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Alberto Pototschnig
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**Final Network Code on Forward Capacity Allocation**

Dear Mr Potoschnig,

ENTSO-E is pleased to deliver the network code on Forward Capacity Allocation (NC FCA) and an explanatory document to the Agency for the Cooperation of Energy Regulators (ACER). The network code represents the result of a year of work which has involved stakeholders closely at every stage.

As you are aware, the FCA network code has been formally developed by ENTSO-E following the European Commission's invitation letter of 21 September 2012; which set a deadline of 1 October 2013 for the delivery of the code to ACER. The FCA code was unanimously approved by the ENTSO-E Assembly on 26 September.

We would like to thank ACER and NRA colleagues for the constructive role they have played during the process of developing the FCA code. The preliminary opinion and subsequent comments have allowed us to understand ACER's concerns and a series of productive meetings have allowed us to explore those concerns and agree on ways to tackle the vast majority of them.

We are confident that the network code meets the requirements of the framework guideline on Capacity Allocation and Congestion Management and will constitute a significant step forward in the creation of an Internal Energy Market in Europe which will benefit European consumers. At the same time, ENTSO-E is aware of concerns raised by ACER on former proposals for a firmness regime, and would like to expand on this topic further below.

The code proposes a firmness regime where the compensation in case of curtailment shall generally be equal to the price difference between the concerned zones in the relevant time frame. The code also introduces caps on the compensation amounts which are to be approved by concerned NRAs in the Compensation Rules. These caps are aimed at limiting the financial risk that TSOs would face if appropriate cost recovery provisions were not in place.

Addressing the same concern, yet based on the assumption and our understanding that both ACER, as indicated in its Qualified Recommendation on the CACM code dated 14 March 2013, and the European Commission would support the inclusion of clear and concise cost recovery clauses in the CACM code and accordingly in the FCA code, we would be keen to work together with both organisations in order to explore alternative proposals during the upcoming three month period in which ACER is preparing its opinion and related recommendation.

These proposals could for example build on the cost recovery formulations and especially the regulatory decisions on reasonable, efficient and proportionate compensation payments which are a pre-requisite for the TSOs' recovery of the compensation payments. That approach would help to define the acceptable financial contribution of consumers deemed appropriate by NRAs to integrate and foster power markets in an optimal way, as well as ensuring that TSOs do not bear a disproportionate and unmanageable financial risk.

In conclusion, we believe it is crucial to work closely with ACER and EC colleagues during the upcoming period in which ACER is forming its opinion and related recommendation. Especially on firmness, we would welcome the opportunity to explore the issue in more detail in the coming weeks, as we continue to seek a pragmatic way forward in the interest of all market participants and consumers, which also gives TSOs enough regulatory comfort to provide the desired firmness regime.

Yours sincerely,

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Secretary-General
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