



**Common Proposal  
for the Coordinated Implementation  
of the Long-Term Use-It-Or-Lose-It  
Mechanism at VIP Ibérico**

February 2020

## 1. Disclaimer

The aim of this document is to describe in detail the procedure to implement and apply in a coordinated way, in the gas interconnections between Spain and Portugal, the Long-Term Use-It-Or-Lose-It mechanism. Congestion management procedures at interconnections are regulated in the Annex I to Regulation (EC) No 715/2009, the Circular 1/2013 approved by the CNMC on 18 December 2013 and the Procedure no. 12 of the Manual of Procedures for Access to Infrastructures (Diretiva no. 13/2017) approved by ERSE on September 21, 2017.

## 2. Background

Annex I to Regulation (EC) No 715/2009 foresees the application of Congestion management procedures, including Long-Term Use-It-Or-Lose-It mechanism (UIOLI-LT).

The Regulation (EU) 2017/459 (new NC CAM) introduced the obligation to offer Long-term capacities at interconnection points. The offer of Long-term capacity at VIP Ibérico started with the 2018/2019 Annual yearly capacity auction on 2 July 2018 (for 5 gas years).

The SGRI WP 2019-2020 foresees the Implementation of UIOLI-LT mechanism at VIP Ibérico as a deliverable regarding Target 2 - Market Integration in the Region.

At the 50th IG Meeting, 17th June 2019, REN committed with the task to implement the Portuguese mechanism, in a coordinated way with Enagás and in such a way that can contribute to a harmonized UIOLI-LT mechanism at the SGRI area.

REN and Enagás presented a draft proposal of the coordinated mechanism to NRAs at the 51st IG Meeting, 12th September 2019, for discussion, considering that some issues should be further clarified with the NRAs. After this meeting both TSOs committed to conclude the proposal and deliver it to NRAs in order to obtain its final approval for implementation.

CNMC and ERSE sent their comments to TSOs' proposal prior to the 52<sup>nd</sup> IG meeting, on 22 November 2019. In that IG meeting it was agreed that the proposal for the UIOLI-LT mechanism would be submitted to a public consultation on ACER's website in simultaneous with a national consultation by ERSE, to the revision of the current procedure.

The consultation is open until 26 February and comments are welcome at email addresses: [consultapublica@erse.pt](mailto:consultapublica@erse.pt) and [nuria.alonso@cnmc.es](mailto:nuria.alonso@cnmc.es).

ACER's data protection policy is enforced in this consultation.

After the consultation period, NRAs will evaluate the stakeholder's responses and will ask TSOs to review the UIOLI-LT draft, if needed.

### 3. Use It or Lose It Long Term Mechanism.

1. In April of each year, TSOs shall analyze the utilization level of the contracted capacity for the two periods between 1 April and 30 September of the previous year and between 1 October of the previous year and 31 March of the current year.

2. At each review, TSOs shall study the utilization of booked capacity of those network users with booked capacity for more than one year who have contracts in force for the following gas year. TSOs shall analyze the usage of the booked capacity which contract duration is yearly or longer, as well as the capacity booked in quarterly basis in case the network user had this type of contracts during the four consecutive quarters of the period of study.

3. In each period defined in the previous paragraph, TSOs will calculate the utilization rate, such as the ratio between the arithmetic average of the daily capacity used and the arithmetic average of the booked capacity on a yearly (or longer) basis and quarterly where appropriate as specified in the previous paragraph, multiplied by one hundred. The last accepted nomination/renomination of the network user on each day of the period will be taken into account as the daily capacity utilization.

4. Long-term Contracted Capacity shall be considered systematically underutilised in particular if at least one of the following conditions is met:

a) In both analyzed periods, the level of capacity utilization, calculated in accordance with point 3, is less than 80%.

b) In both analyzed periods, there are at least 60 days in which the network user nominates over 80% of his booked capacity and then renominates to half or less than the initially nominated.

