

Template for business rules for the Incremental Proposal

OS KG

1. ACER Guidance

The CAM NC amendment should limit the use of open season procedures for incremental and new capacity to those cases where the likely capacity demand, as identified in section 2.b) or in any informal or non-binding assessment phase:

i) extends across more than two market areas; or

ii) requires an investment project of such size and complexity (e.g. where the investment decision for incremental and new capacity is predicated on associated simultaneous investment decisions in respect of related projects) that the procedure described in section 2.e) could appear not to be a robust approach. ENTSOG is requested to elaborate on provision (ii) in terms of when this is the case. The decision whether the criteria are met and an open season can be used is subject to NRAs approval.

The terms of the open season and in particular the design of the binding commitment phase of the open season should be approved by all NRAs affected. The terms should comply with the following principles, in addition to the coordination and information provision requirements in 2.c) and d):

- It should offer non-discriminatory opportunities to make commitments for capacity products.

- The capacity expansion should aim at satisfying all commitments, as far as this is overall efficient and economically feasible; where satisfying all commitments would not be economically feasible, or not efficient in the broader geographical context, an allocation rule based on willingness-to-pay should be used in priority. This may lead to using an algorithm modelled on the CAM auction algorithm, for example as described in section e).

- Pro-rating is the only other fall-back allocation rule that should be allowed in order to arrive at an efficient investment size that maximises the degree to which user requests are fulfilled. Its usage should be conditional on the demonstration that the (sole) use of willingness-to-pay would be impractical (e.g. pro-rata needed in combination with willingness-to-pay when demand curves are used or when flat bookings are obtained from network users which cannot be economically met simultaneously).

For binding commitments in any open season procedure, all relevant provisions of the NC CAM on capacity products should hold, particularly with respect to capacity product design, bundling and the capacity set aside for short term allocation. Only the following deviations from the NC CAM are admissible:

- *Network user commitments for capacity can be obtained for 15 years as of the capacity becoming useable. Beyond that, commitments for an additional period of up to 5 years can be obtained⁸. The requirement of additional commitments has to be shown to and assessed by the concerned NRAs.*
- *If existing capacity is still available at an IP for the years for which binding bids for new capacity are invited, these capacity products can be included in the offer of incremental and new capacity.*
- *Conditional commitments, for instance across a number of years requested, including or excluding bids at other IPs, or for a minimum amount of capacity required (fill-or-kill) can be obtained in open season procedures.*

2. Business rule text suggestion

2.1. Products on offer in Open Season Procedures

All relevant provisions of the NC CAM on capacity products apply to products on offer in Open Season Procedures. The following deviations from the NC CAM are admissible:

- 2.1.1. Network user commitments for capacity can be obtained for 15 years as of the capacity becoming useable. Beyond that, commitments for an additional period of up to 5 years can be obtained.
- 2.1.2. If existing capacity is still available at an Interconnection Point for the years for which binding bids for incremental and new capacity are invited, these capacity products can be included in the offer of incremental and new capacity.
- 2.1.3. Conditional commitments, for instance across a number of years requested, including or excluding bids at other Interconnection Points, or for a minimum amount of capacity required (fill-or-kill) can be obtained in open season procedures.
- 2.1.4. Other deviations than mentioned in articles 1.1, 1.2 and 1.3 will be subject to approval of the concerned National Regulatory Authorities

2.2. Applicability of Open Season Procedures

The use of Open Season procedures is applicable in cases where an auction process as set out in chapter XX appears not to be a robust approach for realising incremental or new capacity.

