

UKRAINE ENERGY MARKET OBSERVATORY 04/2023

Analysis of the draft amendments to the Law "On the Electricity Market" related to the harmonization of the rules for the cross-border capacity allocation

by the Energy Community Secretariat

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PURPOSE STATEMENT

Assessment of the draft amendments to the Law "On the Electricity Market" related to the harmonization of the rules for the cross-border capacity allocation provided by the NEURC

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Ukraine Energy Market Observatory

Assessment 4/23

Introduction

The present assessment concerns draft amendments to the Law "On the Electricity Market" (hereinafter, Electricity Market Law) proposed by the National Energy and Utilities Regulatory Commission (hereinafter, NEURC). The amendments concern joint capacity allocations on interconnectors between Ukraine and neighbouring Parties to the Energy Community such as the European Union and Moldova. They are currently pending at the competent committee of the Verkhovna Rada.

Background

The implementation of the joint capacity allocation on interconnectors by the transmission system operator (hereinafter, TSO) of Ukraine, *Ukrenergo*, has been delayed due to an alleged ambiguity in Article 38(5) of the Electricity Market Law. Following previous amendments to the Law in April 2021,¹ the Article reads as follows: "*The transmission system operator shall develop, approve with the relevant transmission system operator of the adjacent state that is party to the Energy Community and submit to the Regulator for approval the procedure of cross-border transmission capacity allocation, which may contain special regional conditions. Such conditions that are applicable in a specific region or at the specific crossing shall make integral annexes to the procedure of cross-border transmission capacity allocation."*

In NEURC's interpretation, the general (common, single) procedure shall be developed by *Ukrenergo* and agreed with all neighbouring TSOs whereas special regional conditions (per border, per region) shall be included in the annexes to this general procedure. In the interpretation of *Ukrenergo*, the provisions of the Electricity Market Law as amended in 2021 do not require the approval of one common general procedure by all TSOs, as it says "... *develop, approve with the relevant transmission system operator of the adjacent state...*" (relevant TSO – singular), but instead different procedures can be defined for different borders.

The draft amendments to the Electricity Market Law subject to the present assessment aim at enabling joint capacity allocation with neighboring TSOs. The proposed amendments foresee the simplification of the adoption procedure (NEURC shall not approve, but provide its *consent* to the rules and does not have the obligations to organize public consultations on the rules proposed by TSOs). The draft amendments also propose changes to Article 38(5) replacing the term "procedure" with the term "rules", specifying that the rules can be developed per border (region), at the same time the proposed amendments to the Electricity market Law shall be clarified as detailed in the recommendations below.

¹ Introduced by the Law No. 1396-IX of 15.04.2023



The draft amendments are meant to apply during a transitional period until the full transposition of the new electricity package adopted by the Ministerial Council in December 2022 (as described below), namely until the end of 2023.

Impact of joint capacity allocation on the markets and stakeholders in Ukraine and neighbouring systems

The implementation of joint capacity allocation on interconnections between Ukraine and neighbouring Parties to the Energy Community such as the EU Member States and Moldova is a crucial step towards the further market integration of Ukraine. Jointly agreed procedures are needed to allow market participants to exchange electricity according to predefined rules and by that facilitate cross-border trade, so as to achieve efficiency gains, efficient economic signals to market participants and TSOs and competitive prices in wholesale and retail markets. Furthermore, the development will contribute to the efficient long-term operation and development of the electricity transmission system and electricity sector as well as ensuring operational security.

Further delays with the implementation of joint capacity allocation are a risk for any potential commercial exchanges. The to a lack of compliance, the existing procedure (unilateral capacity allocation) is currently not applied on the borders with Hungary and Romania. At risk is also the existing allocation on the border with the Slovak Republic (as current provisions of the Electricity Market Law do not allow *Ukrenergo* to share the revenues received from the allocation under unilateral procedure).

Compliance assessment

On 15 December 2022, the Ministerial Council by Decision 2022/03/MC-EnC incorporated the European Union's electricity market acquis in the Energy Community complemented by Procedural Act 2022/01/MC-EnC on Regional Energy Market Integration. The deadline for transposition and implementation of those acts by Contracting Parties, including Ukraine, is 31 December 2023. As part of those acts, the Network Codes and Guidelines set out detailed rules related to different market segments and system operation, including related to capacity allocation in for the long-term (Regulation (EU) 2016/1719) and short-term (Regulation (EU) 2015/1222) timeframe.

As the draft amendments to the Electricity Market Law are evidently not intended to transpose Decision 2022/03/MC-EnC, the detailed compliance assessment in the Annex is based on the rules of the Third Energy Package, namely Directive 2009/72/EC and Regulation (EC) 714/2009. Ensuring complete transposition of the new acquis by the end of this year will require further amendments to the primary (and secondary) legislation which are not yet incorporated within these draft amendments submitted to the Secretariat for review.



Conclusions and recommendations

The proposed amendments to the Law are largely compliant with the Energy Community *acquis* in force. That said, and as further elaborated in the table below,

- The draft amendments are not clear in relation to the timeframes governed. In accordance with the Regulation (EC) 714/2009, there shall be rules governing the allocation of cross-zonal capacity both in the long-term and short-term timeframe (day-ahead and intraday) and the draft amendments shall clearly define this.
- The provision requiring the national regulatory authority to consent to the TSO's proposed rules on cross-zonal capacity allocation should be complemented by the right of NEURC to amend or ask for amendments to the rules. The deadline for doing so should also be defined within the Law. It is furthermore not clear what the consequences would be if NEURC does not consent to rules proposed by the TSO.
- On the structure and content of the rules, the Law should not restrict the possibilities to adopt different rules for different timeframes and for different sets of borders to ensure timely implementation and possibilities for cooperation with several neighboring TSOs. However, the rules should be jointly agreed between relevant TSOs to ensure the most efficient outcome providing the maximum amount of cross-zonal capacity to the market.
- As the rules for joint allocation are a crucial next step for further integration of the Ukrainian market with the neighboring ones, it is highly recommended to stipulate deadlines by the Law for the proposal to be made by the TSO, and for the procedure in which the national regulatory authority will have to consent.
- Acknowledging that the Electricity Market Law lacks clarity on the sharing of congestion revenues with neighbouring TSOs, the Secretariat recommends to introduce an additional provision defining that the congestion revenues are shared among the TSOs involved, in accordance with criteria agreed between the TSOs involved and reviewed by the respective regulatory authorities (in accordance with the point 6.3 of Annex I to Regulation (EC) 714/2009).



