

“Public Consultation on the modification of Congestion Management Procedures in the gas Sector”: ENTSOG response to online questionnaire

IDENTIFICATION

Your profile: *Organisation*

Is your organisation registered to the "Register of Interest representatives"?: *No*

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A. GENERAL QUESTIONS

A.1. General application and capacity calculation

A.1.1. Implementation of the same rules at all interconnection points. Please assess how broadly any new rule on congestion management should apply.

Congestion management is congestion prevention; therefore the same framework should apply in all cases irrespective of whether an interconnection point is currently congested or not.

A.1.2. Calculation of maximum available capacity. Please provide your assessment of the different possible ways to assure that maximum capacity is made available by Transmission System Operators (“TSOs”).

The general obligation of Art. 16 of the Gas Regulation (EC) 715/2009 to make available maximum capacity is sufficient. No additional provision at EU level is needed.

A.1.3. Please feel free to substantiate your replies to section "A.1. General application and capacity calculation"

General

The following responses are aligned with the previous ENTSOG CMP responses (CAP005 -10 & CAP071-10) which are published on the ENTSOG website in the section “Entsog Position Papers / Reactions / Reports” (http://www.entsog.eu/publications/index_g_capacity.html)

A.1

It should be clear as to when the CMP measures are applied. Therefore, ENTSOG would like to encourage the development of a harmonised approach for CMPs throughout Europe. ENTSOG considers that whatever the contractual booking situation (if congested or not), the CMPs should be applied at all times.

This approach makes the challenge of defining what “congestion” means either for each IP in turn or for the wider EU unnecessary. Importantly this prevents the situation where different and potentially alternating bookings occur when the measures are applied or not as the point becomes congested or uncongested (and vice-versa) over time. Thus we consider a stable arrangement appropriate which then provides users with stability and certainty. In addition this would then remove the necessity for relevant NRAs to define or not the specific IP arrangements according to the changing capacity situation and to what extent the CMP rules are to be applied. The NRA’s role would therefore be more of a validation activity in that the TSO applied the CMP arrangements as appropriate according to the situation at that point in time / duration.

In addition, a transparent incentive mechanism would encourage the TSOs to optimise the capacity available and drive the economic and efficient operation of the system.

A.2. Nomination time

A.2.1. Do you think that it is necessary to harmonize nomination times in general between Member States?

Yes, it is necessary to have full harmonization of nomination times across the EU

Which nomination times would in your view necessitate harmonization?

Day-ahead

A.2.2. As regards initial day-ahead nominations, is there a particular time on any given day by which network users are able to fairly well predict their transmission capacity needs for the day-ahead?

Yes

A.2.3. When should the initial day-ahead nomination take place?

Given the anticipated sequence of codes it might be better to indicate that standardised nomination procedures will be defined in Interoperability to the extent that they are not already defined in Balancing.

A.2.4. When should the initial day-ahead nomination of capacity that has been allocated possibly pursuant to an auction of non-nominated capacities take place?

Whilst ENTSOG supports a short-term UIOLI on an interruptible basis (as per previous responses above), ENTSOG is of the opinion that non-nominated capacity should not be allocated pursuant to an auction since this would imply restrictions of renomination rights

which we do not support. Furthermore we consider this would have an overall negative effect on the market. (Please also refer to section C.2.6).

A.2.5 Can within day (initial) nominations always take place at one precise time of the day?

No

A.2.6. Please feel free to substantiate your replies to section "A.2. Nomination time"

Given the anticipated sequence of codes it might be better to indicate that standardised nomination procedures will be defined in Interoperability to the extent that they are not already defined in Balancing.

B. TRANSPARENCY AND TRADING

B.1. Enhanced transparency in order to improve the value and predictability of interruptible capacities

B.1.1. In line with Commission decision 2010/685/EU of 10 November 2010, transparency would be further improved to increase the reliability and predictability of interruptible capacities. Network users would have access to more accurate information and real time information on bookings and nominations, in combination with good historic data.

Transparency requirements pursuant to Commission decision 2010/685/EU will already improve the situation by increasing predictability of gas flows, helping network users to better assess the risk of interruption. No further operational transparency measures are needed.

B.1.2. Please feel free to substantiate your replies to section "B.1. Enhanced transparency in order to improve the value and predictability of interruptible capacities"

ENTSOG considers that an evaluation of the rules that have just been established by REG 715/2009 is required as a pre-condition before taking further steps regarding transparency.

