

Consultation response

ENTSOG response to ACER consultation on draft CAM Framework Guideline (“PC-02 - Gas Capacity Allocation Mechanisms”)

Submitted via ACER website: http://www.energy-regulators.eu/portal/page/portal/ACER_HOME/The_Agency

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ENTSOG welcomes the FG focus on market-based allocation measures but has concerns regarding the detail of how some of them could be implemented. This response is in line with, but expands upon, our response to the ERGEG CAM FG, and the 'Position Paper on Existing Capacity' (http://www.gie.eu/adminmod/show.asp?wat=100810_CAP00053-10_Existing_Contracts_public.pdf). It focuses on our main concern, regarding mandatory bundling. We consider that the FG as currently drafted, particularly section 2.4, should be amended to be fully workable.

1.Modification of existing contracts:

Existing long term capacity contracts underpin investments essential for SoS. Contract termination from either side as a result of bundling, e.g. through the re-arrangement of capacity bookings aligned to the new bundled IPs, would expose parties to loss of revenue and the risk of stranded assets. Additionally, exclusive bundling would change the current delivery points of gas, thus impacting many gas supply contracts.

Any change to capacity contracts should not be made unilaterally by TSOs, since this could expose them to severe legal consequences, but should be imposed on the parties through an administrative intervention by a competent authority such as an NRA. How such contracts can be re-allocated should be carefully analysed in ACER’s current study and subsequent IA; as the outcome is not currently known, we suggest excluding this provision from the FG.

2.Maximising users’ choice:

ENTSOG has no objections to voluntary bundling and has defined a method in section 5.4 of its NC Launch Documentation (LD) for implementing this via detailed TSO coordination. As a first step, this bundled capacity could be offered alongside unbundled services, allowing shippers to select the service that best meets their needs. This would aid in fulfilling the

objective as set out in FG section 1.1, of “supporting the completion and functioning of the internal market in gas and cross-border trade”.

3. Market views:

We understand that a broad consensus is building among market participants that compulsory bundling, which places severe constraints on shipper freedom to contract capacity where they wish, should be re-considered, and that infringements of existing contractual rights must be avoided. Shipper concerns were clearly reflected for example at the MF XIX and at ENTSOG’s 1st CAM NC SJWS. ENTSOG is open to alternative bundling proposals that achieve a similar outcome to its own methodology.

4. Further remarks:

> ENTSOG’s LD proposal on bundling involves one joint cross-border allocation (one auction), underpinned by two contracts. A single contractual structure would be more complex to implement and would raise legal issues including tax obligations and the distribution of contractual liabilities. As an alternative, one TSO could organise the capacity for its neighbour.

> A single EU booking platform which should eventually be introduced according to section 3.3 of the FG, might have significant advantages for users. We note however that developing such a platform would be a highly complex task and is likely to involve very substantial costs and time. The feasibility of this option will need careful consideration.

> ENTSOG currently has to follow the ERGEG FG. Any changes introduced, and any impacts from developments in the areas of CMP, Balancing, Tariffs etc. may affect the CAM NC timescale. We would however welcome improvements that would bring the FG more closely in line with market needs.