

Memo of Meeting

ENTSOG – DG ENER bilateral meeting

03 June 2010, GIE Office, 10:30-13:30

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Frank Roessler welcomed the DG ENER representatives and thanked them for attending the bilateral meeting. The topics to be discussed during the meeting were:

- ENTSOG's Position Paper on ERGEG Comitology Guidelines on CMP,
- And ENTSOG's response to the initial consultation and further comments on the revised pilot CAM FG.

1. ENTSOG Position Paper on the ERGEG guidelines on CMP

ENTSOG started the meeting by stating that the official ENTSOG response as contained within the Position Paper on the CMP Comitology Guideline supports a unique solution for CMP rules at an EU harmonised level; instead of leaving discretionary implementation of the rules to the individual NRAs. In response, DG ENER fully supported this approach. They furthermore confirmed to have received strong views from the market to only have one set of EU-wide CMP rules, and not a tool box of different options from where the NRAs could choose those which better suits them.

With regards to the responses received from the market stakeholders, DG ENER briefly commented on the main messages received to date. DG ENER also committed to check whether they could publish the responses received to the ERGEG CMP Comitology Guidelines on the DG ENER website, possibly together with a synthesis document.

Restriction of renomination rights

On this point, DG ENER mentioned that through the responses to the public consultation, shippers had proposed alternative mechanisms to the restriction of renomination rights. DG ENER recognised

that this mechanism may entail certain issues and that appropriate mechanisms to address them need to be found. In effect the perceived problem to be solved is the hoarding of firm capacities by some incumbents, which restricts the entry of other competitors in their respective national gas markets.

ENTSOG commented that capacity hoarding could (for instance) be caused by the product being priced too cheaply and a higher capacity price would have a significant effect on the amount of firm capacity which is offered on the secondary market i.e. it had a higher market value and would encourage a secondary market to develop. DG ENER responded that tariffs must reflect the actual costs incurred.

ENTSOG then listed the two main problems stemming from the restriction of renomination rights:

1. There is a risk that network users may terminate their current contracts and possibly not re-book the capacity to the initial capacity value, or at least start renegotiating their existing contracts, leaving TSOs with stranded assets. Furthermore, Network Users could take TSOs to court and challenge the unilaterally changes of the agreed contractual rights and conditions. ENTSOG would seek assurances from the NRAs and the Commission that such claims were covered from a cost and revenue perspective.

2. The restriction of renomination rights will create much more within-day activity, requiring a within-day balancing arrangement and within-day products to allow for and manage such restrictions. Additionally, there is a risk that the required system balancing energy would lead to higher balancing costs. Furthermore, new measures are implemented whereas ENTSOG is of the opinion that the method itself is not necessary and would not drive User behaviour to effectively deliver market benefits.

Concerning the first point, DG ENER explained that the whole Third Package is envisaging a continuous revision of existing contracts as long as the new network codes are being approved and implemented through the different Comitology process. DG ENER fully understood that the modification of existing contracts is something that is uncomfortable for TSOs. However, DG ENER sees it as necessary to accomplish this with the EU policy objectives.

DG ENER then invited ENTSOG to provide more information about the existing contracts which could be affected by the restriction of renomination rights; or other measures with impact on existing contracts (e.g. bundled products). This information should be specific and concrete and should aim to identify the potential actual financial risks of changing the existing contracts.

Regarding the second ENTSOG point, DG ENER did not see a problem in having that additional within-day activity. They even underlined that the offering of flexibility tools in a competitive market would be a prerequisite for the creation of a more liquid and active within-day balancing market.

ENTSOG stressed that, it is essential that in any case, TSOs do not suffer any financial downsides stemming from the CMP rules.

ENTSOLOG noted that there could be a win-win-win situation which could be an alternative to the restriction of renomination rights. Firstly, it would consist of having the right incentives in place so that the TSOs could offer additional capacity to the market. This additional capacity would be the result of recalculating the available capacities and assuming some certain risk. Of course, these incentives should reflect the level of risks assumed by the TSOs. Furthermore, ENTSOG reiterated that having the right incentives in place would help the TSOs to go to the market and offer new products and implement the new envisaged changes etc. Secondly a day-ahead UIOLI sold on an interruptible basis would provide more extra capacity to the market. With improved transparency Users have indicated that such a mechanism would be the appropriate way to deliver improvements. With this particular solution existing contractual arrangements would not need to be challenged for all parties as the firm rights are still held by the original shipper.

Non-congested IPs

ENTSOLOG explained that the CMP rules should apply to all IPs regardless of the level of their level of congestion.

DG ENER fully agreed with this because the CMP rules are not only aimed to solve the contractual congestion problems; but also to prevent them.

CMP Comitology Guidelines content

ENTSOLOG stated that there are elements in the CMP proposal which do not belong to Congestion Management. From ENTSOG's point of view, those points should be addressed in different/separate network codes.

DG ENER took note of that statement and said that any overlapping between the CMP guidelines and the CAM network code should be avoided.

Writing the CMP Comitology Guidelines

Based on ERGEG's proposals for the CMP Comitology Guidelines, DG ENER will write a proposal which will go through the formal Comitology procedure.

2. ENTSOG response to the CAM FG

ENTSOLOG informed the DG ENER that they are internally preparing for the development of the NC.

Extensiveness of the Network Code

ENTSOLOG asked DG ENER what their expectations were regarding the size of the network code.

DG ENER said that the NC should be as concise and exhaustive as possible and should address all the elements included in the Framework Guideline. In any case, the network code should not be a very extensive document since it would be very difficult to discuss it during the Comitology process. DG ENER recommended having a network code of circa 10-20 pages. If needed, the Network Code document could be accompanied by explanatory documentation, although all the legal text (the core content) would be included in the main network code.

