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Pilot Framework Guideline on Capacity Allocation

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Dear Sirs,

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DONG Energy would like to offer the following comments to the public consultation:

General

What are your main views of the proposed measures? Do you think Network codes based on these guidelines can achieve non-discriminatory and transparent capacity allocation and the fulfillment of the capacity allocation principles set out in the Third Package of Energy legislation?

In general DONG Energy supports the initiative of an EU alignment of network codes. We believe that the EU Commission and NRA's should focus on the overall principles and framework. Some markets are already experiencing difficulties due to a rather detailed legislation. We expect that the coming network codes can be implemented in a non bureaucratic way, which will facilitate rather than introduce limitations to the liberalized, commercial market.

Substantial parts of the congestion management/capacity allocation issues within market areas have been solved - or are on their way to be solved partly due to a number of Open Season processes. The market does need some time to absorb and to adjust to these changes and the TSO's needs time to carry out investments.

Therefore, DONG Energy considers much more important right now to focus on a number cross-border issues than on "fine-tuning" within market areas. In the context of cross-border alignment it is of utmost importance to address both on inter-TSO issues as well as inter-regulator issues.

What are your views of the implications of each for the measures for the sector in which you operate? In particular, we are interested to understand the nature of the implications in a qualitative way (and, if available, any quantitative evidence on costs and benefits would be extremely welcome).

The measures should be seen in the right context. As a shipper we need access to short- medium- and long term capacity. 1) The long term capacity products enable shippers to establish their long term market positions and if sufficient long term capacity is not readily available, then long term bookings i.e. through Open Seasons should enable the TSO's to establish a risk sharing platform for investments to be taken. Therefore, existing capacity and new capacity must be seen in integrated context – and should be ruled by the same regulatory framework. 2) Shippers need medium term capacity to cover their sales plans. Thus, it should be possible to book medium term capacity at least once a year at all interconnection points. 3) Finally, shippers use secondary capacity for balancing purposes and to optimize their portfolio. Here shippers need platforms and OTC possibilities for trading of secondary capacity. These tools should provide a good, quick overview and be easy to use.

The new network codes must provide incentives to enable sufficient availability of all three types of capacity booking.

Scope of the Arrangements

Do you support the scope of the draft framework guidelines proposed?

As mentioned above, DONG Energy believes that existing and new capacity should be considered under the same framework, wherefore we recommend not only to focus on short term availability but to include the longer term/the investments in the scope.

A number of terms used in the framework need to be further defined and/or qualified. Without such details it is difficult to make any impact assessments.

Existing contracts

What are in your views of the challenges that existing contractual arrangements create with regard to capacity allocation? What would be the possible ways to overcome those challenges?

DONG Energy finds that the basic principle should be that all existing contractual capacity rights must be respected. The capacity rights are an integrated part of the “gas chain” for instance in securing needed capacity for delivery of contracted physical gas – and the transport system is tailor made to handle the existing physical gas flows.

The sustainability and market driven expansion of the gas grid infrastructure is dependent upon a risk-sharing business approach. The long term bookings - also applied in the Open Season processes – has made it possible for

infrastructure investors/TSO's to share investment risks with a number of shippers. The needed future investment level could be jeopardized without such a risk sharing mechanism.

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As additional gas becomes available from existing or new sources and gas is increasingly being traded between markets, a mechanism to underpin the more dynamic market enabling the additional gas flow must be further developed, as the changing market can be stifled by congestion in the tailor made transport system. In this regard it should be noted that in general the congestion problems are not created by the existing long term contractual rights as such. In some areas substantial long term bookings of the incumbents might present congestion problems, which potentially can be alleviated by Open Seasons and/or capacity releases.

However, other reasons for lack of capacity in the grids include: 1) Market area integration, 2) Change of balancing regimes from hourly to daily and 3) An increased number of shippers (loss of pooling effect). The TSO's must adjust the capacity to meet these new market requirements. On a longer term basis it may be necessary to address such issues by Open Seasons. On a shorter term basis the TSO's may be able to free up extra firm capacity by optimizing capacity calculation systems, "overbooking", "flow commitments", buy-back arrangement etc.

Should relevant clauses in existing contracts be amended if they contradict the new legally binding set of rules (which will be based on the framework guideline) in order to create a level playing field for all shippers?

Basically, existing contractual rights should be respected – and any issue of incompatibility should be addressed only in direct dialogue with the holders of capacity rights.

Experts have discussed if existing / legacy contracts should be questioned if certain conditions are met, in order to free up capacity, which would then be reallocated. Do you consider such a proposal appropriate?

We consider the following conditions crucial in the evaluation of whether existing/legacy contracts should be questioned:

1. All entry points are fully booked
2. Open Season has been conducted, but it does not fulfill market demands
3. One market player is dominating the existing long term bookings

If these conditions are met, it might be relevant to consider releasing some of the existing capacity bookings – an exercise, which has to be conducted in dialogue with the relevant shipper.

TSO cooperation

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Is the scope of the identified areas for TSO cooperation appropriate to ensure efficient allocation of cross-border capacity in order to foster cross-border trade and efficient network access?

The TSO cooperation – also following the 3rd liberalization package – needs to be supported by improved cooperation between the regulators, including the economic regulation (investments, asset base, tariffs etc.). European regulators should develop mechanisms to secure coordinated approval of investments within a natural, regional scope, including exchange of information and joint assessments of relevant projects.

