RWE

Mrs Fay Geitona
Secretary General
ERGEG
Rue le Titien 28
1000 Brussels
Belgium

Market Design & Regulatory Affairs

Your ref.	Your ref
Your letter	Your letter
Our ref.	Our ref
Contact	Steve Rose
Phone	+44 (0)1793 892068
Fax	+44 (0)1793 892118
Email	stephen.rose@rwe.com

Swindon, 26/02/2010

Consultation on Pilot Framework Guidelines for Capacity Allocation

Dear Fay,

RWE Supply and Trading welcomes the opportunity to comment on the above consultation.

We commend ERGEG on the completeness of the Framework Guidelines and broadly support and welcome the proposed measures. We believe they provide a sound basis for ENTSO-G to develop a network code that will ensure capacity is allocated at cross border interconnection points throughout the EU in an efficient and non-discriminatory manner. This in turn will increase competition and facilitate integration of European gas wholesale markets and wider gas supply security.

These Framework Guidelines must be viewed in conjunction with ERGEG's recommendations for guidelines on a comitology procedure for Congestion Management. In order to achieve the benefits of greater competition and European market integration it is imperative that the measures set out in the Framework Guidelines are implemented in conjunction with efficient congestion management measures. As congestion management procedures will take the form of guidelines to the Regulation on conditions of access to gas transmission networks and not be codified by ENTSO-G, there is a danger that congestion management is effected differently in Member States and at interconnection points. Were this to happen it could negate the effectiveness of adopting harmonised capacity allocation procedures. ERGEG/ACER should be alert to this possibility and be prepared to take steps to avoid any such occurrences.

We welcome the clear statement in the Framework Guidelines that auctions shall become the primary method of allocating firm capacity. To underpin the TSOs commitment to releasing firm capacity and to clearly distinguish it from interruptible capacity it is important to state that all firm capacity shall ultimately be "financially" firm. If network users conclude that the risk associated with booking firm capacity is, in reality, not dissimilar to that of booking interruptible capacity they will opt for the latter, which would not be conducive to greater competition and integration. TSOs should also be properly incentivised to maximise the release of

RWE Supply & Trading GmbH
Swindon Branch

Windmill Hill Business Park
Whitehill Way
Swindon SN5 6PB
United Kingdom

T +44(0)1793/87 77 77
F +44(0)1793/89 25 25
I www.rwe.com

Registered No. BR 7373

VAT Registration No.
GB 524 921354

Advisory Board:
Dr Ulrich Jobs

Board of Directors:
Stefan Judisch (CEO)
Dr Bernhard Günther
Dr Peter Kreutzberg
Richard Lewis
Alan Robinson

Head Office:
Essen, Germany
Registered at:
Local District Court, Essen
Registered No.
HR B 14327

financially firm capacity as interruptible capacity should be offered sparingly and only when all available firm capacity has been released.

Auctioning firm capacity consistently at all existing EU interconnection points is a worthy principle for TSOs to aspire to and should ensure that allocation of any available existing capacity is efficient and non discriminatory. Auctions could also be used to allocate and underpin investment in new capacity at existing interconnection points if the auction horizon is sufficiently far out to support investment decisions and in line with network users gas procurement/trading horizons.

Similarly bundling capacity and integrating the allocation of primary and secondary capacity on common trading platforms should reduce administrative and operational cost and complexity for network users and increase liquidity.

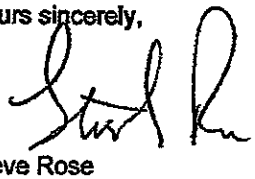
ERGEG/ACER must recognise that there is a considerable amount of work still to be done developing the fine detail of the arrangements giving effect to the principles in the Framework Guidelines. Whilst ENTSO-G clearly have the lead role in developing these arrangements under the Regulation it is vital for both ACER/ERGEG and network users to be properly represented in discussions whilst development is underway, not just at the end of the process. Also as Capacity Allocation is a pilot case for developing network codes it is not yet clear how much of this fine detail (e.g. as regards how auctions bids are stacked and allocated and how clearing prices, if used, are set) will be included in network codes. To properly define these processes will take many pages of complex text and such a document does not readily lend itself to sanction under the comitology process.

