

Framework Guidelines on Capacity Allocation Mechanisms for the European Gas Transmission Network

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This Document contains the Framework Guidelines on Capacity Allocation Mechanisms for the European Gas Transmission Networks, which the Agency for the Cooperation of Energy Regulators (ACER) has developed pursuant to Articles 6 of Regulation (EC) No 713/2009 and of Regulation (EC) No 715/2009 and on the basis of a request from the European Commission.

Related Documents

- ACER Draft Guidelines on Gas Capacity Allocation Mechanisms, 3 March 2011, Ref: DFGC-2011-G-001
- ERGEG's Revised Pilot Framework Guideline Capacity Allocation, December 2010, Ref: E10-GWG-71-03
- Capacity Allocation on European Gas Transmission Networks Pilot Framework Guideline, June 2010, Ref: E10-GWG-66-03
- ERGEG's revised principles on Capacity allocation and congestion management in European gas transmission networks“, December 2009, Ref. E09-GNM-10-03
- Pilot Framework Guideline on Capacity Allocation on European Gas Transmission Networks, (Public Consultation Document), December 2009, Ref. E09-GNM-10-05
- Pilot Framework Guideline on Capacity Allocation on European Gas Transmission Networks – Initial Impact Assessment, December 2009, Ref. E09-GNM-10-06
- Recommendations for Guidelines adopted via comitology procedure on Congestion Management Procedures on European Gas Transmission Networks, December 2009, Ref. E09-GNM-10-07
- Recommendations for Guidelines adopted via comitology procedure on Congestion Management Procedures on European Gas Transmission Networks – Impact Assessment, December 2009, Ref. E09-GNM-10-04

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1 General Provisions

1.1 Scope

These Framework Guidelines aim at setting out clear and objective principles for the development of network codes pursuant to Article 6(2) of Regulation (EC) No 715/2009 (the “Gas Regulation”)¹. This is without prejudice to the comitology procedure under Article 23(1)(b) of the Gas Regulation.

The objective of the current Framework Guidelines is twofold:

- (i) to ensure more efficient allocation of the capacity on the interconnection points between two or more Member States or within the same Member State, as defined in Section 1.2; and
- (ii) to support the creation of efficient gas wholesale markets in the EU.

The network code(s) adopted according to these Framework Guidelines will be applied by Transmission System Operators taking into account possible public service obligations. The provisions contained in the network code(s) are without prejudice to the regulatory regime for cross border issues pursuant to Article 42 of Directive 2009/73/EC² (the “Gas Directive”) and of the responsibilities and powers of regulatory authorities established according to Article 41(6) of the Gas Directive (the “National Regulatory Authorities”), insofar the network code(s) do not provide for full harmonisation.

The network code(s) adopted according to these Framework Guidelines will be evaluated by ACER, taking into account their degree of compliance with the Framework Guidelines and the fulfilment of the objectives of maintaining security of supply and of supporting the completion and functioning of the internal market in gas and cross-border trade, including delivering benefits to the customers.

¹ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.

² Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

1.2 Application

The rules in these Framework Guidelines apply to cross-border interconnection points, irrespective of whether they are physical or virtual³, between two or more Member States as well as to interconnections between adjacent entry-exit-systems⁴ within the same Member State, insofar as the points are subject to booking procedures by users. Exit points to end consumers and distribution networks, entry points to supply-only networks, entry points from LNG terminals and production facilities, and entry/exit points to or from storage facilities are not subject to these Framework Guidelines.

These Framework Guidelines, and the network code(s) developed on their basis, shall apply to all existing capacity as calculated by Transmission System Operators, including capacity being made available by capacity increase via enhanced capacity calculation, oversubscription and capacity surrendered by shippers. It also applies to all capacity under existing capacity contracts after they expire or as provided in Section 2.4.2, as well as to capacity acquired by shippers and sold on booking platforms, as described in Section 3.3.

Section 3 of these Framework Guidelines does not apply to new capacity allocated via open season procedures, apart from capacity which remains unsold after it has been initially offered via an open season procedure. It is recommended that processes for determining incremental capacity, i.e. capacity to be made available above the prevailing level of existing technical capacity, are consistent with the provisions of these Framework Guidelines.

1.3 Adaptation of existing transportation arrangements to the network code

The network code(s) shall provide that Transmission System Operators amend all relevant clauses in capacity contracts and/or relevant clauses in general terms and conditions relating to the allocation of capacity at relevant interconnection points, as defined in Section 1.2, in accordance with the terms of the network code(s). The relevant clauses shall be amended within nine months after entry into force of the network code(s). This requirement shall apply regardless of whether the relevant contracts or general terms and conditions provide for such an amendment. This should be without prejudice to the provisions in Section 2.4.2.

