



## ACER Call for Evidence

on the conditions for the application of FDA UIOLI pursuant to paragraph 2.2.3.1 a) - d) of the CMP Guidelines

**(“congestion indicators”)**

PC\_2016\_G\_01

Fields marked with \* are mandatory.

### Background & objective

According to paragraph 2.2.1.2 of the Commission Guidelines on Congestion Management Procedures[1] (hereafter, the ‘CMP GL’) the Agency for the Cooperation of Energy Regulators (‘the Agency’) has to publish a yearly monitoring report on contractual congestion[2] at interconnection points (‘IPs’), taking into consideration, to the extent possible, capacity trading on the secondary market and the use of interruptible capacity.

Paragraph 2.2.3.1 specifies the conditions[3] under which a specific CMP - i.e. the Firm day-ahead Use-It-Or-Lose-It mechanism (‘FDA UIOLI’) - is to be applied. The Agency has used each of these conditions as an indicator for contractual congestion (‘congestion indicators’). Accordingly, in the ACER Congestion Reports[4], the Agency had identified contractual congestion at those IP sides where at least one of the conditions of the ‘congestion indicators’ (conditions 2.2.3.1 a) – d)) was fulfilled.

Some stakeholders (including TSOs, NRAs and network users) have expressed doubts on whether the ‘congestion indicators’ are able to correctly identify actual situations of contractual congestion. Some stakeholders suggested also to include other elements or criteria in the

decision-making process on whether an IP side is to be considered “contractually congested” and therefore would require the application of the FDA UIOLI.

To investigate these issues, **the Agency is inviting stakeholders to formulate concrete suggestions to improve the “congestion indicators”**. The aim is to check if it is possible to improve the existing “congestion indicators” and/or define criteria to be used by the Agency in its congestion analysis. Such criteria would have to:

- appropriately reflect / describe circumstances that identify persistent existence of contractual congestions at IP sides,
- be objective and replicable,
- be based on data which is or will have to be made available at least to the Agency in a timely manner,
- and be applicable - with reasonable efforts - across the EU.

Please note that, by launching this exercise in the form of a survey, the Agency does not commit to propose amendments[5] to the existing provisions related to the “congestion indicators”. Whether the Agency will do so depends to a large extent on the proposals which will be received, the support these proposals enjoy among stakeholders, and the Agency’s assessment of whether such proposals would be an improvement compared to the current formulation.

Next to the above mentioned main topic, the questionnaire covers a number of additional issues which were raised in the recommendations section of the Agency’s latest Congestion Report.

[1] Commission Decision of 24 August 2012 on amending Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012D0490&from=EN>

[2] Article 2(1)(21) of Regulation 715/2009 (

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0036:0054:en:PDF>)

defines contractual congestion as a situation where the level of firm capacity demand exceeds the technical capacity

[3] i.e. points a) – d) of paragraph 2.2.3.1

[4] Latest Report: ACER annual report on contractual congestion at [interconnection points \(period covered 2015\)](#), 3rd edition, 31.05.2016:

[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Publication/ACER%202016%20Re](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%202016%20Re)

[5] The CMP GL may be amended according to Article 23 of Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks (Gas Regulation):

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0036:0054:en:PDF>

## Respondent identification

---

E-mail address

**Question 0 – Respondent identification: Please indicate your name, e-mail address, company/organisation, type of stakeholder (organisation) you are representing and whether or not you agree that your answer is published.**

**Name and Surname (not to be published)**

██████████

**\* Company/organisation**

ENTSOG AISBL  
European Network of Transmission System Operators for Gas

**\* Please let us know the type of stakeholder (organisation) you are representing**

- Network user
- TSO
- Producer
- NRA
- EU or international organisation
- National association
- Government
- Other (please specify)

**\* Do you agree that your answer will be published?**

- Yes
- No

## Survey questions

---

**Question 1: Do you consider the existing “congestion indicators” (conditions 2.2.3.1 a) – d) of CMP GL) appropriate and sufficient to determine the existence of contractual congestion (as defined in Regulation 715/2009) at IP sides? In case not, what alternative indicators would you suggest? Please be as concrete as possible with your proposal and provide a justification.**

- Yes
- No
- Neutral / I don't know

**Reasons and alternative formulation:**

As different products, durations and thresholds are considered, the indicators cover most of necessary aspects; however they may be completed by additional assessment mechanisms.

