

## **EDP Gás and Naturgas Energia Comercializadora Response to ERGEG Pilot Framework Guidelines on “Capacity Allocation on European gas Transmission Networks”**

EDP has activities in the gas sector in transportation, distribution, both in Spain and Portugal, and in the commercialization of natural gas at an Iberian level, as well as consumption of natural gas for its production purposes in combined cycle plants.

Moreover, being a company with activities in both Portugal and Spain, EDP has a close interest in the matter subject to consultation, since it affects its daily procedures in what concerns the use of the interconnection between these two countries.

It should also be said that EDP, through its affiliate “Naturgas Energia Transporte”, incumbent for the distribution of natural gas in the Basque country and also responsible for some transportation pipelines, is also interested in the rules that may impact on the procedures for the attribution of capacity in the interconnections between Spain and France, namely in the “Open Season 2015” which will define the attribution of capacity and the development of new interconnections between these countries (Euskadour and Midcat).

Thus, EDP Gas, being responsible for the coordination of the gas activities of EDP Group in the Iberian Peninsula, is hereby presenting some additional comments to ERGEG’s document, from the perspective of both a shipper and also a natural gas distributor, taking in consideration the above mentioned specificities.

### **Introductory remarks**

First, EDP Gas would like to congratulate ERGEG for the development of the proposals to amend via direct comitology the guidelines on capacity allocation, since we consider of utmost importance that similar rules are developed throughout European Union, regarding transparency and simplicity to European shippers’ activities, putting forward liquid markets and optimizing capacity allocation for all stakeholders. We recognize the efforts made by ERGEG in preparing the guidelines and appreciate the fact that the procedures set out in the Third Energy Package are already being applied as if the Third Package was already in place.

Nonetheless, and following the instructions for responding to the public consultation we have a few concerns/suggestions that we consider should be mentioned or clarified on the final document produced by ERGEG.

## **1. General rules and scope of the arrangements**

- *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 fulfillment 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).*
- *Do you support the scope of the draft framework guidelines proposed?*

The rules on congestion management and capacity allocation apply to cross-border interconnection points between Member States, as well as interconnections between adjacent entry-exit systems within the same Member States. We consider of extreme importance to broaden, in the short term, the scope of these arrangements for LNG terminals and entry or exit points to or from gas storage facilities. ERGEG was invited by the European Commission to draft a pilot framework guideline on capacity allocation in gas transmission networks and we believe that this opportunity could be used to deeper European integration.

The previous concern brings us to the need to define a specific timetable for the harmonization stages, from the actual inconsistency of rules between Member States to the existence of compatibles and fully harmonized rules. There are obstacles on the way to harmonized rules that are mentioned

In the documents subject to public consultation, however it is important for all stakeholders to recognize the milestones in this process, since its impacts are not contemptible.

From our perspective this harmonization starts also with a clear definition of all the concepts mentioned on the document such as long term entry capacity, combined products, bundled products, long and short term periods in the definition of the capacity products, among others.

In the context of the Third Package for the European natural gas sector, which advocates the interaction between many stakeholders at an European level (ACER, NRA's, TSO's, shippers, distributors, end consumers), aiming the implementation of the "EREG consultation", it is fundamental to define the roles, responsibilities and authority for each agent in a common framework. Namely, the exercise of NRA's powers must not lead to geographically separate capacity allocation codes. Additionally, the shippers' participation on the definition of the network codes and capacity allocation mechanisms should be clarified and official, in order to bring the desirable transparency to all the process, but also because these agents have an important role in the increased liquidity and competition in the gas markets.

### **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?*

EDP Gas could face significant challenges in amending existing contract arrangements in line with these Framework Guidelines in 6 months. In addition, it will only be possible to change the relevant clauses of existing contracts on a case-by-case basis if they are in contradiction with the new legally binding rules which could restrict the effectiveness of what the Framework Guidelines are seeking to achieve in the short term. We should also stress that this adaptation will imply legal and administrative costs that should not be disregarded and ask how these costs will be recovered by the stakeholders.

We realize that the existing long term contracts may decrease the efficiency of the guidelines proposed, nonetheless stakeholders need consistent rules in order to optimize its business decisions.

Moreover, in our opinion, the effective control on the use of booked capacity is more important than modifying existing contracts and its positive impact is higher in order to maximize cross border capacity utilisation. So in this way, we believe that there are other mechanisms (ej. UIOLI, liquid secondary markets, anti-hoarding measures) that can encourage the effective use of the capacity by all agents, without implying the adaptation of existing contracts.

As regards the issue of freeing up capacity, we stress that it should be addressed by the Congestion Management Procedures that will be adopted directly through comitology. However, this alternative method should only be applied if it doesn't harm shippers' commitments. In our point of view, it is relevant to get a balance on the impact that the new allocation procedure has in the different types of agents (shippers, TSO...)

