

EUROGAS VIEWS ON ERGEG'S PUBLIC CONSULTATION DOCUMENT ON THE PRINCIPLES OF CAPACITY ALLOCATION AND CONGESTION MANAGEMENT IN NATURAL GAS TRANSMISSION NETWORKS

Optimization of use of existing capacity that will serve a crucial role in meeting systems users' needs and give the right signals for future investment is an essential requisite of a robust market. Therefore Eurogas welcomes ERGEG's initiative in opening a consultation on the principles of capacity allocation and congestion management. Sound principles are of importance to network users' ability to access and utilise capacity in support of their commercial needs. A number of ideas, however, are raised in the paper on which Eurogas members consider more clarification and explanations are needed, before they can give definitive views.

In cases when there is excess of capacity over demand, there should be no problem regarding capacity acquisition and the need for congestion management will not arise. If there is an evident problem of physical congestion, then new capacities are needed. There are, however, likely to be situations where there is an apparent or actual excess of demand over supply for transportation capacity. To avoid that these circumstances lead to under-utilisation of still available capacity or give out the wrong investment signals, Eurogas considers that a common understanding at European level, supported by convergent practices is needed.

Eurogas supports the objective of achieving a fully liquid and integrated European capacity market with sufficient interconnection capacity, but this is not yet near realization, and the challenge therefore is to make progress in this direction, using interim steps that do not damage shippers' interests. We consider the following principles should be a starting point:

- Capacity rights are defined efficiently. There should also be a common understanding on the allocation procedures.
- Capacity rights are sold efficiently to market participants in the primary market. The TSO should also facilitate the secondary market.
- Market participants use their rights efficiently. There should not be the possibility for a network user to hoard capacity or restrict the availability of unused capacity to others.
- Regulators should provide system operators and users with the correct incentives to manage and use the transmission system efficiently and maximise availability of firm capacity.
- Any system needs to be reinforced by improved transparency of TSOs' operations and by the requirements for greater co-operation of both TSOs and NRAs that is provided for in existing legislation and the Third Package to be implemented effectively.

In the light of the above principles, Eurogas responds to the individual questions as follows:

1. Do you agree with the problems that ERGEG has identified with capacity allocation and congestion management? Are there other aspects that should be taken into account?

The perceptions of Eurogas members is that there has been progress in the last year or so regarding capacity allocation and congestion management practice, but improvements are still needed. Overall therefore Eurogas endorses the objectives and the principles identified by ERGEG. We are missing, however, an analysis of current working procedures, with an assessment of their performance and of their overall compatibility, (not only compatibility of allocation methods at cross-border interconnection points). Also not enough attention is paid

to the area of cross-border regulatory co-ordination, and the need for cross-border consistency of regulatory decisions.

Eurogas, however, recalls that effective cross-border CAM and CMP presupposes effective cross-border connections and this is not the case everywhere in Europe.

Furthermore we would wish to see more emphasis from ERGEG on the need to find the most effective market-driven solutions, recognizing that shippers' existing rights have to be respected.

2. The scope of ERGEG's principles and of the derived proposals covers bringing capacity to the market where there is currently contractual congestion. Do you agree with this approach?

Eurogas has long insisted on the importance of optimizing use of existing capacity as a prerequisite to efficient network use and correct signals for additional investment. Eurogas can agree therefore with the objectives and some key principles set out in the proposed overview.

In particular we agree on the principles of developing cross-border compatibility of CAM and CMP, and of promoting co-operation among TSOs. We also agree that the outcome of the approach should be to provide clear guidance, while avoiding an over-prescriptive tendency.

We cannot, however, agree all the derived proposals, and much more discussion is needed. We are concerned that the proposals (as understood from Annex 3) are unduly prescriptive.

The transparency requirements listed in Annex 1 and the ongoing work on this issue in the GRI process should be coherent.

The work to improve CAM and CMP should focus on cross-border interconnections, on making available more firm capacity, and adding value to shippers' trading opportunities.

3. In principle, European regulators consider FCFS allocation potentially discriminating. Do you share this view? What do you think about the proposed mechanisms (OSP with subsequent pro-rata allocation or auctioning)?

With regard to new capacity, open seasons (or comparable) procedures are important to assess demand, but should not necessarily be the only means of determining the capacity of a project, as other aspects have to be taken into account, and the accompanying allocation process has to be non-discriminatory.

Eurogas agrees that FCFS could be used in a discriminating way but so can other CAM methods notably Last Committed First Interrupted which is mentioned in the ERGEG paper.

In general Eurogas would support greater use of the Open Subscription Period (OSP), but in the case of bottlenecks, capacity should be allocated according to a pro-rata basis, or by auctions, to be determined according to market circumstances. Eurogas supports the suggestion for a combined approach but this should be flexible and the concept of hierarchy mentioned in the paper should not be developed in too rigid a way.

In the long-term, it is desirable to see the development of regional capacity exchanges and eventually European-level exchanges in order to achieve a more liquid capacity trading market.

With regard to buy-back and the other mechanisms, Eurogas agrees that they should be explored and explained further. Eurogas, for example, understands that the buy-back principle has largely to be approached within the context of scenario building and improved dynamic

capacity modelling by TSOs. A key question is whether the buy-back mechanism will cover effectively all risks and costs incurred by shippers. These and other points need further clarification before we can develop a final position.

4. In your view, what is the future importance of the proposed capacity products (firm, interruptible and bundled) and of the proposed contract duration (intra-day up to multi-annual)?