The indicators only permit to determine whether the demand exceeds - or not - the offer on an IP during a capacity subscription window in the past and

for a certain period of time; but no conclusion can be made if the point will actually be congested in the future.

For example, due to the quota foreseen in the CAM NC no capacity is offered during a yearly auction, but capacity is offered during a subsequent auction for a shorter-term product; or no capacity is available in monthly auctions but on a daily basis.

When a risk of contractual congestion is identified, the situation at a given IP could indicate a physical congestion, a contractual congestion or an absence of congestion (due to market condition for instance). When physical congestion materializes, it should be clear that the CMP tools are not suitable to ease the congestion.

More dynamic evaluations, close to the considered period of time (e.g. results of M-1 auction), can also represent an effective way to identify contractual congestion situations, which can possibly be solved by FDA UIOLI (only applied for the congested days of the month M and avoid extending the mechanism to periods where no evidence of congestion is identified).

**Question 2: Do you think that the “congestion indicators” should further specify how to take into consideration capacity trading on the secondary market and the use of interruptible capacity[6]? If so, please indicate how this should be done. Please give reasons for your answer.**

[6] In its past annual congestion reports, the Agency applied the current “congestion indicators”, but also reported on other elements, such as on the extent of secondary capacity trading, the application of CMPs, the offer and bookings of interruptible capacities, actual interruptions of interruptible capacities, the occurrence of unsuccessful requests, a congestion comparison with previous years, and on further specific market conditions at IP sides found contractually congested by applying the “congestion indicators”.

- Yes
- No
- Neutral / I don't know

**Reasons and specification:**

Since secondary trading permits to make unused capacity available, it could also represent a tool to prevent congestion and should be taken into account in the evaluation of congestion at IPs.

**Question 3: In cases of contractual congestion, do you consider FDA UIOLI to be an appropriate mechanism to mitigate the effects of the identified contractual congestion? If not, what alternative or additional measure would you suggest to address the congestion and why?**

**Your view:**

FDA UIOLI is an appropriate mechanism to solve contractual congestion on a short term basis (daily).  
However, the obligatory application of the FDA UIOLI mechanism does not seem useful to solve long-term congestions (monthly and longer terms periods). In case the risk of congestion materializes, the mechanism is applicable to Shippers with booked capacity exceeding 10% of the technical capacity at an IP and it may put restrictions on the flexibility required by the Shippers to react to changing market conditions and pricing signals.

**Question 4:** In its latest congestion report[7], the Agency recommends clarifying the scope of criterion d) of paragraph 2.2.3.1 of the CMP GL to align it with the other congestion criteria. The current wording of criterion d) considers an IP side not congested, if capacity for at least one month was offered out of the 12 months in the preceding year's rolling monthly auction procedures. The Agency would propose amending the text so that all 12 monthly products should be offered at an IP in order for it not to be considered as contractually congested, as there is no way to test "demand exceeding offer" in auction regimes if no such product is offered. (Also, no quota applies for monthly products.)

[7] Latest Report: ACER annual report on contractual congestion at interconnection points (period covered 2015), 3rd edition, 31.05.2016: [http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Publication/ACER%202016%20Report%20on%20Congestion%20at%20IPs%20in%202015.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%202016%20Report%20on%20Congestion%20at%20IPs%20in%202015.pdf)

**Do you support this recommendation? Please provide reasons.**

- Yes  
 No  
 Neutral / I don't know

**Reasons:**

ENTSOG proposes to leave the wording as it is.  
The new definition might lead to the situation, that an IP is considered as congested even if this is not the case. This can occur for instance in case of longer maintenance measures where a TSO has to reduce the offer of available monthly capacity.  
Even if a TSO is not able to offer monthly capacity (due to maintenance for instance), but still offers daily or interruptible capacity to accommodate its Shippers, this might be sufficient to prevent contractual congestion. Besides, active secondary trading may be executed as well.  
However, if ACER is considering the amendment of the text of Regulation 715/2009 Annex 2, it would be sensible to focus on a monthly analyses of the emergence of auction premia (demand > offer) than to the simple lack of the offer of monthly capacity products (which can be caused by maintenance or temporary technical problems).

