



To: *ERGEG* European Regulator's
group for electricity and gas

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OBJECT: answer to public consultation “ERGEG principles: Capacity allocation and congestion management in natural gas transmission networks”.

Edison is today the second largest electricity company in Italy and the third player for natural gas in Italy. In the future, Edison aims at continuous growth, international expansion (its joint venture with Hellenic Petroleum have made the second electricity player in Greece) and at becoming the second player for natural gas in the Italian market.

As shown by the recently presented business plan, the company will keep on investing in the years to come: in the next four years more than 7.2 billions Euro will be devoted to investments for both natural gas (exploration and production activities, as well as some major import infrastructures, including the Rovigo LNG, and the IGI and GALSI pipelines) and for power generation, with a particular focus on renewable energy sources (~1 billion Euro of capital expenditure) and strategic overseas developments in fast-growing markets, such as Greece, Romania and Turkey.

Edison is also active in developing projects in the field of renewable power generation (especially wind farms) and merchant electricity transmission, such as the AC Tirano-Campocologno.

Edison shares ERGEG's view on the importance of the existence of a competitive and integrated European natural gas market and is aware of the fact that the liberalisation process within the EU requires further development. Providing new and clearer rules on capacity allocation and congestion management could in fact be one way to improve the functioning of transmission networks, due to the fact that transport capacity is still a scarce resource, often hoarded by the incumbents.



For those reasons Edison welcomes the opportunity to comment on the present consultation.

The structure of the answer document is the following:

1. General comments
2. Capacity allocation mechanisms and congestion management procedures in the Italian market
3. A comparison between Italy and ERGEG's provisions
4. Answers to ERGEG's discussion points.

1. GENERAL COMMENTS

Edison thinks that instead of restraining the analysis only to capacity allocation and congestion management procedures, ERGEG's document could have considered some aspects related to the gas chain seen as a single and integrated system. Indeed, when proposing to modify a gas transportation contract (including CAM and CMP clauses, as suggested by ERGEG's consultation), many effects on the different levels of the gas chain should be taken into account. As a matter of fact, consequences may arise both for gas supply contracts on the upstream level and for the functioning of the whole downstream balancing system. In particular, the impact of the proposed measures on national storage should be considered and for that reason, Edison supports the necessity of having ERGEG's public consultation aiming to review the rules for storage systems as soon as possible. This would enable the operators to outline a clear picture of the whole balancing system coming out from the amendment of Regulation 1775/2005.

Furthermore, even if Edison agrees with ERGEG's aim to create a coherent and harmonized system at an EU level, it believes that the proposals should not be extrapolated from the current design of the various national systems. Indeed, different factors contribute to make gas markets within different Member States peculiar: availability of indigenous production, geographic position, geological potential for storage facilities, historical development of the gas market, existing interconnections and the possible uses for gas which determine its degree of substitutability. These elements have influenced the national market structures and the functioning mechanisms adopted by the TSOs. For those reasons, a deep analysis of how gas



markets function in various Member States is a fundamental prerequisite in order to understand which measures could be suitable with the current market structure and be therefore implemented without incompatibility or distortions. For instance, as specified in the following answers, the introduction of buy-back mechanism in markets different from UK should be better analysed.

Moreover, Edison recommends that the development of secondary capacity markets be accelerated. As a matter of fact, the existence of well functioning secondary markets is essential for congestion management procedures to work. For instance, shippers' capability to sell unused capacity (as ERGEG suggests with the proposed long term UIOLI mechanism) is bound to the possibility to find a buyer, which is higher when trade of capacity rights in the secondary market is well developed. Not only the effectiveness of congestion management procedures is influenced by the presence of liquid secondary markets, but even the performance of pro-competitive capacity allocation mechanisms, such as pro-rata, depends on the possibility for shippers to trade capacity as secondary.