That said, RWE Supply and Trading is committed to playing a full and constructive part in helping to develop efficient procedures for capacity allocation and congestion management and would welcome any opportunity to assist in this process.

Our response to the specific questions raised in the consultation is included as an appendix. We have also included a marked up copy of the Framework Guidelines which includes our suggestions as to how they could be amended to ensure greater clarity.

We hope you find these helpful and we would be happy to discuss them with you in more detail. Please do not hesitate to contact us if you would like to arrange this or have any comments regarding our response.

Yours sincerely,



Steve Rose
Head of Gas Market Design

Ralf Presse
Head of Gas Regulation

Appendix 1

Comments on the specific questions raised in the 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 fulfilment of the capacity allocation principles set out in the Third Package of Energy legislation?*

We broadly support and welcome the proposed measures. We believe they will achieve the non discriminatory and transparent principles set out in the Third Package and promote greater integration of European gas markets.

We are disappointed that the Framework Guidelines do not specifically state that firm capacity shall be financially firm as we believe that adopting this principle at all cross border inter-connection points will give network users greater confidence that they will be appropriately compensated in the event TSOs do not make capacity available which they have contracted to provide. Whilst this may not be possible to achieve immediately at all interconnection points, the Framework Guidelines should recognise that the principle of financial firmness underpins efficient capacity allocation and should set out the conditions necessary for fully implementing it. Whether compensation is derived from TSOs being required to buy back capacity from network users or TSOs paying network users the difference in price prevailing at adjacent market hubs is immaterial; the principle is that TSOs should be required to pay adequate compensation where they cannot meet their contractual obligations for reasons other than force majeure and network users should not be required to pay for capacity they are unable to use.

• *What are your views of the implications of each for the measures for 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).*

We believe that implementing the Framework Guidelines in conjunction with congestion management procedures will facilitate greater trading liquidity at market hubs as the capacity interconnecting such hubs will be allocated more efficiently. Greater opportunities to purchase capacity and increased trading liquidity will encourage new entrants and more sophisticated traded products.

Allocating firm capacity by auction will also create market signals showing where incremental capacity is required and the revenue stream and user commitment resulting from auctions can be relied upon to underpin TSOs investment decisions in such incremental capacity, thus relieving congestion.

Scope of the Arrangements

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

Yes. For the avoidance of doubt however, we think it would be useful if the Framework Guidelines were to consistently reference those capacity terms defined in the Regulation (e.g. "capacity", "firm capacity"," interruptible capacity", "technical capacity", "unused capacity", "contracted capacity" and "available capacity") where relevant.

The Framework Guidelines are currently silent on the future role of Open Seasons in allocating new capacity. We believe this needs to be addressed and in our opinion Open Seasons should continue to have a role to play in allocating capacity at new interconnection points. However, for all existing interconnection points new and existing capacity should ultimately be allocated by auction.

Finally care should be taken to ensure that the capacity allocation procedures resulting from these Framework Guidelines are compitable with future Framework Guidelines on market based balancing and with any current or future security of supply obligations.

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?*

TSOs may face significant challenges in amending existing contract arrangements to accommodate these Framework Guidelines, particularly within 6 months of network codes coming into force, as the terms in these contracts may not allow them to act unilaterally.

We assume that unless a capacity holder has its capacity withdrawn under congestion management procedures the capacity it continues to hold will remain subject to the prevailing terms and conditions. As such it will not become subject to the auctioning and bundling provisions of these guidelines until such time as it expires which may considerably lessen or delay the efficiency benefits that are expected to arise from these Framework Guidelines.

