

# Public Consultation on Capacity Offering and Use at the Gas Interconnection Points Located at the Borders of the EU and the Energy Community

Fields marked with \* are mandatory.

## 1. Questionnaire

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When providing your input to the questionnaire, please consider the following guidance:

- “Technical approaches” means engineering solutions, e.g. looping a pipeline or managing flows with pressure differentials;
- “Commercial approaches” means contractual terms and conditions, e.g. transferring the use of capacity rights to another IP for an agreed fee when the contracted capacity is not available;
- “Market design approaches” means rules that are typically part of network codes, e.g. setting up virtual interconnection points.

For each IP, you can select (by ticking the available box) more than one of the above approaches to improving the availability and the terms of use of capacity. Please provide in the text box any further considerations and recommendations regarding each of the approaches that you have selected. Please include your name, organisation, contact email, and country on your respondent sheet.

Replies to the consultation can be submitted by **30 June 2021 23:59 hrs (CET)**.

## 2. Personal data and confidentiality

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I have read and understood ACER’s Privacy Statement (see below) and Data Protection Notice on Interactions with Stakeholders ([link](#)), as well as ECS’ Procedural Act on the Secretariat’s Data Protection Policy ([link](#)):

[ACER and ECS joint public consultation statement.pdf](#)

The response which I submit to the consultation shall be considered by ACER and ECS as (choose one):

- Non-confidential (public)
- Confidential (in accordance with [Article 9 of ACER’s Decision No 19/2019](#) concerning ACER’s Rules of Procedure)

### 3. Respondent information

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Please specify your name, surname:

Position:

Organisation:

European Federation of Energy Traders

Organisation address:

Keizersgracht 62, 1015 CS Amsterdam, The Netherlands

Email

Country:

NL - Netherlands

Activity of respondent:

- Trader/Supplier/Importer/Exporter
- Regulatory authority
- Other (please specify)

Please specify, if other:

Industry Association

Please list the borders (IPs) between the EU MS and the EnC CPs and/or between EnC CPs that you are concerned with. Enter N/A when you are not currently active at any such border IP.

N/A

Please provide further details regarding your answers related to two previous questions, if any:

## 4. Topic 1: Fair and transparent terms of access to services, including capacity contracts, network codes and contracts for auxiliary services

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1. In your view, what are the possible **technical approaches** to ensure adequate and expected free movement of gas between market areas to locations where it is valued by gas market participants? Your answer may consider any or all of the following.

- Looping(s)
- Pressure management
- Other

2. In your view, what are the **possible commercial approaches** to ensure adequate and reliable free movement of gas between market areas to locations where it is valued by gas market participants? Your answer may consider any or all of the following.

- Capacity contract transfer to another IP (e.g. substitute alternative paths where the primary booked transportation route is not available)
- Capacity use shift by type and time, e.g. transferability (at no additional charge) of unusable capacity on an interruptible basis with priority determined by time of transfer (earlier bookings take priority)
- Capacity conversion right by user and release of converted capacity (if various types of capacity are offered by the TSO)
- Short haul services
- Time capacity swaps between users
- Greater firmness of virtual reverse flow capacity
- Capacity swaps between users for various types of capacity (firm, interruptible, direct, reverse, virtual, bundled) throughout the year or during periods of maintenance only
- Increased capacity availability on an interruptible basis
- Other

2.1. Please explain if other and indicate relevant IPs:

Instances of capacity hoarding need to be monitored and addressed especially in less developed markets, where historical players can still hold significant market power. Secondary trading of capacity can improve utilization, yet has proved to be difficult due to differing contractual terms introduced by the TSOs at the two sides of the border. This is exacerbated by combining capacity across interconnection points with misaligned terms on either side (e.g. differing assignment transfer rules, penalties, approaches to network user's insolvency). Therefore, other mechanisms enabling access to unused capacity (short-term interruptible capacity products offering at short notice, offering available firm capacities outside the official auction calendar) should also be considered.