Therefore, in Edison's opinion, the growth of capacity secondary trades shall not be seen as an area of intervention distinct from CAM and CMP, due to the interdependence between the two topics. Consequently, a reform of capacity allocation and congestion management procedures cannot disregard a contemporary prompt to further developments of capacity secondary markets, not only within national borders, but on a European level.

To be noted that in the Italian case, a real trade of capacity on a short term basis is hindered by the incumbent TSO's request of 8 days to verify the guarantees presented by each subject intentioned to book daily transportation capacity. Therefore, Edison thinks that TSOs' timing to carry out these functions should be shorten.

Also, Edison is convinced that capacity rights already acquired by the shippers through exemptions from Third Party Access discipline, as stated by Art. 22 of Directive EC/2003/55, shall be guaranteed. For that reason, exempted capacity rights should not be modified by ERGEG's proposed measures. Indeed, reducing or even removing exemption rights would extremely diminish the incentives to invest in new gas transmission infrastructures and therefore impact negatively on the level of security of gas supply.

Amended guidelines should also not modify allocation mechanisms currently on force and foreseen by exemption provisions.



Furthermore, Edison agrees with ERGEG's aim to increase market liquidity and flexibility through the increase of available capacity by commercial means, the reservation of part of the capacity to short term products, day-ahead nominations, etc. On the other side, the provision of more flexible instruments shall not endanger the security of supply, as one of the three pillars of the European energy policy. Security of supply, especially for countries satisfying the main part of their demand with gas imported from outside EEA, should be one of the main concerns to be taken into account when designing rules that could change the structure of the markets. For that reason, when proposing to modify capacity allocation and congestion management mechanisms, the impact of the suggested changes on the upstream supply contracts should be deeply considered. Long term take-or-pay contracts cannot only be seen as an obstacle to the development of more competitive gas markets: on the contrary, they are probably the main guarantee of security of imported gas supply and a valuable tool to stimulate operators' commitment to invest in gas transmission infrastructures.

Finally, we appreciate ERGEG's provision of news tasks for the TSOs, in order to optimize the use of the network and the capacity offered along adjacent systems. These new tasks are, for example, a strict cooperation with other TSOs, the exchange of information (especially on the maintenance of the networks), the alignment of the transportation contracts with adjacent operators. Moreover, TSOs should implement new services, like offering new bundled products. However, in Edison's opinion, fees should be paid when new services are offered in order to recover TSOs additional costs. In addition, TSOs could be allowed to retain a certain share of the revenues generated thorough congestion management mechanisms, like auctions. In any case, the major part of the additional revenues from auctions should be used to reduce shippers' transport tariffs or invested in new transmission capacity.

2. CAPACITY ALLOCATION MECHANISMS AND CONGESTION MANAGEMENT PROCEDURES IN THE ITALIAN MARKET

LEGAL FRAMEWORK: THE NETWORK CODES

The functioning of natural gas transportation system in Italy is currently regulated according to the legal framework designed by EU Directive 2003/55 and Regulation 2005/1775.



The above-mentioned European acts are being implemented through various Resolutions issued by AEEG, the Italian Regulation Authority. Indeed, Italian legislation leaves up to AEEG the role of regulating in details the access to the Italian gas transmission networks, as well as the functioning of the grid system.

Although each TSO draws up its own network code in order to establish in a transparent way the procedures of access to capacity, capacity allocation, quality of service, etc., it is worth noting that the whole process of code drafting is supervised by the Authority, whose final approval is binding for the code's entering into force.

In particular, the adoption of network codes is ruled by AEEG Resolution no.137/02. According to Art. 19 of the same Resolution, the adoption or any modification of network codes has to be submitted to the analysis of a specific Consultation Committee (which includes all the interested parties), whose opinion has to be taken into account within the code's drafting process.

The code (or any modifications) enters into force only after the approval of the Authority and the publication on AEEG's website.

CAPACITY ALLOCATION MECHANISM

Resolution no. 137/02 rules as well the criteria to be followed during the capacity allocation process at cross-border interconnection points.

