



Public Consultation on the methodology for implementation monitoring and evaluation of the impact of the gas Network Codes and Guidelines on the internal gas market

Fields marked with * are mandatory.

Introduction

From 12 June 2015 to 10 July 2015 the Agency for the Cooperation of Energy Regulators ('ACER', 'the Agency') is running a public consultation on the future methodology for implementation monitoring and evaluation of the impact of the gas network codes and guidelines on the internal gas market.

Article 9 of Regulation (EC) No 715/2009 lays down rules for the Agency to monitor and analyse the implementation of the network codes and the Guidelines adopted by the European Commission. Under the article the Agency is responsible for assessing the effects of the codes in facilitating market integration, as well as on non-discrimination, effective competition and the efficient functioning of the market.

Based on Article 10 of Regulation (EC) No 713/2009 the Agency presents for public consultation the consultancy study from Cambridge Economic Policy Associates (CEPA), commissioned by the Agency, which proposes a methodology to be used for implementation monitoring and evaluation of the impact of the gas network codes and guidelines on the internal gas market.

In order to test and improve the outcome of the study the Agency invites stakeholders to share their views on this work, in particular on the proposed indicators. Well founded comments which will lead to improvements of the report outcome in particular the proposed indicators will be taken into account by CEPA in its final compilation of the study.

The Agency invites stakeholders to reply to the following questions.

Contact details

*1 Family name, first name

*2 Email

3 Name of organisation

*4 Area of activity

- Shipper or energy trading entity
- Interconnector
- Storage
- LNG
- Distribution
- Producer
- End-user
- Transmission system
- Other

Consultancy Study

6 Do you consider the methodology well founded? If not, what should be improved? (Chapters 1-4)

As a general comment, EDF Group believes that most of the indicators are fit for purpose as regards the assessment of both the network codes and the high level policy goals, especially for the enhancement of liquidity, competition, reduction of entry barriers etc.

Nonetheless, EDF Group is quite surprised that indicators are proposed at this stage for INC and TAR although these NCs neither have they been adopted nor have they entered the comitology process. Moreover the uncertain outcome of the TAR NC will probably lead to some changes in the foreseen indicators.

7 Do you consider the **network code indicators** fit for purpose? (Please describe for which set of indicators you provide comments.) (Chapters 5,7)

- The proposed sets of indicators are **complete**
- The proposed sets of indicators are **incomplete** (please suggest indicators to be added)
- The proposed sets of indicators are **overcomplete** (please suggest indicators to be removed)

8 Please add any comments

- Indicators for CMP

The recommended indicators for the CMP guidelines CMP.1 “additional capacity volumes made available through each CMP” and CMP.3 “aggregated utilisation of contracted capacity at IPs” are in our opinion fit for purpose to assess the targeted objectives, namely offering additional capacities at IPs where there is contractual congestion and minimising unused capacity due to contractual congestion.

On the contrary, we are skeptical about the introduction of CMP.2 “utilisation of contracted capacity at IPs per shipper”. First, this indicator seems redundant as it provides the same information as CMP.3, only at a different level of granularity. This indicator is mostly related to the assessment of long term UIOLI conditions by NRAs (indeed NRAs and TSOs have already implemented this kind of indicator to evaluate the underutilisation of contracted capacity at national levels) rather than to the assessment of the impact of the Gas Network Code and Guidelines on the market. This last, by nature, should be based on indicators that catch information at system level.

Second, we would like to pay serious attention to the fact that, even without showing the name of the users, this indicator could make available confidential information about shippers’ commercial position on a specific entry point. This is a very sensitive aspect, particularly in cases where very few shippers have capacity on a single entry point. For all these reasons, we suggest this indicator to be removed.

Concerning CMP.3, we would like to underline that this indicator should be analysed in conjunction with other variables (e.g. price spreads between markets; overall import capacity + production / overall gas consumption in the market area) in order to avoid wrong deductions. Indeed, as mentioned in table 5.7 at pp. 22-23 of the report, a low utilisation of contracted capacity, also at aggregated level cannot be considered automatically as capacity hoarding, in line with the spirit of Regulation that takes into considerations other aspects before arriving at this conclusion.

A useful indicator that would allow improving the analysis of the effectiveness of CMP is “unsuccessful requests for capacity at IPs.”

This represents in our view the bottom line for CMP as the need for the introduction and enhancement of these mechanisms arises only if shippers who would like to book capacity do not manage to access it. We therefore suggest the inclusion of this indicator.