Annex

Detailed assessment of the draft amendments to the Electricity Market Law

Existing provisions	Proposed changes	Comments	Secretariat's
	i opecca changee		assessment and recommendations
Article 1 13) free cross-border transmission capacity (hereinafter referred to as the free transmission capacity) means available cross- border transmission capacity excluding transmission capacity allocated at the auctions and transmission capacity exempted from provisions of Articles 38, 39 of this Law. When calculating daily free transmission capacity, consideration shall be taken of the unused transmission capacity allocated at the earlier auctions.	Article 1 13) offered cross- border transmission capacity (hereinafter referred to as the proposed transmission capacity) means the value of the cross- border capacity, which offered for the allocation at the relevant auction;	Existing definition of the term "free cross-border transmission capacity" does not take into account cases in which participants can return allocated rights. Also, the contract of the participant can be stopped or suspended (in case early termination contract) and corresponding rights shall be proposed for auction. The definition also does not take into account case of intraday allocation. According to the Regulation 2016/1719 and Harmonized allocation rules (HAR), which were approved by ACER on 29.11.2021 in EU legislation the term "offered capacity". Such definition given in Regulation 2013/543: "offered capacity" means the cross zonal capacity offered by the transmission capacity allocator to the market	The most common used term for the specific definition (13) is 'available' cross-zonal capacity. It is correct that the HAR also use the word offered, but it is not used in higher-level legislation (Regulations and Guidelines). All terms used by the Law and subordinate rules and methodologies (incl. the draft methodology for calculating cross- border capacities) should be aligned. Furthermore, it should be clarified to which timeframe the definition refers, or if it relates to the available capacity as sum over all timeframes (cf. Art. 2(3) of Annex I to Regulation (EC) 714/2009 states 'Each capacity-allocation procedure shall allocate a prescribed fraction of the available interconnection capacity plus any remaining capacity not previously allocated and any capacity holders from previous allocations'.)
16 ¹) guarantees shall mean an assurance that the allocated physical right to use cross-border transmission capacity will remain available for use and that reimbursement will be paid in accordance with the procedure for allocation of cross-	16 ¹) guarantees shall mean an assurance that the allocated physical right to use cross-border transmission capacity will remain available for use and that reimbursement will be paid in accordance with the rules for allocation of cross-	Also for the purpose of harmonization terminology in the title of the document according to which are directly conducted auctions (EU acts operate the term "rules" and must be agreed with adjacent TSO according to the text of the Law in a number of	Under the new Energy Community electricity package the term used is 'firmness' of allocated cross-zonal capacity (cf. Art. 2(44) of Regulation (EU) 2015/1222; 'firmness' means a guarantee that cross- zonal capacity rights will remain unchanged and that a compensation is



border transmission if	border transmission if	provisions it is proposed	paid if they are
such right is curtailed;	such right is curtailed;	use the term "rules".	nevertheless changed.)
96 ⁻²) registered	96 ⁻²) registered	The reasoning is similar	
participant shall	participant shall	to the above	
mean an economic	mean an economic		
entity, including a	entity, including a		
non-resident, that	non-resident, that		
meets the	meets the		
requirements set	requirements set		
forth by the	forth by the rules for		
procedure for	allocation of cross-		
allocation of cross-	border transmission		
border transmission	capacity and has		
capacity and has	concluded an		
concluded an	agreement on		
agreement on	participation in the		
participation in the	transmission capacity		
transmission capacity	allocation with an		
allocation with an	auction office;		
auction office;			
Article 6. State	Article 6. State	Considering the	It should be added that
Regulation of the	Regulation of the	adoption procedure	NEURC also consults
Electricity Market	Electricity Market	defined by the Law of	with other national
Electrony market	Electrony Market	Ukraine "On NEURC"	regulatory authorities.
3. The scope of	3. The scope of	and the Law of Ukraine	Furthermore, Art. 1(10)
	•		
Regulator's powers	Regulator's powers		of Annex I to Regulation
on the electricity	on the electricity	Market", the introduction	(EC) 714/2009 requires
market shall include:	market shall include:	of auctions under a joint	the national regulatory
		coordinated procedure	authorities to regularly
4) approval of market	approval of market	is extremely difficult.	evaluate the congestion-
rules, the "day-	rules, the "day-	The Law of Ukraine "On	management methods
ahead" and intra-day	ahead" and intra-day	the Electricity Market"	(including consultation
market rules, the	market rules, the	provides:	of all market participants
transmission network	transmission network	NPC "Ukrenergo"	and dedicated studies).
code, the distribution	code, the distribution	coordinates the General	,
network code,	network code,	Procedure with all TSOs	
commercial metering	commercial metering	and submits it to the	
code, retail market	code, retail market	Regulator for approval.	
	rules, other normative	The order must contain	
rules, procedure of cross-border	and legal acts and		
	standard documents	appendices - special	
transmission capacity		regional conditions for	
allocation, which, in	governing operation	each intersection, which	
particular, includes	of the electricity	must also be agreed	
provisions on the	market;	with the relevant TSO of	It is not clear what would
specifics of cross-		the neighbouring state.	be the consequences if
border transmission		The Law of Ukraine "On	NEURC does not give
capacity allocation		NEURC" provides:	consent to the rules
with third countries,		- compliance with the	proposed by the TSO.
other normative and	4-1) consent of the	requirements of	
legal acts and	rules for the	Ukrainian legislation and	
standard documents	allocation of	normative design	Beyond consenting,
governing operation	capacity of	techniques;	NEURC should be given
of the electricity	interstate	- a defined procedure for	the right to amend or ask
			for amendments of the
market;	crossings;	adopting a regulatory	
There is a		act (approval; collection	proposed rules for the
There is no	 4 The Devulator	of comments; open	allocation of cross-zonal
provision	 The Regulator has the right to: 	discussions);	capacity following its assessment especially