EU approach vs. IP approach

ENTSOG highlighted the fact that it would appear that ERGEG was moving into the direction of an individual IP-level approach rather than defining rules for the entire EU as was the expectation of the market. ENTSOG asked DG ENER about their views in this regard.

DG ENER replied that they were in favour of having one common EU wide approach, with a single allocation mechanism based on auctions. NRA decisions at specific borders are not in the interest of EU wide harmonisation and thus the Commission.

DG ENER hopes that in the future ACER would be stronger and the Framework Guidelines are expected to be more detailed and prescriptive.

FG process

Once DG ENER receives the final CAM FG from ERGEG (by 30th of June), DG ENER will carry out an assessment. They could then either send the FG back to ERGEG for further work, or send it forward to ENTSOG for the network code development process.

The official invitation letter may well be sent to ENTSOG around September 2010 allowing time for DG ENER to carefully review the FG, to assess possible impacts of the included provisions and to discuss together with ERGEG and ENTSOG as to what the three parties understand of each measure written in the FG thus to avoid any ambiguity.

Incremental Capacity

ENTSOG noted that the scope of the current Framework Guideline is on existing capacity whilst ERGEG is now recommending that the treatment of incremental capacity should be consistent with the provisions. ENTSOG explained that if the Framework Guideline only covers existing capacity then the subsequent Network Code could not describe a standardised allocation method (e.g. an auction) which provides for an integrated mechanism to signal and allocate incremental capacity.

DG ENER responded that they expected that the auction mechanism gives the appropriate signals for new investments. They also expected to have a single allocation method to allocate the existing and future capacity across the EU.

Standard Communication procedures

ENTSOG pointed out that the FG obliges the network code to define standard communication procedures. ENTSOG understands that TSOs should communicate in a harmonised way. However, if the network code is to define a complete communication procedure then this would make the NC's rather extended (as regards to the number of pages) and would not allow for the desired quality as only 12 months are provided for the entire process. Therefore, ENTSOG (in line with ERGEG's view) was of the opinion that the network code should only make reference to current existing industry communication standards. In the future, a separate network code on communication procedures to be used by all the TSOs will be developed.

DG ENER agreed with this point and took note of it.

Transit Capacities

ENTSOG referred to the CAM FG stating that *"the offer and use of separate capacity for transit purposes should be forbidden"*.

ENTSOG explained that the word "use" included in the previous sentence is unclear in its purpose and could create several problems in the implementation of the network code. DG ENER understood the concern and added that with the introduction of Entry / Exit systems throughout Europe the sentence would be irrelevant.

Interruptible Capacity

ENTSOG underlined that, in the CAM FG, sections 2.0 and 2.1 both refer to interruptible capacity. In the first section a standardised approach should be found whereas in the other one the products and services should be aligned at every border.

ENTSOG confirmed that at this moment, although it could be possible to align interruptible capacity products across Europe, it would be practically impossible to standardise them. The main reason for this is that historically interruption is defined in different ways at a national level and would first need to be discussed at a broader level.

ENTSOG stated that it is not in principle against the harmonisation of the interruptible products, but reiterated that at this time it would be too ambitious to agree harmonisation rules covering interruptible products in such a short 12 month period of time.

DG ENER was of the opinion that the harmonisation of capacity products, even the interruptible products should be the final goal. Nevertheless, although the network code was expected to contain very concrete and specific prescriptions, some high level principles could be included. These principles would show the direction that the market should follow and could be later detailed in subsequent network codes.

Bundled services

ENTSOG drew the attention to the fact that, according to the CAM FG, after a 5 year period only hub-to-hub products would exist. This raised questions for ENTSOG:

1. What would happen in the meantime?
2. What happens with the transformation of the new model in terms of contractual rights?
3. Why should bundling not be an additional service to flange trading?
4. Why is it important to have only one nomination for an IP; whereas with automated nomination messages it does not play a role for users to send two?
5. In case of a required re-allocation of capacity, to what party should what amount of capacity be given?

DG ENER answered that it will be a task for ENTSOG to find the solution to that perceived problem. DG ENER therefore expects that the arrangements for the transition period will be detailed in the network code. For the re-allocation of formerly contracted capacity DG TREN recognised that it is important that a solution in case shippers can not agree themselves is defined, in order to ensure continuity of the business. DG ENER suggested that possibly the capacity could be split 50/50 between the shippers present at an IP, or as a default the decision would be with ACER. The Commission shared ENTSOG's position that this would need to be arranged before the deadline of 5 years in order to ensure continuity of business.

Single nomination

During the transition period, there will still be "unbundled" products. However, the CAM FG is imposing that network users send only one nomination for each IP.

ENTSOG questioned what the sense was in having one single nomination. DG ENER replied that ERGEG's reason of having one single nomination is to avoid flange trading so that all the liquidity is placed on the hubs and not on the IPs. DG ENER understood ENTSOG's concerns on this issue.

FCFS

In the final version of the FG this allocation method was re-introduced by ERGEG at a late stage.

DG ENER was not supportive of having FCFS, since this allocation method is seen as discriminatory. Furthermore, DG ENER again mentioned that they were in favour of a single EU wide approach on the basis of auctions, and not of different possible approaches to be chosen and implemented by each NRA.

Comments on the final FG version

DG ENER then invited ENTSOG to take the official final version of the FG (and in track-mode) amend the document in a manner more acceptable to ENTSOG whilst detailing and explaining all of the changes.

Next meeting

ENTSOG and DG ENER welcomed the opportunity to continue having bilateral meetings to further discuss the CAM FG and CMP Comitology Guidelines. It was agreed that ENTSOG would contact DG ENER in July to arrange another bilateral meeting. A trilateral meeting between DG ENER, ENTSOG and ERGEG could also be a possibility.

