



ENTSOG's recommendation paper on issues related to bundling of capacities

2015-07-31

I. Background

In spring 2014, the Agency for the Cooperation of Energy Regulators (ACER) organised an ad-hoc expert group on a potential Framework Guideline on Rules for Trading (RfT FG). Taking into account the opinions of the experts, ACER launched a consultation among stakeholders. Based on the responses, ACER and the European Commission (EC) concluded that for the moment no RfT FG is needed, but that there are potential issues that present obstacles in capacity markets. These issues however, can better be addressed by “smart” implementation or amendment of existing NCs. In order to explore these issues further ENTSOG¹ and EFET² were invited to start up discussions.

EFET and ENTSOG established a joint work stream to explore issues highlighted in the consultation including ways to address them. With the support of the European Commission and ACER at the XXVI Madrid Forum, EFET and ENTSOG started a dialogue process in an ad-hoc joint work stream with the aim to identify and resolve potential issues related to the introduction of capacity bundling before more long term bundled products are offered. The issues identified in the dialogue between EFET and ENTSOG was jointly presented on the XXVII Madrid Forum and welcomed by the forum. Thereafter, EFET and ENTSOG opened the discussion for all stakeholders including national regulatory authorities and the European Commission.

The ENTSOG recommendation derived from this extensive and transparent workstream is summarized within this recommendation paper.

¹ ENTSOG was founded on 1 December 2009 in line with Regulation (EC) 715/2009. The current number of Members, Associated Partners and Observers can be found [at this link](#).

² The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 28 European countries. For more information, visit our website at www.efet.org.

II. Overview of the functionality process

After the XXVI Madrid Forum a number of joint EFET/ENTSOG workshops were held to identify and fully understand issues raised by EFET in relation to NC CAM and CMP implementation that may pose difficulties to cross border trading. To enable a full understanding of the issues raised, ENTSOG and EFET discussed the extent to which issues that are not yet addressed in NCs or that are “in between” different NCs are prerequisite for meaningful NC implementation.

A result of the joint EFET/ENTSOG workshops in 2014/2015 has been the selection of four issues related to bundling for further assessment towards solutions:

1. Already contracted unbundled capacity and offer of bundled products only
2. CMP regulation and its consistent implementation across IPs
3. Alignment of secondary marketing of bundled products
4. Aligned procedures for the surrender of capacity

These issues were selected based on relevance and urgency, as they are subject of current (early) Network Code implementation discussions and addressing them now would ease the introduction of capacity bundling which will become mandatory as of November 2015 and solutions can potentially be introduced before the implementation deadline expires.

Additionally, potential options were developed and discussed by the ENTSOG/EFET joint work stream on the agreed principle, that the discussions on potential options to address the identified issues follow the following general principles:

- Priority should be given according to effectiveness in addressing a specific issue (not necessarily one size fits all);
- Compliance with general principles and concepts of CAM/CMP:
 - o Maximisation of products on offer;
 - o Avoidance of discrimination;
 - o Ensuring level of playing field;

- Priority of enhanced implementation over amendment of regulations;
- Reduction of implementation efforts.

The result of the joint work stream was published in a joint paper by EFET and ENTSOG titled “Joint EFET/ENTSOG MF paper on issues regarding bundling of capacities” ([Link](#)).

III. Summary of work done since April 2015

The aim of ENTSOG has been to identify and resolve potential issues related to the introduction of capacity bundling in a transparent process by publishing this recommendation paper with options to solve the four above introduced issues. This paper is based on the joint development of recommendations with all interested parties and was supported by the majority of stakeholders during the public phase of the process.

Public consultation

In April 2015 ENTSOG invited all interested stakeholders including ACER, EC and national regulators to contribute. For this reason, ENTSOG requested feedback from stakeholders to its proposals and particularly to the identified issues. In April 2015 Stakeholders were asked to provide their feedback via a consultation tool that was provided on the ENTSOG website (public consultation phase).

