Bundesnetzagentur

# Revenues resulting from cross-border congestion management from 01 July 2017 to 30 June 2018

## Report pursuant to paragraph 6.5 of the congestion management guidelines

The English version is a courtesy translation only.

Only the German version is binding.

According to paragraph 6.5 of the congestion management guidelines annexed to Regulation (EC) No 714/2009 (hereafter: Reg. 714/2009), Bundesnetzagentur shall annually publish a report setting out the amount and use of the congestion revenues collected by the national transmission system operators (TSOs) between 1 July of the preceding year and 30 June of the current year. The report examines whether congestion revenues were used in compliance with Article 16 (6) of Reg. 714/2009.

There are capacity constraints at the German borders with the Netherlands, France, Switzerland, the Czech Republic, Poland, Denmark and Sweden, which require a congestion management procedure in compliance with Reg. 714/2009. According to these provisions, congestion management procedures shall be market-based, transparent and non-discriminatory. With respect to these criteria, cross border capacity at Germany's borders is explicitly allocated via daily, monthly and annual auctions[1], whilst at interconnections with Western and Northern borders capacity is explicitly allocated for annual and monthly products and implicitly allocated in a market coupling regime for the day-ahead market. In an explicit auction capacity is offered beforehand and therefore separated from electricity trade. Whether capacity is allocated to a specific auction participant depends on the level of its bidding price. Implicit auctioning, as it has been conducted at Western and Northern borders via day-ahead market coupling since 9 November 2010 (and since 12 June 2018 for intraday trading via the XBID trading platform), allocates both the commodity and the cross-border capacity jointly.

[1] Capacity of the Baltic Cable (SE-DE) is solely offered via implicit daily auctions.

| | Involved Transmission System Operators | |
|---|---|---|
| | **„German“ TSOs** | **Foreign TSOs** |
| **DE - NL** | Amprion, TenneT TSO | TenneT TSO (NL) |
| **DE - FR** | Amprion, TransnetBW | RTE (FR) |
| **DE - CH** | Amprion, TransnetBW | Swissgrid (CH) |
| **DE - CZ** | TenneT TSO, 50Hertz Transmission | CEPS (CZ) |
| **DE - PL** | 50Hertz Transmission | PSE-O (PL) |
| **DE - DK west** | TenneT TSO | Energinet.dk (DK) |
| **DE - DK east** | 50Hertz Transmission | Energinet.dk (DK) |
| **DE-SE** | *Baltic Cable AB*[2] | Baltic Cable AB |

Table 1: Involved TSOs at the different interconnectors

The aggregated congestion income of the “German” TSOs amounts to 205.833.834 Euro (+17.6% as compared to the previous period). In addition, the TSO Baltic Cable AB[2] reports a congestion income of 10.83 million Euro. The congestion income gained by the involved German TSOs at the different borders is illustrated in the following figure:

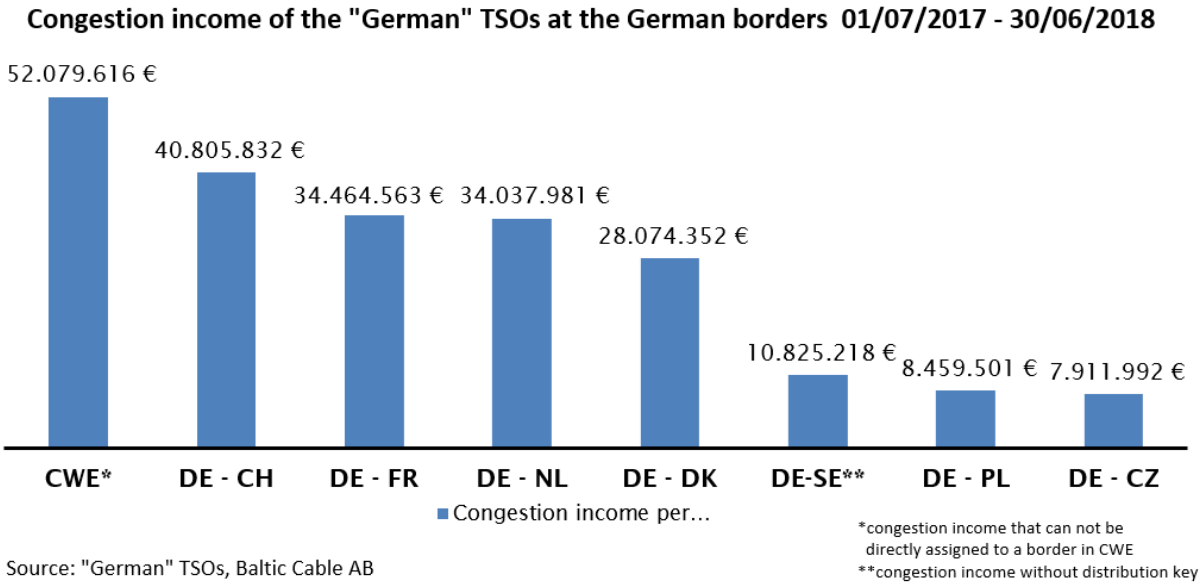


Figure 1: Congestion income of the “German” TSOs per border (01/07/2017 – 30/06/2018)

[2] In reference to the decision of the Federal Court of Justice (BGH, decision from 07.03.2017) according to which Baltic Cable AB is a TSO, the congestion income of Baltic Cable AB are included for the second time in this report. Baltic Cable AB is not yet certified as TSO.

According to Article 16 (6) of Reg. 714/2009, any revenues resulting from allocation of interconnection capacity shall be used for the following purposes:

a) guaranteeing the actual availability of the allocated capacity; and/or
b) maintaining or increasing interconnection capacities through network investments, in particular in new interconnectors.

If the revenues cannot be efficiently used for the purposes set out under (a) and/or (b) above, they may be used, subject to approval by the regulatory authorities of the Member States concerned, up to a maximum amount to be decided by those regulatory authorities, as income to be taken into account by the regulatory authorities when approving the methodology for calculating network tariffs and/or fixing network tariffs.

The TSOs indicated that they used or will use the congestion revenues either according to Article 16 (6) a or b for network investments or in the meaning of Article 16 (6) subparagraph 2 of Reg. 714/2009 for lowering the network tariffs. In compliance with the regulation, Bundesnetzagentur will ensure the proper usage of the revenues within the limits of the application procedure to be carried out by TSOs in case of a differing usage of congestion revenues.

Regarding the use of the congestion revenues by Baltic Cable AB, Bundesnetzagentur would like to point out the following:
By decision of 9 June 2016, the Swedish regulatory authority Energimarknadsinspektionen (EI) has obligated Baltic Cable AB to transfer a part of the congestion revenues generated by Baltic Cable AB between the 1 July 2013 and 30 June 2015 to a separate internal account. In view of EI, the use of the congestion income by Baltic Cable AB does not meet the requirements of Article 16 (6) of Reg. 714/2009. Baltic Cable AB has lodged a complaint against this decision at the administrative court in Linköping (case number 4728-16). For its preliminary ruling, the administrative court in Linköping has requested the European Court of Justice to clarify the applicability and scope of Article 16 (6) of Reg. 715/2009 (case number C-454/18).

Bundesnetzagentur shares the view of the Swedish regulatory authority that the use of the congestion revenues by Baltic Cable AB does partially not comply with the provisions of Article 16 (6) of Reg. 714/2009 and the guidelines laid down in Annex I to this Regulation.