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**“Issue paper” on the need for coordinated decisions at EU level for the implementation of
the Congestion Management Procedures Guidelines
*A non-binding guidance for NRAs***

1. Introduction

The Congestion Management Procedures Guidelines (CMP Guidelines) were published in the Official Journal of the European Union on 28 August 2012 and entered into force on 17 September 2012. These Guidelines also amended the Transparency requirements (Commission Decision of 10 November 2010) and provide for the following general principles:

- The CMP apply at interconnection points (IPs) between adjacent entry-exit systems, irrespective of whether they are physical or virtual, between two or more Member States or within the same Member State in so far as the points are subject to booking procedures by users. They are effective in the event of contractual congestion. Unused capacity should be brought back to the market to be reallocated in the course of the regular allocation process.
- In case of physical congestion, a solution should be examined from a network planning and investment point of view (CMP may often be of no avail).
- Any additional capacity made available through the application of one of the CMP, shall be offered in the regular allocation process.
- ACER should monitor and analyse the implementation of the guidelines. By 1 March of every year beginning 2014, the Agency shall publish a monitoring report on congestion at IPs with respect to firm capacity sold in the preceding year, taking into account capacity trading on secondary market and the use of interruptible capacity.
- Three CMP measures are introduced and should be implemented as of 1 October 2013: capacity increase through oversubscription and buy-back scheme, surrender of contracted capacity and the long-term UIOLI mechanism.
- The firm day-ahead UIOLI mechanism should be implemented as of 1 July 2016, in case the Agency’s monitoring report shows that there is over demand for firm capacity products¹ that are offered in the next three years or where no firm capacity is offered at all.

Several provisions introduced in the Guidelines require cross-border coordination between NRAs and TSOs from different Member States. Beyond the duties assigned to the NRAs in ensuring strict compliance with the guidelines, regulators are expected to cooperate with other NRAs and with the TSOs and to have regard to best practices at European level. NRAs are also expected to “endeavor to harmonise processes for the implementation of the guidelines” (Recital 7).

Dialogue and cross-border coordination between NRAs and TSOs is a key requirement and a pre-condition for a successful implementation of the CMP guidelines. There are several areas where harmonised decisions are essential at a cross-border level in order to implement the CMP guidelines, in particular with regard to bundled products as foreseen in the Network Code on Capacity Allocation Mechanisms (CAM NC). The aim of this paper is to identify those areas requiring a harmonised approach between Member States of adjacent systems and elaborate recommendations when necessary in view of avoiding diverging interpretations at national levels. The paper has a non-binding nature, but aspires to provide guidance to NRAs while implementing the CMP guidelines.

¹ for either of the product durations of at least three monthly, two quarterly or one yearly product

2. Link with the CAM Network Code

The CMP measures should be implemented as of 1 October 2013, whereas the CAM NC shall apply as of 1 November 2015. Between these two dates, the CAM NC will be progressively implemented. This “interim period” has to be taken into account, in particular because it will imply the coexistence of CAM rules in cases of early implementation with the already existing national rules. Furthermore, several provisions of the CAM NC should be considered in parallel to the CMP requirements because of their impact on cross-border harmonisation and on the implementation of the CMP measures. For instance, TSOs have the obligation to maximise the offer of bundled capacity on IPs through the optimisation of technical capacity by establishing a joint method (Article 6 of the CAM NC). According to the CMP Guidelines (2.2.1(3)), any additional capacity made available through the application of one of the CMPs (surrendered capacity, firm day-ahead UIOLI, long-term UIOLI and overbooked capacity) shall be offered in the regular allocation process. The CMP Guidelines also define the overbooked capacity as the firm capacity offered in addition to the technical capacity of an IP (2.2.2 (1)). Considering these requirements, TSOs should seek to offer the maximum amount of bundled capacity, regardless of whether the capacity offered is technical or overbooked. This follows from Art. 19 (1) of the CAM NC which requires TSO to offer “on both sides of an IP all firm capacity [...], in so far as there is available firm capacity”. The offer of bundled capacity does not make a distinction between technical or overbooked capacity, but refers to “available firm capacity” no matter where the available capacity stems from, i.e. including overbooked capacity.