4. The Regulator has the right to: 7) require relevant operators to prepare amendments in the market rules, the "day-ahead" and intra-day market rules, the transmission network code and the commercial metering code, procedure for allocation of transmission capacity of cross-border intersections to ensure compliance with the principle of proportionality and non-discrimination;	 7) require relevant operators to prepare amendments in the market rules, the "day-ahead" and intraday market rules, the transmission network code and the commercial metering code, to ensure compliance with the principle of proportionality and non-discrimination; 	 - approval (consent) with the AMCU. According to the results of the specified procedure, the Procedure or its appendices, agreed by all neighboring TSOs, undergo changes and must be re-approved by the neighboring TSOs, after which they must go through the acceptance procedure again. The joint coordinated procedure is an implementation of the provisions of European legislation. Approval of the Rules (developed on the basis of acts of European legislation) sent by NPC "Ukrenergo" after approval by the relevant TSO of the neighbouring state significantly simplifies the process of introducing joint auctions. 	with regards to the compliance with the applicable rules. When doing so, NEURC should be obliged to consult with its counterparts in the neighbouring countries. It is recommended to include a deadline for NEURC's actions and/or requests.
Article 33. Functions, Rights and Obligations of the Transmission System Operator 1. The transmission system operator shall: 15) ensure allocation of cross- border transmission capacity in accordance with the procedure prescribed by this Law and the procedure for allocation of cross- border transmission capacity; 16) cooperate with the transmission system operators of neighbouring states, coordinate actions and exchange	Article33.Functions, Rightsand Obligations ofthe TransmissionSystem Operator1.1.transmission systemoperator shall:15)ensureallocation of cross-border transmissioncapacityinaccordance with theprocedure prescribedby this Law and therulesrulesforallocation of cross-border transmissioncapacity;16)cooperatewith the transmissionsystem operators ofneighbouring states,coordinateandexchange	The rationale for changing the name of the normative act is similar to that given in Article 1. The rationale for the reasons for changing the regulatory act approval procedure is similar to that given in Article 6.	In the light of the increasing cooperation with other TSOs of Member States and Energy Community Contracting Parties, the Secretariat recommends adding to (16) the TSOs' obligation to cooperate also with ENTSO-E.



	1	1	
information with them; 17) develop market rules, the transmission network code, the commercial metering code, procedure for cross border capacity allocation, and submit them-for approval by the Regulator; There is no provision	information with them; 17) develop market rules, the transmission network code, the commercial metering code, and submit them for approval by the Regulator; 17-1) develops rules for the allocation of cross-border transmission capacity for each interstate crossing separately and submits them for approval to the Regulator. ()		The Secretariat recommends amending the wording to allow for the rules to apply to either one or more bidding-zone borders and to include the option to merge the rules for several bidding-zone borders (by introducing "for each or more"), to allow for the alignment of common parts of those rules and to increase consistency. <i>Missing:</i> the amendments of the Law should clearly require the adoption of rules for all timeframes, i.e. for both the long-term and for the short-term timeframe (possibly separate rules).
			In addition, the Secretariat recommends requiring the TSO to consult with other involved TSOs on the rules for the allocation of cross-zonal capacity allocation as they highly impact also market participants in the neighbouring countries
Article 38. General Principles on Congestion Management 5. The transmission system operator shall develop, approve with the relevant transmission system operator of the adjacent state that is party to the Energy Community and submit to the Regulator for approval the procedure of cross- border transmission capacity allocation , which may contain	Article 38. General Principles on Congestion Management 5. The transmission system operator shall develop, approve with the relevant transmission system operator of the adjacent state- member (party) of European Union or the Energy Community and submit to the Regulator for consent the rules of cross-border transmission capacity	The rationale for the reasons for changing the regulatory act approval procedure is similar to that given in Article 1. The rationale for the reasons for changing the regulatory act approval procedure is similar to that given in Article 6.	countries. Generally, the Secretariat recommends to further clarify the applicability of the rules to different timeframes. The amendments mostly seem to relate to the long-term timeframe while capacity allocation must take place also in the short-term timeframe (day-ahead and intraday) according to Regulation (EC) 714/2009. (as well as the Law). Provisions of the Law shall not restrict NEURC and Ukrenergo in developing one rules for both timeframes



special regional	allocation between		(long- and short-term)
conditions. Such	two power systems		per border.
conditions that are	of the adjacent		
applicable in a	countries.	Regulations 2015/1222	As stated above,
specific region or at		and 2016/1719, as well	NEURC should not only
the specific crossing			be allowed to consent to
shall make integral		allocation rules (HAR)	the rules but have the
annexes to the		approved by ACER on	right to amend or ask for
procedure of cross-	10. Holders of the	29.11.2021 provide for	amendments (within
border transmission	physical right for	reimbursement or	deadlines to be defined
capacity allocation.	transmission shall	compensation for	by the Law).
	receive	reduction also in case of	
10. Holders of the	reimbursement from	force majeure or	
physical right for	the transmission	emergency situation.	
transmission shall	system operator for	3 ,	
receive	any reduction of the		
reimbursement from	physical right for		
the transmission	transmission		
system operator for	according to the rules		
any reduction of the	of cross-border		
physical right for	transmission capacity		
transmission	allocation.		
according to the			
procedure of cross-			
border transmission	11. All available		
capacity allocation ,	transmission capacity		
except for the	of cross-border		
reductions caused as	crossing shall be		
a result of force	proposed for		
majeure.	allocation subject to		
majouro.	compliance with the		
11. All available	•		
	operational safety standards.		
transmission capacity			
of cross-border	The transmission		
crossing shall be	system operator shall		
proposed for	define the available		
allocation subject to	transmission capacity		
compliance with the	using the		The term 'structure of
operational safety	methodology		the cross-border
standards.	approved by the		allocation' is not defined.
The transmission	Regulator upon		It may be assumed that
system operator shall	consultations with the		it refers to the splitting
define the available	Energy Community		rules determining the
transmission capacity	Secretariat and		fraction of available
using the	published on the		capacity for different
methodology	official website of the		timeframes of Article 39
approved by the	transmission system		(10) of the Law, which is
Regulator upon	operator.		governed by Art. 2(3)
consultations with the	000000		and 2(6) of Annex I to
Energy Community	Offered capacity		
	• •		
Secretariat and	determined by the		714/2009. According to
published on the	auction office in		the Regulation, it (the
official website of the	accordance with the		structure of the cross-
transmission system	rules of cross-		border allocation)
operator.	border capacity		requires approval by
	allocation, taking		NEURC (including for
There is no	into account, in		joint coordinated
provision	particular available		auctions).
	cross-border		