B.2. Enhanced secondary market

B.2.1. The secondary capacity market could be stimulated by the establishment of capacity trading platforms, bulletin boards, coordinated sales mechanisms, etc.

While necessary in its own right, further enhancement of the secondary market would not solve all capacity congestion issues. Therefore specific measures need to be put in place with respect to capacity utilization.

B.2.2. Please feel free to substantiate your replies to section "B.2. Enhanced secondary market"

ENTSOG considers the secondary capacity market an essential core element in an efficient CMP regime. It provides an effective mechanism 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 into the envisaged CMP Guidelines. In addition such a market development needs to ensure that other rules (such as surrendering of capacity) does not undermine or hamper the development of a secondary market.

C. SHORT-TERM DAY-AHEAD CONGESTION MANAGEMENT PROCEDURES

C.1. "Use it or sell it"

Instead of a "use-it-or-lose it" mechanism a "use it or sell it" mechanism could be put in place, allowing for compensation through sales of unused capacity while at the same time imposing sanctions for not selling in case of non-utilisation (i.e. a non-utilisation penalty).

C.1.1. Please select between the below options

A "use-it-or-sell-it" mechanism would not be an effective alternative to the "use-it-or-lose it" mechanism as it does not directly result in unused capacity being freed up and offered to the market.

C.1.2. Please feel free to substantiate your reply to section "C.1. "Use it or sell it"

ENTSOE supports use-it-or-lose-it on a short term interruptible basis, rather than use-it-or-sell it. Whilst we do not support it, any such use-it-or-sell-it mechanisms must incentivise primary holders of capacity to market systematically underused capacity on the secondary market. Such a measure, if applied, would strengthen the use of secondary markets. The incentivisation could be built upon a financial penalty (function of the underused rate and the level of activity on secondary market) applied to the primary holder. Such a measure can only be developed if TSO neutrality in the application of the measure is guaranteed. The original payment obligations must remain with the initial owner until a new owner has been identified. The measure relies on the identification of systematically underutilised capacity, which should be strictly and unambiguously defined by NRAs, without the intervention of the TSOs (other than the publication of relevant information in such a context).

C.2. Firm day-ahead "use it or lose it": General questions

According to this option, the principle of initial day-ahead nomination and re-nomination intra day as currently applied in most systems would be left unchanged. However, the initial day-ahead nomination would be made partially binding, resulting in some limitations of the network users' re-nomination right. This would leave some firm capacity available on the market for (new) network users.

C.2.1. Rights to day-ahead firm capacity facilitate market entry and effective competition in a better way than rights to interruptible capacity

I disagree as in my view firm and interruptible capacities are equally effective to market players.

C.2.2. The freeing up of and subsequent offering/allocation of day-ahead firm capacity (as opposed to interruptible) will lead to improved capacity utilisation

I disagree

C.2.3. Limited re-nomination rights will increase day-ahead firm capacity offer

I don't know

C.2.4. Limited re-nomination rights are likely to induce counterproductive strategic bookings by network users in order to ensure sufficient re-nomination rights

Yes

C.2.5. The limited flexibility stemming from limited re-nomination rights could, if necessary, be alleviated by trading on the within day markets

I disagree

C.2.6. Please feel free to substantiate your replies on section "C.1. Firm day-ahead "use-it-or-lose-it""

Overall 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 highlights some 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*
- May have security of supply implications.*

This would also necessitate 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 parties concerned 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.

In summary 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.

C.2 ENTSOG finds it difficult to answer this question since it considers rights to day-ahead firm capacity (as suggested in the text) insufficient to build a business model upon for new network users.

C.2.1 In addition, short term interruptible capacity is in general considered a useful product for shippers.

C.2.3 As stated ENTSOG does not support a firm day-ahead UIOLI. We could consider that such a mechanism may increase the offer of day-ahead firm capacity but due to the downsides of such a mechanism we consider the overall effect would not be positive for the market.

C.2.4 Whenever existing flexibility is reduced in order to resell capacity again through a market mechanism it is very likely that this will lead to a price increase in the various markets as flexibility becomes more expensive (because of the reduced possibilities) and may finally also lead to a decrease in flows. The implications for balancing costs and their treatment would also require careful consideration as a limitation of re-nomination rights could hinder the procurement of residual (short-term) balancing energy by the TSO and may impact on balancing costs. This may therefore be counter-productive in a market-based balancing system. There is a danger that this principle may incentivise users to seek commercial methods e.g. over-booking capacity or over-nominating (leading to incorrect signals) in order to mitigate the risk of being limited in their rights to use the booked capacity.