Statement n°1: Adjacent TSOs make the necessary efforts in order to coordinate and offer the capacity made available by the application of the CMP requirements as bundled products where possible. The interim period should not delay the implementation of CMP.

3. Capacity increase through oversubscription and buy-back scheme

Paragraph 2.2.2: Capacity increase through oversubscription and buy-back scheme

- TSOs shall propose and, after approval by the NRA, implement an incentive-based oversubscription and buy-back scheme to offer additional capacity on a firm basis.
- Before implementation, the NRA shall consult adjacent NRAs and take account of their opinion.
- Additional capacity is defined as the firm capacity offered in addition to the technical capacity of an IP.
- The recalculation of the technical or additional capacity on the entry-exit system should be based on a dynamic approach.
- The oversubscription and buy-back scheme shall be based on an incentive regime reflecting the risks of the TSOs in offering additional capacity. The revenues from selling additional capacity and costs arising from the buy-back scheme are shared between the TSOs and the network users. NRAs decide on the distribution of revenues and costs between the TSO and the network user.
- For the purpose of determining transmission system operators’ revenues, technical capacity, in particular surrendered capacity and capacity arising from the short term UIOLI or long-term UIOLI shall be considered to be allocated prior to any additional capacity.
- The determination of the additional capacity shall be based on statistical scenarios for the likely amount of physically unused capacity at any given time at IPs. It shall also take into account a risk profile for offering additional capacity which does not lead to excessive buy-

back obligation. The likelihood and the costs of buying back capacity on the market shall be reflected in the amount of additional capacity.

- Where necessary, TSOs shall apply a market based buy-back procedure, after verifying whether alternative technical and commercial measures can maintain system integrity in a more cost efficient manner.
- TSO shall provide the relevant data to the NRA in order to assess the scheme. The TSO shall regularly report to the NRA on the functioning of the scheme. NRA may request the TSO to revise the scheme.
- Implementation as of 1 October 2013.

3.1 Current application

Only the UK (National Grid) and Belgium (Fluxys Belgium) have already implemented a proposal on the overbooking and buy-back scheme (which may need to be amended to be in line with CMP provisions). Other countries (such as France) are currently envisaging interim measures before implementing a market-based mechanism in order to properly manage the risks.

3.2 Interpretation of overbooking and buy-back provisions and identification of cross-border issues

The implementation of the overbooking and buy-back mechanism requires, as a first step, that information is shared between the adjacent TSOs on the respective technical capacity available at the IP (and its use) as defined in Art. 2 (18) of Regulation (EC) No 715/2009. The level of technical capacity (and its composition of bundled and unbundled products) should be made transparent. The oversubscription and buy-back scheme is approved by the relevant NRA on each side of the border, which may entail the approval of the level of technical capacity. When approving the proposed overbooking and buy-back mechanism, NRAs should scrutinise, and may consult with the market, the level of capacity on which additional capacity is offered.

Concerning the offer of overbooked capacity, the combined requirements of CAM NC and CMP Guidelines texts imply an obligation for the TSOs to cooperate and offer this overbooked capacity as bundled products in the auction processes. As mentioned above, this follows from the general principle for TSOs to maximise the offer of bundled capacity. Although the amount of overbooked capacity does not require harmonisation as such, as it will also depend on the incentive and risk structure of each individual TSO, the aggregated offer of technical and overbooked capacity should aim for consistency between the two sides of an IP. For example, where there is more available capacity on one side of an IP than on the other side for any period considered, the TSO with the lower available firm capacity would seek to offer overbooked capacity, in line with the risk analysis results, with the aim of reducing the capacity mismatch. However, during the interim period, overbooked capacity may be offered as unbundled product.