Finally, given the inconsistent application of CMPs on both sides of many IPs, we deem important to get a sense of potential cross-border flows impacted by mixed CMP regimes. Therefore, we believe that the inclusion of an indicator such as the “number of IP sides with the same type of CMP applied at both sides as a percentage of total IPs” or “frequency of the separate application of CMP at each IP” could be valuable to assess the improvements brought by the CMP guidelines.

- Indicators for CAM

The first four indicators are directly related to the assessment of the desired effects of the CAM Network Code.

For indicator CAM.1 “year-on-year increase in average-day and peak-period technical capacity at IPs”, EDF Group considers that measurements, to be reliable, need to be done in equivalent non-market conditions. In other words, measurements should be done without taking into consideration days with exceptional weather conditions or unplanned outages for instance.

EDF Group understands the importance of indicators CAM.2 “bundled capacity release” and CAM.3 “share of total capacity sold as bundled on capacity booking platforms” since they aim at assessing the achievement of one of CAM NC’s main objective.

However, as illustrated by the latest discussion initiated by ENTSO-G and EFET on issues in bundling capacities, KPIs should not only focus on measuring the total capacity sold as bundled. Indeed, there is also a clear need to evaluate the level of capacity mismatches (conversely the ability of the NC to avoid these mismatches) especially for those shippers that are already holding unbundled capacities at one side of the border. EDF Group is currently involved in the aforementioned discussion and believes that both a pragmatic and CAM-compliant mechanism will be put in place enabling shippers to “convert” already held unbundled capacity within a bundled capacity acquired later through the CAM auctions.

Thus EDF Group would suggest the inclusion of an indicator assessing the ability of shippers to easily acquire bundled capacities at a given IP without double paying for already held unbundled capacities at one side of that IP (for example: % of “converted” unbundled capacity within a bundled capacity or conduct a qualitative survey among shippers).

Eventually, EDF Group wonders to which extent indicators CAM.5 “contractual capacity utilisation at IPs” and CAM.6 “physical capacity utilisation at IPs” are really relevant to assess the efficiency of CAM

NC. We believe these indicators are rather linked to the evaluation of the CMP guidelines than to the assessment of CAM NC, we therefore suggest their removal.

- Indicators for INC

As stated in several public consultations for the drafting of the amendment proposal to CAM NC for Incremental and new capacity, EDF Group considers that auctions and open season procedures have positive aspects. Thus, both options should be left on the same level and should not be opposed. In that respect, we consider that indicator INC.1 “incremental and new capacity offered through open season / auction” does not assess the efficiency of the amendment proposal but only provides factual information on which procedure has been chosen to offer incremental / new capacity.

Regarding INC.3 indicator, EDF Group would like a clarification about how this indicator will be used. In our opinion, the range of f-factor values is interesting since it helps understanding the reasons for differences of values across IPs for a given project. However EDF Group considers that the range of f-factor values cannot be used as a reference or as a minimum commitment level for future investments since this will lead to negative effects like distorting market participants' willingness to commit.

Even though we understand that full consistency is not necessarily achievable (the f-factor depends on several parameters such as the complexity of the project, the anticipation of future bookings, the interest for incremental capacity of market participants etc.), we consider that the values of the f-factor should not drastically deviate at either side of an IP in order to minimize cross-subsidies. Indeed, a low f-factor means that TSOs recover their costs through future bookings. However, an artificial lower “f” would at one side of the IP increase the chance to pass the economic test on that side of the border but also the risk of tariff increase if future bookings are insufficient.

- Indicators for BAL

As regards the indicators to evaluate the BAL NC, EDF Group would like to recall the utmost importance for shippers to have access to frequent and reliable information to manage their imbalances efficiently and minimize their balancing costs. Therefore, EDF Group considers it crucial to introduce the indicator “publication frequency of the data on the balancing status of each shipper” proposed in table 5.7 page 25. Such an indicator could be complemented by an ex-post analysis of the accuracy of this information, assessed as a separate indicator or as a compounded indicator in conjunction with the frequency of publication.

Furthermore, indicators on the frequency and accuracy of publication could be analysed in correlation with indicator BAL.2 “TSO balancing as

% of total balancing requirement” as a way to understand how incomplete or infrequent information is responsible for shippers’ difficulties to manage efficiently their imbalances and consequently increases TSOs balancing actions.

Regarding the BAL.4 indicator “balancing net neutrality analysis” (Net cash flow = income from TSO balancing gas sales - cost from TSO balancing gas purchases + Income from shipper paying imbalance charges for short position - Payments to shippers for imbalance cash out for long positions), EDF Group share CEPA’s comments on its strengths and weaknesses. On the one hand, this indicator enables to see the overall performance of the balancing regimes but does not indicate from where deficiencies in the regime arise.