Stakeholders confirmed via the public consultation that ENTSOG/EFET work stream addresses the right issues, highlighting that Issue 1 is the most urgent one. Stakeholders stated that unbundled capacities that cannot be used after mandatory bundling will have a reduced value. Therefore a mechanism has to be installed to restore their value. By the Issue 2 stakeholders stated that appropriate consideration should be given to the Commission Guidance on best practices for CMP and to the preferences of network users. OSBB procedure is generally preferred by network users. As CAM NC requires that bundled capacity can only be resold in the secondary market as bundled products, stakeholders expressed their opinion that rules and practices of the secondary market should be aligned (Issue 3). Regarding surrender of capacity (Issue 4) stakeholders expressed their preference of time-stamp option over pro-rata allocation.

Stakeholder's workshops and preparatory meetings of Stakeholders' experts

ENTSOG invited all interested stakeholders to two Public Workshops to discuss the identified issues and potential options. The two Public Workshops took place on 20 May 2015 and 30 June 2015 in Brussels. In addition ENTSOG organised 3 preparatory meetings (on May 11, June 3 and June 25) with stakeholder's experts in order to pre-discuss the content of both workshops and solutions to be proposed.

The aim of the first workshop was to focus on presentation of identified issues and initial options identified by ENTSOG and EFET and to discuss preferred ways forward and considerations of stakeholders, regulators and EC. Presentation from the first workshop: ([Link](#)).

On the second workshop ENTSOG presented options to address the issues and asked for stakeholder's support on the options to solve the identified issues which will be developed into recommendations. Presentation from the second workshop: ([Link](#)).

IV. Recommendations to Issues 1 - 4

Based on the intensive dialogue with stakeholders (public consultation, preparatory meetings of stakeholder experts and stakeholder workshops) about the outlined issues, ENTSOG reached stakeholder's support for potential options on the second stakeholder workshop on June 30. Therefore ENTSOG publishes recommendations how the issues may be solved.

Detailed description of the issues 1-4 is provided in the "Joint EFET/ENTSOG MF paper on issues regarding bundling of capacities" (annex 1 of this Recommendation paper provides a copy of this description).

Recommendations to Issue 1

Stakeholders confirmed via the public consultation that ENTSOG/EFET work stream addressed the right issues, highlighting that Issue 1 is the most urgent one. Moreover network users confirmed several times on stakeholder's workshops and preparatory meetings of stakeholders' experts that issue 1 is of a high importance to them.

ACER's CAM TF representative presented in stakeholder workshop 2 preliminary views to the issue and questioned whether the issue deserves a specific treatment and if there is a need to develop a mechanism to solve the issue. Moreover according to ACER's CAM TF preliminary views all shippers have been aware of the introduction of bundled products and have had the opportunity to rearrange their capacity portfolios prior CAM NC implementation.

The options assessed so far can be categorised into two groups; one group compiling preventative measures in the first place based on already existing legislation and rules, the second group compiling additional measures for cases where preventative measures do not solve the issue 1.

Preventative measures could among others include:

- Maximisation of technical capacity at an IP in line with Art 6 of CAM NC.
- A bundling of existing transport contracts according to Article 20 of CAM NC allowing network users to bundle their existing unbundled contract on one side of an IP with an unbundled contract on the other side that may be obtained before bundled auctions are mandatory.
- An oversubscription & buyback mechanism at the side of the TSO with the lower level of technical capacity at the IP (if OSBB is already applied by TSO) and non-application of over-subscription and buy-back at the side of the IP with higher technical capacity (in case of no congestion at TSO's side with higher technical capacity).
- Offer of interruptible capacity products by TSO with less technical capacity.
- Buying unbundled capacity offered according to Article 19.5 on the other side on an IP

Where preventative measures do not solve the issue 1 ENTSOG additionally proposes on a case-by-case basis 3 options for addressing the Issue 1. These proposals can all be implemented on one side of the IP and therefore details and parameters of these options will not be proposed by ENTSOG on European level but will be a subject to relevant NRA decision in order to enable the TSOs and NRAs to include country specific conditions (e.g. national law). Other options than the proposed ones to solve Issue 1 could be agreed between TSOs and NRAs as well, following the general principles as described above. ENTSOG formerly aimed to propose single option on a European level including parameters of the option based on a broad support from NRAs, ACER

and stakeholders. However an agreement on such an option on a European level could not be found due to different views of NRAs, ACER and stakeholders on the parameters of several options.