We assume that as a minimum TSOs will be required to allocate any unsold, withdrawn or surrendered capacity in accordance with these Framework Guidelines and to combine/bundle such capacity with that at adjacent interconnection points. TSOs should also be required to terminate evergreen contracts at the earliest opportunity where they are able to do so unilaterally.

To the extent that this leads to existing network users paying different prices for capacity compared to users who have secured capacity through an auction we do

not think it is appropriate to try and align them in some way. Doing so risks the possibility of gaming and of distorting market signals arising from the auction.

We believe the challenges associated with implementing these Framework Guidelines can to a large extent be overcome by implementing congestion management procedures concurrently and by national regulatory authorities offering incentives for network users to voluntarily relinquish capacity for reallocation by auction.

• *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?*

Where possible yes, but unless existing contracts are withdrawn under congestion management procedures existing contracts must be respected. For example auctioning capacity and combining/bundling capacity with adjacent entry/exit capacity can presumably only be applied to unsold and surrendered capacity (if any) unless the existing capacity held by network users is withdrawn. It is hard to see how you can auction or combine/bundle capacity which a network user is contractually entitled to retain.

• *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 believe the issue of whether and how to free up capacity should be dealt with by way of ERGEG's congestion management procedures. However, to the extent existing/legacy contracts are able to be changed unilaterally by the TSO in response to requirements stated in these Framework Guidelines, it would seem appropriate to give the network user the right to terminate (in the same manner envisaged in ERGEG's recommendations for Congestion Management).

<u>TSO cooperation</u>

• *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?*

Yes.

<u>Contracts, codes and communication procedures</u>

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

Yes. We believe that a binding European network code on capacity allocation should lay down the generic and harmonised contents required of transportation

contracts and the conditions of access to capacity at all EU interconnection points.

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

Ideally it should, but we recognise this may be difficult to achieve (at least in the short term) and would not want this to hold up the development of cross border capacity allocation, or the implementation of such a code. Publication of ENTSO-G's IT Roadmap may help to better inform shippers of the impact standardised TSO communications procedures may have on their operations, and the extent to which they will need to develop new and/or amend existing IT systems to accommodate such an aspiration.

Capacity products

• *What are your views of our proposals regarding capacity products?*

We support the proposals but think this section should clearly state that all firm capacity at interconnection points shall ultimately be regarded as financially firm, although we recognise this may take time to achieve. In the event a TSO is not able to make firm capacity available on any day the network user should not be required to pay for it. The TSO should also be required either to buy-back such capacity via a market based mechanism or to compensate the capacity holder for its loss in accordance with agreed congestion management procedures and guidelines.

There may also be a benefit in proposing that the energy units per unit of time is standardised in the Framework Guidelines and in possibly mandating what this unit should be (e.g. kWh, MWh).

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

Yes. Core capacity products should be offered in standardised temporal strips (e.g. annual, quarterly, monthly, daily) in distinct standardised application and allocation windows. Core capacity products must also be consistent with the market based balancing regime in place at either side of interconnection points.

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

Yes. Any unsold or surrendered firm capacity for a particular day should be made available by TSOs on a day ahead and within day basis.

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

Yes. TSOs should offer the same core capacity products at every interconnection point across Europe in standardised application and allocation windows. However, TSOs should not be prevented from offering capacity products and other services over and above the core capacity products at interconnection points, in response to market demand.

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

The availability of firm capacity may vary over time and change rapidly and erratically. To this extent it is important for the arrangements to provide for interruptible capacity to be made readily available on a day ahead or within day basis if no firm capacity exists, but we do not believe it should actually be released until all firm capacity is exhausted.

That said, interruptible capacity will need to be offered at uni-direction interconnection points offering reverse flow capacity and should in all cases be made available in accordance with defined a defined release methodology rather than simply at TSOs discretion.