The offer of overbooked capacity is based on a risk analysis for each IP and each product according to the statistical scenarios for the likely amount of physically unused capacity. There is a common understanding that overbooked capacity will not concern all products offered at every IP as the costs of the potential buy-back may be higher than the (expected) benefits. As a first step, it is acceptable to offer overbooked capacity on one product, such as monthly or day-ahead capacity. The TSOs should later seek to offer overbooked capacity for products of different durations (i.e. within day, day-ahead, monthly and quarterly products). NRAs and TSOs are recommended to cooperate at cross-border points to seek to put in place a minimum amount of overbooked capacity offered under the overbooking and buy-back mechanism where there is contractual congestion without prejudice to the risk analysis results. The TSOs should provide data on oversubscription volumes and on actual flows to the NRA to be able to monitor whether oversubscription is being properly implemented.

The design of the buy-back procedure should be agreed on between the adjacent TSOs. It should be market-based, founded on the willingness of the shipper to sell its capacity back to the TSO. The buy-back procedure needs to be transparent, i.e. the market should be informed at least about the applicable buy-back procedure and the location and timing of the buy-back. Additionally, the buy-back shall be designed in a way that the additional capacity is not treated differently than the technical firm capacity, i.e. it should be a (financially) firm product.

On bundled products, there is a need to take common decisions on the buy-back mechanism for cases where the buy-back mechanism needs to be triggered on one side of the border. In any case, the bundled product would not be unbundled.

Furthermore, the NRAs should check that there are no conflicting obligations on each side of the border imposed in general for these procedures, in particular with regard to the obligation for the TSO to use a precise platform for the capacity buy-back. The buy-back takes place at the same location for the IP, preferably where the TSO markets primary/secondary capacity.

Based on an evaluation of the relationship between the oversubscription and buy-back scheme and the firm day-ahead UIOLI mechanism, the NRA may decide not to apply the oversubscription and buy-back scheme (2.2.3 (6)). This decision shall be notified without delay to the European Commission and to the Agency. A precondition for the NRA's decision against the application of the oversubscription and buy-back scheme shall be the actual implementation of the firm day-ahead UIOLI mechanism at the concerned IP.

- Statement n°2: TSOs cooperate on the determination of the level of technical capacity at the IP.
- Statement n°3: The aggregated offer of technical and overbooked capacity should aim for consistency between the two sides of an IP.
- Statement n°4: The anticipated costs of buying the bundled products back are taken into account in the risk analysis.
- Statement n°5: The buy-back is organised on the same platform for an IP, preferably where primary/secondary capacity is marketed.

4. Firm day-ahead use-it-or-lose-it (UIOLI)

Paragraph 2.2.3 of the CMP guidelines

- NRAs shall require TSOs to apply firm day-ahead UIOLI mechanism per network user at IPs if the Agency's report identified that demand exceeds supply, at the reserve price when auctions are used in the course of capacity allocation procedures in the year covered by the monitoring report for products for use in either that year or in one of the subsequent two years,
 - (a) for at least three firm capacity products with a duration of one month or
 - (b) for at least two firm capacity products with a duration of one quarter or
 - (c) for at least one firm capacity product with a duration of one year or more or
 - (d) where no firm capacity product with a duration of one month or more has been offered.
- NRA can decide to terminate the application if, on the basis of the yearly monitoring report, it is shown that a situation as defined in paragraph 1 is unlikely to re-occur in the following three years.
- Firm re-nomination is permitted up to 90 % and down to 10 % of the contracted capacity by

the network user at the IP. However, if the nomination exceeds 80 % of the contracted capacity, half of the non-nominated volume may be re-nominated upwards. If the nomination does not exceed 20 % of the contracted capacity, half of the nominated volume may be re-nominated downwards. The application of this paragraph is without prejudice to the applicable emergency measures.