The following options are recommended by ENTSOG:

- Option 1 – Capacity conversion mechanism
- Option 2 – Capacity conversion mechanism with maximization of bundled capacity offered
- Option 3 – Leftovers allocation mechanism

The feedback given by the network users in the second Stakeholder Workshop shows that options 1 and 2 are solutions per se while option 3 is simply an add-on to the first 2.

ENTSOG strongly encourages NRAs to launch discussions on national level with TSOs in order to commonly find the best fit solution to bundle already existing unbundled contracts. On a national level the relevant NRAs at the IPs would have to agree to the arrangement before TSOs implement.

1. Capacity conversion mechanism

“Conversion of unbundled capacity” means that shippers holding existing unbundled contracts take part in a bundled auction as any other shipper as a first step and in case of being successful in the auction of bundled capacity, their already contracted unbundled contract will be converted into the acquired bundled contract.

A network user would be able to match his unbundled capacity without duplication of costs, while all other shippers may acquire the maximum amount of bundled capacity. If unbundled capacity is converted into bundled one, the formerly unbundled capacity can be reoffered by the TSO in the following auctions. This reduces the contractual mismatch and increases the amount of contracted bundled capacity as one of the goals of the NC CAM. A “conversion service” of already booked unbundled capacity in to bundled capacity needs to be offered on a non-discriminatory basis, i.e. for all Network users holding unbundled capacity and at all IPs of the concerned TSOs.

Advantages of the Capacity conversion mechanism are that the issue could be solved independently from adjacent TSO, as no change in auction process/algorithm will be required.. In general quick implementation by TSOs might be possible also via platform functionality.

The following parameters to be discussed and agreed by NRAs and TSOs could among others include:

- contract issues (application of “old” or “new” bundled contract),
- multipliers and seasonal factors,
- capacity product range for bundled auctions (yearly, quarterly and/or monthly products) etc.

2. Capacity conversion mechanism with maximization of bundled capacity offered

Capacity conversion mechanism with maximization of offered capacity is a modified version of Option 1 where network users are allowed to indicate ‘capacity release’ before a bundled auction. Such a ‘capacity release’ could be executed via the normal surrender³ mechanism or via an alternative indication. This mechanism maximizes an offer of bundled capacity. Before acquiring bundled capacity in an auction the Network user will indicate a request for conversion of unbundled contract.

After indicating a ‘capacity release’/surrender to the TSO, the respective network user can submit a request for conversion in an auction. In case of capacity allocation to this shipper within the auction, the network user acquires bundled capacity. Afterwards, the Network user gets his unsold surrendered capacity returned (allocation order of surrender mechanism according to CMP applies). Finally the conversion service for the unbundled contract takes place – conversion would be applied for surrendered capacity (capacity indicated as released) that is returned to Network user (after acquiring bundled capacity the auction).

³ The aim of a capacity release is different from capacity surrender because the Network users does not intend to reallocate capacity to a third party, but intends to acquire this capacity as a bundled product. It is not an instrument to remove contractual congestion but to match unbundled capacity without duplication of costs.

This option would solve some disadvantages of Capacity conversion. The offer of bundled capacity will include the level of unbundled capacity contract. Additionally to the parameters to be discussed by Option 1 the question in how far the outlined approach is consistent with CMP regulation in Annex 1 of EU Regulation 715/2009 regarding the usage of the normal surrender procedure as enabler of the option should be addressed.

3. Allocation of leftovers

In this option the capacity conversion service will only be offered if the auction finishes after the first round. Therefore, it is not a standalone solution but rather an add-on to the 2 proposals above.

In case demand of capacity expressed in the first round of an auction exceeds the offer of bundled capacities, capacity conversion is not applied anymore in the second round. This means that CAM auction runs normally and capacity is allocated as foreseen in CAM NC. After allocating capacity, any leftover capacities are allocated to shippers who indicated request for conversion, to the extent possible, of their unbundled contracts. The capacity is allocated at the clearing price of the CAM auction. In this option, especially the compliance with NC CAM and any national regulation regarding capacity allocation needs to be revisited .

Recommendations to Issue 2

Neither aligned application of OS&BB and FDA UIOLI per IP nor aligned application per standard product is foreseen by NRAs. However, for points where actually congestion and consequently a capacity issue applies, EU Regulation 715/2009 foresees the harmonized application of FDA UIOLI from July 2016.