According to Art. 9, capacity allocation takes place on a yearly basis and each user can require:

- Annual capacity: for 1 to maximum 5 years duration products,
- Seasonal capacity.

The annual allocation is confirmed also with reference to cross-border interconnection points, though the procedure takes place 2 years in advance (24+2 months), with the possibility for the holders of multi-year import contracts to extend the allocation up to 5 years.

Multi-annual capacity products

Every user who holds a multi-annual gas import contract has the right to require capacity allocation for a period of maximum 5 years.

The allocation of available capacity takes place according to the following priority order:

1. To the holders of take-or-pay gas import contracts subscribed before 10th August 1998;



2. To the holders of multi-year gas import contracts (different from the ones at point 1)

For every thermal year included in the committed five years, if the capacity requested exceeds the offered capacity, the TSO shall allocate the capacity on a pro-rata basis, always complying with the priority order previously reported.

Annual and seasonal capacity products

In case of capacity products of one year and less, the allocation of available capacity takes place according to the following priority order:

3. To the holders of annual gas import contracts;
4. To the holders of less than one-year gas import contracts

Firm capacity is preferentially allocated to each user requiring annual capacity; if the capacity requested exceeds the available capacity, the TSO shall allocate the capacity on a pro-rata basis, always complying with the priority order previously reported.

Furthermore, if during the entire Thermal Year or in any period of it, firm capacity is not sufficient to satisfy the demand, yearly interruptible capacity is allocated on a pro-rata basis, according to what is prescribed by Art. 10.3.

In case during the allocation process, the allocation of any annual firm capacity is not confirmed, the TSO will allocate that firm capacity as a replacement for any capacity allocated as interruptible.

Interruptible seasonal capacity is allocated on a pro-rata basis.

Allocation of capacity during the thermal year is also allowed: in this case, the length of capacity products could vary from one up to three or six months.

NOMINATION SCHEDULE

The deadlines for the Nomination scheme are as follows:

First TSO deadline: 11:30 a.m. (Gas Day D-1) > TSO shall publish the provisional balance of the previous day.



First Shipper deadline: 12:00 p.m. (Gas Day D-1) > Shipper shall communicate the transactions he is willing to complete on the PSV¹.

Second Shipper deadline: 13:00 p.m. (Gas Day D-1) – (Nomination) > Shipper shall communicate to the TSO his transportation programme, informing him about the quantity of gas (expressed in energy) that he is willing to transport on day D.

Second TSO deadline: 17:00 p.m. (Gas Day D-1) > TSO, once verified the transportability of the nominated gas, gives confirmation of the programme to the shipper.

In case of technical constrains, preventing the TSO from the confirmation of shipper's daily schedule, the TSO (within this deadline) will communicate to the involved shippers the respective quantity of transportable gas. Based on the information provided by the TSO, the involved shippers will update their transportation programme.

Third Shipper deadline: 19:00 p.m. (Gas Day D-1) > Shipper shall communicate to the TSO the updated transportation programme for day D

However, the "Third Shipper deadline" is only a passive instrument, since the shipper has to re-nominate according to the potential modifications to his transportation programme imposed by the TSO. In practice, there is no prescription of any re-nomination rights for shippers on a day-ahead basis.

UIOLI

Currently, the congestion management procedures applied by the Italian TSOs comply with the requirements in Article 5 para 3 (a) of Reg. EC/1775/2005, which states that unused capacity shall be offered on the primary market at least on a day-ahead and interruptible basis (interruptible short-term UIOLI).

Indeed, Art. 15, para 4 of Resolution 137/02 establishes that the TSO shall allow contracted but not assigned (unused) capacity to be freed up at a short notice as interruptible capacity.

The procedure through which the unused capacity is freed up is reported on the network code and starts from the TSO's analysis of the users monthly programmes, in order to quantify the total amount of unused capacity.

¹ PSV stands for Virtual Exchange Point and it represents the Italian secondary market.