Breakdown and offer of capacity products

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

We believe it is appropriate for national regulatory authorities to specify a reasonable percentage of the available capacity to be set aside for firm short term products at each interconnection point, and for such percentage to be aligned between adjacent TSOs. This percentage, and the short term capacity products it is assigned to, should be standardised over time.

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?*

Yes. However we think situations may arise where TSOs require gas to flow at specific interconnection points for system operation/integrity reasons. To this extent the ability to trade gas and capacity at a specific entry/exit points of adjacent systems should not be precluded.

• *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?*

Whilst we support the principle of bundling cross border capacity into one single capacity product this is a medium/long term aspiration as effective bundling will

not occur whilst legacy contracts remain in place. Until such time, trading at the border will persist and unbundled capacity products will be required to support flange trading, sitting alongside bundled capacity products. Liquidity at virtual hubs can be expected to increase substantially as a result of implementing common cross border network codes and guidelines on capacity allocation and congestion management. We do not believe that facilitating legitimate market needs for trading at the borders whilst legacy contracts persist will significantly diminish liquidity at virtual hubs.

Bundling capacity may also diminish the cost reflectivity of transportation charges, which ultimately could lead to inefficient operation and investment.

We would welcome more detail from ERGEG about how they see bundling being applied in practice at individual interconnection points, and between adjacent networks and market hubs, along with the timescales envisaged for full bundling of capacity products.

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

Yes. Combining exit capacity from one zone with entry capacity from an adjacent zone and offering/allocating them in combination will be more efficient for shippers and should help to increase liquidity.

• *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?*

In principle yes but see above our concerns about bundling. Where a market hub is made up of a number of different TSO networks this concept could also prove challenging.

Capacity allocation

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

Yes. Auctions will ensure firm capacity is allocated to those parties that value it most. Where interconnection points are not congested it could be argued that auctions are not necessary and that a first come first served allocation mechanism would be sufficient. However the extent to which congestion exists can change quickly and over different timescales so adopting an auction only process will ensure that the most efficient allocation mechanism is in place should congestion ever arise.

Auctioning is obviously more complex than first come first served and this needs to be properly taken account of by national Regulators when considering the timescales and resources required by TSOs to implement such an allocation method. However, the fact that the same auction process will be applied consis-

tently across all interconnection points could provide opportunities for TSOs to engage in common system development and ensure that network users quickly become familiar with the process. If congestion does not materialise auctions will be expected to clear at the reserve price and will in essence resemble an administered first come first served booking process.

• *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 a*

We believe using auctions for capacity allocation will enhance liquidity and competition in each of the markets we operate in, although careful consideration will need to be given about how auctioning day ahead and within day capacity sits alongside "click and book" gas commodity exchanges. The fact that at all interconnection points auctions will be held for a standard range of capacity products at the same time and in a consistent manner will ensure network users can adopt long and short run integrated procurement/supply strategies throughout Europe.

Auctions could also be used to allocate and underpin investment in new capacity at existing interconnection points if the auction horizon is sufficiently far out to support investment decisions and in line with network users gas procurement/trading horizons. Any TSO investment triggered by long term auction signals would still have to be sanctioned jointly by national Regulators at each side of the interconnection point.

We believe that auctioning would be a more consistent and efficient basis for determining capacity investment at existing interconnection points than an "open season" approach. However, we still believe Open Seasons have a role in allocating capacity at new interconnection points, although once built any future capacity allocation would be by auctioning.

• *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?*

No. Pro rata allocation results in all parties not getting the capacity allocation they require and we believe auctions are preferable in all cases. To the extent there are concerns over market concentration this can be overcome with appropriate reserve prices and "Use it or Lose/Sell it" mechanisms.

