ACER Call for Evidence

on the conditions for the application of FDA UIOLI pursuant to paragraph 2.2.3.1 a) - d) of the CMP Guidelines

(“congestion indicators")

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Fields marked with * are mandatory.

Background & objective

According to paragraph 2.2.1.2 of the Commission Guidelines on Congestion Management Procedures[1] (hereafter, the ‘CMP GL’) the Agency for the Cooperation of Energy Regulators (‘the Agency‘) has to publish a yearly monitoring report on contractual congestion[2] at interconnection points (‘IPs’), taking into consideration, to the extent possible, capacity trading on the secondary market and the use of interruptible capacity.

Paragraph 2.2.3.1 specifies the conditions[3] under which a specific CMP - i.e. the Firm day-ahead Use-It-Or-Lose-It mechanism (‘FDA UIOLI’) - is to be applied. The Agency has used each of these conditions as an indicator for contractual congestion (“congestion indicators”). Accordingly, in the ACER Congestion Reports[4], the Agency had identified contractual congestion at those IP sides where at least one of the conditions of the “congestion indicators” (conditions 2.2.3.1 a) – d)) was fulfilled.

Some stakeholders (including TSOs, NRAs and network users) have expressed doubts on whether the “congestion indicators” are able to correctly identify actual situations of contractual congestion. Some stakeholders suggested also to include other elements or criteria in the decision-making process on whether an IP side is to be considered “contractually congested” and therefore would require the application of the FDA UIOLI.

To investigate these issues, **the Agency is inviting stakeholders to formulate concrete suggestions to improve the “congestion indicators”. The aim is to check if it is possible to improve the existing**

"congestion indicators" and/or define criteria to be used by the Agency in its congestion analysis. Such criteria would have to:

- appropriately reflect / describe circumstances that identify persistent existence of contractual congestions at IP sides, be objective and replicable,
- be based on data which is or will have to be made available at least to the Agency in a timely
- manner, and be applicable - with reasonable efforts - across the EU.
- Please note that, by launching this exercise in the form of a survey, the Agency does not commit to propose amendments[5] to the existing provisions related to the "congestion indicators". Whether the Agency will do so depends to a large extent on the proposals which will be received, the support these proposals enjoy among stakeholders, and the Agency's assessment of whether such proposals would be an improvement compared to the current formulation.

Next to the above mentioned main topic, the questionnaire covers a number of additional issues which were raised in the recommendations section of the Agency's latest Congestion Report.

[1] Commission Decision of 24 August 2012 on amending Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012D0490&from=EN

[2] Article 2(1)(21) of Regulation 715/2009 (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0036:0054:en:PDF) defines contractual congestion as a situation where the level of firm capacity demand exceeds the technical capacity

[3] i.e. points a) – d) of paragraph 2.2.3.1

[4] Latest Report: ACER annual report on contractual congestion at interconnection points (period covered 2015), 3rd edition, 31.05.2016: http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%202016%20Rep

[5] The CMP GL may be amended according to Article 23 of Regulation (EC) No 715/2009 of theEuropean Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks (Gas Regulation): http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0036:0054:en:PDF

Respondent identification

E-mail address

[redacted]

Question 0 – Respondent identification: Please indicate your name, e-mail address, company/organisation, type of stakeholder (organisation) you are representing and whether or not you agree that your answer is published.

Name and Surname (not to be published)

[redacted]

*Company/organisation

Gas Transmission Operator GAZ-SYSTEM S.A.

*Please let us know the type of stakeholder (organisation) you are representing

- [ ] Network user
- [x] TSO
- [ ] Producer
- [ ] NRA
- [ ] EU or international organisation
- [ ] National association
- [ ] Government
- [ ] Other (please specify) *Do you agree that

your answer will be published?

- ( ) Yes
- (•) No

Survey questions

Question 1: Do you consider the existing "congestion indicators" (conditions 2.2.3.1 a) – d) of CMP GL) appropriate and sufficient to determine the existence of contractual congestion (as defined in Regulation 715/2009) at IP sides? In case not, what alternative indicators would you suggest? Please be as concrete as possible with your proposal and provide a justification.

- [redacted] Yes
- No
- Neutral / I don't know

Reasons and alternative formulation:

[redacted]

[redacted]

Question 2: Do you think that the "congestion indicators" should further specify how to take into consideration capacity trading on the secondary market and the use of interruptible capacity[6]? If so, please indicate how this should be done. Please give reasons for your answer.

