

All interested parties,
stakeholders in GB and beyond,
and other regulatory bodies

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Dear colleague,

Request for the Agency for the Cooperation of Energy Regulators to adopt a decision on the Congestion Income Distribution Methodology

On 20 April 2017, we¹ received an amended proposal from GB Transmission System Operators (TSOs) in accordance with Article 9(12) of the guideline on Capacity Allocation and Congestion Management (the CACM Regulation).² The proposals were submitted to us by the relevant GB TSOs in line with our assignment of obligations.³

This letter sets out our decision to request the Agency for Cooperation of Energy Regulators (the Agency) to adopt a decision on the Congestion Income Distribution Methodology (CID M), pursuant to Article 9(12) of the CACM Regulation, and outlines the next steps.

Background

The CID M proposes the methodology to distribute Congestion Income from single day ahead and intraday coupling. Congestion Income is defined in CACM as the revenues received as a result of capacity allocation.⁴

The CID M is an EU proposal developed by all TSOs in accordance with Article 73(1) of the CACM Regulation. The proposal was first submitted to us by GB TSOs on 24 July 2016. Following consultation with all Regulatory Authorities, we requested on 17 February 2017 that GB TSOs submit an amended proposal by 20 April 2017, pursuant to Article 9(12) of the CACM Regulation. The requested amendments were set out in the all Regulatory Authority agreement, which we published as an annex to our decision on the CID M.⁵

¹ The Gas and Electricity Markets Authority. Ofgem is the Office of the Authority. The terms "Ofgem" and "the Authority," "we" and "us" are used interchangeably in this letter.

² [Commission Regulation \(EU\) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management](https://www.ofgem.gov.uk/publications-and-updates/decision-congestion-income-distribution-methodology) The CACM Regulation came into force 14 August 2015. It aims to maximise the efficient use of interconnection and facilitate greater cross-border electricity trade, through market coupling in the day-ahead and intraday timeframes. Market coupling should make sure power is produced where it is most efficient and used where it is most valued, to lower prices for consumers and support secure and sustainable supply.

³ See multiple TSO decision letter here: <https://www.ofgem.gov.uk/publications-and-updates/decision-our-consultations-assignment-transmission-system-operator-obligations-under-capacity-allocation-and-congestion-management-regulation-within-gb>. The relevant GB TSOs that were assigned responsibilities under Article 73 of the CACM Regulation are Moyle Interconnector Limited, East-West Interconnector Company, BritNed Development Limited, and National Grid Interconnectors Limited.

⁴ Article 2(16) of the CACM Regulation.

⁵ Our decision to request an amendment to the CID M and the all Regulatory Authority agreement can be found here: <https://www.ofgem.gov.uk/publications-and-updates/decision-congestion-income-distribution-methodology> All Regulatory Authority agreements provide evidence that a decision does not, at that stage, need to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 9(11) of the CACM Regulation on a particular proposal, and are intended to constitute the basis on which all Regulatory Authorities will each subsequently make decisions on the relevant proposal.

The Agency has confirmed the date last Regulatory Authority received the amended methodology on the 21 April 2017. The CACM Regulation requires the competent Regulatory Authorities to decide on the amended terms and conditions or methodologies within two months following their submission.⁶ National decisions are therefore required for this proposal by 21 June 2017.

Our Decision

In forming our decision, we have reached agreement with all regulators on the issues that have resulted in a request for a decision from the Agency on the CID M. We do not consider that TSOs have sufficiently and properly taken into account our request for amendment included in our previous decision. The TSOs have also introduced provisions into the amended CID M that were not requested in our previous decision.

We have reviewed the amended CID M proposal submitted to us in line with the requirements of the CACM Regulation, the wider objectives of the Regulation (EC) 714/2009,⁷ and our statutory duties and obligation. We have consulted and closely cooperated and coordinated with other Regulatory Authorities to reach an agreement on the amended CID M proposal. The all Regulatory Authority agreement, reached on 13 June 2017, is summarised in a letter from the Chair of the Energy Regulators' Forum (ERF)⁸ that is attached as an annex to this decision. This letter constitutes the reasons for our decision.

In line with this all Regulatory Authority agreement, we hereby request the Agency to adopt a decision on the CID M proposed by all TSOs and submitted to us by Moyle Interconnector Limited, East-West Interconnector Company, BritNed Development Limited, and National Grid Interconnectors Limited.

Decision to not undertake an Impact Assessment

As set out in our decision on the original CID M, we have not undertaken an Impact Assessment because the proposal and the changes requested would not constitute a significant change to existing arrangements whereby market revenues are earned and distributed to the GB interconnectors. Accordingly, we consider that an impact assessment is unnecessary. If alternative approaches were proposed for GB interconnectors in the future, we would at that point assess again whether an Impact Assessment is required in making a decision on whether to approve such approaches.

Next steps

In accordance with Article 9(12) of the CACM Regulation, we request the Agency to adopt a decision concerning the amended CID M within six months, in accordance with Article 8(1) of Regulation (EC) No 713/2009; by 21 December 2017.

If you have any queries regarding the information contained within this letter, or the all Regulatory Authority agreement in the annex please contact Thomas Jones at thomas.jones@ofgem.gov.uk.

Yours sincerely,

Mark Copley
Associate Partner, Wholesale Markets

⁶ Article 9(12) of the CACM Regulation.

⁷ See Regulation 714/2009: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0015:0035:EN:PDF>

⁸ The ERF is the Forum established by all regulatory authorities with rules of procedure to consult and cooperate to reach unanimous agreement.