

## ERSE'S DECISION

concerning the request for a derogation from the application in 2021 of Article 16(8) of Regulation (EU) 2019/943 on minimum levels of available capacity for cross-zonal trade

22nd December 2020

In accordance with Article 16(9) of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market in electricity, the Energy Services Regulatory Authority (ERSE) approves the following decision:

### Framework

On 16 October 2020, ERSE received from REN - Rede Eléctrica Nacional (REN), as the transmission system operator in Portugal, a request for a one-year derogation to comply in 2021 with the requirement set out in Article 16 of Regulation (EU) 2019/943, on the obligation transmission system operators to make available, as of 1 January 2020, at least 70% of transmission capacity for interzonal trade, respecting operational security limits after deduction of emergencies.

The request for derogation sent by REN was subject to consultation during the period from 17 October to 6 November 2020 within the working group where all national regulatory authorities are represented (ARAWG), in compliance with the second subparagraph of Article 16(9) of Regulation (EU) 2019/943, which establishes that requests for derogation must be subject to consultation between the regulatory authorities of other Member States that are part of a region affected by the capacity calculation.

Once the consultation was concluded, no regulatory authority stated that it did not agree with the proposed derogation presented by REN, so it is not necessary to forward the approval of this derogation to ACER, as established in the same paragraph of Article 16.

## Legal grounds

### 1. Competence

Article 16(8) of Regulation (EU) 2019/943 states that European transmission system operators must not limit the interconnection capacities available for commercial purposes to resolve congestion arising from internal transactions and, to this end, obliges operators to provide at least 70 per cent of the exchange capacity available for interzonal trade:

"8. Transmission system operators shall not limit the volume of interconnection capacity to be made available to market participants as a means of solving congestion inside their own bidding zone or as a means of managing flows resulting from transactions internal to bidding zones. Without prejudice to the application of the derogations under paragraphs 3 and 9 of this Article and to the application of Article 15(2), this paragraph shall be considered to be complied with where the following minimum levels of available capacity for cross-zonal trade are reached:

(a) for borders using a coordinated net transmission capacity approach, the minimum capacity shall be 70 % of the transmission capacity respecting operational security limits after deduction of contingencies, as determined in accordance with the capacity allocation and congestion management guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;"

Article 16(9) of Regulation (EU) 2019/943 allows regulatory authorities to grant a derogation from the requirement set out in paragraph 8 of the same article, in relation to the minimum interconnection capacity of 70 per cent offered, at the request of transmission system operators and for foreseeable reasons, where necessary to maintain operational security. It also stipulates that this derogation shall be granted for no more than one year at a time, up to a maximum of two years, and that it shall be limited to what is strictly necessary to maintain operational security and avoid discrimination between internal exchanges and between zones:

"9. At the request of the transmission system operators in a capacity calculation region, the relevant regulatory authorities may grant a derogation from paragraph 8 on foreseeable grounds where necessary for maintaining operational security. Such derogations, which shall not relate to the curtailment of capacities already allocated pursuant to paragraph 2, shall be granted for no more than one-year at a time, or, provided that the extent of the derogation decreases significantly after the first year, up to a maximum of two years. The extent of such derogations shall be strictly limited to what is necessary to maintain operational security and they shall avoid discrimination between internal and cross-zonal exchanges."

## 2. Evaluation of the derogation request

In accordance with Article 16(8) of Regulation (EU) 2019/943, the transmission system operator must offer at least 70% of the available interconnection capacity for cross-border exchanges from 1 January 2020.

In 2019, REN had already requested a derogation from the application of this obligation, which was approved by ERSE Decision of 19 December 2019.

In January 2020, the network operators put into operation a new regional methodology for the coordinated calculation capacity for the daily market, which has led to better interconnection capacity figures. In addition, work began on implementing the coordinated calculation for the intraday horizon in 2021.