	capacity and the		Furthermore, the
	structure of the		auction office should not
	cross-border		change the available
	allocation.		capacity values
12. The transmission			provided by the TSO.
system operator shall	12. The transmission		The TSO is the party
not reduce cross-	system operator shall		responsible for its
border transmission	not reduce cross-		calculation and splitting
capacity in order to	border transmission		(structure) according to
settle congestions in	capacity in order to		the Energy Community
the UES of Ukraine,	settle congestions in		rules.
except for the events	the UES of Ukraine,		
of violation of	except for the events		
operational safety.	of violation of		
The transmission	operational safety.		
	The transmission		
system operator shall			
undertake to notify	system operator shall		
the registered	undertake to notify		
participants of the	the registered		
reduction of cross-	participants of the		
border transmission	reduction of cross-		
capacity constraints	border transmission		
and of the reasons for	capacity constraints		
such reduction, and	and of the reasons for		
provide	such reduction, and		
reimbursement	provide		
according to the	reimbursement		
procedure of cross-	according to the rules		
border transmission	of cross-border		
capacity allocation.	transmission capacity		
	allocation.		
Article 39. Allocation	Article 39. Allocation		
of Available	of Available		
Transmission	Transmission		
Capacity of Cross-	Capacity of Cross-		
Border Crossings	Border Crossings	The rationale for the	
		reasons for changing	
1. Available cross-	1. Proposed cross-	the regulatory act	
border capacity at	border capacity at	approval procedure is	
crossings shall be	crossings shall be	similar to that given in	
allocated at the	allocated at the	Article 1.	
explicit and/or implicit	explicit and/or implicit		
auctions to be held in	auctions to be held in		
accordance with the	accordance with the		
procedure of e-	procedure of e-		
auction using an	auction using an		
electronic document	electronic document		
flow and electronic	flow and electronic	The provision does not	
digital signature. Both	digital signature. Both	cover the entire formula	
auctions may be held	auctions may be held	for calculating the	
for the same cross-	for the same cross-	proposed capacity. The	
border crossing.	border crossing.	relevant provisions were	
-	•	transferred to Article	
5 At each quetion a	Delete		
5. At each auction a portion of available		38(11).	
transmission capacity			
designated for			
allocation at this			
auction plus any			