5. In addition, when the TSO detects that there is continued underutilization of the contracted capacity, it will check whether the network user has offered the capacity on the secondary market under reasonable conditions. Reasonable conditions will be considered if the price offered by the user is equal to or lower than the maximum value between the capacity reserve price at the time of the offer, the price of the capacity in the capacity market at that time, if any, and the price at which the user acquired the capacity offered.

These data must be provided by the network user, at the request of the TSO if necessary.

6. Booked capacity may be withdrawn where there is continuous underutilization of capacity and capacity has not been offered under reasonable conditions on the secondary market.

7. The underutilization will be considered justified, and therefore capacity will not be withdrawn, when it is due to technical unavailability of the infrastructure.

8. Each TSO will share the results of the analysis with the adjacent TSO every year before the end of April, and before 15 May, it will be decided whether or not to withdraw the underutilized capacity for the following gas year. The capacity will be withdrawn from the annual contracts (or contracts with a duration longer than one year if applicable) that the network user had in force at the time of the analysis for the period between October of the current year and September of the following year. The capacity to be withdrawn shall be calculated as follows: the highest value of the utilization rate of the two periods will be subtracted in percentage from one hundred. The booked capacity by the network user for the following gas year shall be reduced by this percentage. The capacity not withdrawn from the user's original contract, who retains his rights and obligations, will continue to be billed as before. The withdrawn capacity will be paid by the original holder until it is reallocated to another user.

9. The withdrawal of bundled capacity will be carried out in a coordinated manner between the two adjacent TSOs.

10. TSOs shall inform the network users of the capacity to withdraw from their contracts.

11. TSOs shall, in a coordinated manner, offer the capacity to withdraw in the capacity allocation processes of the following gas year, for the first time in the yearly product auction, and then in the quarterly and monthly product auctions.

12. The capacity to be withdrawn shall be reallocated to other network users, once all the available technical capacity at the interconnection and the capacity released by the surrender mechanism have been allocated.

If the demand for capacity in the allocation process is higher than the available capacity plus surrender capacity, but lower than the sum of these two previous concepts plus the capacity to be withdrawn by application of the UIOLI-LT mechanism, and the capacity to be withdrawn belongs to two or more network users, a pro-rata mechanism shall apply. Where the same network user has more than one affected contract, the capacity to reallocate will be from the contract with the highest price.

When the reallocation of withdrawn capacity takes place at a lower price than the one to be paid by the original holder, the original holder shall cover the difference.

13. In order that the TSO offers the capacity to be withdrawn, network users holding these capacity rights will not be able to offer it on the secondary market in the following periods:

- From one month before the process of assignment and until the communication of the results thereof, for the capacity to be withdrawn that is offered as yearly product.
- From fifteen days before the process of assignment and until the communication of the results thereof, for the capacity to be withdrawn that is offered as quarterly product.
- From ten days before the assignment process and until the communication of the results thereof, for the capacity to be withdrawn that is offered as a monthly product.

14 Until the reallocation of the released capacity, the network user will maintain the rights and obligations that correspond to the capacity to be withdrawn, in accordance with the provisions of the access contract, except as indicated in section 13.

15. Without prejudice of no. 16, the TSO of the interconnections will provide network users with the following information annually before the end of May:

- Contracts that are subject to revision.
- The capacity to be withdrawn and the calculations that lead to the determination of mentioned capacity.
- The allocation processes in which the capacity to withdraw would be offered.
- The periods in which the capacity to withdraw cannot be offered in the secondary market.

16. The network users whose capacity rights are to be withdrawn can submit a reasoned objection to the TSO, until 5 calendar days after receiving the draft decision with the information referred to in the previous paragraph.

The TSOs shall evaluate the objection and take a final decision after receiving the objection,

informing the network user of their final decision and of their assessment of the objection.

17. Lastly, once each reallocation process is finished, the TSO will indicate to the network user the results thereof, detailing the reallocated capacity to other users and the reallocation period and price, as well as the price that would have to be paid for the capacity withdrawn, if applicable.

18. TSOs shall regularly provide NRAs with all the data necessary to monitor the application of the UIOLI-LT mechanism.