The deadlines for the allocation of unused capacity are as follows²:

First TSO deadline : Day D+2 (24th) > TSO shall publish the following month's unused capacity

First Shipper deadline: Day D+3 (25th) > Interested shippers shall send their requests for unused capacity to the TSO

Second TSO deadline : Day D+4 (26th) > TSO shall allocate, on a monthly basis, the unused capacity to the shippers who required it. If the unused capacity is not sufficient to satisfy all the requests, the TSO will allocate it on a pro-rata basis.

Second Shipper deadline: Day D+5 (27th) > Involved shippers shall confirm the acceptance of the allocated capacity to the TSO. Finally, the transportation contract related to the unused capacity has to be subscribed within the first 5 working days of month M.

The above-mentioned unused capacity is allocated to the applicant shippers on an interruptible basis. This means that, in case of transportation necessities, the holders of the unused capacity have the right to require it back in order to use it (totally or partially) on Day D.

The deadline for their requirements to be accepted is at 13:00 p.m. on Day D-2.

If the holder claims back its capacity, the TSO shall communicate to the involved shippers the updated amount of unused capacity allocated to each of them on Day D, as resulting from the application of a pro-rata mechanism.

SECONDARY MARKET

Since October 1st 2003, a secondary gas market, called PSV, is operating in Italy and its functioning is regulated by the Authority.

The PSV is a virtual hub on which it is possible completing bilateral transactions over-the-counter (OTC). This secondary market is accessible not only by shippers, but also by operators who don't have transportation contracts with the main TSO (Snam Rete Gas), for example traders. However, users different from shippers need to have a guarantor towards the TSO in order to access the PSV.

² To be noted that shippers have to inform the TSO about their monthly programme on the 22nd of the previous month (M-1), which can be considered the starting day (D) of the process of allocation of unused capacity.



The gas products traded on the PSV are daily and multi-daily, up to the maximum of 30 days.

3. A COMPARISON BETWEEN ITALY AND ERGEG'S PROVISIONS

OPEN SUBSCRIPTION PERIOD

ERGEG expresses his appreciation for capacity allocation mechanisms such as Open Subscription Periods, with subsequent pro-rata allocation.

Such a procedure is the one currently on force in Italy, with reference to allocation of existing capacity. Indeed, if demand for firm capacity does not exceed the available capacity, all requests are satisfied on a firm basis at the end of an OSP; whereas in case of actual congestion, each shipper is allocated a portion of capacity equal to the proportion of its specific requirement related to the total interest of all shippers in the OSP.

To be noted, that Italian regulation has established a priority order to be respected during the allocation procedure: the priority accorded to the holders of take-or-pay and multi-annual import contracts aims to ensure the security of supply, though without hindering competition.

OPEN SEASON

With reference to the allocation of new capacity in the long-term, ERGEG expresses his preference for open-seasons or long-term auctions.

Neither of these allocation mechanisms is currently on force in Italy³, but it is worth mentioning that an open-season procedure has been introduced, by Ministerial Decree dated 28th April 2006, with regards to TPA exempted infrastructures (among which, interconnectors) but it has been implemented by the Italian Energy Authority so far only for exempted LNG terminals.

³ A particular case is represented by the Open Season (OS) procedure on the Igi – Poseidon Pipeline, currently in progress, to allocate to third parties a quota of the additional firm forward flow capacity (i.e. capacity in excess of the Exempted Capacity) of the Poseidon Pipeline. The OS has been foreseen by the 21 June 2007 Decree by the Italian Ministry of Economic Development as a condition for the release of the capacity exemption. The Open Season Procedure Regulation has been approved by the Italian Energy Regulatory Authority with deliberation ARG/gas 72/08 dated 3 June 2008; by the Greek Energy Regulatory Authority with deliberation 169/2008 dated 4 June 2008 and by the Greek Ministry of Development with Decree ΑΠΔ 1/ Α / 14871 / 17-6-08



UoLI

The only UIOLI mechanism actually implemented by the Italian TSO is interruptible UIOLI, as required by Reg. (EC) 1775/2005. However, differently from what established by the above-mentioned Regulation, the unused capacity is not offered on a day-ahead basis, but on a monthly one. Besides underlining the importance of the already implemented mechanism, particularly in Member States where the volume of interruptible capacity offered is limited, ERGEG suggests the introduction of further UIOLI procedures, such as Firm Short-Term UIOLI and Long-Term UIOLI.