Upon expiry of transportation contracts the relevant capacity provisions shall not be subject to tacit extension.

³ As defined in Section 2.4.3 of these Framework Guidelines.

⁴ As provided for by recital 19 and Article 4, 13 (1) et al. of the Gas Regulation.

1.4 Contracts and communication

The network code(s) shall define the standardised content of transmission capacity contracts and of general terms and conditions for capacity allocation and capacity services.

The network code(s) shall define standard communication procedures that are applied by Transmission System Operators to exchange information with network users. Coordinated information systems and compatible electronic on-line communications shall be used particularly for capacity booking and transfers of capacity rights between network users.

1.5 Cooperation

The network code(s) shall set out that Transmission System Operators cooperate with adjacent Transmission System Operators and shall specify the procedures to:

- harmonise, coordinate and bundle capacity services and implement common service procedures;
- establish virtual interconnection points and set up common capacity allocation procedures, including their timing;
- coordinate their maintenance operations affecting interconnection points subject to these Framework Guidelines in order to optimise network access.

The network code(s) shall define a timetable to implement common communication procedures between Transmission System Operators which are necessary to comply with the requirements of the network code(s). The network code(s) shall set out how Transmission System Operators cooperate with regard to capacity calculation and maximisation.

In order to maximise available capacity, the network code(s) shall set out how adjacent Transmission System Operators exchange information when planning day-to-day network operation, including forecast entry and exit flows as well as the availability of network components and steering decisions for the technical use of physical interconnection points including those, which are combined in virtual interconnection points. They shall also exchange information on potential congestions on their respective networks and on the use of congestion management procedures.

1.6 Stakeholders' involvement

The network code(s) shall provide that stakeholders are consulted so that the market's needs and conditions are considered before decisions are made. Where detailed decisions have to be taken, the network code(s) shall set out that stakeholder consultations are undertaken before decisions are made with regard, at least, to the following elements:

- the breakdown of capacity services and the percentage of available capacity to be set aside for firm short-term services, in accordance with Section 2.3;
- any detailed aspect of the capacity allocation methodology used at each interconnection point, which is not precisely defined in the harmonised design of the standard allocation mechanism, pursuant to Section 3.

Nothing in this paragraph shall be construed to imply that the design of the standard allocation mechanism to be included in the network code(s) shall leave aspects undefined or open to further elaboration at the national or regional level.

2 Capacity services

The network code(s) shall set out how Transmission System Operators determine the firm and interruptible capacity⁵ they jointly offer at each interconnection point.

The network code(s) shall require that Transmission System Operators offer firm and interruptible capacity at any interconnection point in both directions; at unidirectional points, backhaul capacity shall be offered at least on an interruptible basis. The published available firm capacity shall be binding on the Transmission System Operators.

The network code(s) shall ensure that the capacity offered is expressed in energy units per unit of time. The offer and use of separate capacity for transit purposes shall be forbidden. That means that capacity used for transit purposes by shippers shall not be treated differently than capacity used for domestic purposes.

2.1 Firm capacity services

The network code(s) shall define a small set of standardised firm capacity services of different durations and starting dates, which cover market needs. The determination of the set of standardised products shall be consulted on. The set of standardised firm capacity services which are proposed for consultation must include yearly, quarterly, monthly, daily and intraday products. The standardisation is based on a daily capacity product's duration from 5:00 to 5:00 UTC/GMT⁶, or any other time period harmonised across the EU as defined by European Network of Transmission System Operators for Gas. The same set of services shall be offered at every interconnection point. The capacity services' design shall aim at developing competitive gas markets. It shall regularly be subject to proper consultation with network users.

2.2 Interruptible capacity services

The network code(s) shall set out how Transmission System Operators align interruptible capacity services at every interconnection point in both directions.

Adjacent Transmission System Operators shall implement standardised procedures, including the definition of interruption lead times, to ensure that interruptions take place in a coordinated and standardised manner.

⁵ As defined in Article 2 of the Gas Regulation.

⁶ 5.00 to 5.00 UTC/GMT means 6.00 to 6.00 CET - Central European Time.

The network code(s) shall define the possible reasons for interruptions, classes of interruptibility and the procedures, including sequencing where appropriate, adopted in the case of interruptions.

The network code(s) shall entitle registered network users to submit nominations on an interruptible basis at any time within day. This entitlement shall not restrict the allocation of firm capacity by Transmission System Operators.

