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To CEER and ERGEG

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Public consultation on principles for capacity allocation and congestion management in natural gas transmission networks

Dear Sir/Madam,

We warmly welcome the initiative of ERGEG to harmonise and improve the European capacity allocation and congestion management in natural gas transmission networks.

Please find attached the comments on the ERGEG public consultation document E08-GFG-41-09. We hope that our comments are helpful and are looking forward to a fruitful discussion in the future.

If you have any questions in relation to our remarks please do not hesitate to contact us.

Yours faithfully,



Oliver Maibaum



Roman Zyuzev

Managing Director Exchange
Senior Vice President Customer Relations

I EEX Remarks on Harmonization, Transparency and Non-discrimination

EEX welcomes the ERGEG's proposal to amend the Guidelines on capacity allocation mechanism (CAM) and congestion management procedures (CMP) and supports harmonization and unification of the national legislative and regulatory framework in the European Union. Further, we support the harmonization and standardization of capacity products, market designs, nomination procedures and transport codes.

- **The harmonization of capacity products and transport codes will benefit both the transmission system operators (TSO) and other gas market participants.** TSOs will have the possibility to better assess their real need for new capacities, to use capacities in a more efficient way and consequently to be able to release more capacity to the market in all timescales at a market prices. Market participants will enjoy easier access to capacities and will be able to bring more market depth by integrating capacity backed trading to their trading portfolio.
- Bearing in mind the structural differences of European gas markets and the structure of gas networks in different European countries, the **products and procedures should be compatible and support cross-border gas flows** and the functioning of a competitive market. The European legislator should lead the process and pursue the goal of maximizing the available transport capacity for the users. Proposals which are aiming at **harmonizing the regulation and support of market-based solutions** we see as positive.
- ERGEG principles are paramount in developing fair and flexible capacity allocation mechanism (CAM) and congestion management procedures (CMP) provided that **capacity is released to the market in an optimal and non-discriminatory manner, while combining technical and economic efficiency and addressing the needs of various market participants.**
- **Transparency and non-discrimination are the pre-requisites for fair competition.** It concerns the access to networks, but also the trading with capacities itself. Capacity is a scarce resource and must be allocated efficiently amongst market participants. Efficient capacity allocation will lead to an increase of liquidity, an increase in the number of trading participants and will boost the competition. A possible barrier to the development of competitive gas markets in Europe is the existing market structure, which results in the large market share of incumbents. On this issue we propose that the **relevant regulatory and/or competition authorities should have the possibility** to facilitate efficient, non-discriminate and transparent market design.

II Specific Remarks and EEX Proposals

Here, we would like to address some issues listed in the ERGEG public consultation document E08-GFG-41-09 and make some further comments and proposals regarding the structure of the gas market.

- Primary capacity allocation and secondary capacity trading should be held through a from the TSOs endorsed **centralized web-based platform**, regarding the following principles: anonymity, non-discrimination, transparency and flexibility. The **platform should publish the necessary data on a daily basis and give references for the market participants concerning their short- and long-term transport trading strategies**. EEX would therefore recommend running the suggested auctions by one dedicated auction office with one common platform or technology, which will provide security and anonymity. The situation, that each Transmission System Operator (TSO) develops and runs its own IT system for the auction should be avoided. For example, trac-x, the existent internet platform for the secondary market in transport capacities, with a view to its experience, high number of participants and steadily increasing volumes, could serve as such platform.
- EEX strongly welcomes the **anonymous auction** – as a suitable capacity allocation mechanism, which will benefit the interests of new market entrants and small shippers, increase the liquidity and promote further competition.
- EEX strongly supports the promotion of the **bundled products**. The bundling of capacity is the crucial element in facilitating cross-border market integration, as it increases available capacity, reduces transaction efforts and focuses all liquidity at the virtual hubs.
- TSOs should be obliged to have a **transparent and clearly defined mechanism for shippers to request capacity**. We strongly support the ERGEG proposal for the obligatory publishing by the TSOs of following dates: forecasts on entry and exit flows, technical capacity (time dependent), availability of networks, balancing energy and real-time flow metering. Further, with reference to shippers needs in consolidated information, we favour the **compilation of the relevant information from TSOs on one dedicated web-based platform**. Considering European Energy Exchange's (EEX) operating experience with transparency issues in power sector (power plant data transparency initiative which contains information about installed and available capacity and net production) and in line with cooperation with German TSOs, EEX trading platform may serve as provider of consolidated information.
- EEX welcomes the optimization and **maximization of available capacity and establishment of the rules which discourage capacity hoarding**, in particular secondary markets, long-term use or lose it (UIOLI) or use it or sell it (UIOSI) provisions and reservation for short-term bookings.
- We strongly favour the financial firmness of capacities. The existent procedure with 100% physical fulfilment of capacity can lead to the capacity undersupply and should be avoided. The **change to 100% financial fulfilment is needed**, as long as the reduction of physical fulfilment does not harm the capacity owner financially. Compensation payments reflect the opportunities cost of non-shipment. TSOs should manage the capacities portfolio and trade on the secondary market with capacity rights at market prices.

