


**ACER**

 Agency for the Cooperation  
of Energy Regulators

# **Governance and decision-making process under CACM Regulation**

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## **Key topics**

- **Construction of CACM Regulation**
- **Governance on terms and conditions or methodologies**
- **Disagreements and ACER decisions**
- **Governance of single coupling**
- **Room for improvement**

# How did we end up with CACM Regulation

- **Political agreement to integrate energy markets**
  - three legislative packages (1996, 2003, 2009)
- **Development of the target models**
  - long-term, day-ahead, intraday, balancing capacity calculation, governance
- **Establishment of EU-wide network codes**
  - directly binding rules for market and system operation
- **CACM Network Code:**
  - EU-wide Rules for day-ahead and intraday capacity calculation, allocation and congestion management

# Problems in development and adoption of CACM Regulation

- **No agreements on difficult design choices (e.g. capacity calculation and bidding zones)**
- **Low visibility and understanding on appropriate solutions for the near future**
- **Insufficient time to elaborate all details in the network code**
- **Status of power exchanges in market coupling and competition among them**
- **Who should be responsible for developing and maintaining the central market coupling algorithms?**
- **Who should share and bear the costs?**

## The line we took in CACM Regulation

- Design elements with high future visibility and easy drafting will be defined directly in the code
- Other design elements will be developed later via terms and conditions or methodologies (TCM)
- Power exchanges will be given the legal status of NEMOs and given the mandate to perform single coupling
- TSOs support single coupling with capacity calculation and other supporting processes
- Some clarity on cost sharing and no clarity on cost recovery
- Network code converted into Commission Guideline
- The process for adoption of TCMs is they key!

## Approach different to gas network nodes

Issue	Electricity	Gas
Legal format	Guideline	Network Code
Level of detail	High	Low
Level of harmonisation	High	Low
Level of integration	High	Low
Terms and conditions or methodologies	Yes	No
Regional or EU-wide cooperation	Yes	No
Implementation focus	Adoption of good TCMs	Monitoring of correct national implementation

## Governance on development of TCMs (1)

- For each TCM, CACM Regulation defines the deadline, substance and geographical scope
  - Who should develop and approve it, what it should contain and when is the deadline for submitting it for approval?
- TSOs and NEMOs have the responsibility to develop proposals for TCMs
- EU-wide decisions adopted with Qualified Majority Vote (QMV)
- Proposal is approved by TSOs/NEMOs if:
  - if TSOs/NEMOs representing 55% of all MSs are in favour; and
  - if TSOs/NEMOs representing 65% of all population is in favour
- If several TSOs or NEMOs operate in one MSs, the MSs will split their voting share among them

## Governance on development of TCMs (2)

- **Regional decisions generally adopted with consensus**
- **In regions with more than five MS, if no consensus is reached TSOs/NEMOs approve the proposal if:**
  - if TSOs/NEMOs representing 72% of concerned MSs are in favour; and
  - if TSOs/NEMOs representing 65% of all population in concerned region are in favour
- **If TSOs/NEMOs fail to agree and develop a proposal:**
  - They need to inform NRAs and ACER on the reasons and submit them the relevant draft (different versions)
  - ACER needs to inform Europa Commission
  - Commission needs to take appropriate steps to solve the issue



## Governance on approval of TCMs (1)

- TCMs are approved by all NRAs competent over TSOs/NEMOs making the proposal
- NRAs have six months to:
  - reach an agreement/consensus on a proposal
  - make national decisions reflecting the agreement
- After 6 months NRAs can:
  - Approve the proposal or request amendments
  - Agree to refer the case to ACER
  - do nothing and the case is automatically referred to ACER
  - Request from ACER for extension of the deadline up to six months
- Agree to disagree

## Governance on approval of TCMs (2)

- **If NRAs request amendment to the proposal:**
  - TSOs/NEMOs have two months to resubmit an amended proposal
  - NRAs have to months to make a decision
  - Unclear:
    - Can NRAs request amendments again?
    - Can NRAs request extension of the deadline again and how much?
- **The deadlines are always counted from the date the last NRA/TSO/NEMO receives the proposal or request for amendment**
- **The TCM enters into force when the last NRA makes a decision**
- **Each TCM must specify implementation timeline/deadline**

## ACER decisions on TCMs

- **ACER decides on TCMs if NRAs fail to agree or agree to request ACER to make a decision**
- **ACER has six months to issue a decision**
- **During this period ACER must consult at least the ones who are directly addressed by the decisions (NRAs and TSOs/NEMOs)**
- **In practice all decisions are heavily discussed with NRAs, TSOs/NEMOs at working levels**
- **ACER decision must receive favourable opinion of the ACER Board of Regulators**
- **ACER decision is directly binding – effectively replaces the decision of each NRA – no subsequent decision of NRAs needed**
- **ACER decision can be challenged at ACER Board of Appeal and subsequently at the European General Court**

# Main reasons for referral of decisions to ACER (1)

- **No. 1 reason: poor drafting and legal quality – NRAs cannot amend the proposal directly, ACER can.**
- **No. 2 reason: Fundamentally different positions of NRAs**
- **Proposal not complying with CACM Regulation**
- **Unclear, ambiguous legal requirements in CACM Regulation**
- **TSOs ignoring/refusing requests for amendment**
- **NRAs not making clear requests for amendments**

## Main reasons for referral of decisions to ACER (2)

- **CCR Decision: disagreement: DE-AT border**
- **IDCZGT Decision: disagreement: intraday cross-zonal gate opening time in several CCRs**
- **HMMCP: disagreement: one NRA considered that the maximum price of 3000€/MWh is too low**
- **CIDM: agreement: TSOs did not address all NRAs requests**
- **Algorithms Decision: agreement: NEMOs did not address all NRAs requests**
- **IDCZCP Decision: disagreement: different views on the number of intraday auctions**
- **CORE CCM: disagreement: different expectations regarding non-discrimination between internal and cross-zonal exchanges**

# Governance of single coupling (1)

## Legal construction:

- **NEMOs:**
  - **Develop, maintain and operate the single coupling algorithms**
  - **Define products that can be used in single coupling**
  - **Clearing and settlement**
- **TSOs:**
  - **Calculate cross-zonal capacities**
  - **Define requirements for cross-zonal capacity allocation**
  - **Validate allocated capacities and cross-order scheduling**

## Governance of single coupling (2)

### Operational practice:

- **NEMOs and TSOs collaborate closely in development, upgrading, maintenance and operation of the algorithms**
- **They established joint process and committees to:**
  - **Manage request for changes to extend the scope and add additional features to the algorithms**
  - **Monitor the performance of the algorithms and manage corrective measures**
  - **Address operational issues and incidents – day-to-day management**
- **Cost recovery is unclear**

## Room for improvement

- TSOs/NEMOs developing proposals
- NRAs approving proposals
- ACER decisions
- Governance of single day-ahead coupling
- Governance of MCO Function
- Governance of ENTSO-E
- Governance of bidding zone review
- Governance of capacity calculation and redispatching/countertrading



**Thank you for your attention!**



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