- The original holder of the contracted capacity may re-nominate the restricted part of its contracted firm capacity on an interruptible basis.
- The restriction does not apply to shippers holding less than 10% of the average technical capacity in the preceding year at the IP.
- NRA can implement the UIOLI mechanism at any IP, but needs to consult with the NRA of adjacent Member States before taking the decision. In adopting its decision the NRA shall take account of the adjacent NRAs' opinions.
- NRA can carry out an evaluation of the relationship with the oversubscription and buy-back scheme on IPs where a firm day-ahead UIOLI is applied. This may result in a decision by the NRA not to apply the provisions of point 2.2.2 at those IPs. This decision shall be notified to the Agency and the European Commission.

4.1 Current application

The mechanism has been implemented in Germany since 1 April 2012 (at all IPs). A quantitative analysis of the mechanism is currently being carried out and will be available by Q3/Q4 2013². In order to avoid strategic misuse, TSOs are required to keep data on nomination and re-nomination for a period up to five years. Austria plans implementation by 1 October 2013. Poland is currently considering introducing the UIOLI mechanism as well.

4.2 Interpretation of firm day-ahead UIOLI mechanism and identification of cross-border coordination issues

The mechanism needs to be applied, as of 1 July 2016, if the Agency's CMP monitoring report shows that there is more demand than offered capacity. When auctions are being used, demand is higher than offered capacity for every auction closing with an auction premium. The monitoring report covers the twelve rolling monthly auctions in each gas year, the annual quarterly auction and the annual yearly auction for the two subsequent yearly products.

If the report identifies that a congestion premium occurred in at least three out of 12 monthly auctions, or two out of four auctions for quarterly products, or one auction for the next two yearly products at a respective IP, taking into consideration to the extent possible capacity trading on the secondary market and the use of interruptible capacity, the NRA(s) shall require the TSO at this IP to implement a restriction on re-nominations as described in 2.2.3 (3). In case capacity is not offered, i.e. fully booked, for monthly, quarterly or yearly auctions, the same applies. The CMP Guidelines do not set a timeframe in which the TSO has to apply the mechanism once the relevant conditions are identified in the monitoring report. Considering the necessary IT implementation, the implementation of this mechanism may take a long time. However, it should be done within a reasonable timeframe.

In case the mechanism is introduced on the basis of the monitoring performed by the Agency, the mechanism should be applied on both sides of the border or, if the congestion is only proved to be on one side of the IP, the adjacent TSO should facilitate the implementation of this mechanism on its

² In the first two months of application (April, May 2012) a total volume of 81,7 GWh/h was remarketed.

side. Coordination issues may arise from the fact that there is no implementation time mentioned. The mechanism needs proper and automated IT processes in place in order to cope with huge amounts of data within a short time period. Based on initial nominations, capacity available due to the mechanism needs to be calculated before the amount available in the day-ahead auction is published.

The exemption for network users — persons or undertakings and the undertakings they control pursuant to Article 3 of Regulation (EC) No 139/2004 — holding less than 10 % of the average technical capacity in the preceding year at the IP is to be checked by TSOs, considering the sum of capacity contracts concluded minus the capacity offered/sold on the secondary market or being surrendered to the TSO.

If NRAs implement the mechanism “voluntary”, i.e. a situation where the Agency’s annual report did not conclude on the need to apply this measure at the IP, they have to consult with the NRAs of adjacent Member States before taking the decision. In adopting its decision, the NRA shall take account of the adjacent NRAs' opinions. In any case, coordination efforts are necessary for a proper implementation of the mechanism, not only during the interim period (before 1 November 2015), where deviations from the non-binding “lesser rule” for the matching process could be envisaged to provide firm capacity in both flow directions³, but also after this period, when only one nomination will be possible for bundled products according to the CAM NC. In this latter case, the restrictions on nominations needed at the side where firm day-ahead UIOLI is applied should take into account the nominations coming in on the other side where firm day-ahead UIOLI is not implemented.

