

Implementation of Electricity Guidelines in the Energy Community

Energy Community Secretariat, Am Hof 4, Level 6, 1010 Vienna
10-11 April 2018

Meeting Summary

Reference documents:

- Adapted version of Regulation 2015/1222
- Adapted version of Regulation 2016/1719
- Presentation on the FCA and CACM Regulations
- Presentation on the EL and SO Regulations

Documents are available at: www.energy-community.org – events: cf the events of 10-11 April 2018¹

1. CACM and FCA Regulations

The Energy Community Secretariat ('Secretariat') presented the general approach proposed for adaptation and adoption of Regulation 2015/1222 ('CACM Regulation') and Regulation 2016/1719 ('FCA Regulation') in the Energy Community: the proposed adaptations made in the EU versions of the CACM and FCA Regulations that were circulated before the meeting were explained based on a detailed slide set (cf presentations), grouped into the following key areas:

1. Procedures
2. Introduction
3. Geographical scope
4. CCRs
5. Methodologies – existing vs. new | European vs. regional
6. Voting
7. Others

Each of the pillars was presented alongside the correlating adapted provisions made in the Regulations.

As a general guiding principle, the overall objectives are:

- To ensure legal certainty for interconnections between Contracting Parties and (neighboring) Member States;
- to ensure, as much as possible, the implementation and applicability of European solutions which are, are being or are to be developed under the CACM and FCA Regulations; and

¹ Also available as meeting material for the event on 8 May 2018.

- to avoid regulatory gaps.

Ad element 1) procedures: ref. slides 4 and 5 CACM/FCA presentation

Ad element 3) geographical scope: ref. slide 13 CACM/FCA presentation

ECS presented the general legal approach, which foresees the adoption of the CACM and FCA Regulations under Title III of the Energy Community Treaty but reducing the scope of applicability to the Contracting Parties for national requirements, and interconnections between Contracting Parties and Contracting Parties and Member States for cross-border requirements

Ad element 4) CCR: ref. slides 17, 18 and 20 CACM/FCA presentation

Ad element 5) and 6) methodologies and voting: ref. slides 23, 25 and 26 CACM/FCA presentation

The European requirements, such as methodologies and terms and conditions that need to be developed and agreed through “all TSOs/NEMOs/NRAs” processes should be approved by Energy Community institutions (Ministerial Council or PHLG) with the geographical applicability as defined above (ad element 3 and 4) but excluding a right of change. The regional requirements that involve development and agreement by the TSOs/NEMOs/NRAs of the relevant region (cf: ad element 4) are suggested to be developed and approved by the TSOs/NEMOs/NRAs of such region.

Questions and remarks:

- The general approach presented by the Secretariat received principle support, however stakeholders requested time to assess the text and provide concrete feedback.
- Participants raised concerns as regards the appropriateness of replacing the powers of ACER under the CACM and FCA Regulation with ECRB competences (so-called “standard adaptation”) within the proposed geographic scope, considering the different nature and the set-up of these two bodies. The Secretariat agreed that attributing decisive powers to ECRB would require re-structuring of the body, including the introduction of a decision making function that is truly independent from individual regulators (et al); the Secretariat however noted also that the alternative option of extending ACER competences to Contracting Parties entails legal and institutional difficulties; at the same time ERCB is already a body bringing together EU and Contracting Party regulators. The Secretariat took note of the remarks made and the request to further discuss them with the European Commission.
- Participants in principle agreed with the design of the suggested CCR and stressed that at least the decision on the CCRs should be adopted in one go with the CACM and FCA Regulations; other already existing methodologies could come in a second step. Procedurally, the approval of the so-called “shadow SEE CCR” (cf slide 20 CACM/FCA presentation) should activate the formation of the so-called “shadow 10th CCR” (cf the related ACER Decision on CCRs on EU level and the related ENTSO-E explanatory document). The approval should also include the establishment of at least two other regions; Bursthyn region and Ukraine-Moldova region.
- ENTSO-E asked whether the approach used in the gas sector, namely to agree on implementation of network codes on interconnections between Member States and Contracting Parties via voluntary declarations was also considered for electricity. The Secretariat explained, that, first, different from gas

network codes, the electricity guidelines do not foresee specific provisions regulating applicability on interconnections to third countries (in the very case: Contracting Parties) upon which voluntary arrangements could be based; and, secondly, also for the gas codes the voluntary approach only remains a preliminary solution unless a legally binding reciprocity model is put in place.