**Question 5: With respect to paragraph 2.2.1 of the CMP GL, the Agency recommends in its latest congestion report that the Commission clarifies**

**a) until when the Agency shall produce congestion reports (or under which conditions the reports are no longer required);**

**b) an implementation period for the FDA UIOLI mechanism, if congestion is identified at IP sides only after 1 July 2016.**

**Please provide your views on these 2 issues, including concrete suggestions and reasons.**

**Your view on a):**

This decision should be taken by ACER; depending on the relevance of the issue in the future (the effort to produce the report may be bigger compared to the benefits generated, if contractual congestion is becoming less relevant)

**What would be an appropriate implementation period for b):**

As soon as possible (taking into account a necessary lead-time before enforcement, like an implementation period), when a risk of congestion is identified and the NRA approves its application.

**Question 6:** Do you think the CMP GL should set out an implementation process for the FDA UIOLI, specifying when (under which measurable conditions) to terminate the application of FDA UIOLI?

- Yes
- No
- Neutral / I don't know

**Your view:**

Decision on application of FDA UIOLI shall be done by relevant NRA.

**Question 7:** In its latest congestion report, the Agency also suggests to consider extending the scope of "contractual congestion" to the day-ahead timeframe between hubs (requiring the Agency to assess auction premia and the non-offer of firm DA products at a cross-zonal level), which could then also result in the mandatory application of the FDA UIOLI mechanism at IPs/VIPs/IP sides between the corresponding market areas, to promote a short-term gas market price convergence.

**Do you support this suggestion? Please provide reasons.**

- Yes
- No
- Neutral / I don't know

**Reasons:**

The implications and added value of an assessment of daily congestions are questionable.  
However, to determine a contractual congestion, a day-to-day analysis might be necessary. Thus, it is recommended to set up actions on the daily capacity. The application of FDA UIOLI could be done by daily auctions for example, if previous and clear signs of congestion are recorded.

**Question 8: In your view, should the Agency assess in more depth[8] the possible existence of physical congestion at IPs? Please provide your view, reasons and concrete suggestions for further possible indicators.**

[8] To date, the Agency has used the occurrence of actual interruptions of nominated interruptible capacity as an indicator for the (temporary) existence of physical congestion.

- Yes
- No
- Neutral / I don't know

I don't know

**Your view:**

No, the incremental process and the national, regional and European network development plan will take care of a potential need of additional capacity to address a risk of physical congestion.

From 2017 the Incremental Capacity process (NC CAM 2.0) will be used to assess the potential existence of physical congestion at IPs.

Furthermore, it should be noted that the development of the European gas transmission system is addressed in other processes, e.g. in the ENTSOG European Ten Year Network Development Plan (TYNDP) and complemented by respective national processes, like the national network development plans. These plans are based on scenarios for the future development of supply and demand and are therefore considered to better analyse the future transport needs than any isolated analyse of historical interruptions at IPs.

**Question 9: Do you have any other suggestions on how to improve the CMP GL?**

The current CMP GL seems to imply a contrast between the application of OS&BB and FDA UIOLI. A first improvement of the text could be the clarification that these two mechanism may co-exist also in the same system.

Another important improvement would be to clarify that the incentive regime designed in the context of the OS mechanism has to be applied to the offer of additional capacity and not to the additional capacity allocation. TSOs should be appropriately remunerated for making available additional capacity independently from its allocation, since the risk the TSOs bear is inherent to the capacity put on offer over the technical levels. A remuneration only linked to the actual allocation of additional capacity would generate an incentive scheme, which is too skewed towards risks

(ineffective for triggering the offer of additional capacity or, on the opposite, extremely costly for the system).

## Contact

✉ [cmpsurvey@acer.europa.eu](mailto:cmpsurvey@acer.europa.eu)

---