<u>Re-Marketing Booked Capacity</u>

• *Should the network code define harmonised 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?*

We believe the network code should require TSOs to facilitate secondary trading of capacity between network users either by way of transfer (where the obligations remain with the transferring user) or assignment (where the obligations

transfer from the assignor user to the assignee user). To the extent that network users hold primary capacity they should be entitled to sell this to another user either bilaterally OTC or by way of trading platforms set up by an exchange operator or TSO. In both cases the TSO should be required to record and publish the relevant details of the trade and adjust each network users capacity holdings accordingly.

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?*

Yes. All firm capacity sold directly by TSOs to network users between two adjacent interconnection points or market hubs should be allocated by auction using anonymous web based platforms. This is likely to be the most efficient method of allocation. TSOs should also strive to keep the number of platforms to a minimum.

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

We believe that joint allocation of primary and secondary capacity on a common trading platform could work, although it would need further thought and careful development.

Such an option could strengthen capacity markets, although it should always be born in mind that capacity markets are simply a means to facilitate efficient commodity markets and except where congestion exists, capacity will be immaterial to the primacy of the commodity market.

Joint allocation of primary and secondary capacity on a common trading platform is likely to be more complicated to implement, particularly bearing in mind the fact that there are already competing third party providers with secondary platforms at existing interconnection points. As such we think it would take longer to implement the core principles of auctioning and bundling set out in these Framework Guidelines if this approach is mandated, which ultimately could be disadvantageous.

If such an option were pursued we believe that offers submitted by network users on a joint trading platform should be open to acceptance by other users until such time as the TSO is required to offer unsold primary capacity (incorporating capacity withdrawn and surrendered as a result of long term and short term UIOLI) to the market under the network code. Thereafter capacity offers remaining on the trading platform would be amalgamated with any unsold primary capacity and offered to the market by the TSO in accordance with these Framework Guidelines.

For example, a user may offer a strip of monthly capacity for March 2010 on a trading platform throughout January and the first half of February 2010, which may be accepted by another user during this time. Assuming the TSO is required to offer unsold monthly primary capacity during the second half of month preceding its use, if the network user keeps its offer on the trading platform beyond a cut off date in mid February the TSO shall amalgamate this offer with any unsold capacity for March 2010 and offer this combination of primary and secondary to the market in accordance with the Framework Guidelines. In the event some or all of this amalgamated capacity remains unsold TSOs would be required to sell this on a daily basis during March 2010 in accordance with these Framework Guidelines.

Network users should be paid a pro rata share of any auction revenues generated based on the contribution their secondary capacity makes to the total primary and secondary capacity offered by the TSO.

Appendix 2

Marked-up copy of ERGEG's Capacity Allocation Framework Guidelines

1. SCOPE OF THE ARRANGEMENTS

F1 General rules

F1.1 Scope

The rules in this Guideline apply to cross-border interconnection points between two or more Member States as well as interconnections between adjacent entry-exit-systems[1] within the same Member State, insofar as the points are subject to booking procedures by users. Open seasons may continue to be used to allocate new capacity at new interconnection points but shall, wherever possible, be consistent with the principles and time-scales for allocating and releasing new capacity at existing interconnection points. Exit points to end consumers and distribution networks, entry points to supply-only networks, entry points from LNG-terminals, and entry/exit points to or from storage facilities are not subject to this Guideline.

This Framework Guideline applies to capacity as calculated by transmission system operators and as defined in Regulations (EC) 1775/2005 & 715/2009.

Deleted: .

The network code adopted according to this Guideline will be applied by transmission system operators taking into account possible public service obligations and without prejudice to the regulatory regime for cross border issues pursuant to Article 42 of Directive 2009/73/EC and of the responsibilities and powers of regulatory authorities established according to Article 41 paragraph 6 of Directive 2009/73/EC.

Transmission system operators and national regulatory authorities shall consult widely on all aspects of the network code and accompanying methodologies arising from this Framework Guideline.

