

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

Email: [NatashaZoe.Smith@ofgem.gov.uk](mailto:NatashaZoe.Smith@ofgem.gov.uk)

Date: 13 June 2019

Dear Colleague,

## **Approval of the amended Congestion Income Distribution Methodology under the Forward Capacity Allocation Regulation**

On 14 March 2019, we<sup>1</sup> received an amended proposal from the GB Transmission System Operators (TSOs) for the congestion income distribution methodology in accordance with Article 57 of the guideline on Forward Capacity Allocation (the FCA Regulation).<sup>2</sup> The proposal was submitted to us by the relevant GB TSOs in line with our assignment of obligations.<sup>3</sup>

This letter sets out our decision to approve the amended congestion income distribution methodology (CID M) proposal, pursuant to Article 4(11) of the FCA Regulation, and outlines the necessary next steps that must be taken.

### **Background**

The CID M has been developed by all TSOs. The FCA Regulation requires the competent Regulatory Authorities to consult and closely cooperate and coordinate with each other in order to reach an agreement and take decisions within two months following receipt of an amended proposal by the last regulatory authority.<sup>4</sup> The last Regulatory Authority received the proposal on 15 April 2019. National decisions for this proposal are therefore required by 15 June 2019.

### *Congestion Income Distribution Methodology*

In the Regulation (EU) 2015/1222 (the CACM Regulation), congestion income is defined as “the revenues received as a result of capacity allocation”.<sup>5</sup> In the context of the FCA Regulation, congestion income is accrued from each auction of long-term transmission rights on a bidding zone border. The Single Allocation Platform collects the congestion

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<sup>1</sup> 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.

<sup>2</sup> [Commission Regulation \(EU\) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation](#). The FCA Regulation came into force on 26 September 2016. It builds on the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (CACM Regulation) to maximise efficiency in cross-border electricity trading. Specifically, the FCA Regulation provides a harmonised framework for forward capacity markets to allow market participants to hedge positions before the day-ahead timeframe.

<sup>3</sup> See mTSO decision letter here:

[https://www.ofgem.gov.uk/system/files/docs/2016/10/qcc\\_fca\\_final\\_decision\\_on\\_mtso.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/10/qcc_fca_final_decision_on_mtso.pdf)

<sup>4</sup> Article 4(11) of the FCA Regulation.

<sup>5</sup> Article 2(16) of the Regulation (EU) 2015/1222 (CACM Regulation) made applicable in accordance with Article 2 of the FCA Regulation.

income and assigns it to each bidding zone border. The congestion income is then distributed on a monthly basis to the TSOs on each side of a bidding zone border or, via the relevant TSOs, to third party asset owners.

Until the implementation of the CID M, the sharing of congestion income between the TSOs is based on joint agreements among the TSOs and with the relevant entities collecting the congestion income or national regulation.

## **Our Decision**

We have reviewed the proposal submitted to us in line with the requirements of the FCA Regulation, the wider objectives of the Regulation (EC) 714/2009,<sup>6</sup> and our statutory duties and obligations. As required by Article 4(9) of the FCA Regulation, we have consulted, and closely cooperated and coordinated with other Regulatory Authorities in order to reach an agreement on the proposal. The all Regulatory Authority agreement, reached on 22 May 2019, is attached as an annex to this decision letter and constitutes the reasons for our decision.

In our original decision, we requested amendments in order to ensure that the methodology included the necessary level of detail, clarity and transparency. For example, the original FCA CID M may have required all NRAs and TSOs to amend the methodology for relatively straightforward changes such as the introduction of a new interconnector. Removing the sharing key annex from the methodology reduces this risk of unnecessary administrative burden.

The methodology has been amended so that the annex will now sit outside of the methodology. The annex shall be published on the website of the European Network of Transmission System Operators for Electricity (ENTSO-E). TSOs shall be responsible for ensuring that the sharing keys within the annex remain accurate.

Additional changes were sought in the request for amendment including a request to make clearer the link between the CID M relating to Article 57 of the FCA Regulation and the CID M relating to Article 73 of the CACM Regulation (CACM CID M).<sup>7</sup> Several editorial amendments were also requested. An exhaustive list of the amendments requested is available in the All Regulatory Authority Position Paper.<sup>8</sup>

We are satisfied that these requests have been satisfactorily addressed. Therefore, in line with the all Regulatory Authority agreement, we hereby approve the CID M.

## **Decision not to undertake an Impact Assessment**

We have not undertaken an Impact Assessment for this proposal. This is because the proposal is limited in scope and does not constitute a significant change to existing GB requirements and arrangements. Furthermore, the adoption of the CID M is a requirement of the FCA Regulation, which has already been subject to an impact assessment. We also consider that the requirements set out in the FCA CID M will be similar to the requirements established under the CACM CID M. Accordingly, we consider that an impact assessment is unnecessary.

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<sup>6</sup> See Regulation (EC) 714/2009:

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0015:0035:EN:PDF>

<sup>7</sup> See the Agency for the Cooperation of Energy Regulators (ACER) decision on the CACM CID M:

[https://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20Decision%202007-2017%20on%20CIDM.pdf](https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%202007-2017%20on%20CIDM.pdf)

<sup>8</sup> All Regulatory Authority position paper on the FCA CID M:

[https://www.ofgem.gov.uk/system/files/docs/2019/01/fca\\_cidm\\_rfa\\_position\\_paper.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/01/fca_cidm_rfa_position_paper.pdf)

## Next steps

In accordance with this decision, the CID M will take effect following the approval by the competent authorities. As such, all relevant GB TSOs must publish the CID M on the internet in line with Article 4(13) of the FCA Regulation, and must meet the implementation deadlines required by Article 5 of the CID M.<sup>9</sup>

If you have any queries regarding the information contained within this letter or the all Regulatory Authority agreement in the annex, please contact [Kevin.Hughes@ofgem.gov.uk](mailto:Kevin.Hughes@ofgem.gov.uk).

Yours sincerely,

Natasha Zoe Smith  
Head of European Wholesale Markets

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<sup>9</sup> In accordance with Article 5(2) of the FCA CID M, the FCA CID M will be implemented once these methodologies have been implemented: i) the Regional Long Term Capacity Calculation Methodology for the relevant region (Article 10 of the FCA Regulation) and ii) the all TSO methodology regarding costs of ensuring firmness and remuneration of long-term transmission rights (Article 61 of the FCA Regulation).