

EURELECTRIC comments on ACER’s preliminary scoping document on potential “FG rules for trading related to technical and operational provisions of network access services and system balancing”

EURELECTRIC welcomes the opportunity to respond to the above consultation and apologises for the slight delay in submitting its response.

The issues identified within the scoping paper are not ones about which EURELECTRIC has extensive expert knowledge or experience. We have therefore limited our response to answering the two questions raised by the Commission at the Madrid Forum: are the issues identified the correct ones and do you think a FG RfT is necessary. We have also included a few brief observations on a number of the specific questions raised in the scoping paper as appropriate.

Are the issues identified the correct ones?

The five identified topics (terms and conditions of capacity products, secondary capacity markets, VTP design, transparency rules and licensing requirements) are all ones where incremental improvements could be made. At this stage it is difficult to assess how much of a barrier to cross-border trade they represent as markets across Europe are at different stages of development and, in some cases, more fundamental barriers preventing competition and liquidity developing need to be overcome.

Under the CAM Network Code all entry and exit capacity at interconnection points will in future have to be allocated as a bundled product, which should help improve the efficiency of cross-border trade. However, in reality, bundled products do not have a single set of terms and conditions and shippers have to contract separately for the entry and exit components of the bundle separately with each respective TSO. To the extent these terms and conditions differ, which they do in many different respects, this has the potential to cause inefficiencies for shippers trying to flow gas from one market area to another and the “lowest common denominator” rule will effectively apply, for example with regard to firmness. The same applies to differences in congestion management rules where day-ahead “use it or lose it” and “overselling and buyback” rules have been implemented separately either side of an interconnection point.

As regards secondary capacity trading, we do not believe ACER should concern itself with, or attempt to regulate, the secondary market. However, improvements could be made to the processes and timescales by which TSOs execute capacity transfers and assignments on their systems in response to secondary market trades.

The DNV/KEMA study on entry-exit regimes in gas published in July 2013 provides a comprehensive snapshot of VTP access/design and hub issues in each Member State. This should be the starting point for identifying where improvements need to be made. Implementation of the Balancing Network Code will also require Member States to address VTP access/design hub issues in a consistent way.

Transparency of the conditions associated with capacity services and interruption is also important. TSOs should be encouraged to make this information readily available on their websites, alongside the information they are legally bound to provide in accordance with Chapter 3 of Annex I of the Gas Regulation. Regrettably, three years on from when provision of this information became legally binding, there are still significant deficiencies amongst TSOs in making it available and this is also something which ACER needs to address.

Finally, licensing and reporting regimes should not be unduly bureaucratic. Market participants from outside the country in question should not be forced to have a registered office, or be registered for taxation purposes, within the country, or to demonstrate a higher standard of competence or financial commitment than market participants that are domiciled in the country. Regulation 1227/2011 (REMIT) provides for market participants that trade gas in EU markets to register with a national NRA and for this registration to apply equally in other EU markets. Such a principle could possibly be extended to other licensable activities.

Do you think a FG RfT is necessary?

We do not think a separate Framework Guideline is necessary to address the issues ACER has raised in the scoping document. Instead we think that any incremental improvements which are necessary should be addressed through:

- close collaboration between ACER and ENTSOG during implementation of existing and future EU Network Codes;
- new ACER Guidelines of Good Practice;
- open and structured dialogue between national TSOs, NRAs and stakeholders on all aspects of market development and implementation of EU Network Codes, with timely consultation both in the national language and in English; and
- potential amendments to existing EU Network Codes.

A further observation

One of the questions raised in the consultation is whether certain categories of users (e.g. power plants) have specific requirements regarding capacity products. Bearing in mind the challenging commercial environment in which gas-fired power plants are currently operating, EURELECTRIC believes that the traditional TSO approach to exit capacity allocation at power plants (i.e. flat annual booking based on peak load) is no longer appropriate. We would welcome the opportunity to discuss with TSOs at national level alternative ways of exit capacity allocation for gas-fired power plants and/or the charging arrangements applicable to such exit capacity. We do not think a separate Network Code is necessary to facilitate this. But we would caution against the Tariff Network Code being too prescriptive such that it prevents opportunities for TSOs to explore more flexible ways of charging for power plant exit capacity.
