

1st Gas Expert Group Meeting “Rules for Trading”
27 January 2014, 13:00 to 17:30
Cours Saint-Michel 30a, box F (5th floor), 1040 Brussels

MINUTES of the meeting

Regulators		
Carole	Mathieu	France (CRE)
Ryan	McLaughlin	United Kingdom (Ofgem)
Vincenzo	Cioffo	Italy (AEEG)
Alessandro	Ischia	Austria (E-Control)
Markus	Backes	Germany (BNetzA)
Annabel	Fürstenau	Germany (BNetzA)
Thomas	Hölzer	ACER (via Video)
Csilla	Bartok	ACER (via Video)
Experts		
Nigel	Sisman	ENTSOG
Albert	Kobbe	GRTGaz Deutschland GmbH
Helga	Norrby	Vattenfall
Riccardo	Rossi	Gazprom Marketing and Trading
Dan	Harris	The Brattle Group
Dirk-Christof	Stüdemann	EnBW AG
Laurent	De Wolf	Fluxys
Luis Ignacio	Parada	Enagas
Mark	Wiekens	ENTSOG
Excused Experts		
Oliver	Elbling	Wagner, Elbling & Company
Amrik	Bal	Shell

Opening

The chair of the expert group welcomed the participants. The agenda was approved; experts have taken note of the ToR and consented to their content by taking part in the expert group meeting(s). Participants introduced themselves.

The purpose and objectives of the expert group were explained. The chair reminded participants of the task given by the Commission to ACER to identify whether binding EU rules for the further harmonisation of the design of capacity products and contracts as regards firmness, restrictions to allocation or secondary markets are needed, taking into account the implementation of the guidelines on congestion management procedures and the network codes on capacity allocation mechanisms and on balancing. ACER is expected to provide a reply by Q2 2014. It has been noted that the Expert group is different from other expert groups in the sense that it should support ACER not in the scoping of a framework guideline, but by providing input in the preliminary scoping phase to help answering to the Commission's question on the need for a Framework Guideline (FG).

Discussion

General

Experts remarked that the scoping of a potential FG is difficult in the sense that other NCs that should be taken into account are not yet implemented (fully). Furthermore, the headline "FG Rules for Trading" is confusing as ACER indicated the focus for a possible new framework guideline is on capacity rather than commodity related topics.

Overall, experts questioned the need for yet another framework guideline (at least until the current NCs are implemented). Nevertheless, some of the topics discussed present obstacles or will likely be addressed with the implementation of the different NCs. In this case however, experts note that the issues identified appear to fall within the scope of existing FG/NCs, and so, if necessary, could be better resolved by amending the existing texts (notwithstanding some uncertainty regarding the mechanism to modify a FG/NC). Some experts advise a "bottom-up" approach to solve issues, in particular those ones that are directly related to the implementation of the main NCs and guidelines e.g. CAM, CMP. Nevertheless it has been noted by the chair that implementation issues related to other NCs are not included in the scoping exercise. However, experts advise further to implement a constant surveillance (e.g. a transparent forum/list) for problems coming out of the implementation of NCs in order to transparently document the hurdles and to name the responsible party (Regulators, TSOs, EC, shippers) to overcome them in order to allow for EU Network Codes to be successfully implemented within the EU.

Detailed discussion on potential topics and scope

Capacity Products

- Some experts underlined that an assessment of the functioning of a market might not be correlated with the size of an entry exit system. Experts pointed out different trade-offs between the sizes of entry-exit systems. If systems become too large, cost reflectivity may become an issue.

Furthermore, if tariffs to enter an entry exit system are increasing due to less IPs being available to allocate overall costs to, this may provide a barrier to enter the system, which in turn has negative implications on hub liquidity, despite the fact that larger systems cover more market participants and demand.

- It has been questioned whether the concept of firm capacity should be harmonized, as there are differences even though the capacity is labeled as “firm”. Even the fully firm products are different in terms of liability, impact of maintenance, impact of “unexpected flows” and force majeure.
- It has been noted that the concept of a harmonized transport contract to be concluded directly with the platform (as done in electricity) instead of conclusion with two different TSOs is not demanded by the NC CAM.
- Nevertheless, issues on the implementation of bundling remain unsolved and are likely to affect the flexibility of trading arrangements: from the point of view of one expert capacity contracts with underlying different rights and obligations will be sold as single products and shippers will not be allowed to buy cross-border capacity according to the risk they are prepared to take.
- Several experts took note that a single contract model is not needed, but would rather be an improvement to facilitate wholesale markets functioning from a trader’s perspective. Other experts underline, that existing physical constraints in the networks cannot be removed by a single contract and that the transfer of liability from the TSOs to the platform as contract party is not solved so far.
- It is important for market functioning and cross-border trade that the rules and conditions are transparent and enable the market to judge the value and possibilities of different products offered. In the current framework there are only two types of names for products with different levels of firmness; firm and interruptible, whilst in reality, there are more products.
- There were different opinions on the need to offer only two product types, i.e. firm and interruptible. Although there was consensus that different conditions - either physical or contractual - will persist and lead to a different commercial capability of the networks, some proposed to have only one type of a firm product and several types of interruptible products. Others remarked that there is no real difference in product characteristics, but it is rather a labelling issue. Labelling firm products with restricted allocability as interruptible may entail the disadvantage that shippers are not able to obtain and have no choice between different firm products at the same time on the capacity platform, since the NC CAM sets out to firstly offer all firm products, then interruptible ones (no parallel offer). In principle there are two solutions, either to be more transparent and use differentiated product names, or more harmonisation with two products that match their names. One expert warned that re-labeling firm products with restricted allocability into interruptible products will endanger the security of supply of adjacent countries because in this case during a gas crisis any curtailment will take place on the level of market-based measures, i. e. a long time before the non-market-based measures of the national emergency level will apply.

