

ENTSOG Position on Commission Proposal for Congestion Management Procedures - Guidelines to be Adopted via a Comitology Procedure

1 Introduction

ENTSOG welcomes the publication of the European Commission Proposal for Congestion Management Procedures (the "Proposal"). This document aims to provide the Commission and all parties involved in the comitology process with ENTSOG's views on some of the key aspects of the Proposal's arrangements. It seems particularly important that such views and understanding is shared with stakeholders as ENTSOG represents the TSOs who will ultimately have the task in designing and implementing most of the proposed arrangements.

In that regard this document provides key stakeholders with ENTSOG's general view on the rationales of an efficient CMP regime and subsequently proposes amendments deriving from such principles.

2 General Remarks

2.1 Regime Efficiency

ENTSOG shares the Commission's view that a consistent regime shall rely on a limited set of mechanisms enabling the fostering of access to unutilised capacity particularly in the short term and possibly over longer term durations. It is imperative that any such mechanisms must ensure a consistent regime that will be in line with the future CAM Network Code; as the congestion management aspect has been excluded from this Pilot Network Code. ENTSOG's position was that these areas are very interlinked and should be jointly developed. ENTSOG also considers that a correctly formulated CAM framework and market-based CMPs as the most efficient way to develop joint market benefits and workability.

Finally, when any such arrangements affect existing contracts, the market benefit of its implementation needs to be carefully evaluated and transparent. In such cases the Proposals will need to clearly define the implementation process on a European wide scale.

2.2 Incentives

The Proposal aims at freeing up unutilised capacity at EU interconnection points. The TSOs would achieve such an aspiration / objective most efficiently whilst having an incentive regime which enables them to focus on the most appropriate arrangements (i.e. utilising the most cost efficient option(s) in regards to the specific IP situation and the TSOs incentive position). Therefore respective NRAs will need to be committed to provide such an incentive regime in order to encourage TSOs to introduce and operate such arrangements resulting from the Proposal.

2.3 Impact on Interruptible Capacity

The role of interruptible capacity services as an effective CMP is already widely recognised by the market. Such a value will increase with new transparency requirements helping shippers to assess capacity availability.

The implementation of new CMP arrangements and a market-based CAM process (including quotas and structured sales) will definitely influence the value of interruptible services (including existing contracts) and their interest for market parties. ENTSOG would like to highlight the importance of clearly distinguishing between interruptible capacity that can be offered to the market as result of additional capacity calculations (under certain network conditions/demand scenarios); and interruptible services that may be provided in the short term by reoffering unutilised or non nominated capacity. The former requires sufficiently enough time for calculations and evaluation to generate valuable results that might not be compatible with an offer on a very short term basis.

Moreover very short term condition versatility (e.g. shippers' nomination, GCV, consumption etc) in most cases will not enable TSOs to assess additional capacity or to transform through any mechanism all interruptible capacity into a firm one. Then the overall maximisation of capacity offer will require a certain level of interruptible capacity.

2.4 Secondary Market

ENTSOG considers the secondary capacity market as an essential tool complementary tool to an efficient CMP regime. It is the best way for network users to sell their spare capacity between themselves through a market-based mechanism. In this regard ENTSOG advocates the inclusion of secondary markets in these Guidelines. Nevertheless some experience suggests that such markets are underutilised possibly by network users being unable to really identify any market-model. Therefore TSOs can only have a limited role in the development of secondary trading. The surrender of booked capacity can be another option TSOs could provide; but it should not be seen in any way as a replacement for secondary trading.

3 Specific Remarks

In the following section ENTSOG has conducted a comprehensive review of the Proposal and has introduced some amendments and new articles together with their justification.