Despite these advances, REN considers that, to date, the system is still unable to guarantee that 70 per cent of the interconnection capacity is made available for cross-border transactions under secure conditions and, in particular, it is unable to comply with Article 16(4) of the aforementioned regulation, which obliges the use of all the possibilities of coordinated redispatches and compensatory exchanges for this purpose. For this reason, REN requests a derogation from the fulfilment of this obligation in 2021.

The current level of coordination between European network operators is insufficient to be able to safely activate all the available redispatches needed to guarantee the minimum value of 70 per cent of capacity,

requiring the development of a tool that allows the regional coordination centre responsible for calculating capacity (CORESO) to assess and activate the necessary redispatches in the most efficient way, as well as monitoring the level of compliance with the capacity margin in each critical element.

In accordance with the above, it is considered that the request submitted by REN fulfils the requirement set out in Article 16(9) of Regulation (EU) 2019/943, in terms of the need to maintain operational security and in terms of the proposed solutions that will allow the minimum value of 70% of the interconnection capacity required by Regulation (EU) 2019/943 to be met in the short term.

The commitment incorporated in the derogation request to reach the capacity threshold of 70 per cent in the limiting elements of the calculation during 70 per cent of the hours is also considered positive.

#### Decision

Taking into account the facts and grounds mentioned above, ERSE's Board of Directors decides to grant for a period of one year the derogation requested by REN regarding application in 2021 of the provisions of Article 16(8) of Regulation (EU) 2019/943 on minimum levels of available capacity for cross-zonal trade.

# REN request for derogation on the implementation of the minimum margin available for cross-zonal trade

in accordance with Article 16(9) of Regulation (EU)  
2019/943 of the European Parliament and of the Council  
of 5 June 2019 on the internal market for electricity

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(recast)

October 2020

## Whereas

(1) REN is the Portuguese Transmission System Operator. REN belongs to South West Europe capacity calculation region (hereinafter, "SWE CCR").

(2) REN is required, by Article 16(8) of the Regulation (EU) 2019/943 of 5 June 2019 on the internal market for electricity (hereinafter, the "Regulation 2019/943"), to offer minimum levels of available capacity for cross-zonal trade as of the 1st of January 2020.

(3) Article 16(4) of the Regulation 2019/943 provides that, in order to maximise available capacities to reach the minimum capacity requirements provided for in Article 16 (8), Transmission System Operators (hereinafter, "TSOs") shall use countertrading and redispatch, including cross-border redispatch, via *"a coordinated and non-discriminatory process"*.

(4) Article 16(9) of the Regulation 2019/943 provides regulatory authorities with the possibility of granting a derogation from Article 16(8) upon TSO request on foreseeable grounds where necessary for maintaining operational security.

(5) Article 7(2) of Regulation 2019/943 establishes among other objectives that both day-ahead and intraday market shall ensure operational security while allowing for maximum use of transmission capacity.

(6) Recommendation No 01/2019 of the European Union Agency for the Cooperation of Energy Regulators of 08 August 2019 on the implementation of the minimum margin available for cross-zonal trade pursuant to Article 16(8) of Regulation (EU) 2019/943 proposes a method to monitor the margin available for cross-zonal trade in accordance with Article 16(9).

(7) Complying with the minimum requirements set in Article 16(8) would require an intensive use of costly remedial actions that undermines the operational security of the Portuguese grid especially if Recommendation No 01/2019 is applied for setting the minimum requirements for Portuguese interconnections.

(8) This document constitutes a request for derogation in accordance with Article 16(9) of the Regulation 2019/943 and addresses the foreseeable grounds, related to the operational security of the Portuguese grid, justifying the request for a derogation.

(9) A first derogation for the South West Europe (SWE) capacity calculation region had already been submitted and approved by the Portuguese regulatory authority ERSE on the 31<sup>st</sup> of December 2019 for the year 2020 (from 1st January 2020 to 31st December 2020).