C.2.5 An effective and liquid intra-day market would need to be established before an EU-wide implementation in order to allow the required flexibility for the users to cope with any such limitation. ENTSOG does not consider the proposal to be an effective mechanism.

C.3. Firm day-ahead "use it or lose it": Limitation of re-nomination

Limitation of re-nomination upwards could be designed in a way allowing a network user to still make use of 50% of the remaining difference between booked and initially nominated capacity. The remainder of booked capacity could be re-nominated only on an interruptible basis.

Limitation of re-nomination downwards could be designed in a way allowing a network user to make a reduction of 50% of the initial nomination, to prevent excessively high, initial nomination. Re-nomination downwards could be completely prohibited when the initial nomination is of 90% or more of the booked capacity.

C.3.1. Do you think that limiting upward and downward re-nominations to a flexibility range of 50% (expressed as a share of the difference between initially booked and subsequently nominated capacity) would give capacity holders sufficient scope to re-nominate while at the same time allow binding capacity to be made available in case of congestion?

No

C.3.2. What, in percentage terms, would be the most appropriate flexibility range for renomination upward and downward (expressed as a share of the difference between initially booked and

subsequently nominated capacity) giving capacity holders some scope to re-nominate while at the same time allowing for binding capacity to be made available in case of congestion?

ENTSOG is unable to provide such a view.

We do not support a firm day-ahead UIOLI mechanism.

C.3.3. Prohibition of re-nomination downwards when initial nomination is equal or over 90% would allow keeping a small band of day-ahead capacity available in most cases and would prevent blocking behaviours, which could take shape through a pattern of abusively high day-ahead nominations with subsequent re-nominations downwards

No

C.3.4. At what initial nomination (expressed as a share of the difference between initially booked and subsequently nominated capacity) would it be appropriate to prohibit downward flexibility for re-nominations with a view to assuring that capacity holders are incentivised to efficiently use their capacity in case of congestion?

ENTSOG is unable to provide such a view.

We do not support a firm day-ahead UIOLI mechanism. Any limitation of renomination rights will lead to "strategic" initial nominations and will make day-ahead planning less accurate and increasingly difficult. This increases uncertainty of the expected flows and will lead to TSOs being more careful before offering any additional short term capacity. Therefore renomination rights restrictions, increased flow uncertainty for TSOs and the potential of less additional short term capacity being made available by the TSO would lead to uncertainty as to whether there will be any net increase in available capacity.

Upwards and downwards limitation of re-nomination rights are symmetrically problematic when the exit portfolio of the shipper is composed of gas power plants, with startups and shutdowns often relating to electricity market conditions, which can not be considered as predictable day-ahead, or indeed supply losses that may occur at any time.

C.3.5. Please feel free to substantiate your replies to section "C.3. Limitation of re-nomination"

In general: 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 highlights (once more) the possible side effects of this proposed provision.

Restriction of renomination rights:

- May transfer additional flexibility costs to end-consumers and introduce 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.*
- *May have security of supply implications.*

This would also necessitate 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 parties concerned 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.

In summary ENTSOG advocates basing the "last resort" daily mechanism on an interruptible use-it-or-lose-it basis as already successfully implemented in some European countries.

C.4. Firm day-ahead "use it or lose it": Exceptional circumstances

Finally, in exceptional circumstances where the limitation of re-nomination rights could interfere negatively with the electricity market, or could undermine network stability or security of supply, the NRA could be allowed to give more extensive re-nomination rights to a network user who would request so. This exemption would be submitted to an annual revision.

A cascaded system of initial nomination/allocation of day-ahead firm capacity and subsequent nomination/re-nomination/and intra day ad hoc firm / interruptible nominations could thus ensure an efficient utilisation of existing capacity.

C.4.1. The NRA should be entitled to grant exemptions in exceptional circumstances and within the limits of an annual revision

No

C.4.2. Are there any scenarios where the interaction of nomination, re-nomination and possible exemption would not be sufficient to guarantee the security of supply or the integrity of the electricity market?

Yes

Could gas procurement on intra-day gas markets, employment of gas storages, or TSO balancing actions solve these issues?

