
Pilot Framework Guideline on capacity allocation
An ERGEG Public Consultation Paper
Instructions for responding to the public consultation

Background

In July 2009, the 3rd Package was adopted by the European Union and published in the Official Journal of the European Communities on August 14, 2009. This package includes two directives on electricity and gas respectively, as well as three regulations on access rules to electricity and gas networks and the creation of the Agency for the Cooperation of Energy Regulators (ACER). These texts will enter into force on March 3, 2011.

Concerning natural gas, the 3rd Package aims at deepening market integration by improving regulatory harmonisation throughout Europe through the adoption of European network codes. The preparation of network codes will be a two-step process: the ACER will develop framework guidelines on specific topics which will be translated into codes by the European Network of Transmission System Operators for Gas (ENTSOG).

On 22 September 2009 the Commission invited ERGEG to draft a pilot framework guideline on capacity allocation in gas transmission networks. In the context of the pilot project, ERGEG declared its readiness to assume the role assigned to the Agency under Article 6 (2) of Regulation (EC) 715/2009 ("Gas Regulation") and to submit a non-binding framework guideline within 6 months of receipt of the Commission's notification.

According to Article 10 of the Regulation (EC) 713/2009 establishing an Agency for the Cooperation of Energy Regulators, "in carrying out its tasks, in particular in the process of developing Framework Guidelines (...) the Agency shall consult extensively and at an early stage with market participants, transmission system operators, consumers, end-users and, where relevant, competition authorities, without prejudice to their respective competence, in an open and transparent manner, in particular when its tasks concern transmission system operators".

This pilot framework guideline is based on ERGEG's previous work on capacity allocation and congestion management. ERGEG has published in August 2009 the results of the public consultation on its principles and proposals for capacity allocation and congestion management published in January 2009 (the 'ERGEG consultation').¹

Invitation to respond

ERGEG invites all interested parties to provide comments to the consultation paper – and in particular the questions below. Any comments should be received by **26 February 2010** and should be sent by email to **fg_pilot_gas@erggeg.org**.

Any questions relating to this document should in first instance be directed to:

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¹ ERGEG E08-GFG-41-09 (15 Jan 2008) and ERGEG E09-GNM-07-03 (24 August 2009)

Questions for stakeholders

Please feel free to justify your answers and to submit further observations not directly related to the questions below.

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?
- 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).

Scope of the Arrangements

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

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?
- 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?
- 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?

TSO cooperation

- 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?

Contracts, codes and communication procedures

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

Capacity products

- What are your views of our proposals regarding capacity products?

- Do you agree with the idea of defining a small set of standardised capacity products that do not overlap?
- Should TSOs offer day-ahead and within-day capacity products?
- Should European TSOs offer the same capacity products at every interconnection point across Europe?
- Should TSOs offer interruptible capacity also in cases where sufficient 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?

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

Capacity allocation

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

Re-Marketing Booked Capacity

- 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?

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?

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