

ERGEG Public Consultation E08-GFG-41-09

Capacity allocation and congestion management in gas transmission networks

The above consultation sets out ERGEG's position on Capacity Allocation Methodologies (CAM) and congestion management procedures (CMP) for interconnection points between adjacent networks (cross-border as well within Member States). We fully agree that capacity is a scarce resource which must be allocated efficiently amongst market participants in order to achieve the creation of a single, competitive EU gas market, maintain security of supply and sustainability. In particular, we agree with the problems ERGEG has identified in terms of CAM and CAP. We also support ERGEG's approach to bring capacity to the market where there is contractual congestion.

ERGEG consider that FCFS methods of capacity allocation are potentially discriminatory and we believe that market based mechanisms to allocate capacity can deliver more efficient results.

However, we are concerned with some proposals to withdraw under utilised capacity and to extend regulators' powers beyond those already available under competition law where there is a degree of dominance. Both of these proposals would add to risk for capacity holders, potentially undermining participants' investment decisions and discouraging new investment or market entry. Increased risk could thereby lead to unintended consequences.

Our specific comments are set out below.

General Principles

G1.1 We agree that exit points to end consumers as well as to LNG-terminals or storage facilities should not be subject to the Guidelines.

G1.2 and G 1.2.1 We agree that TSOs should cooperate with clearly defined responsibilities to promote cross border trade. It is also important for TSOs to exchange information, including forecast entry and exit flows as well as the availability of network components, of capacity buy-back mechanisms, if any, and of balancing energy, in order to optimise use of the network as a whole through operational measures.

G1.2.2 and G1.2.3 We agree that it is important to ensure compatibility of products and procedures. This is essential to the delivery of an efficient integrated market. It will help reduce complexity and minimise transaction costs for market participants. As such we support the proposed wording for G1.2.2 and G1.2.3.

G1.3 We agree that TSOs should dynamically calculate capacity according to prevailing conditions, but would recommend that the regulatory authority approve the TSO methodology for calculating capacity rather than defining the specifics of capacity calculation.

G1.6 We support the proposal for financial incentives on TSOs as our experience leads us to believe that this results in more efficient outcomes.

Principles on Capacity Offer

G2.1 and 2.2 It is important that TSOs offer a range of products to cater for the needs of market participants which should include both firm and interruptible capacity over a range of durations. However this is at odds with the direction in which GB Regulation has moved recently. Entry and exit transmission arrangements in gas have moved to firmer capacity arrangements, with interruptible capacity really only available at the margin and on a short term basis. In addition, whilst we agree products should be made available over a range of durations, proposals to withhold a fixed amount such as 10 % - 25% for short term release can, in our experience, lead to market distortions and reduce incentives to book long term which is essential to efficient network planning and operation.

G2.4 Bundled products could be helpful in minimising transaction costs for shippers and are therefore welcome.

Principles on Capacity Allocation Mechanism

G3.2 We believe that competition authorities already have the power to take action where market players abuse a dominant position. It is therefore important to ensure that the capacity allocation procedures are transparent so that any abuse of a dominant position can be identified and action taken. We do not believe that the guidelines should allow for regulators to impose restrictions for reasons of dominance alone.

G3.3 Joint booking platforms would be helpful in facilitating obtaining capacity and would be welcomed.

Principles on Congestion Management Procedures

G4 UIOLI Principles – While “use it or lose it” has a number of benefits in making capacity available, it has to be applied consistent with security obligations and market mechanisms. For example it would be unacceptable to withdraw capacity secured by participants on a permanent basis where it had been under utilised for a specific period. Capacity may not have been utilised for legitimate reasons but may still be required at some point in future e.g. to meet security of supply

obligations at times of peak demand. Proposals to withdraw capacity from existing users would introduce significant risk for capacity holders and undermine existing capacity allocations. Our experience under the GB model is that concerns regarding hoarding or under utilisation can be addressed in other ways e.g. by requiring a level of up front security or “user commitment” and through market mechanisms such as secondary trading. The GB model also seeks to maximise use of spare capacity through arrangements which allow capacity to be transferred, assigned or substituted on a temporary or permanent basis to other users at the same location or other locations where there is a clear signal that incremental capacity is required, avoiding investment.