ACER
Agency for the Cooperation of Energy Regulators

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

[redacted]

*2 Email

[redacted]

3 Name of organisation

ENGIE (former GDF SUEZ) ref nb: CE 90947457424-20

*4 Area of activity

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

Consultancy Study

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

The principles are good. The summary of best practices is effectively underlining key principles, and the quality of the report should be praised.
However, this monitoring lacks a process to identify issues that are not tackled by the network codes but that deserves monitoring (e.g. lack of access to forward liquidity in most hubs save TTF and NBP, non active transport capacity market in some areas).
To identify these issues, a survey targeting all stakeholders should be launched regularly, and be at the center of the regular review of this monitoring process.
ENGIE disagrees with the comments on the tariff page 27, where it is stated that NC TAR should be evaluated by qualified analyst (i.e., not through surveys of market participants). Users – and payers – of the transport tariff are the most qualified analysts of this very complex issue. Of course, as market participants come with their own interest, some objective analysis of their returns is needed, but this is precisely what can be brought by such a monitoring.
Moreover, the methodology does not assess whether desired effects of the codes still effectively contributes to the achievement of the high level goals in the current context.
For instance, in the first example, in figure 3.2, the objective of the Congestion Management Procedures (CMP) code is contractual congestion. This may have been a major issue in the past, justifying the launching of this code, but it is however no longer the case.
On Prisma – which does not cover the whole Europe but a large part – there remains available capacity never sold, on most points, for all products horizons. Stakeholders unanimously challenges the importance of contractual congestion, save maybe for very specific points in yet to be developed market.
Trying to solve a problem that does not exist anymore is creating useless complexity and is counterproductive to the development of an integrated energy market.
Finally, the monitoring and evaluation of the impact of Gas NCs should also tackle the negative outcomes and hurdles created by the codes, and not only their potential positive effects.

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

9 Please add any comments and suggest indicators to be added

This set of indicators at the same time misses some important issues, and therefore requires adding a few indicators, and focuses too much on other issues of the past, allowing to delete some other indicators. When surveys are used (TAR 1, TAR 2 and TAR 3), there is a risk of subjectivity, and these indicators require further qualitative analysis to be evaluated (trying to have yes/no answers to be able to count the number of answers is to be avoided). Moreover, in some countries, there will be few or incomplete replies.
See also question 6.
For Congestion Management Procedures (CMP) :
- The “enhanced secondary trading of capacity” indicator proposed for CAM should be used to assess CMP. This indicator could signal that measures aiming at enhancing secondary market may be needed to prevent any congestion.

For Capacity Allocation Mechanisms (CAM) :
- % of capacity booked compared to capacity proposed in the auctions and compared to the physical flows if this percentage remains very low over a significant period of time on most points, it demonstrates no new entrants can enter the capacity market, that is therefore fully dominated by existing holders of capacity;

- Some indicators of the transparency and predictability of dynamic calculation as seen by network users;

- How unbundled booked capacity is resolved : % of capacity remaining useless in the books of existing holders of capacity, % of capacity for which existing holder has paid to complete its bundle, % of capacity for which the existing holder had had to pay for a full bundle while still paying its useless unbundled;

- Increase in offered technical capacity: another indicator should also look at the alignment of technical capacities at both sides of an IP as this will solve many mismatched positions. It could be the occurrence of mismatches in technical capacities at both sides of IPs

- % of flange trading made at hub indexed price, as this indicator shall help to assess whether elimination of trading at flange is a relevant desired effect, or if this effect has just become an useless and burdensome limitation of free trade ;

For Balancing (BAL):
The Balancing codes should be completed by a most important indicator for network users : an estimation of the potential difference between forecasted end-users allocations and final end-users allocation, published per month.

- BAL 1 could be the evolution of the costs (and not only the volumes) of balancing services in order to notice the efforts of the TSO to converge to zero balancing services

For Tariff structure harmonization (TAR) :
- % of capacity reserve prices higher than the relevant hub prices spreads (to measure the efficient functioning of the market)

- Transparency on the TSOs revenue (RAB, remuneration rates…)

10 Please add any comments and suggest indicators to be removed

We suggest to remove INC 2 and INC 3. We cannot draw any conclusion on INC 2 : the fact that a project fails may be due to a low demand. There is a risk to subsidize the project, or to change the parameters of the test in order to make this project pass the test. INC 3 should also be removed, since the range of f factor values will not bring any valuable and sound indication : the project should be studied on an individual basis.
BAL 2, BAL 3, BAL 4 are quite linked together. BAL 3 and 4 could be removed, and BAL 2 kept.
In addition, we propose to remove TAR6, which does not add any value for the stakeholders.
For CMP
- The indicator on the CMP capacity made available through FDA UIOLI is not relevant if it cannot distinguish FDA UIOLI with other DA capacity, especially taking into account dynamic calculation rules at that point;

