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
Governance and decision-making process under CACM Regulation

How did we end up with CACM Regulation

- Political agreement to integrate energy markets

- 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 tem
- 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

<table>
<thead>
<tr>
<th>Issue</th>
<th>Electricity</th>
<th>Gas</th>
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</thead>
<tbody>
<tr>
<td>Legal format</td>
<td>Guideline</td>
<td>Network Code</td>
</tr>
<tr>
<td>Level of detail</td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>Level of harmonisation</td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>Level of integration</td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>Terms and conditions or methodologies</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Regional or EU-wide cooperation</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Implementation focus</td>
<td>Adoption of good TCMs</td>
<td>Monitoring of correct national implementation</td>
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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
Governance and decision-making process under CACM Regulation

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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