It is very important that capacity products offered by TSOs are compatible across borders, and have to meet users' needs. It can be expected that the choice of products will be varied as users have different needs depending also on the stage of market development, but in general Eurogas considers that bundled products offer advantages.

Eurogas agrees on the need to define firm and interruptible capacity products of different durations, with an appropriate share-out of multi-annual, annual or seasonal products, monthly and daily products.

One congestion management principle is not mentioned by ERGEG, the so-called ruck-sack principle whereby exit capacity goes with the customer. This is a system that works well in a number of countries and should be included in any consideration.

5. What is the role of secondary capacity trading?

It is very important to incentivise a secondary market in capacity trading by capacity holders, that also offers a varied portfolio of products. There are economic rationales for a capacity holder to release unused capacity, and trading on the secondary market enables shippers to adopt their capacities to their needs. The development of the secondary market, however, has been to date disappointing, and ways need to be explored of making secondary trading more attractive to potential sellers and purchases, in order to improve liquidity in the secondary market. TSOs therefore have to facilitate secondary trading possibilities and appropriate incentives for them to improve this service may be needed.

- 6. How do you assess the proposed measures to enhance the availability of firm capacity and to improve short-term and long-term congestion management?**
7. What are your views on the proposals? Do they address the problems? Will they lead to more effective capacity allocation methods being developed?
8. Are the needs of shippers performing supply activities properly taken into account?

Eurogas endorses the objective of making available more firm capacity, and considers that progress can be achieved by better capacity management overall. More co-operation by TSOs to achieve co-ordinated and compatible products, and also to co-ordinate maintenance schedules will contribute to this objective.

Individually and collectively TSOs should also aim to improve scenario building and dynamic modelling of their capacity availability and capacity use. This would be essential to underpin improved capacity congestion practices.

Eurogas also recognizes the need to explore other ways of improving present practices. While interruptible short-term, use-it-or-lose-it (UIOLI) is straight forward, Eurogas recognizes that this does not address the requirements of network users to have access to firm capacity in the shorter and longer term.

A main concern of most Eurogas members is the aspect of the proposal regarding firm day-ahead UIOLI procedures that involves limitation or restrictions of existing renomination rights. Eventually in a fully liquid market this could develop, but not today when the flexibility to renominate, increasing or reducing the initial nominations, is essential. The analysis does not recognize the interaction between the flexibility that renomination rights offer and the requirements of balancing systems. Lack of convergence in balancing regimes is another reason why the flexibility offered by renomination rights is required. Therefore ERGEG guidelines should tackle this issue urgently.

ERGEG also distinguishes on the need to have different approaches to free-up short and long-term capacity. A general remark is that the concept of short-term and long-term can vary according to market circumstances, and the approach should recognize this. Eurogas members however also need to have a better understanding of how the releasable capacity system would work in practice, before we can define a position.

Long-term UIOLI is also a complex and delicate issue because even more than the other solutions it touches on matters in the domain of competition law. It is, however, unacceptable not to tackle systematic under-use. Therefore although it is not possible to envisage a general rule applying in every case where hoarding (to be understood as failure to offer unused capacity when capacity is congested) might be restricting access to firm capacity but there should be an understanding on general principles underpinning the issue although it should be handled on a case by case basis. Eurogas suggests here some general principles to be taken into account.

The Main Principles

- From a network user's perspective, one of the main principles is that firm capacity rights, based on legally binding contracts with due regard to competition law, must be protected and respected.
- Competition law should be the source of action in questions of hoarding, even if powers are delegated to competent authorities to determine if there is abuse of contract. An appeal against their decision must be based on competition law and related sanctions.
- It should be clear what mechanisms will be appropriate in different Member States and they can be expected to vary according to different national approaches. They should, however, be transparent and fair as well as operable within a reasonable timescale.
- Wherever possible and practicable if hoarding is alleged then the parties involved should be encouraged to find a solution on a voluntary basis.
- The system, however, should permit holders of firm capacity who do not need the capacity (perhaps over a period) to justify to the competent authorities why they are not using the capacity (e.g. security of supply). This would be without prejudice to any later right of appeal.
- The system should also specify the liabilities for compensation for damages in the event that a user whose capacity had been transferred without his agreement encounters as a result problems with his supply obligations.
- Any retention of exit capacity rights linked to end users should be prevented by booking conditions which are in line with supply obligations as this would be hoarding.

9. Are the proposed measures suitable to facilitate developments of liquid markets?

This question is understood as referring to liquid **capacity** market. Development of a liquid gas market entails much wider issues.

As pointed out, they are not suitable in so far as they do not respect the needs of shippers. There is, moreover, a risk that some shippers concerned at the curtailment of their flexibility could overnominate to compensate for perceived risks. This would be counter to the objective of reaching a more liquid market.

10. In your view, how important are compatible booking and operational procedures between adjacent systems?

Compatible booking and operational procedures are essential to facilitate "one stop shop" trading and supply. Eurogas is developing a more detailed position on the need to align booking systems.

11. Do the proposed measures increase the efficient use of the system? What aspects would you support and like to see further developed?

There are a number of ideas reflected in the proposed measures that are worth exploring, notably those measures that will ensure more compatible procedures and products between TSOs. In principle, Eurogas can also support the need to explore further how the buy-back principle and other possible mechanisms, might contribute to the availability of more firm capacity, without harming suppliers' interests.

In general, Eurogas would like to see a shift away from regulatory demand solutions to market-based initiatives.

Most companies, however, have concerns about the risks to their supply interest of any curtailment of renomination rights.