



[GAS Network Codes Functionality Platform](#)

REPORTED ISSUE ID: 01/2021. Amending the EU legislation

Reported by: Energy Community Secretariat
Status: CLOSED

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ISSUE DETAILS

ABSTRACT

Ukraine's gas TSO, Gas TSO Ukraine LLC, addressed the Energy Community Secretariat, ENTSOG and ACER, raising a proposal to amend Regulations 459/2017 (CAM NC) and 703/2015 (IO NC) to ensure their mandatory implementation on the interconnection points (IPs) between an EU MS and a Contracting Party to the Energy Community Treaty

Category: Cross border eu

REPORTED ISSUE

According to the author of this initiative, GTSOU LLC, amending the selected NCs as proposed would rectify problems occurred at the IPs between Ukraine, on one side, and Romania and Slovakia, respectively.

Amending the NCs would enable optimal capacity allocation at the IPs and enable regional gas market development.

CONCERNED ENTITIES

Network Code / Guidelines concerned:

Network Code on Capacity Allocation Mechanisms, Commission Regulation (EU) 2017/459

Member State(s) concerned:

- Bulgaria
- Croatia
- Greece
- Hungary
- Poland
- Romania
- Slovakia

IP(s) concerned:

None selected

NOTIFIED PARTIES

Informed NRA(s):

None selected

Informed TSO(s):

None selected

SUGGESTED ACTIONS

Who should act:

- ACER
- ENTSOG
- OTHER (European Commission)

Suggested solution or action:

- Other (amendments of regulations)

SOLUTION

In the process of validating, categorising, and prioritising the issue, ACER and ENTSOG have determined that the issue is not valid for the FUNC process. The issue will therefore be closed on the FUNC Platform without being further processed.

For further details, reference is made to the Issue Solution Note below.

Solution publication date: 2021-07-19

DOCUMENTS

[ISSUE SUPPORTING - Letter GTSOU as of 21 Dec 2021](#)

[SOLUTION - Issue Solution Note](#)

To: Mr Janez Kopač

Director of the Energy Community Secretariat

Am Hof 4, Level 5 1010 Vienna, Austria

To: Agency for the Cooperation of Energy

Regulators

Trg republike 3

1000 Ljubljana, Slovenia

info@acer.europa.eu

To: Stephan Kamphues

President of the ENTSOG

Avenue de Cortenberg 100 / Kortenberglaan 100

Brussels, Belgium

RE: Necessity to amend the EU legislation in order to ensure reciprocity in obligations to implement the Third Energy package Network Codes on cross-border interconnection points between the EU Member-States and Energy Community Contracting Parties

Dear Mr. Kopač,

We want to express our gratitude for the suggested possibility of launching a question at the Gas Networks Codes Functionality Platform and, thus, we would like to use this possibility and raise an issue set out below.

In paragraph 2 of Article 1 of Commission Regulation (EU) No 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules (Regulation 2015/703), it is stated that: *"This Regulation shall apply at interconnection points. With regard to data publication, Article 13 shall apply to relevant points defined in paragraph 3.2 of Annex I to Regulation (EC) No 715/2009. In addition to interconnection points, Article 17 shall apply to other points on transmission network where the gas quality is measured. Article 18 shall apply to transmission systems. This Regulation may also apply at entry points from and exit points to third countries, subject to the decision of the national authorities."*

In paragraph 1 of Article 2 of Commission Regulation (EU) No 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems repealing Regulation (EU) No 984/2013 (Regulation 2017/459) it is stated that: *"This Regulation shall apply to interconnection points. It may also apply to entry points from and exit points to third countries, subject to the decision of the relevant national regulatory authority."*

Ukraine as a Contracting Party has transposed to their legal system: Gas Directive, Regulation 715/2009, Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules (NC INT), Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (NC CAM), and successfully applies them on all adjacent interconnection points from its side.

Starting from 1 October 2020, LLC “Gas TSO of Ukraine” started conducting day-ahead and within-day auctions on all cross-border interconnection point using two certified platforms – GSA (on IP with Poland) and RBP (on other IPs). Moreover, during 2020 we entered into interconnection agreements with the TSOs of Poland and Hungary, which prescribe creation of virtual interconnection points, as required by NC CAM.

However, we face certain difficulties with reciprocal implementation of the NC INT and NC CAM by gas transmission system operators of Romania and Slovakia.

The TSO of Romania refuses to conclude interconnection agreements at interconnection points on the Ukrainian Romanian border under Regulation 2015/703, which lead to the situation where out of five existing interconnection points, we have only one covered by the signed and applied interconnection agreement – Isaccea-Orlovka-1. At the same time, even on this single interconnection point the Romanian TSO fails to allocate capacities under the auction procedure prescribed by NC CAM.

On cross-border IPs with Slovakia the situation is a little bit different – both interconnection points IP Uzhgorod/Velke Kapusany and IP Budince are covered by the provisions of the interconnection agreements which are compliant with the NC INT, but the gas TSO of Slovakia refuses to apply NC CAM provisions on them by 1) failing to allocate capacities of these interconnection points in form of auctions, and 2) rejecting our proposals to create virtual interconnection point and unite the IPs Budince and Uzhgorod/Velke Kapusany into one VIP.

Moreover, under the NC CAM *“interconnection point means a physical or virtual point connecting adjacent entry-exit systems or connecting an entry-exit system with an interconnector, in so far as these points are subject to booking procedures by network users.”* Entry/exit points, which are located on the Ukrainian border with the EU Member States can be considered as interconnection points within the meaning of the mentioned definition of NC CAM as Ukraine has the entry-exit system.