I don't know

C.4.3. Please feel free to substantiate your replies to section "C.4. Exceptional circumstances"

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 has concerns with this proposed provision.

At previous stakeholder workshops concern was raised about the possibility of the restriction of renomination rights; these concerns were again highlighted by many participants at the

recent ACER Presentation on the Gas CAM Framework Guidelines held in Ljubljana on 7th March 2011. Restriction of renomination rights would cause major issues when considering the implications (amongst others) on the electricity market. Gas fired power stations play a major role in electricity production across Europe. Accordingly, the ability of such stations to schedule their generation and nominate / renominate their gas requirement is core to security of supply in both the electricity and gas networks.

C.5. Capacity oversubscription and buy-back incentive scheme

In an oversubscription scheme, the TSO could, on the basis of statistic scenarios about the probable amount of unused booked capacity, be allowed to make available on the market an extra amount of capacity and therefore to oversubscribe the existing physical capacity. A buy-back mechanism could ensure that the TSO will tender to buy back capacity in case of actual or potential physical congestion.

The NRA could set the proportion of additional capacity to be made available, and could determine a financial incentive scheme allowing the TSO to optimise capacity oversubscription.

C.5.1. Do you consider a capacity oversubscription and buy-back incentive scheme to be an effective congestion management scheme?

Yes

C.5.2. Do you consider a capacity oversubscription and buy-back incentive scheme to be an alternative to partially binding day-ahead nominations or a possible add-on?

Alternative

C.5.3. Do you consider that the decision to implement a capacity oversubscription and buy-back incentive scheme should be made on the level of each interconnection point, on the national, the regional or the EU level?

Interconnection point

C.5.4. How should the rights associated with the buy-back mechanism be defined?

The rights associated with the buy back mechanism should be defined by NRAs.

C.5.5. Please feel free to substantiate your replies to section "C.5. Capacity oversubscription and buy-back incentive scheme"

C.5.1. ENTSOG considers the application of such a measure appropriate if the rate of over-subscribed capacity is not prescribed as mandatory or a fixed quantity. Depending on the network situation, when any oversubscription quantities are to be offered the decision on the proportion must reside with the TSO (and by definition must allow for different outputs of results), especially when the TSOs are held responsible and liable for network security at the same time.

Without such control in the process by TSOs, there is a risk that any prescribed mandatory / fixed oversubscription arrangements would lead to an increase in the risk of emergency situations which clearly is to be avoided (and would indeed suggest that the market and/or the arrangements were not functioning correctly). In addition a mandatory oversubscription quantity would necessitate even more strict conditions which limit technical and commercial risks (e.g. rules on capacity withdrawal, rules on how to reduce flows in case of physical constraints and limits on compensation payments, etc.).

C.5.2. Partially binding day-ahead nominations leaves less room for oversubscription. In fact, when capacity is freed up via partially binding day-ahead nominations, there is less or indeed no necessity to offer additional capacity by an additional instrument.

C.5.3 The decision to apply a capacity oversubscription and buy-back incentive scheme should be made at the level of each interconnection point by the TSO(s) as these points have differing characteristics and as such a wider scheme would not be appropriate. (See comment in C.5.1).

C.5.4. The framework of the buyback mechanism should be defined as part of the CMP proposals. TSOs together with NRAs should decide on how to transpose the framework into national rules which would include the detailed aspects of the incentive scheme and the relative financial risk and reward arrangement. (See comments C 5.1 & C 5.3 as to the appropriateness of application).

D. Long term Congestion Management Procedures

D.1. Surrender of booked capacity

TSOs could be forced to accept capacity surrendered by network users insofar as contractual congestion exists. The NRA would have to approve the terms and conditions for surrendering capacity and the methods of rewarding initial capacity holders for the capacity sold.

D.1.1. What is your view of such a mechanism?

It is not needed, as it would merely duplicate the function of secondary markets.

D.1.2. Who in your view should decide on the modalities of such a system?

EU-wide harmonisation of modalities is needed.

D.1.3. Please feel free to substantiate your replies to section "D.1. Surrender of booked capacity"

D.1.1 A crucial aspect to be adopted in any such surrender of capacity provision is that it must be cost-neutral for the TSOs. To avoid any financial underwriting by a TSO a subsequent capacity purchaser must be present. In addition the tariff charged for the original primary capacity, plus the costs for enabling this service must be recovered by the TSOs. A provision should therefore clarify this mechanism when an auction process is applied to ensure that the

regulated price / original selling price will be reached (especially when the surrendered product duration is different from the one the primary holder has contracted for). The design of such a proposal with regards to pricing would need to consider that it should not incentivise users to speculate with long term products, and then price it high for short term rents to other users when selling it back. Additionally, this could lead to the submission of misleading investment signals.