Contracts, codes and communication procedures

Should a European network code on capacity allocation define a harmonized content of transportation contracts and conditions of access to capacity?

DONG Energy encourages market integration within EU – the aim should not necessarily be full market mergers; but rather the development of natural regional market areas with seamless interaction. The new network codes should support such a development.

Should a European network code on capacity allocation standardize communication procedures that are applied by transmission system operators to exchange information between themselves and with their users?

DONG Energy supports a basic standardization of communication procedures, supporting the degree of standardization needed by the market and which probably should be developed by the TSO's/ENTSO-G.

Capacity products

What are your views of our proposals regarding capacity products?

As a shipper DONG Energy needs access to firm and interruptible products of different durations such as daily, monthly, annual, multi annual and seasonal products. Capacity products should be aligned cross-border. We are in support of the introduction of bundled products as an extension of the TSO's product line.

Do you agree with the idea of defining a small set of standardized capacity products that do not overlap?

DONG Energy is supportive to the development of a small set of standardized capacity products. However, it should be possible to develop and offer additional products – and the TSO' should on an ongoing basis have a dialogue with the users.

Should TSOs offer day-ahead and within-day capacity products?

Yes, the TSOs should offer firm day-ahead and within day capacity products.

Should European TSOs offer the same capacity products at every interconnection point across Europe?

European TSO's should offer the same basic standard capacity products at the interconnection points – but they may also offer additional products reflecting the market needs.

Should TSOs offer interruptible capacity also in cases where sufficient firm capacity is available?

Interruptible capacity should be offered only, if no firm capacity is available.

Breakdown and offer of capacity products**Should a reasonable percentage of the available capacity be set aside for firm short term capacity products?**

A reasonable percentage of the available capacity could be reserved for firm, short-term capacity products. This should be done in dialogue with the market, and the percentage should not be too large in order to avoid unutilized capacity.

Cross-border products**Recital 19 of Regulation (EC) 715/2009 states that gas shall be traded independently of its location in the system. Do you think that cross-border products will facilitate the exchange of gas between virtual hubs of adjacent markets?**

Cross-border capacity products will facilitate the exchange of gas for certain trades. However, the possibility to trade at the entry/exit border points should be maintained.

Do you support full bundling of cross-border capacity into one single capacity product, including a limitation of the possibility to trade at the border so that gas is traded at virtual hubs only in order to boost their liquidity?

A bundled cross-border capacity product should be offered as an additional product to other capacity products including independent entry and exit capacity bookings.

Do you consider combined products to be an appropriate interim step towards bundled products?

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From the contents of the Draft Framework Guideline it is not possible to see, how the combined products may develop into bundled products. Consequently, we are unable to judge whether an interim step is appropriate or needed at all.

Should capacity at two or more points connecting the two same adjacent entry-exit systems be integrated into one single capacity product representing one single contractual interconnection point?

The consequences of this suggestion are unclear to us. Further discussions are probably needed between the market players.

Capacity allocation**Should auctions be the standard mechanism to allocate firm capacity products?**

The principle of first-come-first-serve should be maintained for all non congested interconnection points.

DONG Energy would like to emphasize the importance for TSO's to reflect on current market signals by conducting regular Open Seasons and thereby aiming to avoid substantial congestion.

DONG Energy can support auctions as the allocation method of capacity from congested interconnection points. Great care must be taken to develop an intelligent auction design with e.g. a proper tariff ceiling.

What would be the implications of using auctions for capacity allocation in the markets in which you operate? Is there any way in which auctions can be designed to overcome potential issues resulting from their introduction in those markets?

The use of auctions for allocating capacity from congested interconnection points may result in high and volatile prices, distorted bidding behavior and possibly higher transaction costs. This can probably be avoided by using e.g. proper tariff ceilings where shippers are being pro-rated and possibly by introducing certain bidding limitations for the incumbent.

Do you support pro rata allocation as an interim step? If yes, should pro rata allocation only be used in given situations or market conditions?

DONG Energy does not see the need for an interim step with pro rata allocation. However, pro-rata allocation may be used to finalize specific auctions.

Re-Marketing Booked Capacity

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Should the network code define harmonized firm secondary capacity products and anonymous procedures for offer and allocation of secondary capacity products in line with those on the underlying primary capacity market?

Also in the future market players should have the option of trading secondary capacity at TSO platform(s) as well as to sell capacity OTC.

The network codes may recommend some structure for harmonized firm secondary capacity products and anonymous procedures in line with the primary market – which the market players may use in addition to using other means.

Booking platforms

Do you think that all capacity connecting systems of two adjacent transmission system operators should be allocated via a joint, anonymous, web-based platform?

DONG Energy could support the establishment of an “Eucabo”- alike platform to handle bundled products for all TSO’s within a natural, regional market area. Non-bundled products may also be handled by other platforms.


Do you agree that joint allocation of primary and secondary capacity products on these platforms would strengthen capacity market?

DONG Energy believes that the primary and secondary markets serve different purposes. The primary market is used by the shippers to secure their mid-term sales plans, whereas the secondary market is used for short-term optimization. Consequently, we do not think that joint allocation will really make a difference with regard to the capacity market.

DONG Energy would like to thank ERGEG for having the opportunity to comment on this consultation.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours sincerely
DONG Energy



Jan Ingwersen
Vice President