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"

PC_2016_G_01

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.


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


Respondent identification

E-mail address

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)
**Company/organisation**

EDP Group

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

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

If you are a network user and you have booked capacity at IPs, where the FDA UIOLI mechanism is applied, to which extent does paragraph 2.2.3.5 of the CMP GL (i.e. the exception from the renomination restriction, if less than 10% of average technical capacity was booked by you in the preceding year) apply to you?

Possible answers:
- [ ] The renomination restriction **DOES NOT APPLY** to me at **ALL** my booked IPs, where the FDA UIOLI is applied. ("small shipper")
- [ ] The renomination restriction **APPLIES** to me for a **MINORITY** of all my booked IPs, where the FDA UIOLI is applied
- [ ] The renomination restriction **APPLIES** to me for a **MAJORITY** of all my booked IPs, where the FDA UIOLI is applied
- [ ] The renomination restriction **APPLIES** to me for **ALL** of my booked IPs, where the FDA UIOLI is applied. ("big shipper")
- [ ] I don't know / I don't want to answer this question

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.
Reasons and alternative formulation:

- We believe appropriate to include an additional condition for which it would only be considered contractually congested if any of the conditions (conditions 2.2.3.1 a) – d) set recur. It should not be applied as a result of exceptional circumstances.

- In 2012/490 / EU/ (2.2.3.2) it is determined that if there is not expected the same conditions (a,b,c and d) to occur again in the next 3 years, the mechanism could be stopped. We propose something along that line but that would prevent the start of the use of mechanisms.

- According to the above lines, the paragraph d) of 2.2.3.1 should be clarified.

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”.

☐ Yes
☐ No
☐ Neutral / I don’t know
Question 3: 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:
• After analysing the contractual congestion level, the actual use is being made of that capacity should be analysed. If a physical congestion is getting place (with a use of 100%) no contractual congestion mechanism should be used.
• On the other hand, if the contractual congestion does not corresponds to a physical congestion, before starting to implement UIOLI mechanisms, it should be examined whether there are other mechanisms in use (Oversubscription or buyback) and if so the effectiveness of those. If these are working properly but are not sufficient to address congestion, only then the need of implementing UIOLI should be analysed.

**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.)


Do you support this recommendation? Please provide reasons.

- [ ] Yes
- [ ] No
- [ ] Neutral / I don’t know
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 reports are no longer required);

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

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

Your view on a):

- They should continue to develop as a tool for supervision at least the next 2 years.

Reasons:

We agree on the need to clarify the wording of point d), as mentioned in Q1 we insist on the fact that an exceptional congestion on a month should not activate the congestion mechanisms. A punctual congestion does not mean that this situation would repeat. Recurrence conditions should met.
What would be an appropriate implementation period for b):

- We agree that it should establish a period and a mechanism for the implementation of those new IP congested, but we believe that other mechanism (such us Oversubscription) should be implemented as an alternative to UIOLI.

Question 6: 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?

- Yes
- No
- Neutral / I don’t know

Your view:

- Ex ante objectives and transparent criteria should be established in order to define why and when should the mechanism start or stop (detonators, deadlines ...). Each agent should know which conditions must be fulfilled for each IP (not homogenize these criteria in all IP is considered necessary).
- As mentioned before, we believe that other mechanisms should be taken in consideration before thinking about UIOLI, thus they also must be defined at the CMP GL with the same criteria defined in the first paragraph.
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.

☐ Yes
☐ No
☑️ Neutral / I don’t know

Reasons:

- Interestingly consider congestion analysis extends to congestion to the day-ahead timeframe between hubs, however we believe that there are more suitable than the UIOLI mechanisms such as oversubscription or interruptible capacity to address congestion problems.
**Question 8:** 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:**

- We believe that this analysis should be complementary to the analysis of contractual congestion. A physical congestion explains a contractual congestion, but the solution to this contractual congestion does not come by the application of the above mechanisms.
Question 9: Do you have any other suggestions on how to improve the CMP GL?

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