EUROPEAN
COMMISSION

Brussels, 12.11.2020
COM(2020) 706 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex IV (Energy) to the EEA Agreement

[32016R1719 - Guideline on forward capacity allocation "FCA"]

ANNEX

DECISION OF THE EEA JOINT COMMITTEE

No […]

of […]

amending Annex IV (Energy) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ("the EEA Agreement"), and in particular Article 98 thereof,

Whereas:

(1) Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation[1] is to be incorporated in the EEA Agreement.

(2) Commission Regulation (EU) 2016/1719 does not apply to transmission systems on islands which are not connected to other transmission systems via interconnections.

(3) As the transmission system of Iceland is not connected with another transmission system, Commission Regulation (EU) 2016/1719 should not apply to Iceland.

(4) Due to its small size and the limited number of electricity customers, Liechtenstein does not have an own transmission electricity network. Commission Regulation (EU) 2016/1719 should therefore not apply to Liechtenstein.

(5) References to Transmission System Operators ("TSOs"), Nominated Electricity Market Operators ("NEMOs"), regulatory authorities and stakeholders should be understood to include the TSO, NEMOs, regulatory authorities and stakeholders representing Norway.

(6) When jointly developing terms, conditions and methods pursuant to Commission Regulation (EU) No 2016/1719, it is essential that all necessary information is submitted without delay. Close cooperation between TSOs and regulators should ensure that sensitive information, such as detailed information about electrical substations, exact location of underground transmission, information about control systems and detailed vulnerability analyses that can be used for sabotage, is effectively protected in the process of developing terms, conditions or methodologies. To ensure the effective implementation of this Regulation, the same level of cooperation regarding information exchange and protection of sensitive information should be established in the cooperation with Norway.

(7) Input from all main stakeholders in the development of regional or EEA-wide terms, conditions and methodologies, that may become binding through regulatory approval, is crucial for an effective regulatory cross-border framework. The TSOs and other stakeholders should therefore participate in the processes for the development of proposals for terms, conditions and methodologies as set out in the various provisions in this Regulation. The Norwegian TSO and NEMOs should notably participate in the

[1] OJ L 259, 27.9.2016, p. 42.

stakeholder decision-making in a similar manner as TSOs and NEMOs representing an EU Member State.

(8) For regional or Union-wide proposals, where the approval of proposals from TSOs requires a decision by more than one regulatory authority, regulatory authorities should consult and closely cooperate in order to reach agreement before the regulatory authorities adopt a decision. The Norwegian regulatory authority should be involved in this cooperation.

(9) As this Regulation has been adopted on the basis of Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003[2], the adaptation texts elaborated and adopted under Decision of the EEA Joint Committee No 93/2017 of 5 May 2017[3] for the implementation of Regulation 714/2009, in particular the provisions in Art. 1 (1) and (5) thereof, which provide for adaptations concerning the role of the Agency for the Cooperation of Energy Regulators in the EEA context, are relevant for the application of this Regulation in the EEA, notably for Article 4 (8) and (10).

(10) Annex IV to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following is inserted after point 49 (Commission Regulation (EU) 2015/1222) of Annex IV to the EEA Agreement:

'50. **32016 R 1719**: Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (OJ L 259, 27.9.2016, p. 42).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The Regulation shall not apply to Iceland and Liechtenstein.

(b) The following shall be added to Article 7:

"Agreements between TSOs and / or Regulators may ensure that confidential or sensitive information is effectively protected and help guaranteeing that all information which is necessary to develop the common terms, conditions and methods is submitted without delay".

(c) In Article 4:

(i) The references to "the population of the Union" in Article 4(2)(b), to "the population of the concerned region" and to "the population of the participating Member States" in Article 4(3)(b) shall be understood as including the population of Norway when considering whether the relevant population threshold for attaining qualified majority is attained.

(ii) The references to "regions composed of more than five Member States" and to "regions composed of five Member States or less" in Article 4(3) shall be read as "regions composed of more than four

[2] OJ L 211, 14.8.2009, p. 15.
[3] OJ L 36, 7.2.2019, p. 44.

Union Member States and Norway" or as "regions composed of four Union Member States and Norway or less".

Article 2

The text of Regulation (EU) 2016/1719 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on […], or on the day following the last notification to the EEA Joint Committee under Article 103(1) of the EEA Agreement*, whichever is the later.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, […].

For the EEA Joint Committee

The President

[…]

The Secretaries

To the EEA Joint Committee

[…]

* Constitutional requirements indicated.