2.3 Breakdown and offer of capacity services

The network code(s) shall set out the way in which the breakdown of available firm capacity between the different long- and short-term capacity services is determined. At least 10 percent of the available firm capacity at each interconnection point shall be set aside for firm capacity services with a duration of less than one quarter. The amount of capacity for each capacity service shall be aligned between adjacent Transmission System Operators and be subject to review by National Regulatory Authorities.

The network code(s) shall set out the procedures followed by Transmission System Operators to offer all available capacity in a transparent and non-discriminatory manner as long- and short-term firm capacity services and as interruptible capacity services. The Transmission System Operators shall offer the firm capacity available which includes:

- any remaining firm capacity not previously allocated;
- any capacity from previous allocations surrendered by capacity holders; and
- any unused capacity released through congestion management procedures.

2.4 Cross-border services

2.4.1 Bundled capacity services

The network code(s) shall set out that Transmission System Operators jointly offer bundled firm capacity services. The corresponding exit and entry capacity available at both sides of every point connecting adjacent entry-exit systems shall be integrated in such a way that the transport of gas from one system to an adjacent system is provided on the basis of a single allocation procedure and a single nomination.

In order to progressively bundle the entire technical capacity at a given interconnection point, capacity becoming available on one side of an interconnection point exceeding the available capacity on the other side of the same interconnection point shall be allocated for a duration not exceeding the expiration date of the contracts for the corresponding capacity on the other side of the border. Transmission System Operators shall seek to maximise the bundled capacity and to accelerate the bundling of capacity at interconnection points by encouraging their network users to free up their capacity booked on one side of interconnection points before the expiration date of the capacity contracts.

These rules on mandatory bundling also apply, to the extent that they are relevant, to secondary capacity markets.

2.4.2 Amendment of existing capacity contracts

The network code(s) shall ensure that existing capacity contracted before the entry into force of the same network code(s) shall be bundled no later than five years thereafter.

To this end, parties to existing capacity contracts⁷ shall aim to reach an agreement on the split of the bundled capacity at the interconnection points defined in Section 1.2. National Regulatory Authorities may mediate between the parties to promote such agreements.

If no agreement on the split of the bundled capacity is reached, the network code(s) shall provide that the bundled capacity shall be considered split between the original capacity holders proportionally to their capacity rights.

The parties to an existing capacity contract shall adjust the original capacity contracts with their respective Transmission System Operators according to the agreed split of the bundled capacity or, if no agreement is reached, to the above proportionality rule, as further detailed in the network code(s). The duration of the amended capacity contracts with bundled services shall not exceed the duration of the original capacity contracts. Any further details of this procedure shall be set out in the network code(s).

Transmission System Operators shall cooperate amongst themselves throughout the process to ensure that the bundled allocation is achieved.

All relevant information that is necessary to achieve an agreement between the parties shall be provided by any of the above-mentioned parties. However, the confidentiality of commercially sensitive information shall be maintained throughout the negotiation process.

⁷ Either the capacity holder and the Transmission System Operator providing the capacity service or the two capacity holders at either side of an interconnection point, as defined in Section 1.2.

According to Article 41(1)b) of the Gas Directive, each National Regulatory Authority shall ensure that the Transmission System Operator(s) and other parties in its jurisdiction comply with the obligations of the network code(s) in the area of capacity bundling and may impose appropriate sanctions on non-complying parties. ACER may be called to exercise its powers pursuant to Articles 7 and 8 of Regulation (EC) No 713/2009⁸.

The provisions contained in these Framework Guidelines and in the network code(s) adopted on their basis are not meant and do not regulate supply contracts, only capacity contracts. Insofar as these provisions could have an effect on supply contracts, their implementation shall not entitle contracting parties to a supply contract to terminate or cancel supply contracts unilaterally. They could only result in the separation and amendment of the capacity contract, if this is included in the supply contract.

2.4.3 Virtual interconnection point

The network code(s) shall set out that capacity at two or more points connecting the same two adjacent entry-exit systems is integrated into one single capacity service representing one virtual interconnection point. Transmission System Operators shall calculate the entire technical capacity of the integrated service. Virtual interconnection points have to be established no later than five years after the entry into force of the network code(s), insofar as the technical capacity resulting for the integrated service and at any virtual interconnection point shall not be lower than the sum of the previously separate bundled capacity products.

⁸ Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.