Therefore ENTSOG supports the application of the EC Guidance for CMP, however, ENTSOG acknowledges that the application/interpretation of the CMP guidance is with NRAs.

In case two different CMP measures apply at one IP, the feedback given by the Network users in the second Stakeholder Workshop show that they support implementation of OSBB over FDA UIOLI.

EC Guidance for CMP provides tools that aim at reducing the issue by making the two CMP mechanisms (OS&BB and FDA UIOLI) more compatible. Where NRAs have decided to apply different mechanisms at the two sides of an IP, the following should apply:

- (1) In case of no congestion, the downward restriction of re-nomination rights shall not apply and restricted capacity cannot be offered as firm backhaul;
- (2) In case of congestion and after 1 July 2016, the downward restriction of re-nomination rights shall apply also on the side at which OSBB is applied. Note of caution: The re-nomination right restriction should apply to the counter direction of the congested direction.

EC Guidance solves the most pressing compatibility issues, but does not address the increase of offered capacity.

Additionally, ENTSOG offers ACER the full support regarding the action undertaken as follow-up of the CMP Implementation Report.⁴ Moreover liquid secondary capacity market reduce the need for CMP as functioning secondary markets enable network users to reduce congestion. Therefore ENTSOG proposes the alignment of lead times for secondary market trades as one measure promoting increased liquidity there.

Recommendations to Issue 3

ENTSOG took into account feedback from the Workshops 1 and 2 and proposes aligned lead-times for secondary market:

The period in which the TSO has to approve/reject a secondary trade request (assignments) for capacity is maximum 5 working days. Confirmation shall be submitted by the TSOs in time to allow Network users to meet initial nomination deadline on D-1.

⁴ ACER already took initiative with NRAs to develop conclusions based on the "Implementation Monitoring Report on Congestion Management Procedures in 2014 CMP Implementation report 2014" (CMP Implementation Report). [Ref. 131 to 133].

The maximum 5 working days were agreed by TSOs as a compromise lead-time. A large number of TSOs currently apply a lead-times significantly longer than 5 working days.

For daily capacity products, a trade on the secondary market should aim at providing the possibility to trade on a working day-ahead basis. Deadline for submission of secondary trade (sublet only) shall be 11 am on D-1 on working days with lead-time for TSO to response latest in 6 hours. This recommendation should only be valid for those systems where the secondary market foresees subletting procedures.

Both lead-times will be implemented via inclusion of the proposal to Business Requirement Specifications for CAM /CMP (BRS for CAM/CMP) referring to TSOs which have introduced subletting/transfer of usage rights.

The feedback received in the second stakeholder workshop states that shippers are not fully satisfied with the 5 working days confirmation lead-time, especially in countries where sublet is not offered. ENTSOG recommends as a first step to implement the proposed lead-times and will continue to monitor current lead times and requests of network users voiced towards ENTSOG.

Recommendations to Issue 4

Regarding the aligned procedures of surrendered capacity ENTSOG recommends the following options and the way of implementation supported in the both workshops by the stakeholders.

4.1 Aligned procedures of the return of surrendered capacity

ENTSOG recommends that a re-call option for the return of surrendered capacity may be introduced where automatic roll-over is applied. In this process the re-call option would give the network user the possibility to adjust its surrendered capacity request during the surrender process. Where automatic return with re-surrender is applied the option to surrender full month after the month-ahead auction for offer in day-ahead auction may be introduced. In case both mechanisms are applied at one IP, as a proposed aligned procedure the older time stamp within a bundle prevails.

ENTSOG will include the recommended re-call option to the Business Requirement Specification for CAM/CMP (BRS for CAM/CMP).

4.2 Aligned procedures of the allocation of surrendered capacity

ENTSOG recommends the application of the same allocation method for surrendered bundled capacity products at both sides of an IP in order to mitigate the risk for the shippers surrendering bundled capacity to end up with unbundled capacity at one side of an IP. The aligned method which ENTSOG recommends is the allocation of surrendered capacity in timely order of surrender, the so-called time stamp option.

ENTSOG will include the recommended time stamp option to the BRS for CAM/CMP.