2. EXISTING CONTRACTS

F1.2 Existing contracts

Within 6 months after entering into force of a legally binding network code, transmission system operators shall amend the relevant clauses in capacity contracts existing prior to the application of this code in relation to available capacity[2] and unused capacity[3] so that they are in line with the implemented provisions. Transmission system operators shall also seek to amend the relevant clauses in capacity contracts relating to contracted capacity[4]

Deleted: Following the adoption

Deleted: all

Deleted: within 6 months after entering into force of the code

[1] As provided for by recital 19 and art. 13 (1) al. 4 of Gas Regulation 715/2009

[2] As defined in article 2 (20) of the Gas Regulations 1775/2005 & 715/2009

[3] As defined in article 2 (4) of the Gas Regulations 1775/2005 & 715/2009

[4] As defined in article 2 (19) of the Gas Regulations 1775/2005 & 715/2009

Formatted: Font: 8 pt

within the same timescales. Expiring contracts shall not be subject to tacit extension. Evergreen contracts shall be terminated at the earliest opportunity.

3. TSO COOPERATION

F1.3 Cooperation

The network code shall set out that transmission system operators cooperate with adjacent transmission system operators and shall specify the necessary procedures collaboratively. The network code shall clearly assign responsibilities of transmission system operators in promoting efficient cross-border trade and efficient network access. It shall define how transmission system operators:

- exchange relevant data,
- harmonise capacity products and capacity allocation, including their timing,
- harmonise their maintenance in to optimise network access.
- cooperate in the area of capacity calculation and maximisation

Capacity calculation and maximisation

The network code shall set out how transmission system operators cooperate with regard to technical capacity[5] calculation and maximisation in order to maximise the capacity they offer. Transmission system operators shall make their methodologies for technical capacity calculation transparent.

The network code shall set out how transmission system operators exchange information when planning day-to-day network operation, including forecast entry and exit flows as well as the availability of network components, of capacity buy-back mechanisms, if any, and of system balancing energy, in order to maximise available technical capacity.

4. CONTRACTS, CODES AND COMMUNICATION PROCEDURES

F1.4 Contracts, conditions and communication

As regard capacity allocation, the network code shall define the generic content of transportation contracts and conditions of access to capacity.

Deleted: harmonized

The network code shall set out the relevant data to be published at every interconnection point in accordance with Chapter 3 of the Annex to Gas Regulations (EC) 1775/2005 and 715/2009. It shall standardise communication procedures that are applied by transmission system operators to exchange information between themselves and with their users. Coordinated information systems and compatible electronic on-line communications shall be utilised particularly for capacity booking and transfers of capacity rights between network users.

[5] As defined in article.2 (18) of the Gas Regulations 1775/2005 & 715/2009

5. CAPACITY PRODUCTS

F2 Third party access

F2.1 Capacity products

The network code shall set out that, at each interconnection point, transmission system operators determine the firm and interruptible capacity[6] they jointly offer.

Network codes shall foresee that transmission system operators offer firm capacity at any interconnection point in both directions; at unidirectional points, backhaul capacity shall be offered at least on an interruptible basis. If no firm capacity is available transmission system operators shall offer interruptible capacity. The published available capacity shall be binding on the transmission system operator and the network code shall lay down an action plan to make all firm capacity "financially firm" such that if the transmission system operator is not then able to make it available the network user shall not be obliged to pay for it and will be entitled to compensation for its loss. This plan shall include a timetable.

The network code shall define a small set of standardised firm and interruptible capacity products of different durations and starting dates. The same set of products shall be offered at every interconnection point. The capacity product design shall aim at developing competitive gas markets. It shall regularly be subject to proper consultation with network users.

The capacity offered shall be expressed in a single energy unit per unit of time. The offer and use of separate capacity for transit purposes shall be forbidden.

Deleted: and interruptible

Deleted: firm

Deleted: of

Deleted: s

6. INTERRUPTIBLE CAPACITY PRODUCTS

F2.2 Interruptible capacity products

The network code shall set out that subject to a defined methodology transmission system operators offer harmonised interruptible capacity products at every interconnection point in both directions in the event no firm capacity is available.