Firm Short-Term UIOLI

The aim of this mechanism consists in making firm day-ahead capacity available on the market in case of contractual congestion, restricting or removing re-nomination rights where they exist.

This procedure consists of setting a nomination schedule so that any resulting day-ahead capacity can be allocated in due time prior to the start of the main trading activities on the last trading day preceding the day of delivery.

In ERGEG's idea:

- Re-nominations rights should be applied according to a specific limit (re-nominations cannot vary entirely). ERGEG proposed to provide each shipper 2% of its booking capacity + 2% of the technical capacity at the entry point.
- A certain amount of firm daily ahead capacity must be guaranteed to the market. Indeed ERGEG proposes at least 10% of the technical capacity at the entry point is offered on a day-ahead basis.

If the nominated firm and interruptible capacity plus the capacity reserved for re-nomination exceed a defined level, the nominations of interruptible capacity have to be rejected, partially or totally, in order to make a minimum amount of capacity available on a firm day-ahead basis. Nominations of interruptible capacity that have not been rejected shall be fulfilled on a firm basis. **Day-ahead capacity is then allocated by auction only**, with the establishment of reserved prices to be disallowed by the Authority.

However, it is not clear how a firm short-term UIOLI could be designed within the Italian system; firstly, due to the long time (currently estimated in 8 working days) usually required by the incumbent TSO (Snam Rete Gas) to verify the guarantees presented by each subject intentioned to book



transportation capacity. Secondly, because there is no allocation of day-ahead capacity on the Italian market, differently from what happens in other Member States.

Long-Term UIOLI

This mechanism provides the withdrawal of systematically underutilised capacity in presence of the following conditions:

- Shippers requesting capacity bookings at a particular interconnection point are unable to obtain it, either both on the primary and secondary market;
- During a specific period covering at least one winter month, the capacity holder systematically underutilizes at least part of his capacity, allocated with a contract duration of more than 1 year;
- Furthermore, the unused capacity has not been sold or offered in due time and at reasonable price on the secondary market by the owner and he is unable to satisfactorily justify his behaviour;
- The gas market share of the capacity holder on the entry-side of the respective interconnection point exceeds the capacity share defined by the NRA.

The capacity holder can lose, partially or completely, his capacity rights for a given period or for the remaining term. Moreover, he can be limited in his nomination rights for a given period to the maximum flows of the previous year. The withdrawn capacity, as the one subject to limits to the nomination rights, shall be offered on the primary market by the TSO.

Once the capacity is transferred to another user, the initial capacity holder is relieved of any payment obligation for the withdrawn part of the capacity, without prejudice to possible fees related to withdrawal itself.

Long-Term UIOLI has been introduced into the Italian legal framework by Ministerial Decree dated 11th April 2006 and referred to TPA exempted infrastructures (among which, interconnectors). Art.6, par. 3 and 4, states that both exempted capacity and capacity allocated with priority, if constantly and voluntarily underused, shall be withdrawn and re-allocated to third parties, even for multi-annual periods.

We are still waiting for a Resolution in which the Authority regulates this procedure in details.



SHORT-TERM CAPACITY PRODUCTS

ERGEG suggests that a proportion of the available capacity shall be mandatory set aside for short-term capacity products to be offered on a firm basis. In the Italian system the provision of capacity products of one year and less is not mandatory: the allocation of capacity at interconnection points is on an annual or seasonal basis and the above-mentioned priority order (which favours the holders of long-term import contracts) implies that the requests for shorter-terms (year, less than a year) capacity products are satisfied as residual.