emainingcapacityexpectedcapacityexpectedcapacityexpectedcapacity6. Allocation of cross- border transmission capacity shall be the rules of cross- border transmission capacity shall be the allocated cross- border transmission capacity shall be the allocated cross- border transmission capacity shall be transmission capacityThe rationale for the regulatory act aproval procedure is similar to that given in Article 1.7. Cross-border transmission capacity7. Cross-border transmission capacityThe rationale for the reasons for changing the regulatory act aproval procedure is similar to that given in Article 1.7. Cross-border transmission capacity for a short-term guranteed.7. Cross-border transmission capacity it should be notified ti should be notified before conducting an auction.Regulation 2016/1719 and the transmission system operator (auction office) and the subsequent auction.Holders of the right for transmission for a allocation office in the graticipants such physical right for transfer or sell to other registered physical right for transfer, sell or transfer, sell or trans				
allocationConstructioncapacity holders from previous allocation6. Allocation of cross- border transmission capacity shall be made according to the rules of cross- border transmission capacity shall be made according to the allocated.the regulatory act approval procedure is similar to that given in Article 1.6. Allocation of cross- border transmission capacity shall be made according to the allocated cross- toransmission capacity for a short-term period offered in the course of allocation at an auction may be of short erasmission for a short-term period offered in the course of allocation at an auction may be of transmission for a short-term previde for the right to ransmission scapacity to a short-term period offered in the course of allocation at an auction may be of short transmission for a is should be notified before conducting an it should be notified the physical right for transmission for a is should be notified the physical right for period offree in the regulatory office hybysical right for transmission for a long-or medium-term period shall have the physical right for transmission by poedure. In the physical right for transmission by to other registered paticipants such physical right for transmission by to other registered paticipants such physical right for transmission by to other registered paticipants such physical right for transmission and to the explaint he reasons for such refusal to explaint he reasons for such refusal to the physical right for transmission and to the explaint he reasons for the physical right for transmission and to the explaint to the Regulator. The list of the reasons for of the reasons for t	• • •			
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especity-holders from previous—allocation previous—allocation of cross- border transmission capacity shall be the procedure of cross-border transmission capacity transmission capacity transmission capacity transmission capacity to dre transmission capacity shall be transmission capacity to dre transmission capacity shall be transmission capacity to dre transmission capacity shall be transmission capacity to dre transmission capacity sis guaranteed.similar to that given in Article 1.7.Cross-border transmission capacity border transmission capacity sis guaranteed.T.The rationale for the regulatory act approval procedure is is thould be notified transmission capacity to a short-term period offered in the course of allocation at a auction may be before conducting an it should be notified the andicoate or sell to other registered physical right for transmission system period shall have the participants such procedure. In the physical right for transmission system ocation at auction office, by to other registered participants such procedure. In the physical right for transmission system transmission system procedure. In the physical right for transmission system to explain the reasons to for such refusal to transmission strater transmission straterSimilar to that given in Article 1.7.Cross-border transmission strater transmission strater transmission strater the hysical right for transmission strater transfer or sell the 	5		o ,	
previous shall be allocated.capacity shall be made according to the rules of cross- border transmission capacity shall be made according to the procedure of cross-borderArticle 1.6. Allocation of cross- made according to the procedure of cross-border transmission capacity allocation.The allocated cross- torder transmission capacity allocation.The rationale for the reasons for changing the regulatory act similar to that given in Article 1.7. Cross-border transmission capacity allocation an auction may be guaranteed.7. Cross-border tora short-term period offered in the tshould be notified participants such physical right for transmission office any transmission for a to other registered participants such procedure. In the naving notified the auction office any transmission for sall undertake to other registered physical right for transmission for such refusal to transfer, sell or return the physical right to transfer, sell or return the physical right for transmission allocation, the auction office shall nuertake to return the physical right for transfer, sell or return the physical return the physical right for transfer, sell or return the physical return the physical right for transmission allocation, the auction office shall undertake to texplain the reasons for such refusal to transmission allocation, the auction office shall undertake to texplain the reasons for the physical right for transmission allocation, the auction office shall undertake to texplain the reasons for the physical right for transmission allocation, the auction office shall undertake to texplain the reasons for the physical right for transmission add to the physical rig				
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established procedure. In the event of refusal to transfer or sell the physical right for allocation, the auction office shall undertake to explain the reasons for such refusal to office shall undertake to explain the reasons for such refusal to relevant holders of the physical right for to explain the reasons for such refusal to relevant holders of the physical right for the reasons for the reasons for the physical right for the reasons for transmission and to the reasons for the reasons for the reasons for the reasons forreturn the physical relevant holders of the Regulator. The list of the reasons for the reasons for the reasons for the reasons for the reasons for transfer, sell orThe rationale for the reasons for transmission transmission transmission transmission				
procedure. In the event of refusal to transfer or sell the physical right for allocation, the auction office shall undertake to explain the reasons for such refusal to relevant holders of the physical right for transmission and to the Regulator. The list of the reasons for transfer, sell or transfer, sell or		-		
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transfer or sell the physical right for allocation, the auction office shall undertake to explain the reasons for such refusal to relevant holders of the physical right for transmission and to the Regulator. The list of the reasons for transmission and to the Regulator. The list of the reasons for transfer, sell or transfer, sell or				
physicalrightforallocation, the auctionforexplain the reasonsreasonsforoffice shall undertakeforsuchrefusaltoto explain the reasonsrelevantholdersofto explain the reasonsthe physical right forthe physical right forsimilar tofor suchrefusaltotransmission and toaprovalfor suchrefusaltotransmission and toaprovalfor suchrefusaltotransmission and toaprovalfor suchrefusaltotransmission and toaprovalfor suchrefusaltothe Regulator. The listInaccordancewithaccordancewiththe Regulator. The listofthereasonsofthereasonsforthe Regulator. The listofficemay refuse toofthereasonsforthe Resonsfortransfer,sellorrightsnottransfer,sell			The rationale for the	
allocation, the auction office shall undertake to explain the reasons for such refusal to relevant holders of the physical right for transmission and to the physical right for transmission and to the Regulator. The list of the reasons for the Regulator. The list of the reasons for the Regulator. The list of the reasons for transfer, sell or transmission and to the Regulator. The list of the reasons for transfer, sell or approval procedure is similar to that given in Article 1. In accordance with Article 36 of Regulation 2016/1719, the owners of physical transmission rights notify TSOs about				
office shall undertake to explain the reasons for such refusal to relevant holders of the physical right for the physical right for the physical right for the Regulator. The list the Regulator. The list of the reasons for the Regulator. The list of the reasons for transfer, sell orapproval procedure is similar to that given in Article 1. In accordance with Article 36 of Regulation 2016/1719, the owners of physical transmission rights notify TSOs about		-		
to explain the reasons for such refusal to relevant holders of transmission and to the physical right for the physical right for the Regulator. The list of the reasons for transfer, sell orsimilar to that given in Article 1. In accordance with Article 36 of Regulation 2016/1719, the owners of physical transmission rights notify TSOs about				
forsuch refusal to relevant holders of the physical right for transmission and to transmission and to the Regulator. The list of the reasons for the Regulator. The list of the reasons for transfer, sell orArticle 1. In accordance with Article 36 of Regulation 2016/1719, the owners of physical transmission rights notify TSOs about				
relevant holders of the physical right for transmission and to of the reasons forInaccordance Article 36 of Regulation 2016/1719, the owners of physical transmission of the reasons for the Regulator. The list of the reasons forInaccordance Article 36 of Regulation 2016/1719, the owners of physical transmission rights notify TSOs about			-	
the physical right for transmission and to the Regulator. The list of the reasons forof the reasons for the Regulator. The list transfer, sell orArticle 36 of Regulation 2016/1719, the owners of physical transmission rights notify TSOs about	relevant holders of		In accordance with	
transmission and to the Regulator. The list of the reasons forwhich the auction the auction transfer, sell or2016/1719, the owners of physical transmission rights notify TSOs about	the physical right for	-	Article 36 of Regulation	
the Regulator. The list office may refuse to of physical transmission of the reasons for transfer, sell or rights notify TSOs about		which the auction	-	
of the reasons for transfer, sell or rights notify TSOs about	the Regulator. The list		of physical transmission	
which the auction return the physical the use of bandwidth in	of the reasons for	transfer, sell or		
	which the auction	return the physical	the use of bandwidth in	



