



Avenue de Cortenbergh 100
1000 Brussels - Belgium

Stephan Kamphues
President

T : + 32 (0)2 894 51 00

F : + 32 (0)2 894 51 01

E : stephan.kamphues@entsog.eu

To:

Mr Günther Oettinger, Commissioner for energy, EC
Mr Alberto Pototschnig, Director, ACER

Ref: PRE0065-12

6 March 2012

Network Code on Capacity Allocation Mechanisms

Delivery of the documents to European Commission and ACER

Dear Commissioner Mr Oettinger, Dear Mr Pototschnig,

The European Network of Transmission System Operators for Gas (ENTSOG) works to promote the completion and functioning of the internal market and cross-border trade for gas and to ensure the optimal management, coordinated operation and sound technical evolution of the European natural gas transmission network.

ENTSOG is glad to deliver today the first network code for gas on Capacity Allocation Mechanisms (NC CAM), as requested by the European Commission (EC)'s letters sent on January 27th 2011 and on August 17th 2011.

During the network code development period, ENTSOG has worked together with the EC, the Agency for the Cooperation of the Energy Regulators (ACER) and with all the stakeholders interested in this topic in order to prepare a robust and forward looking text for the implementation of the internal market.

This pilot network code is based on a process in which consultation of all interested stakeholders has been one of the most important points. Market participants were encouraged to contribute their views through stakeholder joint working sessions, technical workshops, and two written

consultations. At the same time, continuous discussions took place between ENTSOG, ACER and the EC.

In January 2012, ENTSOG published the final draft NC CAM and held a stakeholder support process during which stakeholders were invited to state whether they supported the document drafted. Respondents indicated strong support for the content of the proposed NC CAM except one section being section 5 regarding “Cross-border capacity”. In addition, they expressed unanimous support for the process followed to develop the NC CAM.

This is only the first step and ENTSOG is already working on another network code regarding Balancing, always in the same spirit of being a fair partner to all market participants and of making TSOs’ experience available for the pursuit of appropriate solutions.

In the context of the official delivery of the NC CAM, ENTSOG would like to hereby emphasise two outstanding issues to ACER and the EC:

1. The Sunset Clause

The ACER CAM Framework Guidelines dated August 3rd 2011 requires a sunset clause to be included in the NC CAM imposing mandatory bundling for previously contracted capacity, five years after the code has come into force, and the introduction of a default rule.

From the very beginning ENTSOG has expressed its concerns, which have also been put forward strongly by the majority of stakeholders throughout the whole process, regarding the implementation of such a rule. ENTSOG considers that a sunset clause would interfere significantly with existing contracts containing the commitments regarding the capacity to be bundled.

Since ENTSOG received the official letter inviting it to deliver the final CAM NC on the basis of the final ACER CAM FG, ENTSOG has included specific provisions (article 5.2) on the subject matter in its final NC CAM to be in line with the FG. However, its general objection has not changed, based on the legal and economic impacts triggered by the implementation of such a clause and the strong doubts regarding the effectiveness of such a clause in fostering effective competition and efficient functioning of the market. The reasons for the reluctance of ENTSOG to introduce such a clause are further detailed in the document “Analysis of ENTSOG Decisions for the CAM Network Code” presented with the NC CAM.

In this context and due to the legal and economic risks involved, ENTSOG strongly advises the deletion of the provisions set forth in article 5.2 of the final NC CAM to be officially approved.

2. Capacity reservation

At ACER’s request, ENTSOG modified the NC CAM to specify that 10% of total (technical) capacity must be reserved for shorter duration products, although the CAM framework guideline specifies that 10% of available capacity must be reserved. ENTSOG made this change in order to be in line with the spirit as well as the letter of the CAM FG, but notes that the implications of this provision will create problems for the marketing of transmission products in some member states.

Regardless of these outstanding points, ENTSOG is glad to deliver these documents for the following part of the approval process, as foreseen by the Regulation (EC) 715/2009, in due time in accordance with the invitation letters provided by the European Commission. ENTSOG is ready to support the Institutions in this further part of the process and is ready to comply with the activity during the implementation phase pursuant to Regulation (EC) 715/2009.

ENTSOG hopes that this network code will be the first step towards the achievement of a more integrated internal market and is confident that the cooperation between Institutions, ACER and all interested stakeholders will continue to be as fruitful as it was during the preparation of this first network code.

A handwritten signature in purple ink, appearing to read 'S. Kamphues'.

Stephan Kamphues

ENTSOG President