

Joint EFET/ENTSOG MF paper on issues regarding bundling of capacities

Disclaimer: This document is a working document and does not reflect a commitment of ENTSOG or EFET to specific options put forward in this paper. However it does reflect a commitment towards formulating solutions. Options described to address identified problems are not necessary compliant with the current regulatory framework and may therefore prove not be viable in the end.

I. Rationale and Objective

In spring 2014, the Agency for the Cooperation of Energy Regulators (ACER) organised an ad-hoc expert group on a potential Framework Guideline on Rules for Trading (RfT FG). Taking into account the opinions of the experts, ACER launched a consultation among stakeholders. Based on the responses, ACER and the European Commission (EC) concluded that for the moment no RfT FG is needed, but that there are potential issues that present obstacles in capacity markets. These issues however, can better be addressed by “smart” implementation or amendment of existing NCs. In order to explore these issues further ENTSOG¹ and EFET² were invited to start up discussions.

¹ ENTSOG was founded on 1 December 2009 in line with Regulation (EC) 715/2009. The current number of Members, Associated Partners and Observers can be found [at this link](#).

² The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 28 European countries. For more information, visit our website at www.efet.org.

EFET and ENTSOG have established a joint work stream to explore issues highlighted in the consultation including ways to address them. With the support of the European Commission and ACER at the XXVI Madrid Forum, EFET and ENTSOG started a dialogue process in an ad-hoc joint work stream with the aim to identify and resolve potential issues related to the introduction of capacity bundling before more long term bundled products are offered.

II. Overview of process

Since the XXVI Madrid Forum a number of joint EFET/ENTSOG workshops were held to identify and fully understand issues raised by EFET in relation to NC CAM and CMP implementation that may pose difficulties to cross border trading. To enable a full understanding of the issues raised, ENTSOG and EFET discussed the extent to which issues that are not yet addressed in NCs or that are “in between” different NCs are prerequisite for meaningful NC implementation.

The work done in 2014 has been structured in the following way:

- EFET and ENTSOG discussions on capacity products and conditions on offer conducting an analysis at two selected IPs taking into account the issues that were listed in the responses to ACERs consultation, including in EFET’s position papers.
- Selection of four issues related to bundling for further assessment towards solutions. These issues were selected based on relevance and urgency, as they are subject of current (early) Network Code implementation discussions and addressing them now would ease the introduction of capacity bundling which will become mandatory as of November 2015 and solutions can potentially be introduced before the implementation deadline expires.

III. Issues for further assessment

EFET and ENTSOG identified the following four issues for further assessment towards solutions:

1. Already contracted unbundled capacity and offer of bundled products only
2. CMP regulation and its consistent implementation across IPs
3. Alignment of secondary marketing of bundled products
4. Aligned procedures for the surrender of capacity

As a principle, the discussions on potential options to address the identified issues should follow the following general principles:

- Priority should be given according to effectiveness in addressing a specific issue (not necessarily one size fits all);
- Compliance with general principles and concepts of CAM/CMP:
 - Maximisation of products on offer;
 - Avoidance of discrimination;
 - Ensuring level of playing field;
- Priority of enhanced implementation over amendment of regulations;
- Reduction of implementation efforts.

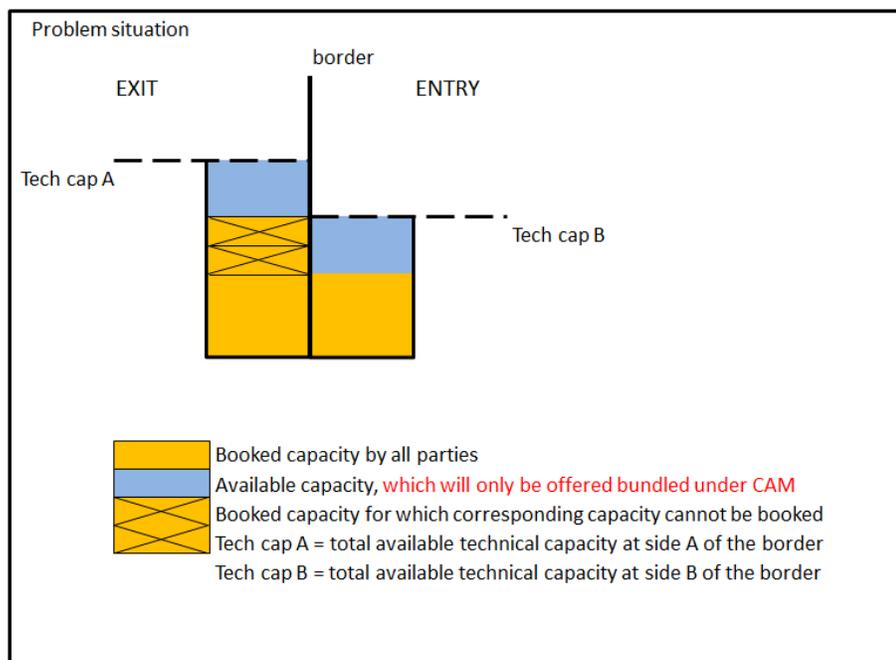
1. Already contracted unbundled capacity and offer of bundled products only