Adjacent transmission system operators shall implement procedures, including the definition of interruption lead times, to ensure that interruptions take place in a coordinated manner.

The network code shall define the possible reasons of interruption, classes of interruptibility, the sequence how interruptions take place, and the methodology to calculate the likelihood of interruption.

Registered network users are entitled to make nominations[7] against interruptible capacity at any time. This entitlement shall not restrict the allocation of firm capacity by transmission system operators.

Deleted: submit

Deleted: ions on an

Deleted: basis

Deleted: 20

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Deleted: Directive

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

[6] As defined in articles 2 (13) and 2 (16) of the Gas Regulations 1775/2005 & 715-2009

[7] As defined in article 2 (7) of the Gas Regulations 1775/2005 & 715/2009

7. BREAKDOWN AND OFFER OF CAPACITY PRODUCTS

F2.3 Breakdown and offer of capacity products

Depending on market needs and conditions, transmission system operators shall determine the breakdown of available capacity between the different long and short term firm capacity products. A reasonable percentage of the available capacity shall be set aside for firm short term capacity products consistently at all interconnection points. The amount of capacity for each capacity product shall be aligned between adjacent transmission system operators and approved by national regulatory authorities for each interconnection point. It shall be published and subject to regular consultations.

The network code shall set out the procedures followed by transmission system operators to offer all available capacity in a transparent and non-discriminatory manner as firm long and short-term capacity products. The transmission system operators shall offer the available capacity plus any contracted capacity from previous allocations surrendered by capacity holders and any unused capacity released through use-it-or-lose-it mechanisms.

Deleted: 's

Deleted: and interruptible

Deleted: firm capacity

Deleted: remaining firm capacity not previously allocated and any

8. CROSS-BORDER PRODUCTS

F2.4 Cross-border products

F2.4.1 Combined products

The network codes shall set out that the transmission system operators jointly offer combined capacity products at every interconnection point. The combined products include the exit capacity from one zone and the entry capacity into the adjacent zone. This requires the adjacent transmission system operators to cooperate closely. In order to achieve the aim of offering combined products transmission system operators shall at least agree that one of them allocates all available entry and exit capacity jointly offered. Combined products may be transferred separately or nominated differently as component entry or exit products where necessary for market efficiency.

Deleted: National regulatory authorities may decide that c

Deleted: not

Deleted: differently

F2.4.2 Bundled products

The network code shall foresee that in case capacity offers, products, allocation and utilisation mechanisms are harmonised transmission system operators offer bundled capacity products. The exit and entry capacity at every point connecting adjacent entry-exit systems shall be bundled in such a way that the transport of gas from one system to an adjacent system is provided on the basis of a single allocation procedure and single nomination and that the quantity of capacity offered is not diminished.

Bundling capacity comprises integrating exit and entry capacity at a given interconnection point into one single product in such a way that the transport of gas from one entry-exit zone to an adjacent zone is provided through a single allocation procedure and single booking.

The network code shall also set out that capacity at two or more points connecting the two same adjacent entry-exit systems is bundled into one single capacity product representing

Deleted: integrated

Deleted: integrated

one single contractual interconnection point. Transmission system operators shall calculate the entire technical capacity of the bundled product and shall make their methodologies for the technical capacity calculations transparent.

The network code shall lay down an action plan to realise bundled products and to replace combined products. This plan shall include a timetable.

9. CAPACITY ALLOCATION

F3 Capacity Allocation

The network code shall set out how transmission system operators offer capacity on a regular basis for all firm products. The network code shall define a number of regular points in time for the allocation of firm capacity products. Each of these points in time shall be appropriate with regard to the duration of the capacity product offered at this allocation date. The longer the capacity product duration, the longer its allocation lead time (i.e. the time between the allocation of the capacity and its use). Each allocation procedure shall contain a time window during which capacity is requested.

