proposal and the significant improvements adopted by All NEMOs. All Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to reach agreement that the Backup methodology meets the requirements of Regulation 2015/1222 and as such can be approved by All Regulatory Authorities.

All Regulatory Authorities must therefore make their decisions, to approve the Backup methodology submitted by their relevant NEMOs to them, reflecting the terms of this agreement, by 1 February 2018.

Following national decisions taken by each Regulatory Authority, All NEMOs will be required to publish the Back-up methodology on the internet in line with Article 9(14) of Regulation 2015/1222, and must meet the implementation deadlines required by Article 20 of the Backup methodology.