(10) This document constitutes a request for derogation for the year 2021 (from 1st January 2021 to 31st December 2021).

(11) REN will provide a long-term solution to the issue that this derogation seeks to address, in coordination with the TSOs of the affected capacity calculation regions (hereinafter "CCR").

(12) The term Regional Coordination Centre (hereafter "RCC") shall be understood as the Regional Security Coordinator (hereafter "RSC") in charge of the capacity calculation for SWE CCR, as at the time of this request the RCCs, in terms of article 35 of Regulation (EU) 2019/943, are not established yet.

## REN SUBMITS THE FOLLOWING REQUEST FOR DEROGATION

### **Article 1. Subject matter and scope**

This document constitutes a request for a second derogation from the implementation of the minimum margin available for cross-zonal trade in accordance with Article 16(9) of Regulation 2019/943 to be applied in SWE CCR.

### **Article 2. Definitions**

All the terms used in this request for a second derogation shall have the meaning provided by Article 2 of Regulation 2019/943 and Article 2 of Regulation 2015/1222.

### **Article 3. Operational Security grounds justifying the request for a derogation**

- (1) The development of new processes aiming at offering higher capacities to the market, and the introduction of new tools enabling the fulfilment of Article 16(8) minimum capacity requirements introduce new risks to operational security:

a. with regards to the risk related to new processes to offer higher capacities:

i. the implementation of the minimum capacity requirement set forth in Article 16(8) of the Regulation 2019/943 should lead to more capacity given to the market which may require a more extensive application of costly remedial actions, in accordance with Article 16(4) of the same Regulation. The operational experience for processes with an extensive application of costly remedial actions is currently very low, which means that applying the necessary remedial actions from the Required Date would lead to operational security risks;

ii. the likelihood a more extensive application remedial actions is higher in Member States where no action plan is applied, as it is the case of Portugal;

b. with regards to the risks related to new tools:

i. in line with Article 16(8) of Regulation 2019/943, it should be possible for Regional Coordination Centre to use all the available remedial actions provided by TSOs to reach the minimum capacity requirement.

As from the 1st of January 2021, SWE RCC will not have the necessary tools to assess whether this minimum capacity is reached and thus to what extent the capacity should be increased to reach this threshold;

ii. in line with Article 16(3) of Regulation 2019/943, it should be possible for RCCs to identify the cases where available remedial actions provided by TSOs are sufficient to reach the capacity requirements while guaranteeing security of supply.

As from January 1<sup>st</sup> 2021, SWE RCC will not have the necessary tools to assess the availability of such remedial actions to reach the capacity requirements in line with Article 16(3) of Regulation 2019/943. Due to this temporary lack of regional tools, SWE RCC will operate the Day-Ahead capacity calculation process according to SWE approved capacity calculation methodology but will not be

able to assess the availability of remedial actions in order to reach the capacity requirements in line with Article 16(3) of Regulation 2019/943 and thus provide maximum capacity to TSOs and the Day-Ahead market, which is one of the main objectives of Regulation 2019/943;

iii. As from the 1st of January 2021, REN will not have the necessary tools to assess and validate the availability of such remedial actions. Due to this temporary lack of internal tools, REN will not be able to operate the process and thus provide affordable energy to the final customers, which is one of the main objectives of Regulation 2019/943 (see whereas (2)).

- (2) To mitigate the identified operational security risks, REN requests this derogation for 1 year to complete the tools mentioned and to gather relevant experience from the processes and to complete the tools mentioned, in order to ensure an effective usage while guaranteeing operational security.