Cross-Border	Cross-Border	the regulatory act	
Information on	Information on	reasons for changing	
Article 40.	Article 40.	The rationale for the	
capacity allocation.			
border transmission			
procedure for cross-			
according to the	capacity allocation.		
allocation periods	border transmission		
auctions for the next	the rules for cross-		
capacity at the	periods according to		
unused transmission	next allocation		
shall allocate the	at the auctions for the		
The auction office	transmission capacity		
market rules.	unused and returned		
accordance with the	shall allocate the		
purchased in	The auction office		
operator of the use of capacity they	market rules.		
transmission system	purchased in accordance with the		
period notify the	capacity they		
within the established	operator of the use of		
participants shall	transmission system		
8. Market	period notify the		
unavailable.	within the established		
reduced or	participants shall		
capacity will be	8. Market		
the transmission			
periods during which	unavailable.		
well as the time	reduced or		
to be allocated, as	capacity will be		
transmission capacity	the transmission		
amount of	periods during which		
make public the	well as the time		
auction office shall	to be allocated, as		
transmission, the	transmission capacity		
physical right for	proposed		
allocation of the	make public the		
Prior to each	auction office shall		
capacity allocation.	transmission, the		
border transmission	physical right for		
procedure for cross-	allocation of the		
requirements of the	Prior to each		
the account of	capacity allocation.	subsequent auctions.	
which is applied with	border transmission	these rights for	
or sell" principle,	rules for cross-	and further offering	
covered by the "use	requirements of the	system (auction office)	
periods shall be	the account of	of the transmission	
long- or medium-term	which is applied with	transfer to the operator	
transmission for a	or sell" principle,	physical rights for	
The physical right for	covered by the "use	possibility of returning	
	periods shall be	provide for the	
capacity allocation.	long- or medium-term	Distribution Rules also	
procedure for cross- border transmission	The physical right for transmission for a	Regulation 2016/1719 and the Harmonized	
defined by the	capacity allocation.	the relevant Regulators.	
transmission shall be	border transmission	TSOs and approved by	
physical right for	the rules for cross-	developed by both	
transfer or sell the	shall be defined by	nomination rules	
office may refuse to	right for transmission	accordance with the	



· _ · ·	·	· · ·	
Transmission	Transmission	approval procedure is	
Capacity	Capacity	similar to that given in	
4	4 -	Article 1.	
1. The	1. The		
transmission system	transmission system		
operator shall publish	operator shall publish		
the following information:	the following information:		
The transmission	 The transmission		
system operator shall	system operator shall		
publish, in particular:	publish, in particular:		
e) information on the	e) information		
capacity already	on the capacity		
allocated for each	already allocated for		
settlement period on	each settlement		
the electricity market	period on the		
and on relevant	electricity market and		
conditions of use of	on relevant		
the capacity so as to	conditions of use of		
identify any available	the capacity so as to		
capacity volumes;	identify any offered		
	capacity volumes;		
Section XVII. FINAL	For interstate	It is proposed to	
AND	crossings where a	exclude it, since the	
TRANSITIONAL	joint coordinated	specified provisions of	
PROVISIONS	capacity allocation	the Law have lost their	
Auctions for the	procedure has not	relevance	
allocation of available	been implemented,		
transmission capacity of the cross-border	auctions for the allocation of the		
sections with	offered capacity are		
application of the	held in accordance		
provisions of Articles	with the procedure		
38-41, 42 of this Law	approved by the		
shall be held	Regulator.		
beginning from the	. togenerer		
relevant dates			
defined by the			
Regulator, but no			
later than the			
auctions for the			
allocation of available			
transmission capacity			
of the cross-border			
sections for 2019.			
Until the mentioned			
date the auctions for			
the allocation of available			
transmission capacity of the cross-border			
sections are held in			
accordance with the			
procedure approved			
by the Regulator.			
- J ino rogulatori			
L	1	1	



When there are		
constraints, access to		
transmission capacity		
shall be provided		
based on the principle		
where the access to		
the capacity is given		
to market participants		
that offer the highest		
price. In case of		
capacity constraints,		
the transmission		
system operator shall		
accept all commercial		
exchanges on export		
or import of electricity		
to the full extent and		
shall provide access		
to capacities of cross-		
border intersections		
on a free of charge		
basis.		
50010.		
If long-term repeated		
constraints appear,		
appropriate pre-		
determined and pre-		
approved congestion		
management		
measures shall be		
implemented by the		
transmission system		
operator. Congestion		
management shall be		
addressed using non-		
discriminatory		
market-based		
solutions which		
ensure efficient		
economic signals to		
market participants		
and the transmission		
system operator and		
facilitate cross-border		
trade in electricity.		
The congestion		
management		
procedure is applied		
and allocation of		
cross-border capacity		
for import and export		
is performed		
irrespective of the		
functioning of the		
wholesale electricity		
market in Ukraine.		
	l .	



Congestion		
management		
measures shall		
ensure that electricity		
flows associated with		
all allocated		
transmission capacity		
comply with		
operational safety		
standards.		
Congestion		
management		
measures shall not in		
any case lead to		
discrimination of		
commercial		
exchanges.		
The transmission		
system operator may		
refuse in the access		
of the market		
participant to cross-		
border transmission		
capacity in case the		
following conditions		
occurred at the same		
time:		
1) the increase		
in electricity flows		
following the results		
of such access leads		
to the violation of		
operational safety:		
2) the price offered by		
the market participant		
for access to		
transmission capacity		
is lower than all other		
prices offered by		
market participants,		
whom access to		
transmission capacity		
will be granted.		
The transmission		
system operator can		
limit cross-border		
transmission capacity		
in order to avoid the		
violation of		
operational safety of		
UES of Ukraine. The		
transmission system		
operator shall notify		
market participants of		
the capacity		
constraints and		
reasons of such	L	



constraints. When		
balancing the UES of		
Ukraine using		
operational measures		
and re-dispatching,		
the transmission		
system operator shall		
take into account the		
effect of those		
measures on energy		
systems of adjacent		
states.		
Constraints of		
commercial		
exchanges shall be of		
non-discriminatory		
nature. Market		
participants who have		
obtained access to		
transmission capacity		
shall be		
compensated by the		
transmission system		
operator for		
constraints of the		
rights for the use of		
allocated		
transmission		
capacity, except for		
cases when such		
constraint has		
resulted from force		
majeure		
circumstances. The		
sum of money to be		
returned is estimated		
according to the		
procedure of		
allocation of		
transmission capacity		
of the cross-border		
sections.		
All available		
transmission capacity of cross-border		
sections shall be		
proposed to market		
participants in the		
course of allocation,		
subject to compliance		
with operational		
safety standards.		
ourcey stanuarus.		
The transmission		
system operator shall		
determine the		
available capacity for		
αναιιαρίο σαρασιτή ΙΟΓ		



all directions under a		
methodology		
developed by it, in		
accordance with		
ENTSO-E experience		
(practice) and shall		
be approved by the		
Regulator.		
regulator.		
Until this		
methodology is		
approved, TSO shall		
use the methodology for calculation of		
available		
transmission capacity		
applicable as of the		
day of entry into effect		
by this Law.		
Available		
transmission capacity		
of the cross-border		
sections shall be		
allocated at the		
explicit and/or implicit		
auctions to be held in		
accordance with the		
procedure of e-		
auction using an		
electronic document		
flow and electronic		
digital signature. Both		
auctions may be held		
for one and the same		
cross-border section.		
Congestion		
management		
mechanisms shall		
apply for short-,		
medium- and long-		
term periods of		
transmission capacity		
allocation.		
Temporarily, until 31		
December 2021, the		
Regulator shall have		
the powers to restrict		
available		
transmission capacity		
allocated at daily and		
monthly auctions for		
2021 in terms of		
cross-border sections		
between Ukraine and		
the states that are not		
parties to the Energy		
Community.	<u> </u>	