[6] In its past annual congestion reports, the Agency applied the current "congestion indicators", but also reported on other elements, such as on the extent of secondary capacity trading, the application of CMPs, the offer and bookings of interruptible capacities, actual interruptions of interruptible capacities, the occurrence of unsuccessful requests, a congestion comparison with previous years, and on further specific market conditions at IP sides found contractually congested by applying the "congestion indicators".

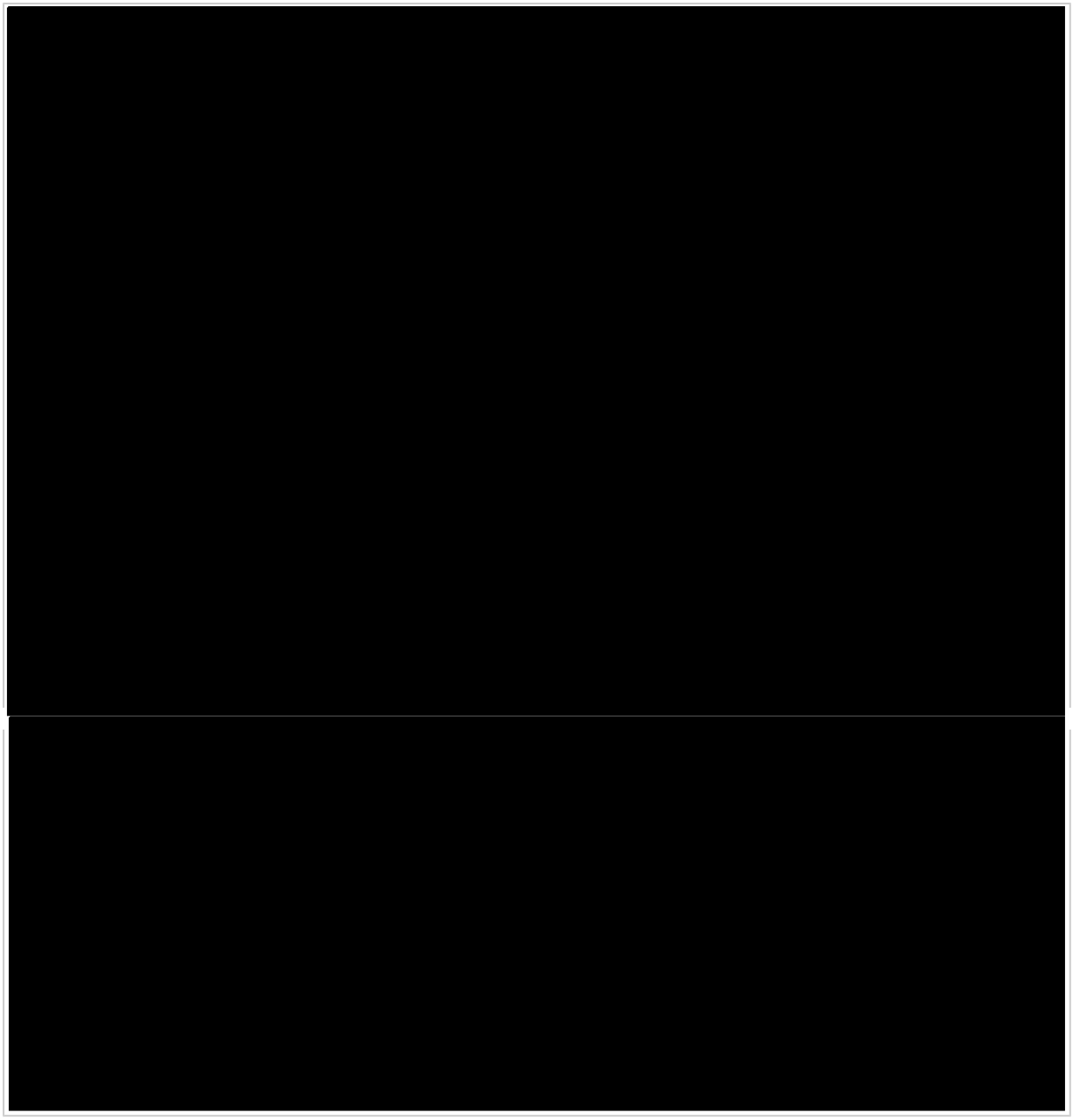
[redacted] Yes
No
Neutral / I don't know

Reasons and specification:

[redacted]

<u>Question 3:</u> In cases of contractual congestion, do you consider FDA UIOLI to be an appropriate mechanism to mitigate the effects of the identified contractual congestion? If not, what alternative or additional measure would you suggest to address the congestion and why?