Article 19 of the NC CAM prescribes the following: “where two or more interconnection points connect the same two adjacent entry-exit systems, the adjacent transmission system operators concerned shall offer the available capacities at the interconnection points at one virtual interconnection point. [...]”. Therefore, we believe that the obligation to create virtual interconnection point on Ukraine-Slovakia border shall be as well applicable.

As specified above, current legislation of the EU prescribes that the EU Network Codes implementation on IPs between the EU Member-States and Energy Community Contracting Parties is done on voluntary basis from the side of the EU Member States, while the Contracting Parties are obliged to fulfil them.

That is why we would like to ask you to consider the possibility to raise the issue of amending paragraph 2 of Article 1 of Regulation 2015/703 in the following way:

"This Regulation shall apply at interconnection points and entry points from and exit points to Contracting Parties to the Treaty establishing the Energy Community if the Energy Community Secretariat and Directorate General for Energy of the European Commission confirmed that the Regulation is transposed and implemented by the respective Contracting Party and notified the national regulatory authority of respective Member State thereof.. With regard to data publication, Article 13 shall apply to relevant points defined in paragraph 3.2 of Annex I to Regulation (EC) No 715/2009. In addition to interconnection points, Article 17 shall apply to other points on transmission network where the gas quality is measured. Article 18 shall apply to transmission systems. This Regulation may also apply at entry points from and exit points to third

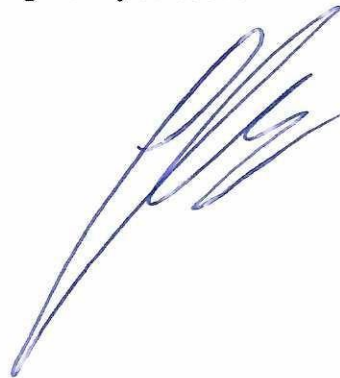
We also kindly ask you to consider the possibility of amending paragraph 1 of Article 2 of Commission Regulation (EU) No 2017/459 of 16 March 2017 in the following way.

"This Regulation shall apply to interconnection points and entry points from and exit points to Contracting Parties to the Treaty establishing the Energy Community if the Energy Community Secretariat and Directorate General for Energy of the European Commission confirmed that the Regulation is transposed and implemented by the respective Contracting Party and notified the national regulatory authority of respective Member State thereof. This Regulation shall not apply to exit points to end consumers and distribution networks, entry points from 'liquefied natural gas' (LNG) terminals and production facilities, and entry points from or exit points to storage facilities."

Such amendments to Regulation 2015/703 and Regulation 2017/459 will facilitate their proper implementation by the Member States concerned and promote regional natural gas market development.

Thanks in advance, and we look forward to hearing from you soon!

General Director



Sergiy Makogon

Gas Network Codes Functionality Process Issue Solution

Issue details	
Number:	01/2021
Name:	Amending the EU legislation
Reporting party:	Energy Community Secretariat on behalf of Ukraine's gas TSO, Gas TSO Ukraine LLC
Network Code / Guidelines concerned:	Network Code on Capacity Allocation Mechanisms, Commission Regulation (EU) 2017/459 and Network Code on Interoperability and Data Exchange Rules, Commission Regulation (EU) 2015/703
Article of the Network Code / Guidelines	Not defined
Category:	N/A
Abstract:	
Ukraine's gas TSO, Gas TSO Ukraine LLC (GTSOU LLC), addressed the Energy Community Secretariat, ENTSG and ACER, raising a proposal to amend the Regulations 459/2017 (NC CAM) and 703/2015 (NC on INT&DE) to ensure their mandatory implementation at the interconnection points (IPs) between an EU Member State and a Contracting Party to the Energy Community Treaty. According to GTSOU LLC, amending the selected NCs as proposed would rectify problems which they describe as occurring at the IPs between Ukraine, on one side, and Romania and Slovakia, on the other side, including an optimal capacity allocation at the afore-mentioned IPs and the development of a regional gas market.	

Issue solution(s)	
Publication date:	19 07 2021
In the process of validating, categorising, and prioritising the issue, ACER and ENTSG have determined that the issue is not valid for the FUNC process. One reason for non-validation was that a similar issue has already been posted and discussed in 2018. (https://www.gasncfunc.eu/gas-func/issues/09/2018/view). The FUNC Platform Terms of	

use does not allow for previously addressed issues to be re-submitted unless a change in materiality can be shown. A further reason was that in both instances the request focused to amend the EU legislation, which shall be addressed by a formal amendment request and not via the FUNC-process, which focuses on operational and technical issues (link to Terms of use).

According to Recital 13 of the Gas Directive 2019/692¹ (as recently amended), the NC on INT&DE² and NC CAM³ *'apply to entry points from and exit points to third countries, subject to the relevant decisions of the relevant national regulatory authority'*. This provision is repeated in the relevant scope articles of the afore-mentioned Codes, NC CAM and NC on INT&DE, which ensure a conditional application at the EU side of the connection points with third countries and the European Union, based on the decision of the relevant national regulatory authority.

The issue will therefore be closed on the FUNC Platform without being further processed. The concerned NRAs and TSOs, as well as the Energy Community Secretariat, have been informed and are aware of the approach taken, in particular the limitations of the FUNC process.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0692&from=EN>

² Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a Network Code on interoperability and data exchange rules (OJ L 113, 1.5.2015, p. 13).

³ Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (OJ L 72, 17.3.2017, p. 1).