#### **Article 4. Summary of accomplishments after the first derogation and justification for this second derogation request**

- (1) A first derogation (from 1st of January 2020 to 31st of December 2020) was submitted and approved by ERSE. This first derogation granted 1 year for the definition, development and implementation of new tools enabling the fulfilment of Article 16(8) while ensuring operational security.
- (2) During this period the SWE TSOs and RCC:
  - a. Finalised the implementation of the D-2 Capacity Calculation as provided in the methodology approved by SWE NRAs, using the CGMES format as defined in the European guidelines.
  - b. Initialized the developments associated with the Intraday Capacity Calculation, the study to optimize TRM, which is expected by the end of 2020, and the new developments related to data collection taking into consideration the dispositions of Article 82 (4) of CACM.
  - c. Finalised the Business Requirements for the implementation of 70% compliance regional monitoring set forth in Article 16(8) of the Regulation 2019/943 and the ACER Recommendation No. 1/2019, after discussion with the national regulators.
- (3) The roadmaps of the works mentioned before were affected by the Covid-19 pandemic situation, namely developments, test and training had to be put on hold for several weeks, in order to focus on critical activities.



- (4) A new one year period will be set up for the day ahead capacity calculation process in SWE:
- a. During this period, REN will apply the current approved capacity calculation methodology and practices in the SWE CCR for the operational day-ahead coordinated capacity calculation process, insuring in this way the maintenance of the operational security in the SWE CCR. REN will offer to this process at least the minimum levels of capacity in accordance with article 16(8)(a) of Regulation 2019/943 during 70 % of the hours on which the 1-year derogation applies. The minimum levels will be provided in accordance with article 16(8)(a) of Regulation 2019/943 and with paragraphs 4.2 and 5.1 of ACER Recommendation 01/2019 on the limiting CNECs. This proportion of annual hours has been determined based on the results for the first year of derogation, up to the date that the present request was submitted.
  - b. During this period, RCC and SWE TSOs will:
    - i. Develop a regional validation tool, that will enable the RCC to identify the cases where available remedial actions are sufficient to reach the capacity requirements while guaranteeing security of supply. The validation system shall assess the available remedial actions and apply these in order to provide margins available for cross-zonal trade aligned with the provisions of Regulation 2019/943, always with a view to providing affordable capacity the final customers.
    - ii. Finish and put in service the regional monitoring of the 70 % compliance as set forth in Article 16(8) of the Regulation 2019/943 and the Recommendation no. 1/2019 by ACER.
    - iii. Finish the developments and put in service the Intraday Capacity calculation, as well as the implementations related to the data collection foreseen in the article 82 (4) of the CACM and start the Long Term Capacity Calculation developments.
    - iv. Analyse the need to update or not the current SWE Capacity Calculation methodology taking into consideration the dispositions foreseen in the Regulation 2019/943 and propose the new version if needed, under agreement with SWE NRAs.
    - v. Study the technical and regulatory framework to enable, if necessary, the use of costly remedial actions, namely counter trading and coordinated redispatching.
- (5) REN will continue to train the operators for them to gain enough experience with new processes and tools to ensure operational security.
- (6) REN will assess the possibility to implement, in operations, new measures to offer higher values of minimum margins for cross-zonal trades provided that the tools and processes are sufficiently developed to ensure operational security with these levels of minimum margins.
- (7) The assessment stated in the previous paragraph will be conducted by REN with the ERSE every three months.

### **Article 5: Reporting**

The results of the accomplishments achieved during this period will be communicated regularly to ERSE including at least the following indicators, as soon as the regional monitoring tool is operational, and by 1<sup>st</sup> of April of 2021 at the latest:

- a. Average % of margin available for cross zonal-trades on most limiting CNECs<sup>1</sup> compared to the capacity of the line;
- b. Number of hours where the minimum capacity requirement set forth in Regulation 2019/943 is reached on the most limiting CNECs.

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<sup>1</sup> As per Recommendation No 01/2019 of the European Union Agency for the Cooperation of Energy Regulators of 08 August 2019 on the implementation of the minimum margin available for cross-zonal trade, 'CNEC' means a Critical Network Element associated with a contingency used in capacity calculation. For the purpose of the said Recommendation, the term CNEC also covers the case where a CNE is used in capacity calculation without a specified contingency.