For NRAs to be in the position to identify a strategic circumvention of the re-nomination restrictions by shippers nominating systematically either 0 or 100% of their capacity and correcting the initial nomination during the day, the NRA would need to have access to information about individual nomination and re-nominations.

Arrangements for combining overbooking on one side of the border with day-ahead UIOLI on the other to offer overbooked bundled day-ahead capacities can be implemented on a cross-border basis.

- Statement n°6: Adjacent NRAs set an appropriate and coordinated deadline (not exceeding 18 months) for the TSOs involved if the mechanism is to be introduced and applied on the basis of any Agency’s CMP monitoring report which is going to be published after the one which is due by 1 March 2015. In cases where congestion is going to be identified in any of the CMP monitoring reports until and including the one which is due by 1 March 2015, the implementation deadline is 1 July 2016.
- Statement n°7: TSOs align (re-)nomination and matching rules for the interim period until the provisions of the Network Codes on Balancing and Interoperability have to be applied in case the mechanism is applied. To this end, the early voluntary implementation of the respective Balancing Network Code provisions is recommended.

³ Example: In Country A firm day-ahead UIOLI is applied, shipper A initially nominated 50 of his 100 capacities, his counterpart shipper B (it may be even the same party) in country B where firm day-ahead UIOLI is not applied also initially nominates 50. TSO in country A could offer 10 units firm counter flow capacity. However, if shipper B re-nominates to 0, and shipper A can only re-nominate down to 10, then the lesser rule would result in a confirmed quantity of 0, which would not allow the TSO to flow the 10 units of firm capacity in the counter flow direction. Hence, the TSO would not be able to offer the 10 units on a firm basis initially to the market.

- Statement n°8: The NRA has access to information about initial nominations and (re-)nominations per network user and per IP to assess strategic circumvention of the rule by shippers nominating either 100% or 0% of their capacity.

5. Surrender of contracted capacity

Paragraph 2.2.4 of the CMP guidelines

- TSO shall accept any surrender of firm capacity contracted by the user at an IP, with the exception of day-ahead and within day products.
- The network user retains his rights and obligations under the capacity contract until the capacity is reallocated by the TSO and to the extent the capacity is not reallocated by the TSO.
- Surrendered capacity shall be considered to be reallocated only after all the available capacity has been allocated.
- TSO notifies the user without delay of any reallocation of its surrendered capacity.
- Specific terms and conditions for surrendering capacity in particular for cases where several users surrender their capacity shall be approved by the NRA.
- Implementation as of 1 October 2013.

5.1 Current application

The surrender mechanism is in place in several countries (Belgium, Germany, Spain, Italy, Poland, Romania and UK). However, it needs to be amended in several cases in order to be in line with the CMP provisions and to the implementation of the CAM NC.

5.2 Interpretation of surrender of contracted capacity and identification of coordination issues

According to the CMP Guidelines, the specific terms and conditions should be approved by the NRA. The Guidelines clearly state that the network user shall retain its rights and obligations until the capacity is reallocated by the TSO. The interpretation of the rights of the shipper (*inter alia* described in the TPA contracts) needs to be agreed on between the adjacent TSOs in particular with regards to potentially allowing the shipper to get its non-reallocated capacity back after each respective allocation process or to offer it on the secondary market, i.e. at what point in time the shipper can use or offer on the secondary market his non-reallocated capacity again.

Furthermore, the adjacent TSOs need to agree on the type of products accepted by the TSO within the surrender mechanism, but always complying with the CMP Guidelines.

An EU wide harmonisation of the measures in place allowing the shipper to get back its non-reallocated capacity, as well as the acceptance of the type of products, would be ultimately preferred.