Article 19(1) of CAM NC defines that TSOs are obliged to offer all firm capacity at interconnection points as bundled capacity, in so far as there is available firm capacity on both sides of the interconnection point. Unbundled firm capacity may be offered by a TSO where the respective TSO has more available firm capacity on its side of the interconnection point than the adjacent TSO on the other side in accordance with Article 19(5) of CAM NC.

Based on these requirements set out in CAM NC, the offer of unbundled capacity is limited to specific cases. The issue identified by the joint ad-hoc work stream can

materialize when network users hold existing unbundled long term capacity contracts at that side of an IP at which the level of technical capacity exceeds the level at the other side of the IP. In this case, the network user will not be able to contract unbundled capacity from the TSO to match it with its existing unbundled long term capacity contract on the adjacent side. In order to be able to transport capacity, the network user would be required to obtain bundled capacity, thus partly requiring the contracting of a capacity product that the network user already has.

The issue is illustrated in the following diagram:



In the example above, the network user holds an unbundled existing long term contract on the side of the exit TSO with no corresponding unbundled capacity at the side of the entry TSO. Due to the fact that the exit TSO has a higher level of technical capacity than the entry TSO, both TSOs have available capacity even though the exit TSOs has contracted capacity in an unbundled manner. Based on the requirements of CAM NC, the available capacity on both sides of the IP would be offered in a bundled way, thus making it impossible for the network user to obtain only the unbundled capacity at the

side of the entry TSO to match his existing capacity portfolio. However interruptible capacity might be available.

EFET and ENTSG have discussed possible options to address the issue where a network user, as described above, has to pay for already contracted unbundled capacity at one side of an IP and in addition has to pay for the “full bundle” at both sides of the respective IPs due to bundling of capacity. EFET and ENTSG develop solutions that ensure that such a situation does not occur. The options assessed so far can be categorised into two groups; one group compiling preventative measures that aim at preventing the above illustrated situation from occurring in the first place based on already existing legislation and rules. The second group reflecting supplementary measures that aim at solving such a situation if it occurs. EFET and ENTSG understand that supplementary measure may necessitate amendment of existing rules.

Preventative measures could among others include:

- Use the procedure to align the level of existing technical capacity at an IP in line with Article 6 of CAM NC. TSOs on each side of the IP would align their calculated maximum technical capacity to the highest value of each, as to maximise the offer of bundled capacities.
- A bundling of existing transport contracts according to Article 20 of CAM NC allowing network users to bundle their existing unbundled contract on one side of an IP with an unbundled contract on the other side that may be obtained before bundled auctions are mandatory.
- An oversubscription & buyback mechanism at the side of the TSO with the lower level of technical capacity at the IP, allowing this TSO to offer the missing level of firm capacity to harmonize the levels on both sides of the IP to the higher value of the two TSOs.

The supplementary measures may include:

- A competing offer of bundled and unbundled capacity at an IP by making use of the competing auctions as foreseen in CAM NC. Such a measure would allow network users who already have unbundled capacity to bid for matching unbundled capacity in order to create a bundled capacity. Irrespective of whether

the bundled or unbundled capacity is successful in the competing auction, the total amount of booked bundled capacity will be the same.

- A conditional surrender mechanism which allows a network user who hands in an unbundled capacity contract priority over primary capacity to the extent the network user buys a bundled capacity product for the IP in the regular auction.