3.1 Proposal for amendment

Amendment 1 Article 1 – Scope

| <i>Text proposed by the Commission</i> | <i>Amendment</i> |
|--|--|
| <p>The rules on congestion management procedures in these Guidelines apply to <i>all interconnection points where capacity allocation mechanisms under this Regulation apply.</i></p> <p>The rules on congestion management procedures in these Guidelines <i>shall apply to all</i> interconnection points regardless of whether they are presently congested or not.</p> | <p>The rules on congestion management procedures in these Guidelines <i>apply to cross-border interconnection points between Member States, as well as interconnections between adjacent entry-exit-systems within the same Member State, insofar as the points are subject to booking procedures by shippers. Exit points to end consumers and distribution networks, entry points to supply-only networks, as well as entry points from LNG-terminals and entry or exit points to or from storage facilities are not subject to these Guidelines.</i></p> <p>The rules on congestion management procedures in these Guidelines <i>refer</i> to all interconnection points regardless of whether they are presently congested or not.</p> |

Justification Amendment 1

The amendment aims for a more precise definition of the scope of the CMP regime in accordance with Article 4 of Regulation (EC) 715/2009 setting the objective of network codes to promote cross-border trading. The explicit exclusion of interconnection with storage and LNG terminals will help to more easily define CMP mechanisms and to foster their implementation. Such amendment derives from the ERGEG proposal (Ref: E10-GWG-67-04) as to the scope of the CMP mechanism to be implemented by TSOs.

This amendment also aims at clarifying that the rules in these Guidelines are effective for all IPs but that they are applied only when the conditions for the execution of the specific CMP provision are met. This approach refers to the Annex 1 Article 2.1.1 of Regulation (EC) 715/2009 requiring that congestion management procedures are both flexible and adaptable to evolving market circumstances.

Amendment 2
Article 2 – Capacity calculation

| <i>Text proposed by the Commission</i> | <i>Amendment</i> |
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| When assessing technical capacity, transmission system operators shall consider the maximum amount of capacity that can be offered for use without restrictions . | When assessing technical capacity, transmission system operators shall consider the maximum amount of capacity that can be offered on a firm basis . |

Justification Amendment 2

In order to use the terminology from Reg. 715/2009 and to avoid any misinterpretations.

Amendment 2 a
Article 2 – Capacity calculation

| <i>Text proposed by the Commission</i> | <i>Amendment</i> |
|--|---|
| <p>Technical capacity must be calculated through transparent methodologies, using best available and cost-efficient procedures by transmission system operators. Transmission system operators shall identify all capacity that can be physically used in order to maximise the offer of capacity to the market. When forecasting system use for the purposes of identifying technical constraints, transmission system operators may also consider market trends, historical flow data and data on results of allocation processes.</p> <p>In case of short-term congestion <i>national regulatory authorities shall define further details of capacity calculation. In particular this may cover</i> the calculation of short-term capacity down to daily and intraday capacity, to be based upon <i>transmission system operators'</i> current knowledge of, inter alia, the actual calorific value of the gas, expected consumption, climatic conditions, system configuration and the availability of network components.</p> | <p>Technical capacity must be calculated through transparent methodologies, using best available and cost-efficient procedures by transmission system operators. Transmission system operators shall identify all capacity that can be physically used in order to maximise the offer of capacity to the market. When forecasting system use for the purposes of identifying technical constraints, transmission system operators may also consider market trends, historical flow data and data on results of allocation processes.</p> <p>In case of short-term congestion <i>national regulatory authorities shall ensure transmission network operators have appropriate incentives to achieve the aim of these Guidelines and to properly comply with the requirements resulting from these Guidelines, in particular to maximise available and technical capacity and to actively manage network congestion. Then TSOs entitled to such incentives shall base</i> the calculation of short-term capacity down to daily and intraday capacity, upon <i>their</i> current knowledge of, inter alia, the actual calorific value of the gas, expected consumption, climatic conditions,</p> |

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| | system configuration and the availability of network components. |
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Justification Amendment 2 a

The amendment is in line with the ERGEG proposal (Ref: E09-GNM-10-07), for the need to appropriately incentivise and cover the additional costs e.g. (IT and additional manpower) for short term optimisation of capacity.