The combined requirements of CAM NC and of the CMP Guidelines imply an obligation for taking harmonised decisions on the following issues in view of an efficient implementation of the capacity surrender mechanism.

i. Bundled products and the surrender of capacity

Keeping in mind the requirement of the CAM NC on both sides of an IP (all firm capacity shall be offered as bundled capacity, in so far as there is available capacity), the link with the CMP

requirement stating that “surrendered capacity shall be considered to be reallocated only after all the available capacity has been allocated” should be carefully analysed.

The possible interpretation of these two requirements could result in a potential conflict, when a shipper surrenders a bundled product in case of a capacity mismatch between two TSOs. One might understand that, because there is available unbundled capacity, the surrendered bundled capacity cannot be reallocated. If this approach were to be adopted, the shipper might end up with only part of its surrendered bundled capacity sold and he retains his rights and obligations for the other part of the surrendered bundled product. For this reason, bundled products and unbundled products should not be considered as similar products. Two conclusions should be derived from this analysis:

- The requirement of the CMP Guidelines should be read as follows: “the surrendered bundled product shall be considered to be reallocated only after all the available bundled products have been allocated”. The TSO allocates the bundled capacity with priority before unbundled available capacity.
- Capacity originally allocated as bundled capacity can only be surrendered as bundled capacity (as for the secondary market).

ii. Priority rule for reallocating the surrendered capacity

The priority rule for reallocating the surrendered capacity, for cases where several users surrender their capacity, is also an essential provision to harmonise bundled products. Indeed, if this rule is divergent on each side of the border, there is a risk that the shipper ends up with only part of its surrendered bundled capacity sold, while retaining his rights and obligations for the other part of the surrendered bundled product (which will probably be useless for the shipper). The “first surrendered first reallocated rule” (time stamp) seems to be the most appropriate for bundled products. Beyond the advantage of simplicity, a time stamp rule has also the advantage of increasing the shipper’s incentive to surrender its capacity from the moment he expects that the capacity will not be used. The reallocation of the surrendered products on the basis of a prorata approach could also be envisaged.

iii. Payment obligations of the shipper surrendering the capacity

Concerning the price charged to the initial holder of capacity, in Germany and in Austria, the obligation of the initial holder of the surrendered capacity to pay the auction premium remains unaffected. In France, the current proposal submitted to public consultation is to charge the initial holder of the surrendered capacity the difference, if positive, between the initial price (P1) and the price of the surrendered capacity (P2). This is also the approach of the Spanish regulator’s proposal, to be also released for public consultation soon. In Belgium, the issue does not exist as the initial shipper continues to pay his fee under the initial contract, but is reimbursed of some amount of money back after re-allocation during the surrender process. This amount of money shall not be more than the initial tariff (the initial network user shall not make any profit), and even lowered with the value of the remaining unbundled capacity at reserve price.

The harmonisation of the composition of the final price (not) charged to the initial holder of capacity is desirable, but not necessary for bundled products. In any case, these obligations should be made fully transparent. Primary capacity holders will not make any additional profit in relation to the reallocation of surrendered capacity.

iv. Combined interpretation of CAM and CMP requirements

The combined provisions of the CAM NC and the CMP Guidelines requirements have a direct impact on the interpretation of the surrender mechanism. On the one hand, the CAM NC provides for a

share of the technical capacity to be systematically set aside for short term subscriptions, and on the other hand, according to the CMP Guidelines, the surrendered capacity shall be considered to be reallocated only after all the available capacity has been allocated. In these conditions, annual products would only be reallocated during the commercialisation of quarterly and monthly products. This would imply that the annual products with a starting date in Y+2 or beyond will only be offered to reallocation during the quarterly or monthly auctions.

- Statement n°9: Adjacent TSOs on an IP should agree on the timings and measures in place allowing the shipper to get back its non-reallocated capacity after the allocation process, as well as the acceptance of the type of products. An EU harmonisation on these two points would be preferred.
- Statement n°10: The priority rule for reallocating the surrendered capacity, for cases where several users surrender the capacity, should be harmonised for bundled products on an IP.
- Statement n°11: Adjacent NRAs ensure that price measures remain consistent when different price measures are implemented on a bundled product and that the initial holder obligations are transparently and clearly established.
- Statement n°12: The payment obligations of the initial holder of capacity should be made fully transparent by the TSO. Primary capacity holders will not make any additional profit in relation to the reallocation of surrendered capacity.