2.2. For Q2, please explain your choice(s) and indicate relevant IPs:

Increased capacity and flexibility at IPs works in favour of the market participants and should lead to greater utilization of the transmission network. Such market-friendly approach, together with consistent implementation of EU network codes (both in national legislation and at IPs with Energy Community Contracting Parties) should be the preferred approach across in order to attract greater network utilization, improve market functioning and ultimately optimize the network size and ensure supply security. Regulatory cooperation will be key in this process with ACER playing a facilitating role.

We also note that the transmission tariff charged at IPs has a significant impact on the actual network utilization and market integration. As the infrastructure becomes sufficiently developed and markets grow in liquidity, it is the short-term capacity that can attract most bookings while its price is typically increased through multipliers and seasonal factors that incentivise long-term bookings. As the investment needs for new infrastructure become limited, the need for preferred treatment of long-term versus short-term capacity bookings should be analysed.

Finally, we should not lose sight that cross-border trading and use of capacity also depends on levels of liquidity in the commodity markets, which can also be a result of barriers to entry, burdensome administration requirements, lack of a clear legislative regime, regulatory instability and unpredictability.

3. In your view, what are the possible market design approaches to ensure adequate and expected free movement of gas between market areas to locations where it is valued by gas market participants? Your answer may consider any or all of the following.

- Virtual interconnection points
- Firm backhaul capacity
- Increased transparency on contractual the terms and conditions at IPs (e.g. right information of the required type and scope, at proper moments, to all concerned parties, etc.)
- Increasing supply sources
- Reducing market concentration
- Other

3.1 Please explain if other:

EU rules on unbundling, as well as the network codes need to be effectively implemented in all the countries in question in order to ensure free movement of gas. Transparency around capacity availability and actual gas flows should help market participants plan their activities. Anti capacity-hoarding measures need to be in place and issues around the ongoing influence of legacy contracts need to be resolved.

Information on the tariffs applicable at different entry/exit products is frequently presented and/or denominated in different units, creating unnecessary problems around estimating the costs of gas and potentially leading to certain imbalances resulting from unit conversions. Energy units should be implemented across Europe to improve the conditions to trade.

3.2 Please explain your choice(s):

We note that implementation of VIPs should be done with due consideration given the resultant impact they have on capacity being offered at the given interconnection points. Implementation of a VIP should facilitate the economic and efficient use of the system and not restrict the amount of capacity offered to the market participants, nor should it result in capacity mismatches at both sides of an IP.

TSOs should invest in firm physical backhaul capacities only if there is clear market interest that would underwrite such investment.

We note that transparency is a key aspect of a functioning market and access to all the relevant information on the system status, supply and demand equilibrium, imbalances etc. should be made available to the market participants in near-real time, both within the given balancing zones and at the interfaces with the adjacent markets.

Finally, we note that market concentration can constitute a barrier to enter and trade at given markets, distorting the way through which the interplay between supply and demand would direct the flows between different market areas. Well-designed gas release programmes together with other obligations on dominant players, such as market-making obligations or underwriting the balancing market for a transitional period can collectively support the transition towards market-based competition.

4. In case you wish to report any other issues concerning market integration not covered in the questions above, please outline here the approaches and the issues they address:

We take this opportunity to highlight that ongoing state support for the former incumbent can still be experienced in different Member States and Contracting Parties, giving these entities competitive advantage and foreclosing the market for competition. Historical players should instead hold certain responsibilities in terms of allowing market access and facilitating market-based competition (gas release programmes).

## 5. Topic 2: Market Integration

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5. In your view, what are the possible available and future instruments and frameworks which can be used to ensure that capacity demand is adequately met in order to better serve market integration?