Your view:



Question 4: In its latest congestion report[7], the Agency recommends clarifying the scope of criterion d) of paragraph 2.2.3.1 of the CMP GL to align it with the other congestion criteria. The current wording of criterion d) considers an IP side not congested, if capacity for at least one month was offered out of the 12 months in the preceding year's rolling monthly auction procedures. The Agency would propose amending the text so that all 12 monthly products should be offered at an IP in order for it not to be considered as contractually congested, as there is no way to test "demand exceeding offer" in auction regimes if no such product is offered. (Also, no quota applies for monthly products.)

[7] Latest Report: ACER annual report on contractual congestion at interconnection points (period covered 2015), 3rd edition, 31.05.2016: http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%202016%20Report%20on%20Congestion%20at%20IPs%20in%202015.pdf

Do you support this recommendation? Please provide reasons.

- [ ] Yes
- [x] No
- [ ] Neutral / I don't know

Reasons:

GAZ-SYSTEM does not support this proposal. In our opinion the current wording is adequate. The non-availability of at least one monthly product is a trigger to start usage of the FDA UIOLI and not an indicator when to use it. Currently, once the FDA UIOLI has started, it is used for the whole the time. Whereas, the situation when one or a few monthly products within the given gas year are not available does not determine whether the IP is congested, as the unavailability may occur e.g. due to the maintenance work.

Question 5: With respect to paragraph 2.2.1 of the CMP GL, the Agency recommends in its latest congestion report that the Commission clarifies

a) until when the Agency shall produce congestion reports (or under which conditions the reportsare no longer required);

b) an implementation period for the FDA UIOLI mechanism, if congestion is identified at IP sidesonly after 1 July 2016.

Please provide your views on these 2 issues, including concrete suggestions and reasons.

Your view on a):

The reports should be produced until the FDA UIOLI is implemented on all the IPs.

What would be an appropriate implementation period for b):

According to the current CMP GL wording, IP will be indicated as a congested one in the following yearly reports (i.e. the one that takes into account the data for the year 2016 – to be released in March 2017).

<u>Question 6:</u> Do you think the CMP GL should set out an implementation process for the FDA UIOLI, specifying when (under which measurable conditions) to terminate the application of FDA UIOLI?

- [x] Yes
- [ ] No
- [ ] Neutral / I don't know

Your view:

Specification should be made under which conditions the FDA UIOLI shall be terminated or it shall not be implemented at all. The FDA UIOLI mechanism should be terminated/not implemented if within the whole previous year (i.e. the one that the current ACER Report encompasses) the firm day-ahead products were available for the market users.

Question 7: In its latest congestion report, the Agency also suggests to consider extending the scope of "contractual congestion" to the day-ahead timeframe between hubs (requiring the Agency to assess auction premia and the non-offer of firm DA products at a cross-zonal level), which could then also result in the mandatory application of the FDA UIOLI mechanism at IPs/VIPs/IP sides between the corresponding market areas, to promote a short-term gas market price convergence.
Do you support this suggestion? Please provide reasons.

- [x] Yes
- [ ] No
- [ ] Neutral / I don't know

Reasons:

[redacted]

<u>Question 8:</u> In your view, should the Agency assess in more depth[8] the possible existence of physical congestion at IPs? Please provide your view, reasons and concrete suggestions for further possible indicators.

[8] To date, the Agency has used the occurrence of actual interruptions of nominated interruptible capacity as an indicator for the (temporary) existence of physical congestion.

- ☐ Yes
- ☑ No
- ☐ Neutral / I don’t know
- ☐ I don't know

Your view:

The physical congestions and the ways to minimise them are in the scope of the Article 6 of CAM NC providing the capacity maximisation rules.

In addition, starting from next year assessment of possible existence of physical congestion at IPs and consequently a need of additional capacity addressing the problem will be done on the EU level within the incremental process under updated CAM NC. Additionally, TYNDP and national development plans are already appropriate tools to assess demand for the additional or new capacities and address necessary developments of transmission system.

<u>Question 9:</u> Do you have any other suggestions on how to improve the CMP GL?

Yes, GAZ-SYSTEM is of the opinion that the subparagraph 5 in point 2.2.3 of the CMP GL should be deleted. In GAZ-SYSTEM's view all the parties should be treated in the same way i.e. if the mechanism is implemented on the given IP all of the market users that have contracted the firm capacity on that IP should be encompassed by the FDA UIOLI. In parallel, we do not support the idea of the capital groups. The shipper should be treated as an individual entity, in the same way that he contracts the capacity (as far as we know, the capacity can be booked by the individual entity, not by the capital group). In our opinion this change would simplify the rules and would make the FDA UIOLI more transparent for the market users.

Contact

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