		1	
{Paragraph 1 of			
Section XVII has			
been supplemented			
with a new indent			
according to the Law			
No. <u>330-IX</u> dd.			
04.12.2019; in the			
version of the Law			
No. 1396-IX dd.			
15.04.2021}			
The Regulator shall			
have the right to			
cancel the results of			
the annual auction			
where the			
transmission capacity			
for 2020 and 2021 in			
terms of cross-border			
sections between			
Ukraine and the			
states that are not			
parties to the Energy			
Community has been			
allocated. In this			
case, costs paid for			
the allocated			
transmission capacity			
shall be reimbursed.			
Paragraph 1 of			
Section XVII has			
been supplemented			
with a new indent			
according to the Law			
No. <u>330-IX dd.</u>			
04.12.2019; with the			
amendments			
introduced as per			
Law No. 1396-IX dd.			
15.04.2021}			
Capacity allocation			
shall not discriminate			
between market			
participants that wish			
to get access to			
transmission capacity			
for any direction. All			
market participants			
shall be permitted to			
participate in the			
capacity allocation			
process provided that			
they are registered in			
accordance with the			
procedure on cross-			
procedure on cross-	l		



bordor conceity		
border capacity		
allocation.		
Establishing price		
constraints during		
capacity allocation		
procedures shall not		
be allowed, except for		
cases of new		
interconnectors		
which shall be subject		
to exemption under		
Article 24 of this Law.		
At each auction, a		
portion of available		
transmission capacity		
designated for		
allocation at this		
auction plus		
transmission capacity		
not previously		
allocated, and		
unused value of		
transmission capacity		
allocated at previous		
auctions shall be		
allocated.		
Market participants,		
who gained access to		
transmission capacity		
at annual and		
monthly auctions,		
shall have the right to		
transfer or sell to		
other electricity		
market participants		
access to capacity by		
notifying the		
transmission system		
operator in due		
course. In the event		
of refusal in		
transmission or sale		
of transmission		
capacity by one		
market participant to		
another one, the		
transmission system		
operator shall		
explicitly and		
transparently explain		
the reasons of such		
refusal to relevant		
market participants		
and the Regulator.		
The list of the reasons		
for which the		
	,	



transmission system		
operator may refuse		
in transmission or		
sale of transmission		
capacity by one		
market participant to		
another one shall be		
defined by the		
procedure on cross		
border capacity		
allocation.		
anocation.		
Prior to each cross-		
border capacity		
allocation, the		
transmission system		
operator shall make		
public the amount of		
capacity to be		
allocated, and time		
periods during which		
the capacity will be		
reduced or not		
available in		
accordance with the		
procedure on cross-		
border capacity		
allocation.		
Market participants		
shall within the		
established period notify the		
transmission system		
operator of the use of		
capacity they		
purchased in		
accordance with the		
procedure of capacity		
allocation of cross-		
border sections.		
The transmission		
system operator shall		
allocate unused		
transmission capacity		
at the auctions for the		
next allocation		
periods. The		
transmission system		
operator shall define		
a structure of		
transmission capacity		
allocation for different		
timeframes, which		
may include		
reserving the portion		
of transmission		
capacity for the day-		
suparity for the day	1	



ahead and intra-day		
allocation. Such an		
allocation structure		
shall be approved by		
the Regulator. When		
drawing up the		
structure of capacity		
allocation, the		
transmission system		
operator shall take		
into account the		
operational		
conditions and the		
level of		
harmonization of		
transmission capacity		
portions and		
timeframes defined		
for different capacity		
allocation mechanisms.		
mecnanisms.		
The transmission		
system operator shall		
publish the following		
information,		
specifically:		
1) data related to		
network operability,		
network access and		
network use,		
including information		
on available capacity		
constraints,		
congestion		
management		
methods and plans		
for removal thereof in		
the future;		
2) data on cross-		
border transmission		
capacity and energy		
system functioning,		
specifically:		
a) annually: information on the		
long-term		
development		
prospects of the		
transmission system		
infrastructure and the		
impact of such		
development on		
cross-border		
transmission		
capacity;		
b) weekly: forecasts		
of the transmission		
capacity of cross-		



border sections at the		
electricity market for		
the following week,		
taking into account all		
available relevant		
information;		
c) information on the		
allocated		
transmission capacity		
of cross-border		
sections for each		
settlement period and		
relevant conditions of		
use of the		
transmission capacity		
so as to identify any		
available		
transmission		
capacity;		
d) information about		
allocated		
transmission capacity		
of cross-border		
sections after each		
allocation, as well as		
its price;		
e) information about		
total transmission		
capacity of cross-		
border sections used		
for each settlement		
period immediately		
upon receipt of		
notices of use		
thereof;		
f) real description of		
measures to limit		
transmission capacity		
adopted by the		
transmission system		
operator for solving		
network or system		
operation problems;		
g) information on		
planned and actual		
outages on the		
interconnectors;		
h) unplanned and/or		
emergency outages		
of generation units		
with capacity		
exceeding 100 MW;		
3) data an		
3) data on		
aggregated forecasted and actual		
demand, availability		
and actual use of		
generating capacities		
generating capacities	l	