Multiple hybrid versions of the two above-mentioned measures and their specifications could be thought of. EFET and ENTOSOG want to discuss with other stakeholders including ACER, EC and national regulators whether these measures are supported and which detailed characteristics are to be chosen.

2. CMP regulation and its consistent implementation across IPs

An issue arises where at one IP, OSBB mechanism is applied on one side of the IP while on the other one a DA UIOLI mechanism is applied, as both mechanisms cannot unfold their full effectiveness.

Point 2.2 of Annex I to Regulation (EC) No 715/2009 provides congestion management procedures in the event of contractual congestion (CMP Guidelines) at IPs. The CMP Guidelines requires NRAs to prescribe either an oversubscription and buy-back scheme (OSBB) in accordance with paragraph 2 or, as an alternative, a firm day-ahead use-it-or-lose-it mechanism (DA UIOLI) in accordance with paragraph 3.

While OSBB is making available additional firm capacity on an incentive basis for TSOs by selling more firm capacity than technically available with certain risk compensation, DA UIOLI makes available additional firm capacity by restricting the usage rights for capacity of network users based on the level to which capacity is nominated.

For the TSO applying DA UIOLI, the downward re-nomination right restriction defined in point 2.2.3.3 of Annex I to Regulation (EC) No 715/2009 of 10 % could only be applied if also the adjacent TSO, which is not applying this requirement of the CMP Guidelines, would also be restricting the re-nomination right for the respective network user. This would however be difficult to justify as the adjacent TSO would potentially not have the legal basis for restricting a re-nomination right given that this mechanism is not applied

in the respective Member State and furthermore, it is not in line with the 'lesser of' matching rule set out in the Network Code on Interoperability and Data Exchange.

EFET and ENTSOG identified and discussed several potential ways forward to address the issue explained above. As the issue only materialises where the application of CMP measures is not consistent at both sides of an actually congested IP (at IPs with no congestion (as most IPs) the problem does not materialize), the most natural solution would be a consistent application of one of the two mechanisms per capacity product at an IP.

Another possible option to address the issue would be to apply both CMP mechanisms at one IP, but at different points in time e.g. the use of oversubscription & buyback for monthly auctions at both sides of an IP, in addition to the DA UIOLI on one side of the IP should be further assessed. Such a mixture would reduce the risk of congestion and thereby reduce the likelihood for the problem to actually occur, however this would increase the complexity and implementation efforts.

Furthermore, EFET and ENTSOG agree that the necessity for congestion management tools in general would be reduced in case of functioning and liquid secondary capacity markets.

EFET and ENTSOG conclude that the issue of non-consistent CMP application at IPs should best be addressed by NRAs and ACER by ensuring the coordinated application of CMP mechanisms at IPs. In this perspective, appropriate consideration should be given to Commission Guidance on best practice for CMPs, providing clear indications on which CMP measure should have precedence depending on single IPs congestion levels. Moreover, when selecting the mechanisms, NRAs and ACER should give due consideration to the network users' preference.

EFET and ENTSOG want to discuss with other stakeholders including ACER, EC and national regulators whether these measures are supported and/or further measures should be considered.

3. Alignment of secondary marketing of bundled products

The design and functionalities of secondary markets for capacity trades among network users still differs in the Member States. Due to bundling of capacity, different secondary

trading rules at both sides of an IP can create inefficiencies for network users when offering capacity at the secondary market.

Furthermore, EFET and ENTSOG agree that functioning and liquid secondary capacity markets would reduce the necessity for congestion management tools in general.

As a principle and in line with Article 19(8) of Regulation (EC) 984/2013 (CAM NC), a bundled capacity product should only be sold at the secondary market in a bundled manner. In order to ensure this, it would be necessary to apply equal rules and timelines for a single IP.

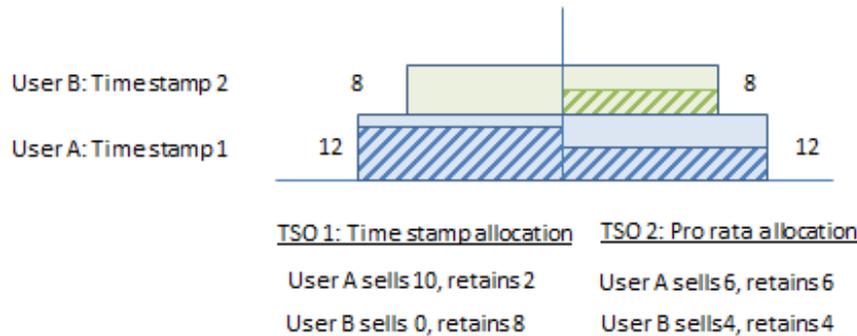
One specific inconsistency identified by the joint ad-hoc work stream is e.g. the different application of lead times for the trading of capacity at the secondary market, as in principle the longer lead time required by one of the two TSOs is relevant for the bundled product anyway. Harmonized lead times would therefore be preferred.