The network code shall set out that, for the same capacity product, the allocation procedures take place at every interconnection point in Europe in a coordinated way at the same time.

Capacity allocation procedures shall be designed with regard to market conditions and shall be regularly reviewed and revised if necessary.

The network code shall set out that adjacent transmission system operators, in and across Member States, apply harmonised allocation mechanisms. It shall require that transmission system operators publish the detailed procedure as well as the available capacity offered, its lead time and its duration sufficiently in advance.

Capacity allocations at existing interconnection points shall not take place outside the standard allocation procedures and times as applied according to this Guideline.

F3.1 Auctions

The network code shall set out that firm capacity products at all existing interconnection points are allocated via auction. The network code shall set out the principles and possible options of anonymous and transparent online-based auction procedures. The auction design shall be subject to review by the regulatory authorities concerned and to regular market consultations.

Auction revenues exceeding the regulated tariffs (or values determined by the national regulatory authority) shall be used in accordance with national provisions, such as lowering network tariffs, removing congestion by investments or providing incentives to the transmission system operators to offer technical capacity.

The network code shall not impede potential allocation by means of implicit auctions.

Deleted: The network codes shall not impede implicit auctions.

Deleted: for different aims

Deleted: maximum

F3.2 Pro rata

The network code shall set out that pro rata allocations may only be applied as last resort and for an interim period, when conditions for efficient and fair auctions can not be met by other regulatory means. This might in particular be the case where auctions would result in distorted bidding behaviour. It will be up to the competent regulators to decide whether the conditions are met or not[8]..

According to the pro rata mechanism every shipper is allocated a portion of available capacity equal to the proportion of its capacity demand related to the total capacity demanded by shippers during the allocation procedure.

F3.3 First come first served

The network code shall set out that transmission system operators jointly offer and allocate any firm capacity becoming available after allocation of day-ahead firm capacities via an auction. Transmission system operators shall agree on appropriate common mechanisms and a timetable for doing so. Intraday firm and interruptible capacity may be allocated by transmission system operators according to the first come first served principle where national regulatory authorities agree that auctioning is not a necessary prerequisite for ensuring efficient capacity allocation and competition at an interconnection point(s).

Deleted: during
Deleted: are not met
Deleted: durings
Deleted: according to the first come first served principle or
Deleted: With the possible exception of i
Deleted: ,
Deleted: shall not allocate any capacity

10. RE-MARKETING BOOKED CAPACITY

F3.4 Secondary markets

The network code shall set out how transmission system operators facilitate trade of firm capacity rights on the secondary market. The network code shall define harmonised secondary firm capacity products and anonymous procedures for bids, offers and allocation in line with those on the underlying market for available and unused capacity along with other methods to facilitate secondary trading of firm capacity. Transmission system operators shall be entitled to split and combine available, unused and offered secondary firm capacity products into products of shorter duration for subsequent allocation.

Deleted: firm
Deleted: primary capacity
Deleted: and
Deleted: further
Deleted: and unsold
Deleted: the

11. BOOKING PLATFORMS

F3.5 Booking platforms

The network code shall set out that adjacent transmission system operators establish joint, anonymous, web-based platforms for available and unused capacity allocation and secondary firm capacity trading. All available and unused capacity connecting their systems is to be allocated via this platform, unless allocated by means of implicit auctions. Available,

Deleted: primary

[8] According to art. 41 (6)c and 9 of the Directive 2009/73/EC, "[T]he regulatory authorities shall be responsible for fixing or approving sufficiently in advance of their entry into force at least the methodologies used [...] establish the terms and conditions for: [...] access to cross-border infrastructures, including the procedures for the allocation of capacity

unused and secondary firm capacity products may be offered and allocated jointly on these platforms.

The network code shall lay down an action plan to reduce the number of platforms. This plan shall define interim steps and shall include a timetable.

Deleted: Primary

Deleted: shall