andconsumption frequisition_availability and _usc_ato_helwork and _usc_ato_ato balancing_electricity andcapacity reserves; 4) the proceedures of congestion and allocationd transmission capacity ofcross-border sections_applied_by thetransmission system operator shall publishrelevant actual data. Allinformation published_bythe madepublicity availablethe parturestam operatorthe parturethe madepublicity availablethe madethe publicity availablethe madethe parturethe parturethe madethe parturethe madethe parturethe madethe parturethe parturethe madethe parturethe parturethe madethe parturethe parturethe madethe parturethe parturethe parturethe parturethe parturethe madethe parturethe madethe parturethe parturethe madethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe parturethe par	r		
regulation, availability and use of network balancing electricity and			
and_use_of_network andcapacity reserves; 4) the_procedures_of congestion managementand allocationdifference allocationdifference ference; sections_applied_by thetransmission system operator. system o			
and intersections, balancing electricity reserves; d) the procedures of congestion and allocation of transmission conscibuted of cross-bedder sections applied by the transmission system operator shall published by the transmission cystem operator shall be made publicly available. All data shall contain information publicly available. All data shall contain information for the pact two years. The transmission system operator shall published by the transmission system operator shall per the process of network in terms of oneuro cafety of network in terms of oneuro schange made operator shall parameters with the parameters with the parameters of network in terms of oneuro schange data on network parameters with the parameters the transmission submitted to the submitted to the parameters with the parameters with the parameters the transmission transmission perator withen parameters the transmission transmission perator the transmission transmission perator the terms of parameters the terms of parameters the terms of parameters with the parameters with the parameters the terms of parameters the terms of perator t	regulation, availability		
balancing—electricity andcapacity recerves; 4) the procedures of congestion management and allocationd transmission capacity ofcross-border sections_applied_by thetransmission system operator shall publishrelevant actual data. Allinformation publishedthe actual data. Allinformation publishedthe madepublicly availableAlldata shalloration publishedthe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe madethe ma	and use of network		
andcapacity recerves:	and intersections,		
reserves: 4) the procedures of congestion management and allocation of transmission capacity of cross-border sections applied by the transmission system-operator. The transmission system-operator. All information published by the transmission - system operator shall be made publicly available. All data shall contain information for the past two years. The transmission system-operator shall publish for the past two years. The transmission system-operator shall publish and the past two years. The transmission system-operator shall publish for the past two years. The transmission system-operator shall past two years. The transmission system-operator shall past two years. The transmission system-operator shall past two years. The transmission system-operator shall past two years. The transmission system operator shall regularly exchange data on network the transmission operator. When proparing to the day ahead on network the transmission system operator. these data shall be submitted to the submitted to the transmission system operator. the system shead on network the transmission system operator. the system system operator shall the system system operator shall the system system operator shall the system the system	balancing electricity		
4) the procedures of congestion management and allocation of transmission capacity of cross-border sections applied by the transmission system operator. Image: Constraint of the transmission system operator shall publish relevant actual data. All information published by the transmission system operator shall be made publicly available. All data shall contain information for the past two years. Image: Contain information system operator shall be made publicly available. All data shall contain information contain information contain information and information and information system operator shall prevent in terms of congestion management. The transmission system operator with the transmission system operator with the transmission system operator shall parameters with the transmission system operator shall operator	and capacity		
congestion management and allocation of excelons-applied by the-transmission system operator-shall publich publich actual-data.	reserves;		
nanagement and allocation of transmission capacity of cross-border sections applied by the transmission system operator shall publich crolevant actual data. All information publiched by the transmission system operator shall be made publicly available. All data shall contain information for the past two years. The transmission system operator shall put in place the coordination and information schange mechanisms to ensure safety of network in terms of congestion management. The transmission system operator shall regularly exchange data on network parameters with the transmission system operator shall regularly exchange data on network parameters with the transmission system operator is a start regularly exchange data on network parameters with the transmission system operator of neighboring countries. At the relevant request, those data shall be	4) the procedures of		
nanagement and allocation of transmission capacity of crease-border sections applied by the transmission system operator shall publich crolevant actual data. All information publiched by the transmission system operator shall be made publicly available. All data shall contain information for the past two years. The transmission system operator shall put in place the coordination and information schange mechanisms to ensure safety of network in torms of congestion management. The transmission system operator shall regularly exchange data on network parameters with the transmission system operator shall regularly exchange data on network parameters with the transmission system operator with the transmission system operator shall regularly exchange data on network	congestion		
transmission capacity of	management and		
ed croses-border sections_applied_by the	allocation of		
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transmission system		
operator shall		
exchange information		
with the transmission		
system operators of		
neighboring		
countries, in		
particular concerning		
their forecasted		
network topology,		
available and		
forecasted loads of		
generation units and		
electricity flows in		
order to optimize		
network operation.		
Market participants		
shall provide the		
transmission system		
operator with data		
required for		
exchange of		
information on the		
transmission capacity		
of cross-border		
sections, as required		
by this Law, market		
rules and other		
regulatory legal acts		
governing operation		
of the electricity		
market. The market		
participants shall		
have no obligation to		
inform the		
transmission system		
operator on their		
commercial contracts		
for purchase and sale		
of electricity.		
Cross-border		
capacity allocation		
shall be provided in		
coordination with the		
transmission system		
operator of relevant		
cross-border section.		
Coordination of		
capacity allocation		
shall include, in		
particular, the		
verification of flows		
for compliance with		
the requirements of		
network safety in		
operational planning		
and implementing the		
real-time mode,		



procedure of		
information exchange		
between the		
transmission system		
operators.		
For the export of		
electricity, the		
required volume		
thereof shall be		
purchased at the		
wholesale electricity		
market of Ukraine		
operating in line with		
the Law of Ukraine		
"On Electricity		
Sector", at the		
wholesale market		
price determined by		
the rules of the		
wholesale electricity		
market of Ukraine.		
Electricity		
transmission shall be		
exercised on the		
basis of a contract		
concluded with the		
transmission system		
operator. Transmission system		
Transmission system		
operator shall enter		
into a contract with		
the auction winner as		
to access to		
transmission capacity		
of cross-border		
electricity networks of		
Ukraine, including		
technical		
specifications to		
ensure export and		
import of electricity.		
The suggested		
format of a contract		
on access to		
transmission capacity		
of cross-border		
electricity networks of		
Ukraine shall be		
approved by the		
Regulator.		