Disclaimer:

This document is a recommendation by ENTSOG. On a national level the relevant NRAs at the IPs would have to agree to the arrangement before TSOs implement.

Some of the described options for issue 1 dealing with identified problems have raised specific legal concerns of some parties. It might be appropriate to clarify these concerns on a national level in order to comply with the applicable national rules and Annex 1 to Reg. 715/2009.

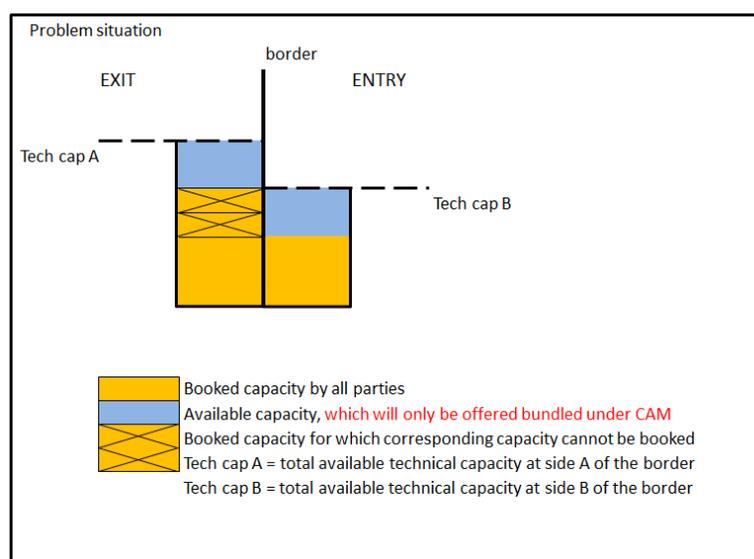
Annex 1: Issues descriptions from Joint EFET/ENTSOG MF paper on issues regarding bundling of capacities

Annex 1: Issues descriptions from Joint EFET/ENTSOG MF paper on issues regarding bundling of capacities - ([Link](#)).

1. Already contracted unbundled capacity and offer of bundled products only

Article 19(1) of CAM NC defines that TSOs are obliged to offer all firm capacity at interconnection points as bundled capacity, in so far as there is available firm capacity on both sides of the interconnection point. Unbundled firm capacity may be offered by a TSO where the respective TSO has more available firm capacity on its side of the interconnection point than the adjacent TSO on the other side in accordance with Article 19(5) of CAM NC.

Based on these requirements set out in CAM NC, the offer of unbundled capacity is limited to specific cases. The issue identified by the joint ad-hoc work stream can materialize when network users hold existing unbundled long term capacity contracts at that side of an IP at which the level of technical capacity exceeds the level at the other side of the IP. In this case, the network user will not be able to contract unbundled capacity from the TSO to match it with its existing unbundled long term capacity contract on the adjacent side. In order to be able to transport capacity, the network user would be required to obtain bundled capacity, thus partly requiring the contracting of a capacity product that the network user already has. The issue is illustrated in the following diagram:



In the example above, the network user holds an unbundled existing long term contract on the side of the exit TSO with no corresponding unbundled capacity at the side of the entry TSO. Due to the fact that the exit TSO has a higher level of technical capacity than the entry TSO, both TSOs have available capacity even though the exit TSO has contracted capacity in an unbundled manner. Based on the requirements of CAM NC, the available capacity on both sides of the IP would be offered in a bundled way, thus making it impossible for the network user to obtain only the unbundled capacity at the side of the entry TSO to match his existing capacity portfolio. However interruptible capacity might be available.

2. CMP regulation and its consistent implementation across IPs

An issue arises where at one IP, OSBB mechanism is applied on one side of the IP while on the other one a DA UIOLI mechanism is applied, as both mechanisms cannot unfold their full effectiveness.

Point 2.2 of Annex I to Regulation (EC) No 715/2009 provides congestion management procedures in the event of contractual congestion (CMP Guidelines) at IPs. The CMP Guidelines requires NRAs to prescribe either an oversubscription and buy-back scheme (OSBB) in accordance with paragraph 2 or, as an alternative, a firm day-ahead use-it-or-lose-it mechanism (DA UIOLI) in accordance with paragraph 3.

