
IV. ANNOUNCEMENT OF APPEAL

Case: A-001-2022

Appellant: Polskie Sieci Elektroenergetyczne S.A.

Appeal received on: 03-01-2022

Subject matter: Appeal against Decision No 14/2021 of the European Union Agency for the Cooperation of Energy Regulators of 3 November 2020 on the long-term capacity calculation methodology of the Core capacity calculation region

Keywords: capacity calculation

Contested decision Number: No 14/2021

Language of the case: English

Remedy sought by the Appellant (including procedural requests)

The Appellant respectfully requests the Board of Appeal to rule that the Appellant's appeal is well-founded and to remit the case to the competent body of ACER to replace the Contested Decision with a new decision in accordance with Article 28(5) of Regulation 2019/942.

The Appellant submits the following procedural request: pursuant to Article 18(1) of the Rules of the Board of Appeal, the Appellant requests an oral hearing, in order to be able to present its arguments effectively, to answer questions from the Board of Appeal.

Pleas in law and main arguments

The Appellant contests the lawfulness of Article 1 of the Contested Decision and Articles 10 and 17(1) of Annex I to the Contested Decision:

First plea: Infringement by ACER of the principle of conferral set in Article 5(2) TEU in conjunction with Article 17(1) of LT CCM ACER by limiting Core TSOs' right to correct long-term capacity relevant to their bidding zone borders for reasons of operational security during the validation process only to situations listed in Article 17(1) of LT CCM ACER.

Second plea: Infringement by ACER Article 10(3) and Article 10(4) of Regulation 2016/1719 in conjunction with Article 10 of LT CCM, by setting rules for the usage of CGMM or temporary procedures for building this CGM in the LT CC which result in planned outages are not sufficiently reflected in the capacity calculation process.

Third plea: Infringement by ACER of the duty to state reasons (Article 14(7) of Regulation 2019/942 and Article 296, TFEU) and the principle of good administration (Article 41(2) of the Charter of Fundamental Rights of the European Union), by not giving reasons for limiting in Article 17(1)(c) Core TSOs right to correct the calculated level of a RAM and providing justification for the adoption of Article 17 of LT CCM which is inconsistent with the wording of that provision, and thus illogical.

Further information

More information on the appeal procedure can be found on the 'Appeals' section of the Agency's website:

https://www.acer.europa.eu/en/The_agency/Organisation/Board_of_Appeal/Pages/Procedural-Documents.aspx

² Announcement published in accordance with Article 9 of Decision BoA NoI-2011 Laying down the rules of organization and procedure of the Board of Appeal of the Agency for the Cooperation of the Energy Regulators .

Date of Submission: 03 January 2022	Name: Leszek Jesień	Signature: (signed)
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