EFET and ENTSOG agree that the existing European legal framework provides sufficient flexibilities for TSOs to address the identified issues through the implementation of harmonised rules and processes for secondary capacity markets. EFET and ENTSOG invite stakeholders including ACER, EC and national regulators to join the discussions on such rules and processes that meet both, network user and TSO requirements to establish best practices.

4. Aligned procedures for the surrender of capacity

As for the procedures applied for secondary capacity markets, also the procedures for capacity surrender differ among TSOs, potentially posing obstacles to network users that want to make use of the mechanism for a bundled capacity contract. One practical issue identified is that some TSOs allocate surrendered capacity according to a time-stamp approach while other TSOs make use of a pro-rata approach. If both mechanisms are applied at an IP, a network user surrendering a bundled capacity contract might be returned an unbundled capacity contract at one side of the IP, while enough surrendered capacity could have been allocated to another network user in a bundled manner if the same mechanism would have been applied.

An example is illustrated below:



EFET and ENTSOG agree that the best solution to avoid such a situation would be that all TSOs apply a time stamp approach for the allocation of surrendered capacity.

Nonetheless, aligned allocation rules for surrendered capacity do not ensure that network users will not end up with an unbundled capacity on one side of the IP, while the surrendered capacity on the other side is allocated to another network user. Such a situation could e.g. occur if the level of available capacity differs at both sides of an IP or if unbundled capacity has been surrendered by another network user at one side of the IP before the bundled capacity has been surrendered. .

Finally, EFET and ENTSOG identified that different rules for the return of unsold surrendered capacity could be of disadvantage for network users. As currently applied, some TSOs offer surrendered capacity until the day-ahead auction, meaning that unsold surrendered capacity will only be returned on very short notice. In other countries, network users have the possibility to retain unsold surrendered capacity directly after the end of each auction. EFET and ENTSOG conclude that an aligned procedure should be defined for this.

ENTSOG and EFET identified a number of possible options to address the issues where the procedures for the surrender of capacity are not aligned on both sides of an IP. Considering the purposes of EFET/ENTSOG joint work stream, preference should be assigned to proposals solving the issues in practice while avoiding legislative interventions as much as possible. The options for the issues mentioned above may have to be taken at a national level in the context of the implementation of CMP measures.

Aligned decisions of respective NRAs are essential steps to comply with the proposals made by ENTSOG and EFET.

EFET and ENTSOG invite stakeholders including ACER, EC and national regulators to join the discussions on such rules and processes that meet both, network user and TSO requirements to establish best practices.

IV. Way forward and next steps

As summarised in this document, EFET and ENTSOG have focused on identifying issues that arise at IPs due to the bundling of capacity products and concluded on assessment criteria that solutions to these issues should meet. Furthermore, EFET and ENTSOG had initial discussions on concrete options for how to solve the before-mentioned issues including an initial assessment of their advantages and disadvantages.

In order to develop detailed options to solve the issues and decide on the specific and concrete proposals for how to solve the four issues explained in this document, EFET and ENTSOG invite all interested stakeholders including ACER, EC and national regulators to contribute. For this reason, ENTSOG and EFET request feedback from stakeholders to this document and particularly to the identified issues. Stakeholders are asked to provide their feedback via a consultation tool that will be provided on the ENTSOG website. In addition to this, ENTSOG and EFET would like to invite all interested stakeholders to two Public Workshops to discuss the identified issues and potential options. The two Public Workshops are scheduled for 20 May 2015 and 30 June 2015 in Brussels, Belgium. The aim is to publish recommendations on how to solve the issue after the second Public Workshop. In the meantime network users and operators are called upon to continue their efforts to establish practical solution and feed such solutions into the Public Workshops.

Details on the Workshops including the procedure for registering for the meetings will be available on the ENTSOG website (www.entsog.eu).