Moreover, as previously stated, differently from many other Member States, the booking of daily capacity is only possible on secondary markets (i.e. only if the shipper who holds this capacity is willing to sell it to another shipper).

4. ANSWERS TO ERGEG'S DISCUSSION POINTS

- 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**

Yes, we agree with the problems that ERGEG has identified with capacity allocation and congestion management. Nevertheless, further considerations have been reported within the introduction of this document.

- 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?**

Edison suggests to extend the scope of the document not only to the points with actual or potential congestion (as originally suggested by ERGEG), but to **all the cross border points**. Of course, the application at storage and LNG facilities or at exit points to end consumers still should not apply (as ERGEG assumed).

In our view, it has no sense to apply the Guidelines only partially. Firstly, applying the same rules to all the European interconnection points, and consequently facing a single gas transportation system, would facilitate the cross-border market harmonization and integration. Furthermore, it would be very complicated and inefficient for a single TSO managing several interconnection points ruled in different ways.

Secondly, it is very difficult to understand when a point is "potentially" congested. For instance, currently an entry point cannot be saturated only



because there's a bottleneck upstream. If the bottleneck is removed, the entry point could become congested.

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)?

Edison agrees with ERGEG that First Come First Served mechanism (FCFS) could be in some circumstances a non transparent and potentially discriminatory allocation mechanism.

Nevertheless, we think that such a mechanism should be better analyzed: indeed it is the simplest from an administrative perspective and the one with the lowest transaction costs. Therefore we consider that FCFS could be suitable in certain circumstances and in particular in developing markets because it provides incentives to network users to reserve capacity as soon as possible and therefore to develop the market soon. Moreover, FCFS could be seen positively in countries where significant investments in infrastructures are taken, because it is an easy way to book capacity and, consequently, it acts as guarantee for the investment.

However, if FCFS was replaced by other allocation procedures, it would be important to guarantee the priority of holders of long term supply contracts or shippers who have acquired TPA exemption rights, on the upstream or on the downstream level.

With reference to the proposed mechanisms (OSP with subsequent pro-rata allocation or auctioning), we would like to remind that an OSP system is currently on force in the Italian system, followed by a pro-rata allocation in case of congestion.

We think that a possible evolution of this mechanism, in case of demand exceeding offer, could foresees:

- Allocation on a pro-rata basis, in case of long-term capacity contracts;
- Allocation via auction, in case of short-term (one year and less).

Nevertheless, Edison would like to underline that the effectiveness of these procedures to solve congestions depends on the gas market design. In particular, the risk of implementing pro-rata mechanism lies in the absence of a perfect functioning secondary market. For that reason, Edison recommends a further development of secondary markets.



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)?

In general, Edison agrees with the opportunity to offer different capacity products and is particularly favourable to the provision of **bundled products**, which could improve an efficient use of available capacity and simplify shippers' booking procedures. An issue of specific importance, which could be easily solved by the provision of bundled products, is represented by the necessity of TSOs' coordination in the maintenance of the networks: the current lack of coordination implies very long periods of capacity unavailability on a interconnected network managed by different TSOs

Another relevant issue concerns "force majeure" clauses usually included in transport contracts: when a shipper buys capacity on different transmission systems by a single contract, it would be reasonable to have a single "force majeure" clause applicable to the whole interconnected network. Edison supports the involvement of all actors (stakeholders, Association, Institutions,) to define an harmonization process on the European level to reach a unique "force majeure" clause both for the Member States and non-EU States.

In our opinion, specific fees should be potentially foreseen for the TSOs when offering new services, among which bundled products, in order to recover their additional costs.

It is appreciable ERGEG's intention to develop a gas market characterized by an increasing role of day-ahead and **intra-day** capacity products. Nevertheless, Edison is concerned about the compatibility of these products with the upstream supply contracts. Indeed, the flexibility provided by gas suppliers could not allow to use capacity on an intra-day basis. Therefore, the possibility to take advantage of short term capacity products depends on the existence of a gas exchange, which would make gas available on a short time horizon.