6. Long-term use-it-or-lose-it

Paragraph 2.2.3 of the CMP guidelines

- Only contracts with duration of more than one year or recurring quarters covering at least two years, for bundled and unbundled capacity, are affected by this CMP.
- NRAs shall require TSOs to partially or fully withdraw systematically underutilised contracted capacity on an IP by a network user where he has not sold or offered under reasonable conditions its unused capacity and where other network users request firm capacity. Contracted capacity is systematically underutilised in particular if
 - (a) the network user uses less than on average 80 % of its contracted capacity both from 1 April until 30 September and from 1 October until 31 March with an effective contract duration of more than one year for which no proper justification could be provided; or
 - (b) the network user systematically nominates close to 100% of its contracted capacity and re-nominates downwards with a view to circumventing the rules laid down in point 2.2.2. (3).
- The application of a firm day-ahead UIOLI mechanism shall not be regarded as justification to prevent the application of paragraph 1.
- Withdrawal shall result in the network user losing its contracted capacity partially or completely for a given period or for the remaining effective contractual term. The network user shall retain its rights and obligations under the capacity contract until the capacity is reallocated by the TSO and to the extent the capacity is not reallocated by the TSO.
- TSOs shall regularly provide NRAs with all the data necessary to monitor the extent to which contracted capacities with effective contract duration of more than one year or recurring quarters covering at least two years are used.

6.1 Current application

The long-term UIOLI mechanism has been in place in several Member States for some time already. However, the role of the NRA seems to be more important in the CMP Guidelines than in the current implementation of this mechanism in the Member States.

6.2 Interpretation of long-term UIOLI and identification of cross-border issues

There is wide room for interpretation on several items with regard to the requirements on long-term UIOLI.

First, for an effective implementation of this mechanism on both sides of the border for bundled products, adjacent NRAs and TSOs should have the same understanding/definition of several issues:

- i. The meaning of “capacity offered at secondary market under reasonable conditions”;
- ii. The meaning of “where other network users request firm capacity”;
- iii. The calculation of the average 80% of the contracted capacity in each period considered;
- iv. A clear definition of what “systematical nominations close to 100% of the booked capacity and downwards re-nominations” means;
- v. The partial withdrawal of capacity, i.e. to withdraw the consistent volume and contract length on both sides of the border in case a bundled product is underutilised, therefore, the determination of the amount and duration for withdrawal of capacity should be agreed on between the NRAs on an IP in case of bundled products.

Second, there are different possibilities to implement the regular provision of necessary data to monitor underutilisation. Either there is a regular flow of data from the TSO to the NRA (what data is necessary to be defined by the relevant NRA) and the NRA identifies on its own if the conditions are met to require the TSO to withdraw capacity, or the TSO monitors utilisation rates directly and report to the NRA in case underutilisation is detected.

Each NRA can only require the TSOs operating within the area covered by the competence of the NRA to withdraw a capacity and each TSO can only withdraw capacity from the shipper he concluded a contract with. For unbundled products, there is no joint decision required. Information provision is sufficient. However, in case of bundled capacities, a joint decision to withdraw capacity is needed as otherwise only the entry or exit part of the bundled product can be reoffered to the market. Coordination with the adjacent NRAs should be organised on a bilateral basis.

- Statement n°13: NRAs receive regularly (access to) all necessary data from the TSO to monitor the long-term UIOLI.
- Statement n°14: NRAs exchange information with adjacent NRA in case systematic underutilisation is found on bundled products. A joint decision is looked for to require the relevant TSOs to withdraw the same amount of capacity on both sides of the border.



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