- Using the tools provided by the 10-Year Network Development Plan (TYNDP)
- Using the tools provided to projects of common interest (PCIs) or Projects of Energy Community Interest (PECIs) or Projects of mutual interest (PMIs)
- Using both the tools available in TYNDP and PCIs / PECIs / PMIs
- Using the tools of the Network Codes
- A combination of PCIs/ PECIs/PMIs and Network Codes
- Other (please explain)

5.1. Please explain if other:

We believe that all of these tools could prove to be useful in ensuring that the existing and future demand is adequately satisfied. Standard products allocation via auctions is a known and useful way of allocating capacity and at the same time exploring demand for incremental capacity. It is important for the auctioned capacity and its reference price to be published sufficiently in advance and the allocated capacities should be tradeable on a secondary market. In highly concentrated markets, capacity release mechanisms should also be considered to make sure that network utilization is not limited by anti-competitive behaviour. Ultimately, it is important to analyse the potential issues around market integration also from the national perspective, where certain legal and political barriers may exist that prevent market entry. We also take this opportunity to note that efficient allocation and utilization of the already available capacity is often more important than further network expansions. Authorities should first ensure that available capacities are being offered at competitive rates (i.e. not disadvantaged against the historical contracts). We also stress that administrative market entry barriers (such as onerous licensing requirements and fees, reporting obligations) can work against market integration just as they work against the build-up of liquidity on national markets.

5.2. Please describe in detail the relevant aspects of the chosen selection(s):

## 6. Topic 3: Availability of capacity (capacity availability, allocation and use) and maintenance and gas quality issues (interoperability)

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6. In your view, what are the three best approaches (possibly as indicated in questions 1-5 above) that will ensure that network users can benefit from reliable allocation of capacity offers and optimal use of existing network systems and capacity, including during times of planned and unplanned maintenance? Please indicate below:

EU Network Codes should apply at all IPs covered by the consultation where the market areas in question have demonstrated a tangible commitment to wholesale market competition by fully implementing such Codes, or their equivalent. This would help to promote a harmonised approach to booking capacities and balancing the commercial positions, reducing barriers to cross-border trading across Europe.

Transparency over the system status, transmission services costs, scheduled maintenance and any other events that may impact the commercial positions of market participants is of key importance to the development of liquid gas markets. Such transparency can only be ensured in a stable and predictable regulatory environment where market participants are properly consulted before any changes are made to the legislation governing the gas market.

As the markets develop, enhanced flexibility of capacity bookings (secondary trading, capacity transfers, swaps, capacity reshuffles both geographical and temporal) at the IPs between different balancing zones should work in favour of increased network utilization.

7. In your view, what are the three best approaches (possibly as indicated in questions 1-5 above) to gas transmission system maintenance with the purpose of minimising disruption of flows? Please indicate the approaches and the issues they addresses:

Temporal and geographical capacity use shifts along the given profile for the duration of unavailability of the booked capacities should reduce the impact on the commercial positions of the (otherwise curtailed) capacity holders. Planned outages should be coordinated between the adjacent TSOs in order to minimize the time of unavailability. During the disruption, the availability of capacity on alternative routes should be maximised. Transparency over the actual capacity availability should be ensured long in advance.

8. In your view, what are three best approaches (possibly from the ones indicated in questions 1-5 above) to handling emergencies (transmission, supply cut offs, capacity)? Please indicate the approaches and the issues they address:

Detailed information on infrastructure topology should be always available to the market participants to help them understand the gravity of any technical faults that occur in the network. In the event of an emergency the market should be kept open as long as possible and the available capacity at alternative entry points should be dynamically recalculated. Emergencies should be timely communicated to the market participants.

9. In your view, what are three best approaches to gas quality measuring rules, specifications and standards? Please describe the approaches and the issues they address:

10. In your view, what are the three best approaches to managing gas measurement rules and standards? Please describe the approaches and the issues they address:

We believe that greater facilitation by and cooperation between ACER and the Energy Community Secretariat could improve the process of defining, applying and executing the different rules and standards for gas measurement across the respective regions. Agreement over common standards for measurement (such as the applicable temperature and pressure) should encourage greater integration.

11. If you wish to note any other issue(s) related to the availability of capacity at IPs at EU/ EnC borders, and not already covered by the questions 6-10 above, please describe the issues and their potential solutions of technical, commercial or market design nature:

Clear procedures for dispute resolution with respect to execution of interconnection agreements should provide additional confidence in trading between different zones.

12. In your view, what are the three best approaches to ensure network users can manage the risks related to the firmness of transport contracts and balancing adequately?

