



Andrew Pearce

European Regulatory Affairs  
Gas Trading Europe and LNG

BP Gas Marketing  
20 Canada Square  
Canary Wharf  
London  
E14 5NJ

26 February 2010  
ERGEG  
28 rue le Titien  
1000 Brussels

Direct: +44 (0)20 7948 4027  
Main: +44 (0)20 7948 4000  
Mobile: +44 (0)7900 654136  
Fax: +44(0)2079487844  
Main: +44 (0)20 7948 5000  
Andrew.Pearce2@bp.com

Dear Sirs

**Capacity Allocation on European Transmission Networks – Pilot Framework  
Guidelines Initial Impact Assessment**

Thank you for the opportunity to respond to the above consultation document. As a shipper across several interconnection points, BP wishes to make the following comments. These comments are not confidential.

The issue of capacity allocation management is rightly seen by ERGEG as an important process that has to be functioning correctly to enable shippers to operate in a liquid European gas market. BP welcomes the work ERGEG is doing in this field and hopes that its continued efforts will lead to a level playing field for all market participants.

Although we are supportive of ERGEG's ongoing work, we are very concerned that the network code on capacity allocation management and the guidelines on congestion management will lead to restrictions being placed on shippers that are detrimental to a free market. The main concern we have within the capacity allocation management guidelines is the proposal to amend existing contracts. These contracts have been agreed between the TSO and shippers and are legally binding. We do not agree that it is in the interests of any market participants for ERGEG to order the amendment of any clauses that require financial commitment from shippers. However where contracts are in place that could be termed as evergreen legacy contracts these should be reviewed to make sure that they are non discriminatory other players in the market.

Given the levels of contractual congestion at interconnection points between gas transportation systems, and given that most transportation capacity is held under long term contract by (current or former) supply affiliates of the TSOs, then only a very small proportion of capacity is available to traders and alternative suppliers on a primary basis. Any proposals that look to address this issue are to be welcomed. Although CMP is being looked at in a separate impact assessment the two processes are so interlinked that some of our comments refer to both processes.

BP Gas Marketing Ltd  
Registered in England and Wales No. 908982  
Registered Office:  
Chertsey Road  
Sunbury on Thames  
Middlesex  
TW16 7BP

## **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?*

Any proposals that address the problems of capacity allocation within Europe are to be welcomed. The success of the codes will depend on the amount of transparency that the methodologies associated with them will have.

However ERGEG must be mindful of the regulated regimes in Europe where there is no issue with access to capacity, like in the GB market. Any legally binding network code must be written in such a way that it will not hinder an already fully functioning market. For most markets in mainland Europe these measures should be welcomed as a way for non-incumbent shippers to gain access to firm capacity.

## **Scope of the Arrangements**

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

Many of the principles proposed in the draft framework guidelines will help achieve a more harmonised capacity regime at interconnection points between systems. In particular we support: obligations on cooperation between TSOs; alignment of procedures; maximisation of capacity availability and a range of firm and interruptible capacity products to be offered. We also support ERGEGs requirement that TSOs must offer capacity above the technical maximum and agree that incentives are the best way forward to achieve this aim.

## **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?*

As we have stated at the beginning of our response existing capacity contracts have to remain in place; the sanctity of these existing contracts must be respected. It is these contracts that underpin investment in the networks, it would not seem possible to end them without a major review of these investments and how the TSOs are to continue to recover their revenues.

However, from our understanding after clarification from ERGEG it is the aim to amend certain clauses that would make them compatible with the new network codes, such as standardisation of communications. If this is the case then we see no material effect in harmonising these clauses to be compatible with the new network codes.

*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?*

As stated above if existing contracts are to be amended this must be done in a way that will maintain the integrity of the original contract to ensure that the TSOs continue to receive their revenue from investment and the shippers continue to be guaranteed their capacity rights.

## **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?*

BP welcomes any proposals that will ensure TSOs cooperate in the release of capacity products. The relevant regulatory authorities must put in place sufficient safeguards to monitor that the TSOs are actually releasing the maximum amount of physical capacity that they can, whilst maintaining the integrity of the system. If the TSOs adhere to these principles then these proposals should have the desired effect of fostering cross-border trade.

### ***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?*

Yes, experience shows that harmonisation will not happen on its own. ERGEG and ENTSOG should work towards having a set of common minimum conditions that are in all capacity contracts.