While OSBB is making available additional firm capacity on an incentive basis for TSOs by selling more firm capacity than technically available with certain risk compensation, DA UIOLI makes available additional firm capacity by restricting the usage rights for capacity of network users based on the level to which capacity is nominated.

For the TSO applying DA UIOLI, the downward re-nomination right restriction defined in point 2.2.3.3 of Annex I to Regulation (EC) No 715/2009 of 10 % could only be applied if also the adjacent TSO, which is not applying this requirement of the CMP Guidelines, would also be restricting the re-nomination right for the respective network user. This would however be difficult to justify as the adjacent TSO would potentially not have the legal basis for restricting a re-nomination right given that this mechanism is not applied in the respective Member State

and furthermore, it is not in line with the 'lesser of' matching rule set out in the Network Code on Interoperability and Data Exchange.

3. Alignment of secondary marketing of bundled products

The design and functionalities of secondary markets for capacity trades among network users still differs in the Member States. Due to bundling of capacity, different secondary trading rules at both sides of an IP can create inefficiencies for network users when offering capacity at the secondary market.

Furthermore, EFET and ENTSOG agree that functioning and liquid secondary capacity markets would reduce the necessity for congestion management tools in general.

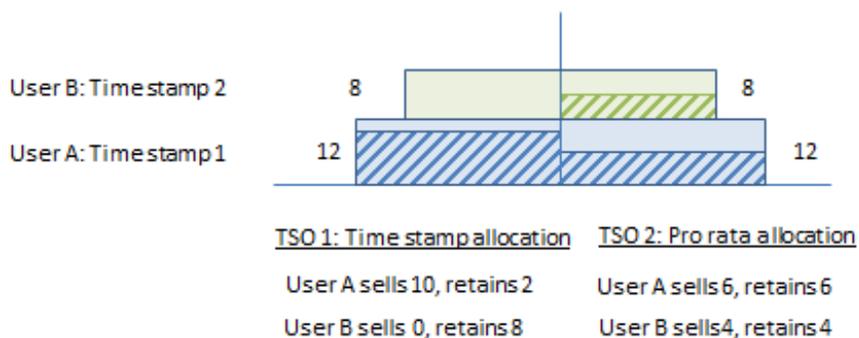
As a principle and in line with Article 19(8) of Regulation (EC) 984/2013 (CAM NC), a bundled capacity product should only be sold at the secondary market in a bundled manner. In order to ensure this, it would be necessary to apply equal rules and timelines for a single IP.

One specific inconsistency identified by the joint ad-hoc work stream is e.g. the different application of lead times for the trading of capacity at the secondary market, as in principle the longer lead time required by one of the two TSOs is relevant for the bundled product anyway. Harmonized lead times would therefore be preferred.

4. Aligned procedures for the surrender of capacity

As for the procedures applied for secondary capacity markets, also the procedures for capacity surrender differ among TSOs, potentially posing obstacles to network users that want to make use of the mechanism for a bundled capacity contract. One practical issue identified is that some TSOs allocate surrendered capacity according to a time-stamp approach while other TSOs make use of a pro-rata approach. If both mechanisms are applied at an IP, a network user surrendering a bundled capacity contract might be returned an unbundled capacity contract at one side of the IP, while enough surrendered capacity could have been allocated to another network user in a bundled manner if the same mechanism would have been applied.

An example is illustrated below:



EFET and ENTSOG agree that the best solution to avoid such a situation would be that all TSOs apply a time stamp approach for the allocation of surrendered capacity.

Nonetheless, aligned allocation rules for surrendered capacity do not ensure that network users will not end up with an unbundled capacity on one side of the IP, while the surrendered capacity on the other side is allocated to another network user. Such a situation could e.g. occur if the level of available capacity differs at both sides of an IP or if unbundled capacity has been surrendered by another network user at one side of the IP before the bundled capacity has been surrendered. .

Finally, EFET and ENTSOG identified that different rules for the return of unsold surrendered capacity could be of disadvantage for network users. As currently applied, some TSOs offer surrendered capacity until the day-ahead auction, meaning that unsold surrendered capacity will only be returned on very short notice. In other countries, network users have the possibility to retain unsold surrendered capacity directly after the end of each auction.