

**VIK-Comments on  
draft Congestion Management Guidelines (ERGEG Proposal 2 May 2005)**

**Introduction**

VIK Verband der Industriellen Energie- und Kraftwirtschaft e.V. (German Association of Industrial Energy Users and Self-Generators) represents the interests of industrial energy users in Germany for whom energy is a significant component of production costs. VIK-members account for about 80% of industrial energy consumption and 90% of utility-independent electricity generation in Germany.

Energy prices are a key factor for the competitiveness of these enterprises. Despite the opening of the European electricity market in the wake of the EU-directive in 1996, experience has shown that there is no effective competition between multiple generators within the national markets, which are in fact still separated from each other. This leads to high and still increasing prices. Cross-border trade therefore is a very important means to integrate different national markets, to bring about effective competition and thus putting pressure on the price level. To facilitate cross-border trade, mechanisms of congestion management which efficiently allocate existing capacity in the short run and help to overcome shortage of capacity in the medium term are of utmost importance.

**Basic principles**

Therefore VIK generally supports the use of market-oriented mechanisms such as (implicit or explicit) auctions. To create functioning cross-border trade, existing bottlenecks and available capacity must be transparent to all market participants – asymmetric information between (mostly still) integrated utilities (owning interconnectors and engaging in trade) on the one hand and customers and independent traders on the other is to be avoided.

When congestions occurs, priority should be given to technical measures such as switching operations. Only when these are not possible ore economically unreasonable, capacity should be auctioned off. In this case however, terms and conditions of the auctioning process should be known to all interested parties. An equally important precondition is to assure transparency of revenues accruing from auctions. It must be clear that no windfall-profits are generated for the owners of the interconnectors. Only if this is provided for, auctions can really be called a market-based mechanism and not a mechanism giving just another source of revenues to monopolists resulting from using or even abusing their full market power.

While auctions can be regarded as a mechanism to efficiently allocate scarce capacity in the short run, the problem of structural congestion remains. Therefore the most important requirement is a prescription on the use of revenues from congestion management. These should be solely assigned to reinforce existing interconnectors or to build new ones. This is a very important issue since a monopolistic owner of an interconnector has no incentive to invest in new capacity so as to overcome the congestion problem and simultaneously foregoing its monopolistic congestion rent. Only such an obligation to invest the money generated from congestion management will be able in the long run to solve the congestions problem and lead to a better integration of national or regional energy markets.

## Detailed remarks

### „explanatory note“:

- VIK expressly supports the aims and principles laid down in no.1 i-v. But the mechanisms have to be absolutely revenue neutral from the point of view of systems operators  
→ Suggestion: Delete „largely“ in 1.v. (p.1)
- The long-term aim has to be not only managing congestion but to overcome them. This should be stated more clearly in ch. 1.
- In ch. 5 (p.4) it is stated that investment in new capacity should be accomplished in “reasonable time”. This is too strong a constraint. In view of long terms of application and cumbersome administration procedures this may cause delay or even omission of reasonable investment projects which may take a longer time to complete.

### „guidelines on congestion management“:

- No. 1.8. stipulates completion of co-ordinated allocation within regional markets not later than 1.1.2007. VIK supports such a strict timeframe. Nonetheless, it should be made clear that this kind of regional cooperation can only be one step towards european-wide cooperation. Therefore, a longer term deadline for this aim to achieve should also be fixed. European coordination should be possible from 2010 on.
- No. 1.14. seems an unnecessary restriction for authorities inquiring into market power aspects  
→ Suggestion: Delete „whenever necessary“
- In view of the need to co-ordinate auctions in case of congestions involving at least two interconnections (no. 2.1.2.) the restriction „significantly“ could be defined more precisely.
- According to no. 4.1. (9) short-term intra-day-allocations are to be introduced on a step-by-step basis. A time-table could be helpful to reach this goal. Maybe 2010 could be a suitable deadline.
- **No. 6.2. deals with the use of congestion revenues. Due to the superior aim to overcome congestion in the medium term, it is necessary to give priority to the assignment of these revenues to network investments into maintaining or increasing interconnector capacity (2). It is preferable that this priority is given on EU-level, within the guidelines. At least national regulators should be allowed to give priority to one of the 3 possible options of the revenues’ usage as set by the EU regulation.**  
→ Suggestion: Add the following before the last sentence in 6.2.: **“Revenues resulting from the allocation of interconnection capacity primarily have to be used for increasing the interconnection capacities. Only in case a TSO proves that this is not feasible due to technical reasons one of the other options may be used.”**  
→ Suggestion: In the last sentence the words **“priority in the”** should not be deleted.
- In no. 6.7 (p.16) it is stated that investment in new capacity should be accomplished in “reasonable time”. This is too strong a constraint. In view of long terms of application and cumbersome administration procedures this may cause delay or even omission of reasonable investment projects which may take a longer time to complete.