3 Capacity allocation

The aim of the capacity allocation procedures is to foster competition and market integration. The network code(s) shall set out how Transmission System Operators offer capacity on a regular basis for all firm and interruptible services. The network code(s) shall define a number of regular points in time for the allocation of firm capacity services. Each of these points in time shall be appropriate with regard to the duration of the capacity service offered at this allocation date. The longer the capacity service duration, the longer its allocation lead time (i.e. the time between the allocation of the capacity and its use). Each allocation procedure shall contain a time window during which capacity is requested.

The network code(s) shall set out that, for the same capacity service, the allocation procedures take place at every interconnection point in Europe in a time-coordinated way.

Capacity allocation procedures shall be designed with regard to market conditions and shall be regularly reviewed by the concerned Transmission System Operators and revised if necessary.

The network code(s) shall require that Transmission System Operators apply harmonised allocation mechanisms at each interconnection point and publish, sufficiently in advance, the detailed procedure as well as the capacity offered, its allocation lead time and its duration.

Capacity allocations shall not take place outside the harmonised allocation procedures as defined according to these Framework Guidelines.

3.1 Standard allocation mechanism

3.1.1 Auction design

The network code(s) shall set out that all firm and interruptible capacity services for each time interval, with the possible exception of within-day (intraday) capacity services, are allocated via auctions. The network code(s) shall set out the principles of anonymous, transparent online-based auction procedures, which should avoid any abuse of a dominant market position.

The network code(s) shall set out a harmonised auction design, which is applicable at every interconnection point within the EU.

In particular, the network code(s) shall set out a fully harmonised auction design for firm day-ahead capacity. This design does not aim to prevent Transmission System Operators from already implementing day-ahead implicit auctions.

Where, for services other than firm day-ahead capacity, the network codes do not provide for a fully harmonised auction design at every interconnection point, because this is, for duly justified reasons, not appropriate, the same detailed auction design shall be established at least between adjacent Transmission System Operators for each interconnection point and shall be subject to review by the National Regulatory Authorities concerned and to market consultations according to Section 1.6. ACER may be called to exercise its powers pursuant to Article 8 of Regulation (EC) No 713/2009.

3.1.2 Reserve price

Regulated tariffs shall be used as reserve price in auctions for firm and interruptible capacity, if not otherwise specified in Commission Guidelines for tariff methodologies related to cross-border trade of natural gas⁹ or in the Framework Guidelines for network codes on rules regarding harmonised transmission tariff structures¹⁰.

3.1.3 Auction revenues

Auction revenues exceeding the allowed revenue, or values determined by the National Regulatory Authority, if not otherwise specified in Commission Guidelines for tariff methodologies related to cross-border trade of natural gas or in the Framework Guidelines on rules regarding harmonised transmission tariff structures, shall be used for different aims subject to the approval by the National Regulatory Authority, such as lowering network tariffs, removing congestion by investments or providing incentives to the Transmission System Operators to offer maximum capacity.

3.1.4 Allocation of interruptible capacity services

The allocation of interruptible capacity shall not restrict the allocation and use of firm capacity, meaning that the offer of interruptible capacity cannot be detrimental to the offer of firm capacity.

⁹ Pursuant to the process set out in Article 23 of Regulation (EC) No 715/2009.

¹⁰ Article 8(6)(k) of the Gas Regulation.

3.1.5 Within-day capacity

The network code(s) shall allow Transmission System Operators to allocate within-day capacity, i.e. capacity not allocated after the day-ahead auction, via first-come-first-served or auctions. Interruptible within-day capacity services are allocated according to Section 2.2. Adjacent Transmission System Operators shall implement the same allocation mechanism (either first-come-first-served or auctions) at each interconnection point.

3.1.6 Interim period

If, after the comitology procedure, as referred to in Article 28(2) of the Gas Regulation, an interim period is allowed before the implementation of auctions, the network code(s) shall set out that during this period, adjacent Transmission System Operators apply harmonised allocation mechanisms at each interconnection point.

3.2 Unsold capacity after the standard allocation mechanism

The network code(s) shall provide that capacity which remains unallocated after an allocation window is assigned to subsequent allocation windows for capacity services of equal or shorter duration.

3.3 Booking platforms

The network code(s) shall set out that adjacent Transmission System Operators establish a joint, anonymous, web-based platform for primary capacity allocation and secondary capacity trading. All capacity connecting their systems is to be allocated via this platform, unless allocated by means of implicit auctions. Primary and secondary capacity services shall be offered and allocated jointly on this platform.

The network code(s) shall lay down an action plan to reduce the number of platforms and eventually establish a single EU-wide platform. This plan shall define interim steps and shall include a timetable for implementation.