Amendment 3

Article 3 – Capacity increase by oversubscription and capacity buy-back arrangements

Text proposed by the Commission

Amendment

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| <p>Transmission system operators may implement an oversubscription and buy back mechanism in order to offer additional capacity on a firm basis. Based on statistic scenarios about the probable amount of unused capacity they may make available an extra amount of capacity exceeding the capacity calculated. When determining the oversubscribed capacity transmission system operators shall also estimate the likelihood and the costs of buying back capacity on the market and reflect this in the amount of additional capacity to be made available. In case of actual or potential physical congestion transmission system operators shall tender for buying back capacity.</p> <p><i>The national regulatory authority may set the proportion of additional capacity to be made available.</i> The national regulatory authority <i>may also</i> determine a financial incentive scheme allowing the transmission system operator to optimise capacity oversubscription.</p> | <p>Transmission system operators may implement an oversubscription and buy back mechanism in order to offer additional capacity on a firm basis. Based on statistic scenarios about the probable amount of unused capacity they may make available an extra amount of capacity exceeding the capacity calculated. When determining the oversubscribed capacity transmission system operators shall also estimate the likelihood and the costs of buying back capacity on the market and reflect this in the amount of additional capacity to be made available. In case of actual or potential physical congestion transmission system operators shall tender for buying back capacity.</p> <p>The national regulatory authority <i>shall</i> determine a financial incentive scheme allowing the transmission system operator to optimise capacity oversubscription.</p> |
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Justification Amendment 3

The deleted sentence has been removed as it would add confusion as the first paragraph recognises the voluntary approach of oversubscription.

The mechanism efficiency will be directly connected with the appropriateness of the incentive regime to be defined by the national regulatory authority.

Amendment 4
Article 4 – Surrender of booked capacity

| <i>Text proposed by the Commission</i> | <i>Amendment</i> |
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| <p>Transmission system operators shall define terms and conditions for network users to surrender booked capacity to them. Transmission system operators shall be obliged to accept capacity offered for surrender insofar contractual congestion exists. The terms and conditions for surrendering capacity and the methods of rewarding initial capacity holders for the capacity sold shall be approved by the national regulatory authority.</p> <p>Surrendered capacity shall be taken into account when calculating available capacity.</p> | <p>Transmission system operators shall define terms and conditions for network users to surrender booked capacity to them. Network users shall be entitled to surrender capacity to the transmission system operator according timeframes consistent with the appropriate short term allocation mechanisms while maintaining their contractual rights and obligations as far and as long as capacity is not reallocated by transmission system operators. The reallocation of surrendered capacity shall be subordinate to the prior allocation of primary capacity products of the transmission system operator. In case of reallocation of surrendered capacity, former holders of capacity rights shall be rewarded for the given capacity product and as far and as long as their capacity is allocated to another network user.</p> <p>The terms and conditions for surrendering capacity and the methods and level of rewarding initial capacity holders for the capacity reallocated shall be approved by the national regulatory authority.</p> <p>Surrendered capacity shall be offered through an appropriate regular capacity allocation process together with the calculated remaining available capacity.</p> |

Justification Amendment 4

The amendment aims to better define the subordinate nature of the reward of the surrendering shipper to the prior allocation of the whole of the TSOs own capacity stock for the given product. It also clarifies how the capacity offered for surrender is offered without the need of further calculations.

Amendment 5
Article 5 – Firm day-ahead Use-It-Or-Lose-It

ENTSOG supports the removal of this article.

Justification Amendment 5

ENTSOG does not support the need for a daily mechanism offering non-nominated capacity back to the market on a firm basis through the restriction of renomination rights, and wants to stress the possible side effects of this proposed provision.

Restriction of renomination rights:

- May transfer additional flexibility costs to end-consumers and induce some inconsistencies with the balancing regime deriving from the Balancing Framework Guidelines,
- May induce counterproductive strategic bookings by shippers in order to ensure sufficient renomination rights,
- Will decrease the value of firm capacity generated by surrendering and oversubscription whereas such longer term products would be better than day-ahead to foster competition.

Moreover it would require a complete reorganisation of the processes prior to and during the gas day for both shippers and TSOs, which cannot be envisaged without a broad consensus of all concerned parties on its relative benefit. ENTSOG considers that this day-ahead issue could be part of a broader discussion with stakeholders related to the target-model envisaged by the Commission. Meanwhile ENTSOG advocates basing the “last resort” daily mechanism on an interruptible Use-It-Or-Lose-It basis as already successfully implemented in some different European countries and in accordance with the above interruptible article.