5. What is the role of secondary capacity trading?

The importance of the development of secondary capacity trading has already been underlined within the introduction.

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?

It follows a point-to-point analysis of the different capacity allocation and congestion management measures.

- **BUY BACK**

First of all, in our view, the applicability of this mechanism to systems different from the British should be better analysed.

However, we would like to underline the presence of some criticalities:

- “What would it happen if the TSO was not able to buy back the capacity in case of overbooking?” It would not be correct that shippers who bought firm capacity have it interrupted. Further, the provision of an eventual economic compensation for interrupted shippers (when present) would only recognize direct costs, while the main damage would be related to the infringement of upstream supply contracts. The risk arising from the possible payment of take-or-pay penalties could not be mitigated by the advantages of buy-back mechanism, i.e. the absence of counter-party risk and the certainty of a minimum price. Moreover, additional costs to be considered by the shippers are related to the storage unbalancing penalties that could occur if shippers’ capacity is taken away.

- **CAPACITY RELEASE**

Edison thinks that capacity release is not an efficient mechanism for several reasons:

- The imposition of a maximum share of capacity for each shipper on a single entry point could lead to the implementation of distortive mechanisms. Reducing a shipper’s import capacity on a specific entry point would not necessarily mean improving competition, because the shipper could buy at the border, at a higher price, the gas he was not able to import. In conclusion, this would have negative consequences on the final gas price to consumers.
- Taking into account the capacity share that a shipper has only on a single entry point, in order to apply capacity release procedures, could be misleading: that entry point could in fact



be the only import point for that shipper. A capacity share calculation on a national basis (i.e. having as reference all the entry points) could therefore be more recommended.

- As stated in the introduction, it seems correct that capacity release provisions should not apply to TPA exempted capacity.

- **UIOLI**

A part from the interruptible short term day-ahead UIOLI, which is already implemented by European TSOs according to Regulation EC/1775/2005, ERGEG proposes the introduction of two further UIOLI mechanisms: firm short term UIOLI and long term UIOLI.

As concerns the firm short term UIOLI, Edison appreciates ERGEG's intention to prompt the market towards a day-ahead capacity allocation system. Nevertheless, the availability of capacity on a day-ahead basis could not be fully used due to the lack of liquidity on the gas market.

A critical point to be underlined is that anticipating the conclusion of capacity nomination process cannot impede to the shippers to benefit from the flexible conditions obtained (and paid) within the upstream supply contracts.

In Edison's opinion, the idea to be supported is the one of a very restricted period of time (some hours before the gas-day) in which the shipper may not re-nominate capacity. Other limitations to nominations – re-nominations of booked firm capacity would reduce the possibility for the shipper to exploit the flexibility of the upstream supply contracts.

Regarding the long term UIOLI, Edison agrees that the implementation of a long-term UIOLI could have a positive impact, due to the increase of market liquidity and flexibility conveyed. Still, we have found some criticalities:

- The lack of an efficient and well-functioning secondary market should be taken into consideration when evaluating the behaviour of capacity holders: indeed, we do not think that the **sale** of unused capacity could be regarded as demonstration of shippers' good-willingness, since it is often impossible finding a transaction counter-party. Only the **offer** itself of unused capacity on the secondary market should then be the considered variable, showing the shipper's intention not to



hoard capacity in order to prevent the entrance of other operators;