Therefore, EDF Group would suggest the introduction of indicators to follow the prices and the volumes associated with the TSO’s balancing actions, in line with the duty - set in Regulation 312/2014, art.11 - of implementing TSO’s incentive mechanisms (that are based on this kind of indicators). This would allow the comparisons of different TSO’s performances, in addition to the evaluation of the activity of a single national TSO.

EDF Group is in favor of creating a service quality indicator to measure differences between the prices of the TSOs’ interventions and the average price observed in the markets. For instance, in France, an indicator to measure the difference between (i) the extreme price at which the TSO buys or sells gas and (ii) the average price on Pownext of within-day products has been introduced (see CRE’s deliberation on Balancing Rules - 15 January 2015).

EDF Group also believes that BAL.3 indicator “physical linepack day-on-day changes” could be completed with an indicator monitoring the difference between the linepack at the end on D-1 and 6 a.m. on D Day. Indeed, EDF Group believes that TSOs should not be discouraged by high prices of imbalance actions when there is an actual physical need. Besides, we believe that a steady linepack from a day to another is necessary for those TSOs aiming at offering workable flexibility services based on their own resources.

EDF Group suggests the introduction of some of the indicators listed in table 5.7, namely “total volume traded (both involving TSO and non-TSO participants)” and “number of independent participants” (page 27). These are good indicators of the level of participation and liquidity of balancing markets. However, EDF Group is not sure that it is right to count multiple affiliates of a holding company as one. Indeed, large pan-EU organisations have different affiliates operating in the same market with different shipper licenses and therefore level of accuracy might not be correct if all treated as one. Furthermore, the indicator does not clarify the percentage of participation of the holding company in the affiliates in order to consider them as a single company. The number of participants should be counted by shipper license as a more

accurate/ granular starting point.

Finally, EDF Group supports the introduction of the indicator “increase in within-day cross-border flows” (p.27) as a way to monitor the effectiveness of cross-border balancing arrangements. We believe that allowing flexibility sources to be offered in neighboring market areas will greatly improve the efficiency of balancing and offer additional revenue streams to assets (storage sites, LNG terminals, cross-border capacity) that would otherwise struggle to earn an acceptable return. Nonetheless, regulatory frameworks (market opening hours, nomination deadlines, short-term cross border capacity prices) do not favor the utilization of these resources and improvements are needed.

- Indicators for TAR

First as stated earlier, EDF Group is surprised that indicators for the TAR NC are proposed at this stage while the outcome of this code is yet uncertain and that it has not even entered the comitology process. Since the content of this code is still far from having been defined, EDF Group believes that the proposed indicators will probably need to be reassessed when the code is actually adopted. We believe this is particularly true for the TAR.1 indicator “overall process associated with the establishment of tariff methodology” since we do not still know the methodologies that will be described in the code and the potential counterfactual test to be run. We would also like to notice that no indicator evaluates the level of harmonization the NC will achieve although it seems to be one of its main objectives.

As a general comment regarding indicators TAR.2 and 3, EDF Group would like to highlight that visibility and certainty are key. Therefore, we believe that the minimum compulsory requirement should be the publication of all prices, multipliers and seasonal factors (if any) 30 days before the first CAM auction of the year in order to know the tariffs in advance. Besides, EDF Group is in favor of extensive transparency requirements. TSOs and/or NRAs should publish, in a downloadable format, all input data and the tariff model used to derive tariffs, including any secondary adjustment if applicable, and hold an extensive public consultation when adapting their tariff methodology to the network code and when performing mandatory period reviews.

Market participants need to (i) know the reference price before the auction to bid with the appropriate information and (ii) be able to replicate the calculation of current tariffs and predict future tariffs. We thus welcome the envisaged indicators that will allow market participants to rate the access and the availability to the necessary information to achieve the aforementioned goals.

For TAR.6 indicator “multipliers applied by each TSO”, EDF Group would like to highlight that the multiplier regime to be adopted in the TAR NC is still very uncertain. We believe that such an indicator should aim at assessing whether the chosen levels achieve the right balance between

long-term and short-term bookings.

Eventually, as regards the latest discussions between ENTSOG, ACER, the European Commission and stakeholders, EDF Group would have expected an indicator to evaluate tariff stability over the years via the magnitude of changes in tariff levels over a certain threshold within a given period related to the implementation of the TAR NC. Indeed, potential high tariff increases due to the TAR NC may justify mitigation measures.