- Overall contracted capacity utilization (CMP 3) : if it concerns only IPs where LT UIOLI is applied, then the indicator is up to now undefined, as LT UIOLI has practically never been applied; if not, this percentage will essentially illustrate a physical flows data, and the impact of CMP of these physical flows is neglectible.
For CAM
- The first indicator (Robustness of decision making and overall process associated with establishment of tariff methodology (rating; qualitative scoring) is far too general;

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

13 Please add any comments and suggest indicators to be added

Indicators measuring the efficient functioning of capacity market should be added, for instance measuring the volume of capacity regularly bought and sold at each IP and each maturity compared to the proposed capacity at auctions, and more importantly compared to physical flows (cf. question 9).
The indicator measuring how often capacity reserve prices were higher than the relevant hub prices spreads proposed for TAR is also key to measure the efficient functioning of the market.
To correctly implement liquidity indicators, the relevant market must be defined. This is key in particular for the forward market, where defining a relevant market spanning over several countries could be sensible, if, and only if, there is a functioning capacity market, with significant and regular trades on the horizon considered. Indeed, there is no problem in concentrating liquidity in one continental hub only if market participants can cover the geographical spreads. And capacity products are needed to hedge these geographical spreads.
Indicators measuring transaction cost and risk metrics and barriers to entry are key, but should also apply to the transport capacity market.

14 Please add any comments and indicators to be removed

The proposed study rightly underlines the difficulty associated with the different indicators.
Indicators measuring structural market power (combined market share, HHI, PSI, RSI…) are difficult to interpret and should only be one input element of a qualitative analysis. Till transport capacity market is not functioning everywhere in the EU internal gas market (with no significant volumes of capacity sold or bought either on the primary or on the secondary market may stay relatively isolated one from the other. This means relevant markets remain small, limiting further the ability to interpret these indicators, that would be more relevant for large market areas.
Indicators measuring market participant behavior are interesting but the data will not be accessible. Large part of the margins come from upstream margins that are outside Europe and therefore not accessible, and technical issues (what share of fixed vs variable price should be taken into account when computing costs ? How to take into account taxes for state owned producers ?) prevent objective calculation of these indicators. They should be discarded.
Save the absolutely key liquidity indicator, proposed indicators measuring market performance are not really relevant : for spot market exposure, there is not necessarily a priority to be given to forward or spot markets, all horizons should function properly (forward markets for hedging, spot for more physical management).
The percentage of gas consumed under long-term contracts is less relevant as the contracts are increasingly hub indexed. The competitive benchmark analysis and net revenue analysis could be interesting in power where the marginal plant could be identified, but seems extremely difficult to implement for gas, where marginal prices depend largely on contracts and on stored gas levels.
Moreover CO10 “Simulation models” should be removed : the simulation model seems complex and difficult to implement. What is important is to find indicators on the functioning of the market, and not to implement some theoretical model including a lot assumptions.
Proposed indicators measuring efficient market functioning regarding network capacity are not focused on the real issues of the European gas market (save maybe for exceptional cases in Eastern Europe, but where illiquidity of markets will make these non computable). The indicator currently proposed (share of IP technical capacity allocated in market-based mechanisms) is not working, because it does not address the current case where market mechanism are generally implemented, but are not functioning because, in some cases, of a much too high reserve price. Instead, they should be replaced by indicator specified in question 13.

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

This evaluation is quite subjective. ENGIE does not think it is possible to avoid this subjectivity, therefore this evaluation cannot be used to automatically trigger corrective measures, but should only be used as an input among others when deciding for further regulatory measures.
The performance evaluation of the indicators should be made regularly, e.g every other years, in order to check their relevance, taking into account the evolution of the gas market and the further implementation of network codes. This evaluation should be performed with the involvement of all stakeholders.

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

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

It lacks a reviewing process. As justly pointed in the study, the relevance of indicators will change over time depending on market developments and emergence of new issues.

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 is quite clear and exhaustive, except for the simulation model envisaged in CO10.

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, under two conditions :
- that a process to identify issues that are not tackled by the network codes but that deserves monitoring and that are within the scope of the article 8 of regulation 715/2009 is implemented.
- As the methodology is quite subjective, some form of regular consultation of stakeholders is required.

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

ENGIE recognises and welcomes the high quality of the report.

Background Documents

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

Contact

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