



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”)

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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

[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**

Polish Oil and Gas Company (PGNiG SA)

*** 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)

Please specify

Supplier

If you are a network user and you have booked capacity at IPs, where the FDA UIOLI mechanism is applied, to which extent does paragraph 2.2.3.5 of the CMP GL (i.e. the exception from the renomination restriction, if less than 10% of average technical capacity was booked by you in the preceding year) apply to you?

Possible answers:

- The renomination restriction **DOES NOT APPLY** to me at **ALL** my booked IPs, where the FDA UIOLI is applied. (“small shipper”)
- The renomination restriction **APPLIES** to me for a **MINORITY** of all my booked IPs, where the FDA UIOLI is applied
- The renomination restriction **APPLIES** to me for a **MAJORITY** of all my booked IPs, where the FDA UIOLI is applied
- The renomination restriction **APPLIES** to me for **ALL** of my booked IPs, where the FDA UIOLI is applied. (“big shipper”)
- I don't know / I don't want to answer this question

*** 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:

Congestion can be indicated that way, but suggested aims are inadequate. There is a need to take into account also the utilization of capacity, not only the allocation procedures. If capacity was mainly used during time when demand exceeded offer, or user needs such flexibility, making the altering initial nomination more difficult doesn't help any more. We do not support congestions of rights to capacity usage, which was correctly booked. Additional rules to altering the initial nominations makes the utilization of capacity booked more difficult and decrease flexibility of service. Other aims should be used, which do not have negative impact on capacity already booked, like oversubscription and buy-back scheme.

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:

In our opinion “congestion indicators” do not need to take into consideration capacity trading on the secondary market and the use of interruptible capacity. What is needed to be done is to take into consideration the real use of capacity booked. The utilisation may be examined during already specified periods, when demand exceed offer. The limit should be reasonable, because flexibility and capacity reserve also can have value for shipper.

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:

We do not consider FDA UIOLI to be an appropriate mechanism to mitigate the effects of the identified contractual congestion. The alternative can be oversubscription and buy-back scheme. If there are real unused capacity, operator can make it available that way.

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

Do you support this recommendation? Please provide reasons.

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

Reasons:

In our opinion the current wording is ok.

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):

No comments

What would be an appropriate implementation period for b):

FDA UIOLI shouldn't be implemented. Oversubscription and buy-back scheme could be better solution.

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:

FDA UIOLI would have a big negative impact on booked capacities. It limits and complicates nominations procedure. Implementation of this method should be avoided.

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:

Scope extended to the day-ahead timeframe could be positive, but oversubscription and buy-back scheme could be better solution.

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:

Physical congestion are much further important than contractual. Agency should stimulate operators to develop grid. Simple indicator would be number of days when capacity is fully utiliset.

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

The CMP GL should improve utilization of transport capacity. There is no need to develop too much regulations, what could limit gas market. The regulations should be possibly easy and allows to fully utilize booked capacity.

Contact

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