- From a European perspective there can be quite a diverse number of different capacity products from a material point of view. To most experts, reducing this diversity to only two standard products (“firm” and “interruptible”) seems to be not the optimum, but a reduction, i.e. a set of “standard products” could provide a significant improvement. One expert stated the danger of implementing nationally designed capacity products/qualities as this may lead to massive problems for market participants to include those special products in their cross-border capacity portfolio. The practice of implementing national capacity products/qualities without an overall European integration (as seen in the discussion on capacity markets in electricity) can significantly hinder the development of liquid cross-border markets. It may also lead to less investment on the power generation side. Other experts agreed that a set of standard products should be defined rather at a European level than at a national level, but warned that the liquidity of cross-border markets in the end depends on the physical networks, i. e. may require high investments. The viability of these investments, that are needed for full harmonization of firm products, should be tested by the Incremental Capacity processes in the future.
- On the bundling of different capacity products some experts demanded only to bundle “firm” products, i.e. the minimum, and leave the rest unbundled, while others noted that one should rather aim for the full bundling and solve eventual problems, while keeping up the pressure to bundle as much as possible.

Licensing requirements

- In some national regimes a distinction is made between
 - a “transmission contract” signed between a shipper and the TSO and giving the right to the shipper to use the TSO’s infrastructure;
 - a “license” which is delivered by the NRA/Ministry to parties willing to supply gas to end users (The license is often split into two parts, or relating to one of two elements of the market: a trading license and a supply license. This is then separate from the transmission contract (ability to ship or use the grid to move gas).
- Experts noted that progress has been made during the last years with reference to licensing requirements to transport and trade gas across borders. Although there are still different requirements in different countries, in particular reporting, shippers can obtain a license that allows them to transport and trade gas across borders¹. However, the situation might be different in Eastern European countries, where often there is no distinction between a trading and a supply license, but the experts present did not have up-to-date information on this issue. This issue may require additional analysis. Even in North-West European markets, reporting obligations are all different in timing, content and level of detail. Harmonisation could lead to significant efficiency improvement and ability to compare data between markets by NRAs.
- Experts advised that a binding European measure on licensing might rather create another layer of administrative burden instead of reducing and harmonizing the licensing requirements.

¹ Where a „two contract model“ is applied a shipper still needs two capacity contracts to cross the border (entry and exit) in a bundle

- Some experts also added that a binding European measure on licensing may foil the successful introduction of bundled-only capacity products as bundling may lead to the expansion of market participants' activities to an adjacent system. Any additional hurdle in terms of licensing could therefore hamper that new trading activity.
- One expert pointed out that a single wholesale European license would allow ensuring that bundled capacity at IPs, which is allocated to the single shipper that participates in the auction, is booked (signature of the contract) by that same shipper holding a single EIC code. This would also be consistent with the Gas Target Model, which promotes trading at hubs and not trading at the flange. The fact that after the auction where a single shipper has participated, the capacity is in practice booked by a different affiliate at each side of the border, poses the risk of unbundling the capacity at a later stage, or of nomination/matching problems.

Secondary markets

- Participants noted that there is no need to stimulate secondary capacity markets, but only to facilitate them as the secondary trading activity is seen as one of the optimization tools available to shippers. The Gas Regulation and NC CAM already provides the basis for that.
- Another expert noted that additional rules are needed in order to comply with the obligation to re-offer capacity on the secondary market as bundled capacity in case a product was acquired as bundled one already. However, the same expert notes that this issue is probably not important enough to trigger the development of a FG.
- Some experts underlined the importance of different possibilities for secondary trading (OTC trading), which should not be restricted to take place at the platform where primary capacity is offered as well. It was noted that in the current framework OTC trading is not restricted.
- Several experts noted that secondary trading seems rather to be a matter of transparency (i.e. what information is published in case of bundled products and how to ensure that bundled products are not de-bundled on the secondary market). TSOs only need to be informed in case of a change in ownership of the capacity rights and payment obligations from one shipper to another and the time needed for confirmation should not be unreasonably long. A reference was made to the EASEEgas CBP for secondary capacity trading, where a maximum lead time of 2 hours was agreed. This would even be shortened in the digitalized world, if possible.
- In conclusion, the large majority of experts did not see a need to set out rules for secondary trading in a FG.

Hub design/access to hub

- Experts noted that there is still some misunderstanding of what constitutes a "hub" and what defines a "virtual point" (VP). In accordance with the Balancing network code a virtual point shall be provided by a TSO or an affiliate where transfer of gas between users is facilitated via trade notifications.

- Regarding access fees on hubs/VPs, experts urged to avoid any fee higher than the TSOs'/operator's real operational cost, if possible. It was suggested to make the charge for processing trade notifications zero. In practical terms traders will always have some marginal cost to administer a trade and so a zero marginal cost for the use of TSO's processes would maximize trading opportunities and welfare gains which are both key objective of the network codes being introduced.
- Experts noted that the NC BAL should be sufficient to provide the needed harmonization as regards VPs.

Transparency

- Transparency of contractual provisions and product characteristics is key. Some experts noted that insufficient transparency in relation to capacity products constitutes a problem for cross-border trade; this process is expected to become more complex when bundling of cross-border capacity products will become prevalent.
- Traders will be able to estimate the probability of interruptions on their own, if the TSO publishes all necessary information on flows, interruptions etc..

Other topics

- Experts considered the topics initially identified in the discussion paper sufficient for the task provided. No additional topics or questions have been added.

Next Meetings

A next meeting has not been scheduled yet. ACER will discuss the input provided by experts and decide on the next steps. In case of further meetings, experts will be invited according to the ToR.