- Upon related questions, the Secretariat confirmed that the suggested model would foresee that NEMOs designated in an EU Member State could become NEMOs in a Contracting Party, provided their designation in that Contracting Party (and based on that: other Contracting Parties); also cost-sharing mechanisms shall be applicable to NEMOs designated in Contracting Parties.
- ENTSO-E representatives suggested re-considering adjustments made in Article 49 of the FCA Regulation with a view not to exclusively tailor made to existing companies.
- SEE CAO representatives suggested to also reflect third country involvement in the single allocation platform.

Next steps:

- ECS will submit the adapted text for written comments before the next meeting including some specific questions.

Specific questions related to CACM and FCA:

1. Do you agree with the general approach for adaptation and adoption of the CACM and FCA Regulations in the Contracting Parties and borders with Member States presented in the meeting and outlined in the supporting material?
2. Do you agree with the regional voting process outlined in Article 9 of the adapted version of CACM Regulation and Article 4 of the adapted version of the FCA Regulation?
3. Do you agree with the powers of ECRB (mirroring ACER's role in CACM and FCA implementation processes)?
 - a. If yes, do you think further changes are needed in the structure of ECRB?
 - b. If no, do you think ECS is better equipped do take that role?
 - c. If no, why and which would be your preferred alternative?
4. Do you agree with the role that ENTSO-E should have for Contracting Parties in relation to the CACM and FCA Regulations?

- ECS will share the presentations and the adjusted timeline table with the group.
- The next meeting will take place on 8 May 2018 in Vienna, formal invitations will be circulated. The focus will be on discussing in detail/agreeing on the adapted text of the CACM and FCA Regulations.
- Participants invited the Secretariat to present the already adopted EU-wide ("all NRAs/TSOs/NEMOs") methodologies at (one of the) the next meeting(s) with a view to familiarize the group with their content.

2. EB and SO Regulations

ECS initiated discussion on general approach for implementation of the Regulation 2017/2195 establishing a guideline on electricity balancing ('EB GL') and Regulation 2017/1485 establishing a guideline on electricity transmission system operation ('SO GL') in the Contracting Parties.

The general approach for the elements

1. Procedures
2. Geographical scope
3. Methodologies – existing vs. new | European vs. regional
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is the same as the one for the CACM and FCA Regulations (cf point 1)). However, specifically the geographic delineation of relevant “regions” receives additional complexity for the EB and SO Regulations as the regional approach (partially) goes beyond the CCRs suggested under the CACM Regulation and beyond the geographic scope of Title III (cf slides 13, 15 and 16 of the EB/SO presentation). This additional complexity relates to synchronously connected regions and LFC regions.

As a transitional solution to the implementation of SO GL, it was noted that the TSOs from the Contracting Parties that are part of synchronous area Continental Europe will be offered to sign the operational agreement, in line with Article 13 of SO GL, which is important for the secure system operation and coordination in the synchronous area.

As a conclusion it was agreed that further discussions on the approach and understudying of the requirements is needed, thus, they will be treated separately for the envisaged adoption process, resulting in the following adjusted target time-schedule:

Electricity			
Legal act	Content	Remarks	adoption
CACM GL Regulation 1222/2015	Capacity allocation and congestion management		MC 2018 [Title III]
FCA NC Regulation 1719/2016	Forward capacity allocation	<ul style="list-style-type: none"> Requires a EU-CP reciprocity solution: either to be reached by legally binding reciprocity (Treaty reforms) and before by „voluntary reciprocity“ (similar to gas), i.e. via agreements developed under the WB6 Connecta Regional DAMI TA 	MC 2018 [Title III]
SO GL Regulation 2017/1485	System Operation	<ul style="list-style-type: none"> However, even with a reciprocity solution: also a solution for voting is needed that can only be reached via Title III 	MC 2018 [Title III] 2019
BAL GL Regulation 2017/2195	Balancing		MC 2018 [Title III] 2019
ER NC Regulation 2017/2196	Emergency & restoration	<ul style="list-style-type: none"> Closely linked to BAL GL 	2019

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