Transparency and timely information provision about any scheduled/unscheduled network availability issues is of key importance for the market participants to react to the new situation.

TSOs should publish accurate information that allows network users to balance their positions independently

in near-real time. This reduces the imbalance levels that need to be managed by the system operator and promotes liquidity in the markets.

If alternative routes to the interrupted pipeline exist, TSO should have the freedom to offer solutions (as per points suggested in question 4.2) that could allow market participants to balance their portfolios through these alternative routes.

13. In your view, what is the best approach the TSOs need to undertake to improve the exchange of information amongst market participants? Please choose one below:

- Common data exchange solutions
- Communication procedures during emergencies
- Communications in instances of interruptible capacity and transmission
- Other (please explain)

13.1 Please explain if other:

## 7. Topic 4: Issues related to Network Codes Topic

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When commenting on a specific IP, please use the IP name and code provided in [Table 1](#).

14. The NCs are mandatory to be applied at the borders between two EnC CPs. In your view, which NCs should be implemented by which IP at the EU and EnC border? Please list separately each IPs and NC relevant to that IP:

For the development of a single internal market for gas in Europe, we believe Network Codes should be fully implemented in the EnC Contracting Parties and thereafter apply at all the relevant borders with the EU.

15. Regarding reverse flow modalities, in your view, are the firm physical bi-directional capacity available at the IP(s) sufficient under

- a) normal conditions
- b) maintenance conditions and
- c) emergency conditions?

Please indicate in your answer the specific IP(s) where at least one of the a-b-c above are not met (also indicating which one), and any additional comments you may have.

Infrastructure adequacy should be evaluated based on the N-1 criterion. Nonetheless, lack of adequacy should not by default be treated as a result of insufficient infrastructure, and it should be analysed whether the access to the existing infrastructure could be further improved in the first instance.

16. Regarding reverse flow modalities, in your view, are the firm virtual backhaul bi-directional capacities available at the concerned IP(s) sufficient under

- a) normal conditions



- b) maintenance conditions and
- c) emergency conditions?

Please indicate in your answers the specific IP(s) where at least one of the a-b-c above are not met (also indicating which one, and any additional comments you may have.

17. In your view, which IP(s) operate insufficient firm capacities one way only, and which way (1-2 or 2-1 – for reference see this table)? Please indicate in your answers the specific IP(s) being addressed and any additional comments you may have:

18. If you wish to comment on any other issue(s) related to the availability of capacity at the concerned IPs, please provide your comment(s) here:

## 8. Topic 5: Issues related to particular IPs

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19. In your view, what are the best possible future approaches to ensure that network users enjoy fair and transparent access to capacity and other network services at the following IPs, on competitive market terms? Please consider using the definitions and the suggested breakdown of options as available in questions 1-3 above. You may also suggest other approaches.

20. IP Drozdovichi - Drozdowicze:

21. IP Hermanowice:

22. IP Uzhgorod / Velke Kapushany:

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23. IP Budince:

24. IP Beregovo / Beredgaroc:

25. IP Beredgaroc / Beregovo:

26. IP Tekovo Mediesu Aurit:

27. IP Oleksiivka:

28. IP Ananiv:

29. IP Lymanske:

30. IP Iasi / Ungheni:

31. IP Grebenyki:

32. IP Kaushany - Caushany:

33. IP Kireevo / Zajecar:

34. IP Kuystendil / Zidilovo:

35. IP Loznica / Zvornik:

36. IP Kiskondorozsma - Horgos:

37. Other comments and suggestions.

Please provide below any other comments and suggestions you may have regarding the matter of the consultation.

Licensing procedures in different EU Member States and EnC Contracting Parties often constitute a major entry barrier that can discourage competitors from picking up activities at the respective markets. These procedures should be transparent, simplified to extent possible and ideally should be available in English.

Options to improve access to capacity booking platforms should be explored. Current rules require the same legal entity to bid on both sides of an IP for bundled capacities. If the access to booking platforms was instead provided at group level to the parent companies that could bid for bundled capacities within their structures, network utilization could improve.

Thank you!

## Contact

[Contact Form](#)

