
EREG Public Consultation

Guidelines on Congestion Management

2 May 2005

Introduction

1. ERGEG, following request for advice from the European Commission, has developed and further refined a draft of Congestion Management Guidelines that contains the results of detailed analyses (including also the results from the Congestion Management mini-for a held from December 2004 to February 2005) and reviews of the first Guidelines draft that was presented by EC at the 11th Regulatory Forum in Rome in September 2004. It is intended that they be adopted as part of Regulation 1228/2003. This paper seeks views on the ERGEG draft of Congestion Management Guidelines.

Invitation to comment

2. ERGEG set out on 10 August 2004¹ its commitment to consult on its development of policy recommendations and other matters. Such consultation would recognize for example the importance of providing expert input and views, and the need to consult a full range of interested parties, make consultation proposals widely known, and consult at national, European and international levels.
3. Accordingly, ERGEG invites comments from any interested parties concerning the draft Congestion Management Guidelines, including the Explanatory Note, set out in the Annex to this paper. Any comments should be received by 24 June 2005. They should be sent to :

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4. Unless marked confidential, all responses will be published by placing them on the ERGEG website (<http://www.ergreg.org>). Any questions on this document should, in the first instance, be directed to Jose-Manuel Hernandez.
5. Readers may wish to note that ERGEG is presently also consulting on Transmission Tarification Guidelines, and invites comments on this topic by 24 June 2005

¹ Public Guidelines on ERGEG's Consultation Practices, 10 August 2004, ERGEG

Background

6. Regulators, the European Commission and stakeholders have for some time recognized that the creation of a liberalized single market for electricity across the EU will require an availability of electricity interconnector capacity between Member States. As wholesale markets for electricity develop for example, opportunities for advantageous trade across borders increase. Consequently, cross border interconnectors will tend to become congested and so it is necessary to find efficient and market based mechanisms to allocate interconnector capacity and so set in place efficient congestion management methods. It is also necessary, in order appropriately to minimize congestion, for those providing the necessary infrastructure (principally Transmission System Operators) to maximize the transmission capacity available, subject to the necessary security, reliability, and other relevant standards.
7. To a large extent, congestion management methods in place across the EU at the time of market liberalization, that is from 1998 onwards, were neither market based nor did they place sufficient emphasis on TSOs to maximize capacity. Some cross border allocation for example was on the basis of long term contracts tied to particular market players which tended to foreclose the market to other potentially more advantageous trade. Other allocation methods were based on 'first come, first served' which equally tended to lock out more efficient, value based, trade.
8. The Council of European Energy Regulators (CEER), the European Commission, and other stakeholders therefore began to consider Congestion Management issues within, among other places, the Florence Forum process from 1998. Parties agreed at the Fifth meeting of the Florence Forum (March 2000) that it was important that congestion management should be based on market solutions that give proper and justified incentives to both market parties and TSOs to act in a rational and economic way.
9. Analyses and discussion led to an initial set of Guidelines for congestion management being set out in the conclusions of the Sixth meeting (November 2000). These Guidelines emphasized the need for TSOs to set out in a transparent manner the congestion management methods they were to use, and for TSOs to maximize the available interconnector capacity. These Guidelines were not legally binding. In 2002, reports on Congestion Management were produced, among others, by the CEER² and the European Commission³, which noted progress had been achieved but that further progress was required.
10. A legal basis for Congestion Management Guidelines came with the adoption in June 2003 of the Regulation 1228/2003 on conditions for access to the network for cross-border exchanges in electricity. This took force from 1 July 2004. The Regulation allows the European Commission, working within a Comitology process, to set binding Guidelines on Congestion Management. The adopted version of the Regulation in fact already contained draft Congestion Management Guidelines that cover some general aspects of congestion management. It was intended that these be refined by Regulators and the Commission, in suitable consultation with stakeholders.
11. In the meantime, the European Commission established by Decision in November 2003 the European Regulators' Group for Electricity and Gas (EREGG). This Group comprises all EU energy regulators and is intended to provide advice to the Commission regarding electricity and gas market liberalization matters, including Congestion Management. ERGEG has been

² Position paper of the CEER on Congestion Management, February 2002, CEER

³ Congestion management in the EU electricity network – Status Report (September 2002), DG TREN

requested by the European Commission, among other things, to further refine the Congestion Management Guidelines.

12. Hence the CEER/EREG and the European Commission worked together to produce a refined text of CM Guidelines for September 2004. These were presented to the Eleventh meeting of the Florence Forum (September 2004). The Forum agreed to set up a number of “mini-fora” in order to make further progress in congestion management issues at a more local and targeted level. Each mini-forum comprised representatives of the Regulator, European Commission, TSOs and others.
13. The meetings of the mini-fora took place between December 2004 and February 2005. One outcome was a further view of how Congestion Management Guidelines might be refined, and ERGEG’s view of the outcome is contained in its report of March 2005⁴. Full reports of each of the Mini-Fora are available from European Commission website pages⁵. ERGEG, in collaboration with the European Commission, has therefore during March and April 2005 further refined the Congestion Management Guidelines and produced a text for consultation.
14. The text of the Congestion Management Guidelines is given here in the Annex. It is given in track change mode and indicates the changes from the September 2004 EC text circulated at the Eleventh Florence Forum

Electricity Regulation 2003/1228 and Comitology

15. Regulation 2003/1228, entered into force 1 July 2004, provides for the treatment of a number of issues relating to cross border trade in electricity, including congestion management.
16. General principles of congestion management are set out in Article 6. Congestion problems must for example be solved using market based solutions which give efficient economic signals. The Annex to the Regulation sets out general Guidelines on the management and allocation of available transfer capacity of interconnections between national systems.
17. Article 8(4) provides for the Commission to “... amend the guidelines on the management and allocation of available transfer capacity of interconnections between national systems” and “... where appropriate, in the course of such amendments common rules on minimum safety and operational standards for the use and operation of the network, as referred to in Article 5(2) shall be set. ...”.
18. The Commission is to be assisted in this task by a Committee, and act in accordance with the procedure set down in Articles 5 and 7 of Decision 1999/468/EC. This procedure is more commonly known as Comitology. That is, the Commission may only amend the Guidelines following approval by a Committee of Member State representatives. In addition, it is intended that the establishment of ERGEG will assist the Comitology process by allowing the expert input of the EU gas and electricity regulators.

Anticipated process

19. Comments are invited on the draft Congestion Management Guidelines by 24 June 2005. ERGEG will publish all comments received (unless marked confidential). ERGEG intends to revise the draft in the light of comments received and publish its final view in July 2005. This final view will also be delivered to the European Commission at that point and will be ERGEG’s formal advice to the European Commission on this matter.

⁴ Global Assessment of the Results of the 1st Series of Mini Fora on Congestion Management and Potential Impacts on the Draft Guidelines Working Paper, March 2005, ERGEG, www.ereg.org

⁵ http://www.europa.eu.int/comm/energy/electricity/florence/mini_fora_en.htm

20. The European Commission have indicated that they intend to put the Congestion Management Guidelines to the Comitology process by September 2005. This should allow sufficient time for the Guidelines to be considered by the Committee and, if approved, enter into force from 1 January 2006.

Annex: Draft Text of Guidelines on Congestion Management including the ERGEG proposed amendments