- 2.2.1 Open Season Procedures shall be applied when size and complexity are such that the investment decision for incremental and new capacity requires coordination with adjacent Transmission System Operators and network users to manage the inherent risks of the infrastructure that cannot be sufficiently dealt with in an auction procedure. The National Regulatory Authorities shall assess the

applicability of open season procedures taking into account each projects uniqueness. The following non-exhaustive list of situations calls for the use of Open Season Procedures instead of auctions:

- 2.2.2. When the project for incremental/new capacity involves more than one Interconnection point extended across more than two market areas;
- 2.2.3. When conditional bidding is envisaged as described in article 1.4.
- 2.2.4. When the range of projects is too large to efficiently accommodate all potential market scenarios in an auction;
- 2.2.5. When a larger horizon of user commitments is required as stated in article 1.1.
- 2.2.6. When an select the iterative approach as described in article XX (3.5.3. in the single economic test chapter) is chosen
- 2.2.7. When the development of new or incremental capacity is linked to or influenced by the realisation of an exempted infrastructure
- 2.2.8. The involved Transmission System Operators shall provide an public assessment whether an Open Season Procedure is applicable. The decision to use an open season procedure requires the approval of the concerned national regulatory authorities.

3. Principles and processes for the use of Open Season Procedures

The Open Season Procedures shall offer incremental and new capacity in a way that is accessible to the market on a transparent and non-discriminatory basis

- 3.1. Open Season Procedures shall aim to satisfy all expressed market demand as long as it passes the Economic Test described in article XX
- 3.2. The involved national regulators shall monitor the Open Season Procedures until the conclusion of the project.
- 3.3. The Open Season Procedure shall consist of two phases: A preparatory, non-binding phase and a binding phase.
- 3.4. To ensure the transparency of Open Season Procedures, the Transmission System Operators in cooperation with the relevant national regulatory authorities shall consult all relevant stakeholders on Open Season Procedures;
 - 3.4.1. With the consent of relevant stakeholders the consultation can be considered sufficient to move directly to the binding phase of the Open Season Procedures
 - 3.4.2. A notice describing the Open Season Procedure shall be publicised to attract interest from stakeholders and be available at least in English. The notice shall contain at least the following general information:

- 3.4.3. Arrangements in place to assure the confidentiality of the information received from open season participants;
- 3.4.4. The start and end dates of the time windows for making non-binding and binding bids; How to make non-binding and binding bids;
- 3.4.5. The Economic Test parameters if available, otherwise the date at which they will become available.
- 3.4.6. The procedure applied to decide the level of capacity to be offered;
- 3.4.7. The allocation rules applied;;
- 3.4.8. The date on which capacity allocations will be communicated to Open Season participants;
- 3.4.9. Draft of the legally binding agreements
- 3.4.10. The procedures and timetable for the ensuing regulatory approvals;
- 3.4.11. Regional coordination aspects;
- 3.4.12. Mechanisms to deal with cost-overruns;
- 3.4.13. Penalties applied to the Transmission System Operator if capacity is not delivered on time;

4. Allocation of incremental or new capacity in Open Season Procedures

In the binding phase of the Open Season Procedure the network users express their demand to the Transmission System Operator(s) via bids. These bids contain: the amount of capacity requested, the premium on top of the reserve price they are willing to pay if any, the conditionalities in accordance with 1.4 if any. In case all market demand can be met, all requested capacity will be allocated;

- 4.1. In case not all market demand expressed via bids can be met while passing the Economic Test, an allocation rule needs to be applied. The allocation rule must be transparent and non-discriminatory.
- 4.2. When applying the allocation rule, TSOs rank the bids according to the principle of willingness-to-pay.
- 4.3. When allocating capacity according to willingness-to-pay per year is sufficient to pass the Economic Test, no other allocation rule is required.
- 4.4. When allocating capacity according to willingness-to-pay per year is insufficient to pass the Economic Test the allocation rule will be willingness-to-pay-per-user meaning the aggregated Net Present Value of all bids of the same network user reflecting the conditionalities, if any, between bids.

- 4.5. In case these allocation rules appear to be an obstacle to the economic viability of the project concerned, an alternative allocation rule may be applied. Application of an alternative allocation rule requires the approval of all concerned national regulatory authorities.