- Based on the same consideration of the lack of capacity secondary markets, and therefore of a reference price, it is not clear how a “reasonable price” could be calculated;
- Close attention should be paid to the reasons of capacity underutilization within the monitoring period as well as to the shippers’ justification for their behaviours: when evaluating the reasons for not using allocated capacity, it is worth underlining that demand seasonality and upstream supply contracts’ flexibility must be taken into account as important variables, as well as possible reduction of available capacity due to maintenance reasons.
- It should be paid attention when considering “average” periods, either when evaluating the capacity holder under use (i.e *during a period covering at least month*) or when considering the capacity holder withdrawal (*specific period covering at least month*). While defining the “systematic” underutilized, NRAs should not calculate it on the average use of shippers’ capacity in the defined period.
- The period of time in which the shipper may not re-nominate capacity should be restricted (up to some hours before the gas-day, for instance). Other limitations to nominations – re nominations of booked firm capacity would reduce the possibility for the shipper to exploit the flexibility of the upstream supply contracts;
- It is not clear how the long term UIOLI could interact with the firm short term UIOLI, in terms of nomination schedule: in particular, it seems that if the firm short term UIOLI is on force, long term UIOLI would not be necessary, because there should not be unused capacity to be freed;

- **TRANSIT CAPACITY**

Edison agrees with ERGEG that the offer and use of separate capacity for transit purposes should be avoided, in order to ensure maximum liquidity of capacity markets.

- **SHORT TERM PRODUCTS**

In principles, Edison shares ERGEG’s opinion that part of the technical capacity shall be set aside for capacity products of one year and less. Nevertheless, it is important that the share of capacity reserved for short term products is reasonable and defined in an



appropriate way (the proposed range, 10%-25% seems to be too wide and it is not clear on which assumptions it has been calculated), in order to ensure that enough capacity is set aside for long term supply contracts.

Finally, it is important to note that, compared to long term capacity, short term capacity implies a major risk for the TSOs, because part of the capacity could stay unsold. For this reason, some mechanisms should be adopted in order to mitigate the risk. We propose, for instance, that fees for short term capacity should be higher than for long term, so including the risk that capacity would not be allocated for the following time.

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

No, Edison does not think that the needs of shippers performing supply activities are properly taken into account. In general, as reported in the introduction, we think that ERGEG's document does not consider the entire gas system as a single integrated chain. For example, all the aspects related to the upstream/downstream levels of the chain, like the flexibility of supply contracts and the seasonality of gas consumption, has not been taken into proper consideration.

Another critical point comes out from ERGEG's proposal to amend existing contracts within six months of the respective NRA's decision entering into force. This provision does not take into account the impact on take-or-pay supply contracts: indeed, it seems reasonable to think that "force majeure" would not be accepted as a justification for not having taken the reserved gas. A gas supplier could sell the gas at the border without having a complete view of the transport network that brings the gas to the European borders, where European regulations are into force. In this case it would be very difficult asking for the application of "force majeure". As a consequence of the possible criticalities emerging with relation to the upstream supply contracts, Edison suggests a more realistic timetable to amend existing contracts, for instance at least one year since the related NRAs' decision entering into force.

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

It is important to underline that capacity demand depends on the availability of gas supply contracts (and not vice-versa). As a consequence, Edison



believes that the main effect of some of the proposed measures, at least in the short term, will be an increased efficiency of capacity allocation and congestion management mechanisms, rather than a improvement of the liquidity of the market.

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

In Edison's opinion, it is absolutely important to guarantee compatible booking and operational procedures between adjacent systems. Indeed, the implementation of common procedures should be started as soon as possible, in order to steer both shippers and TSOs' new investments, for example in IT systems, such as web-based platforms for primary capacity allocation and secondary capacity trading.

Another relevant aspect concerns the harmonization of network codes, that should be implemented where possible. With specific reference to the issues of coordinated maintenance and "force majeure" see Edison's answer to question no. 4.

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

As previously stated, Edison believes that the main effect of some of the proposed measures, at least in the short term, will be an increased efficiency of capacity allocation and congestion management mechanisms. Nevertheless, Edison would like to stress that an efficient use of the system could not be reached notwithstanding the development of well functioning secondary markets. A first step in this direction within the Italian system, could be for instance the reduction of the time required by the incumbent TSO to verify the solvency of shippers who have capacity transferred from other shippers.