The risk shift from the network shippers to network operators for achieving the profit margin is acknowledged.

- **Shipper's capacity**, which is neither used as nominated nor re-nominated, **should be converted into firm day-ahead capacity** (short-term UIOSI or UIOLI principle) in both directions at any interconnection point and released back to the market by the adjacent TSOs. **Day-ahead capacity should be allocated by auction only**. Here, we support the redesign and harmonization of nomination timetables and the removal of existing rights for re-nomination of firm capacity to increase the liquidity.
- **EEX welcomes the capacity overbooking**, as long as it leads to an increase of short- and long-term capacity and the eventual capacity buy-back does not cause the financial discredit of the capacity owner.
- **In the case of network enhancement, new additional capacities should be added to existing capacity disposals with market-based prices.**
- In event of unforeseen available capacity TSOs should market 100% of the forecasted capacity as firm capacity at spot and derivatives market. We propose the disposal of **unforeseen available capacity** via auction on the spot and derivatives market.
- Should the capacity rights be physically extracted from the capacity owner, although he has nominated, he has a **right for an opportunity cost offset from the TSOs** in the way that he has no financial discredit. Otherwise, the TSO can recall on the day basis the non-nominated rights from the capacity owners at a respectively lower price (the retail price or the market price) and organize the day-ahead auction.
- We also propose and strongly argue for the **establishment of a central register for capacities rights**, which should enable and boost the trading of capacity in Europe. The assigned independent service provider should implement and manage the central register of usage rights, where the market participants can notify the changes of the ownership.

III Response to ERGEG Consultation on principles for capacity allocation and congestion management in natural gas transmission networks

- 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?**

EEX agrees and accepts the problems which were identified by ERGEG, such as different designs, procedures, processes, rules in different countries, but also capacity hoarding with long-term booking.

EEX also would like to address the following issues, which prevent the development of the competitive gas markets in several European countries and cause our concern:

- Multiple market areas (e.g. 12 in Germany);
- Different gas qualities (H-gas and L-gas) and different market areas for H-Gas and L-Gas.

We support the consolidation of market areas and strongly believe that it will boost liquidity and increase competition.

- 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?**

EEX supports ERGEG's principles and welcomes the ERGEG's proposal to make some level of cooperation between TSOs mandatory: on the timing of capacity allocations, on the booking procedures and on technical parameters. We also welcome the mandatory amendment of congestion management clauses in capacity contracts existing prior to the application within 6 months of the respective national regulatory authority's decision entering into force.

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

EEX shares ERGEG's view that the "first come-first served" allocation methodology (FCFS) is a non-transparent and potentially a discriminatory allocation mechanism. We particularly welcome capacity allocation mechanisms, such as OSP with subsequent pro-rata allocation and auction, which are carried in a transparent and non-discriminatory way. As OSP are often inflexible and favour existing larger shippers, we strongly support the allocation by the means of anonymous auction, which will benefit interests of new market entrants and small shippers, increase liquidity and promote further competition on the gas markets. The use of FCFS should be restricted for exceptional situations where there is no actual and potential congestion.

- 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)?**

EEX strongly supports the bundling of capacity as a means of facilitating cross-border market integration and of focusing all liquidity at the virtual hubs, as interconnection points will no longer be suitable points for gas trading. Here, we see the proposal which anticipates the man-

datory requirement by national regulatory authorities to TSOs to offer bundled products as a sufficient basis for the further development of liquidity in gas markets.