Amendment 6
Article 6 – Long term Use-It-Or-Lose-It

Text proposed by the Commission

Amendment

| <i>Text proposed by the Commission</i> | <i>Amendment</i> |
|--|--|
| <p>Withdrawal of underutilised capacity</p> <p>National regulatory authorities shall withdraw systematically underutilised capacity when:</p> <ul style="list-style-type: none"> - network users request capacity bookings at the particular interconnection point and are unable to obtain this capacity on the primary or secondary market; - the capacity holder systematically underutilises at least part of its allocated capacity with a contract duration of more than one year during a specific period covering at least one winter month; | <p>Withdrawal of underutilised capacity</p> <p>National regulatory authorities shall withdraw systematically underutilised capacity when:</p> <ul style="list-style-type: none"> - network users request capacity bookings at the particular interconnection point and are unable to obtain this capacity on the primary or secondary market; - the capacity holder systematically underutilises at least part of its allocated capacity with a contract duration of more than one year during a specific period covering at least one winter month; |

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| <ul style="list-style-type: none"> - the capacity owner has not sold or offered in due time and at a reasonable price its unused capacity and - the capacity owner is unable to satisfactorily justify its behaviour. The application of a short-term UIOLI mechanism shall not be regarded as justification for the purpose of long-term UIOLI. <p>If two Member States are involved, coherent decisions shall be taken. Article 8 (1) of Regulation (EC) No 713/2009 shall apply.</p> <p>Withdrawal may result in the capacity holder losing its capacity rights, partially or completely for a given period or for the remaining contractual term. Furthermore, the capacity holder can be limited in its nomination rights for a given period to the maximum flows of the previous year. The capacity withdrawn or subjected to limits to the nomination rights shall be offered on the primary market by the respective transmission system operator.</p> | <ul style="list-style-type: none"> - the capacity owner has not sold or offered in due time and at a reasonable price its unused capacity and - the capacity owner is unable to satisfactorily justify its behaviour. The application of a short-term UIOLI mechanism shall not be regarded as justification for the purpose of long-term UIOLI. <p>If two Member States are involved, coherent decisions shall be taken. Article 8 (1) of Regulation (EC) No 713/2009 shall apply.</p> <p>Withdrawal may result in the capacity holder losing its capacity rights, partially or completely for a given period or for the remaining contractual term. Furthermore, the capacity holder can be limited in its nomination rights for a given period to the maximum flows of the previous year. The capacity withdrawn or subjected to limits to the nomination rights shall be offered on the primary market by the respective transmission system operator <i>through the regular capacity allocation process. The initial capacity holder remains with all its contractual rights and obligations as far and as long the capacity is not reallocated.</i></p> |
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Justification Amendment 6

The amendment aims to define how withdrawn capacity is remarketed thus avoiding any market distortion resulting from any parallel allocation process, and any additional financial risk it may place on the transmission system operator.

3.2 Interruptible capacity

ENTSOG advocates that the implementation of each arrangement should guarantee an efficient equilibrium between additional firm capacity and interruptible.

Proposed article 7 – Interruptible capacity:

When implementing these Guidelines Transmission System Operators shall be incentivised in maximising firm capacity offered to the market. In addition, Transmission System Operators shall offer day-ahead interruptible capacity based on the non-nominated capacity.

3.3 Secondary capacity market

ENTSOG advocates considering the secondary market as being part of the Proposal for comitology.

Proposed article 8 – Secondary capacity market:

Transmission system operators shall facilitate the trade of capacity rights on the secondary market by developing tools to register secondary trading deals into their systems.

4 Conclusion

ENTSOG considers that the Proposal should be amended in order to lead to a consistent CMP regime. The efficiency of such regime mainly relies on market-based mechanisms and balanced incentives for stakeholders, including last resort arrangements such as Long term UIOLI.

A consistent regime would include aspects such as some interruptible services, surrender, secondary capacity markets and voluntary overbooking.

Nevertheless firm day-ahead UIOLI arrangements greatly concerns ENTSOG and potentially endangers the whole regime. Since day-ahead capacity is not a key product when considering competition for the benefit of end-consumers, ENTSOG advocates for a daily optimisation mechanism on an interruptible basis. Moreover, the target model definition will give further opportunities to redraw the processes during the gas day as part of a consistent regime.

We hope the above will assist comitology participants in their decision making process and you find these points useful considerations.