Network users could be entitled to surrender capacity to the transmission system operator according to the 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 (instead of TSOs being forced to accept capacity surrendered by network users). We consider that the appropriate timeframe for such a service is on a month ahead basis.

The re-allocation of surrendered capacity would be subordinate to the prior allocation of primary capacity products of the transmission system operator. In case of re-allocation 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.

D.1.2 Transmission System Operators shall define terms and conditions for network users to surrender booked capacity to them.

D.2. Strict long-term use-it-or-lose-it

NRAs could strictly monitor the individual capacity utilisation rates by each network user over a long period of time. Where utilisation patterns would reveal a case of capacity hoarding, the NRAs could take the necessary steps and withdraw all or part of the unused capacity from the network user and the TSO would reallocate it to the market.

The powers of the NRA would be subject to strict preconditions. Capacity could be withdrawn only when systematically underutilised, i.e. when:

- network users request capacity bookings at the particular interconnection point and are unable to obtain this capacity on the primary or secondary market, and
- 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, and
- the capacity holder has not sold or offered in due time and at a reasonable price its unused capacity and
- the capacity holder is unable to satisfactorily justify its behaviour. The application of a short-term use-it-or-lose-it mechanism shall not be regarded as justification for the purpose of long-term use-it-or-lose-it.

D.2.1. According to this scenario

It can only serve as a potential sanction and will probably never be used.

D.2.2. Please feel free to substantiate your replies to section "D.2. Strict long-term use-it-or-lose-it"

ENTSOG agrees with the general principle that measures are necessary to incentivise shippers to avoid the hoarding of capacity and to firstly offer it onto the secondary market for other network users. Failing that, the possibility (subject to TSO terms and conditions) to surrender the capacity back to the TSO on a short term basis (see comment D 1.1) could be an alternative option. The design of the commercial arrangements should be done in such a way that the long term UIOLI measure itself is never applied as any potential shipper targeted by this measure should prefer to sell on the secondary market, the capacity they would otherwise lose.

However, once implemented any mechanism must be at least cost neutral for the TSO, transparent and non-discriminatory. On a general basis the mechanism should not create a situation where contracts that a TSO had duly obtained are legally challenged, as those contracts have and will play an important role in investment financing. Therefore, TSOs should not be placed in a position that could conflict with their contractual obligations. It should also be carefully considered whether other methods could be introduced which would lead to the increased use of underutilised capacity.

Any withdrawal mechanism should be clearly defined together with the appropriate methodology to calculate the amount of underutilised capacity to withdraw. It must be stressed that it is problematic to determine "systematic underutilisation" due to the fact that the situation can change over time. It should be clearly defined what are the rights and financial obligations of the initial and the new capacity holder. Furthermore, it should be carefully assessed whether such long-term UIOLI arrangements might undermine the firm capacity market. The economic and operational equilibrium must therefore be guaranteed for the TSOs.

D.3. Capacity withdrawal from dominant players or capacity "reset"

According to this last proposal, all capacities booked by dominant players could be withdrawn and reallocated on the market.

D.3.1. This proposal would be an adequate solution to remedy contractual congestion

No

D.3.2. Such a measure would resolve contractual congestion for a short time before the previous situation would re-occur

I don't know

D.3.3. Such a measure would dangerously undermine the rights and the business of existing network users

Yes

D.3.4. Please feel free to substantiate your replies to section "D.3. Capacity withdrawal from dominant players or capacity reset"

Existing contracts were concluded under the rules overseen or provided by NRAs and Member States at the time of signing. The CMP Guideline intends to ensure an efficient market outcome through the extensive provision of UIOLI, surrender of capacity, etc. and should lead to a freeing up of under-utilised capacity which can then be re-offered to the market. Changing contract agreements or parts of them may change their value and introduces the risk of legal challenges by contracting parties. The subsequent termination of contracts would lead to stranded assets for the TSOs, create undue financial risks and have substantial impacts on transmission tariffs. Therefore, the CMP Guideline should provide a provision ensuring that the TSOs' revenue streams will be protected.