

Additional areas that all regulators agree ACER may include and take into account when reaching a decision

All NRAs have agreed that, although they have no concerns on the majority of the elements of the proposed HAR, the following elements of the proposal could also be addressed, if this does not hinder reaching a decision on time for legal or process related reasons:

- Article 48(1)(a): to avoid any ambiguity, the expression “*subject to the approval of the relevant NRAs*” should be placed as in Article 59(1)(a), and in both Articles the adjustment of the price to reflect Allocation Constraints should be limited to Allocation Constraints as defined in Article 23(3)(b) of the CACM Regulation;
- Article 58: the Day Ahead Firmness Deadline should remain set 30 minutes before the Day Ahead Market Gate Closure Time unless otherwise specified in accordance with the process described in Article 69 of the Commission Regulation (EU) 2015/1222, to avoid any discrepancy between firmness deadlines applicable for long-term and day-ahead capacity rights during the transition period where HAR will be in force but the Day Ahead Firmness Deadline defined pursuant to Article 69 of the Commission Regulation (EU) 2015/1222 will not yet be applicable;
- Article 68: this Article shall be amended to reflect that the amendment process of the HAR is now governed by Article 4(12) of Regulation 2016/1719;
- Article 76(3): a sentence should be added, symmetrically to the second sentence of the paragraph, to clarify that subcontracting by the Allocation Platform does not relieve it of any obligation or liability.