9 Please add any comments and suggest indicators to be added

- For CMP:
 - o “number of IP sides with the same type of CMP applied on both sides as a percentage of total IPs” or “frequency of the separate application of CMP at each IP” as proposed in table 5.7 page 22 of the study
 - o “unsuccessful requests for capacity at IPs” as proposed in table 5.7 page 22 of the study.

- For CAM:
 - o an indicator assessing the ability of shippers to easily acquire bundled capacities at a given IP without double paying for already held unbundled capacities at one side of that IP.

- For BAL:
 - o “publication frequency of the data on the balancing status of each shipper” proposed in table 5.7 page 25, together with an indicator assessing the quality of such data indicators to follow the prices and the volumes associated with the TSO’s balancing actions
 - o an indicator monitoring the difference between difference between the linepack at the end of D-1 and that of Day D at 6 a.m.
 - o “total volume traded (both involving TSO and non-TSO participants)” and “number of independent participants” proposed in table 5.7 page 27 (provided the adjustments on the methodology to count the participants)
 - o “increase in within-day cross-border flows” proposed in table 5.7 page 27

- For TAR:
 - o an indicator to evaluate the magnitude of changes in tariff levels due to the implementation of the NC

10 Please add any comments and suggest indicators to be removed

We strongly recommend removing the following indicators:

- CMP.2 “utilisation of contracted capacity at IPs per shipper”
- CAM.5 “contractual capacity utilisation at IPs” and
- CAM.6 “physical capacity utilisation at IPs”

11 Do you consider the **high-level policy goal indicators** fit for purpose? (Please describe for which set of indicators you provide comments.) (Chapters 6,7)

- The proposed sets of indicators are **complete**
- The proposed sets of indicators are **incomplete** (please suggest indicators to be added)
- The proposed sets of indicators are **overcomplete** (please suggest indicators to be removed)

12 Please add any comments

EDF Group believes that most of the high level policy goals indicators are fit for purpose to assess market integration, non-discrimination, effective competition and efficient market functioning. Indeed, the chosen indicators are the typical ones used to measure market concentration and performance in the scientific literature (HHI, Lerner index, RSI etc.).

However, as regards the “churn rate” (CO.9), which reflects the ratio of all traded volumes to the demand for the underlying physical product, EDF Group considers it reveals market liquidity but does not necessarily mean that there are many participants (and many participant types) as stated by CEPA page 70.

EDF Group considers that the “Four firm concentration ratio” could add some valuable information. Indeed, this ratio shows the market share of the four biggest companies on specific market. A ratio below 40% reveals a competitive market. Including this indicator would help understanding how the European energy market is evolving and assess whether this market is concentrating around few major actors.

15 Do you agree with the performance evaluation of the indicators? If not, please suggest an alternative evaluation. (Chapter7)

Please refer to Q2 to Q9.

16 Do you consider the data sources proposed by the consultancy study adequate? If not, please suggest alternative data sources. (Chapter7)

EDF Group understands that most of data should be captured via the ENTSOG Transparency platform, REMIT platforms and via NRAs. We thus believe that the necessary information should be available.

17 Do you find the proposed implementation timelines of the methodology feasible? If not, please suggest how it can be improved. (Chapter 8)

EDF Group notices that CEPA's study focuses on the costs of implementing the various monitoring initiatives but does not deal with the cost of implementing NC/GLs. We would have expected more on this. Although we acknowledge that indicator MF.1 "Transaction cost" aims at evaluating the cost of "doing business" at a Market Area hub, we do not believe that this covers sufficiently the cost of implementing the NCs/GL.

Furthermore, the study says: "the only NC/GL currently in effect, for which implementation impacts could be observable, is the CMP GL. The BAL NC and CAM NC will need to be implemented by October 2015 and by November 2015, respectively". However much cost is already being incurred in being able to comply and should be taken into account (early implementation of CAM and BAL for example).

18 Do you consider the description of the indicators in the Annex clear and the execution of the indicators easy to understand? If not, please suggest how it can be improved. (Annex A)

The description of the indicators in the Annex is comprehensive.

19 Overall, do you consider that the methodology would be suitable to meet the objectives of Article 9 of Regulation (EC) No 715/2009?

Yes

20 Are there any other views you would like to share with ACER in this context?

EDF Group has no additional comment.

Background Documents

CEPA study (/eusurvey/files/4f0fdd27-3241-4363-bbe3-31a256747f1e)

Contact

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