## **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?*

TSO cooperation is fundamental to ensure efficient capacity allocation and network access. This cooperation may also lead to more rational investment decisions in interconnections and it would probably suppose a higher capacity offer in the interconnection point.

When it comes to cross-border capacity, shippers should only address one TSO, that would become responsible for the coordination of the entire operation and response to said shipper. This procedure also promotes ERGEG's objectives on capacity optimization, since it confers transparency to the process, in a context with harmonized rules.

We would like to add that due to the growing role of TSO's in an European energy market, their duties should be clearly established and subject to proper control by NRA's.

Finally, in our opinion in order to get an efficient use and maximize interconnection capacity it is fundamental to separate physical and commercial flows. Regarding this aspect, it is essential that a close and intensive cooperation between TSOs is established.

## **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?*

Yes, the European network code on capacity allocation should define the general content of the capacity contracts and conditions of access to capacity, as well as communication procedures.

### **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?*

TSOs should be allowed to offer the same capacity products, in the same manner and at the same time, at every interconnection point across Europe. But this should not restrict TSOs from offering capacity or other services at interconnection points over and above the core capacity products in response to market needs and regional characteristics.

Moreover, we believe that these additional products should be subject to NRA's approval. As stressed before, the shippers' participation in the definition of these products is fundamental, since these decisions impact directly with its trading logistics and should not restrict operation's flexibility, decreasing liquidity and international gas exchange.

Even if sufficient firm capacity is available, its availability as well as congestion may vary over time. Therefore, TSOs should offer interruptible capacity also in the situations where sufficient firm capacity is available.

In our opinion, interruptible capacity is a good flexibility tool for shippers and also for TSOs, in order to manage congestion situations or maximize interconnection capacity. Such interruptible capacity should be made available subject to a release methodology rather than at TSOs discretion. Interruptible capacity should be made available at least on a day ahead basis.

If capacity is not assigned, TSO's may offer day-ahead and within-day capacity products, otherwise it should be the agent to whom this capacity is assigned to offer it. We believe that mechanisms to encourage the offer of unused capacity are important, but these should not imply the "rescue" of contracted capacity, unless the NRA's identify a continued practise of "hoarding" of capacity by an agent. In such case, it is important to define the reasonable period for this "continued practise" after which the capacity should be put back in the market as well as the mechanisms to offer this capacity.

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

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

Yes, it would probably be better to standardise this percentage across all interconnection points, with the participation of NRA's and shippers.

### **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?*

Yes, we believe that cross-border products will facilitate the exchange of gas between virtual hubs of adjacent markets.

We support the offer of bundled products in order to increase liquidity and exchange of gas between adjacent markets. However, this should not limit the offer of other products in the short-run. There are legitimate reasons why trading at the border is still appropriate, e.g. to manage existing contracts and for backhaul and so this should not be precluded.

Combined products can be an interim step towards bundled products, but this should not deviate from our primary target, that is full bundled products. Therefore, it is important to define a timetable in which these interim steps are defined in order to achieve the full harmonization goal.

Yes, capacity at two or more points connecting the two same adjacent entry-exit systems should 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?*

We believe that from the solutions proposed, auctions are the best way to ensure that firm capacity is allocated to those parties that value it most. It should also be said that the application of the same allocation procedure across the European interconnection points will ensure that shippers become familiar with the operational process. However, we suggest that ERGEG balances the administrative costs and complexity subject to auctions in order to combine auctions with other capacity allocation mechanisms (such as first come, first served) in the short-run, when there aren't congestion problems. In fact, in our opinion, FCFS method could be a good allocation procedure in some specific situations, for example in interconnection points with excess capacity.

As regards pro rata allocation, we stress that it invariably results in all parties not getting the capacity allocation they require.

Finally, we want to say that the exercise of NRA's powers must not lead to geographically separate capacity allocation codes. In order to avoid asymmetries or different speeds, it is very important to ensure the harmonization of the allocation mechanisms in the different European gas systems and also in the timing of putting it into practice.

## 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?*

A functioning, flexible secondary capacity market is essential. However, we are not convinced that network codes should define harmonised secondary capacity products or anonymous procedures for offer and allocation as this could restrict the ability of secondary trading platforms to develop in accordance with market needs. Also shippers should be entitled to sell their capacity bilaterally, not via an exchange.

TSOs should be required to facilitate secondary trading by recording trade and adjust each network users capacity holdings accordingly, regardless of whether it was conducted on an exchange or not. TSOs should also facilitate assignment of capacity where the obligations associated with that capacity transfer permanently between users.

## 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?*

The joint, anonymous, web-based platform is likely to be the most efficient method of allocation for users.

Since it could be more complicated and time consuming to implement, we are not convinced that joint allocation of primary and secondary is feasible or necessary.