*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?*

The network code on capacity allocation should reference the need for coordinated communications between TSOs but it should not start going into the detail. This area is due to be covered in the network code on data exchange and settlement. Within Europe there is already a standard for communication between TSOs and shippers in the Edig@s protocol.

### ***Capacity products***

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

Offering a range of capacity products is essential to encourage the liquidity of the European gas market. Any product range should be flexible enough to meet all shippers requirements but not so complex as to become confusing to what is being offered. The draft guidelines suggest that consultations are carried out on a regular basis to define what product will be offered. What is not clear is how often these consultations will take place and who is responsible for the consultations, regulators or TSOs.

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

Although we agree with the concept of offering a small set of products we do not see any harm in some products overlapping. For example being able to buy a monthly product in different auctions. Being able to buy a monthly product at different times can provide a shipper with a greater degree of flexibility in how they manage their portfolio.

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

Yes, in our view this is essential for balancing purposes and to enable shippers to optimise their portfolio.

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

For consistency this would seem sensible. However if there are interconnection points where there is no obvious need for a certain product the TSO should not be forced to offer it. This could be seen as increasing costs unnecessarily.

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

Shippers want firm capacity. Where there is sufficient firm unsold capacity available then any interruptible capacity is going to be firm by the very fact that there is still firm capacity for sale. It would seem sensible therefore to restrict the sale of interruptible capacity to where there is a physical scarcity of firm capacity. This would also maintain the value of the interruptible product.

### ***Breakdown and offer of capacity products***

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

Reserving part of the capacity on offer for short term bookings could encourage new entrants to the market. Although we would prefer to see the duration of this capacity being two years or less rather than the one year or less. We would suggest that 20% of technical capacity is held back for this purpose.

For this to work ERGEG should look at the introduction of baselines for capacity at interconnection points. This way the TSO will be obliged to release up to a known amount of capacity. Shippers will have a clear picture of what is available and if they need to signal for expansion at the IP to meet their requirements. TSOs should also be required to publish sold and unsold capacity going forward enabling shippers to make more focused decisions on capacity management.

### ***Cross-border products***

*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?*

Shippers require a variety of products to monetise their gas. Bundled products must not discriminate against those who choose to only hold capacity on one side of an interconnection point. There may be shippers who for whatever reason choose not to operate in certain member states.

As an alternative to a bundled product, unbundled products could be offered on a linked basis or under conditional bidding. This would allow parties who hold capacity on one side to match this up with capacity in the connected system on the other side of the interconnection point. These unbundled products should also be offered as the same product type either firm or interruptible, but not a mix as this renders the whole booking interruptible regardless of any firm product offering.

### ***Capacity allocation***

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

With regard to allocation mechanisms, it is important to distinguish between new capacity that has not yet been constructed, and existing capacity, be it unused capacity or capacity that has come back to the market as a result of a capacity contract coming to an end. For new capacity that is as yet built capacity Open Subscription Windows or auctions could both satisfy the requirement. In the GB market you have the Long Term Capacity Auctions as a means of signaling for new incremental entry capacity. These auctions are in effect an Open Subscription Period. For capacity coming back to the market, auctions should be the chosen allocation method. However In neither case does this resolve issues such as what proportion of the new capacity should be underwritten. A clear and transparent economic test that is compatible across all market areas needs to be implemented for this purpose.

*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?*

As long as there are mechanisms in place to provide assurance to shippers with regards to the amount of capacity allocated to them, then we see no issue with pro rata. Shippers

must be able to specify to the TSO that capacity allocation below a certain point is not viable to them, in which case no capacity should be allocated to them.

### ***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?*

Secondary capacity trading is crucial in promoting open access to transportation capacity. Ensuring that the TSOs facilitate this process is the only way secondary capacity trading will be a success.

As the current model stands once the capacity is sold the TSO has no incentive to facilitate the workings of the secondary market. If TSOs were incentivised to facilitate secondary trading through amending tariff methodologies so a proportion of revenue was received through commodity, you would go some way to solving this problem. Consideration should also be given to amendment of national legislation where this conflicts with or prevents implementation of the guidelines.

### ***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?*

The use of a joint system would seem an appropriate method of allocation. It would seem that this is not something that could be achieved from day one of the introduction of the network code. The question of how joint systems are funded has not been mentioned in the consultation. Care must be taken to ensure that shippers and eventually end consumers are not hit with spiralling IT costs as a result of these proposals

We hope that you find these comments helpful. If you wish to discuss further please don't hesitate to contact me on the number above.

Yours sincerely

**Andrew Pearce**  
**Regulatory Affairs**