Capacity products will gain in importance, as cross-border trading is predicted to increase within the next years. In order to assure the discrimination-free allocation of transport capacities, under the existence of the long-term delivery contracts and associated volume- and price risks of the market participants, a certain part of transport capacities should be disposed on the derivatives market to assure the long-term liquidity. Here, we strongly support offering the capacity with duration of one year or less. This should facilitate bringing the capacity onto the market on a regular basis and allow new entrants access to capacity. Derivative products may have different maturities: month, quarter, season, and year.

At the same time, for the fast development of the gas market and emerging of new market participants, part of available technical capacity should be set aside for short-term spot products (up to 25%). Day-ahead auctions will also provide flexibility, security, predictability and incentives for the shippers not to hoard extra capacity for peak periods, as they would have the possibility to buy capacities for shorter durations on a regular basis.

We strongly believe that the combination of capacity products of various maturities is necessary to achieve both, stability and flexibility of access for the shippers.

5. What is the role of secondary capacity trading?

EEX agrees that greater emphasis should be placed on the development of the secondary markets. We acknowledge the great importance of secondary capacity trading, as it provides the necessary additional flexibility for market participants through obtaining of the unutilized capacity and improves access to the market for the new market participants.

In this light, we propose the creation of an anonymous, web-based platform for primary capacity allocation and secondary capacity trading. It should convince the market participants with several benefits: standardization, transparency, security, surveillance and central platform, as an efficient link between trading and settlement. We recommend the independent service provider, with know-how and experience in handling of gas markets to carry out these functions. Further we strongly favour the idea of joint offer and auction of the primary and secondary capacity, as it would increase the liquidity of capacity trading.

The adjacent TSOs shall exchange all necessary information, with regard to forecasts on entry and exit flows, availability of networks, balancing energy and real-time flow metering. The cooperation between the TSOs should lead to increased transparency with regard to gas flows and capacity availability, but also to the harmonization of the technical information requirements for network access and standardization/compatibility of the products offered.

There should be a clearer requirement on TSOs to maximise available capacity, and market-based approach to capacity allocation through auctions should be developed to encourage this:

- TSOs may retain a certain share of the revenues generated through congestion management mechanisms depending on the performance of the system;
- Buy-back of capacities to increase the available capacities must be possible.

TSOs should guarantee transfer of the contractual capacities rights from market participants to the secondary market without any legal or operative restrictions. Secondary market products are marketable products which can be acquired on the primary market.

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?

The availability of financially firm capacity should be improved. In the short-term the availability of firm capacity for the development of the day-ahead capacities auction can be achieved through the redesign of nomination timetables and restrictions of re-nomination rights. In the longer term the efficient release of unused capacities should be fulfilled through the return of capacities or redesign of nomination timetables.

7. What are your views on the proposals? Do they address the problems? Will they lead to more effective capacity allocation methods being developed?

EEX strongly welcomes the ERGEG's proposal. Capacity constraints have very high impact on market prices. Capacity, being a scarce resource, must be allocated in an optimal, efficient and non-discriminatory manner amongst market participants. Efficient capacity allocation will lead to the increase of liquidity, will increase the number of trading participants and will boost the competition. Here, the proposals which are aimed at harmonizing and strengthening the power of national regulatory authorities are very welcome.

8. Are the needs of shippers performing supply activities properly taken into account?

In reference to this issue, the relevance of the dynamic approach with regard to the calculation of technically available capacity should be stressed. TSOs should re-calculate technically available capacity on a daily basis, relating to actual technical conditions (e.g. calorific value, temperature, expected consumption). Transmission system operators should identify all capacity that can be physically used in order to maximise the offer of capacity to the market.

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

EEX agrees that the proposed measures are suitable to facilitate development of liquid gas markets, though some further concepts could be proposed from our side.

Furthermore, we suggest the establishment of central register for capacity rights. To enable and to boost the capacity trading in Europe, an independent service provider, endorsed by the TSOs and with experience in dealing with natural gas markets should implement the central register of usage rights, where the market participants can notify the changes of the ownership.

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

Bearing in mind the structural differences of European gas markets and the structure of gas networks in different European countries we support the alignment of contracts and codes for firm capacity and implementation of standardized communication procedures. Adjacent TSOs shall apply compatible procedures regarding the offer, allocation and interruption of the capacity in question.

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

We are convinced that the proposed principles will increase the efficient use of the system. Further we would like to stress the importance of a long-term solution as the key to integrated gas markets in Europe.