

ACER public consultation on the Incremental Capacity Proposal and further NC CAM amendments

EDF response

August 31 2015

1. Do you support the changes suggested by the Agency on Incremental Capacity (new chapter IVa and related articles)? If not, please list which new or amended articles you disagree with and explain why.

EDF partially agrees with the changes suggested by ACER on Incremental capacity.

First we appreciate ACER's efforts to simplify the overall process. In particular, the new process has more precise timescales and we understand that the different steps for incremental proposal are now structured as follows: i) demand assessment, ii) design phase (which will determine whether an alternative allocation procedure is needed and which includes a public consultation run by TSOs), iii) auctioning of incremental capacity, iv) alternative CAM.

However, considering the dramatic changes that have been brought in this proposal, EDF would have expected an *ad hoc* public workshop that would have been helpful to better understand this new version. Please find hereunder our views on the suggested changes and how they tackle or not the issues we have raised during ACER's public consultation ran in March 2015.

Article 3 – Definitions

EDF understands that the term "open season" has been removed and replaced by "alternative allocation mechanism". In point 23 of article 3 defining the alternative allocation mechanism, we believe that the following sentence should be removed: "(...) *where it can be shown that the ascending clock auction is not suitable*". Indeed, we consider that any kind of elements related to principle for an alternative capacity allocation mechanism should be developed in article 20d. The present definition indeed needs to remain factual. Therefore we suggest the removal of the aforementioned sentence in order to avoid any confusion.

Article 20a – Demand assessment

EDF considers that both non-binding demand indications received no later than 8 weeks after the start of the annual yearly capacity auction (art 20a.11.b) and non-binding demand indications submitted after the defined deadline (art 20a.11.f) should be reported in an aggregated way to avoid the disclosure of sensitive information. This would also add consistency in the way the indications are made public.

Article 20b – Design phase

At several times in previous public consultations, EDF has emphasized the clear need to consider both auctions and other alternative capacity allocation mechanisms (e.g. OSP) at the same level since these two methods have merits according to different situations. EDF is happy that ACER has partly taken this view into consideration through its design phase proposal that seems providing more flexibility to envisage the use of alternative CAMs. Although auctions still remain the default allocation rule (art 20c.1) and the use of other CAMs is bound to the conditional bids outlined in article 20d.2, we believe that the public consultation during the design phase is the right place to assess whether an alternative CAM is needed in a transparent way. We also understand that the final decision regarding the allocation rule is made by the relevant NRA that must approve the project proposal submitted by the TSO (art 20b.6). Furthermore we consider that the new process allows market participants to be aware of the rules in advance thus enhancing the level of clarity compared to the initial version.

EDF welcomes the changes aiming at strengthening the collaborative approach of NRAs in taking their decision. However, we disagree with the last paragraph of article 20b.6 stating that *"where national regulatory authorities cannot reach an agreement on the proposed alternative allocation mechanism the involved national regulatory authorities shall coordinate to direct the transmission system operators to allocate incremental capacity using the auction mechanism"*. Indeed, EDF considers that there is a lack of prerequisites regarding *"the reasonable steps [NRAs are supposed to take] to reach a common agreement"*. Therefore, EDF wonders how this could be evaluated in a transparent way. Besides, we regret ACER did not provide any kind of explanation or justification about this change in its explanatory document.

Eventually, we appreciate ACER added the fact that TSOs have to include in their project proposal for incremental capacity information related to how possible delays to the project are dealt with contractually (art 20b.5.b). Since we believe that this information is of paramount

importance when entering into long term capacity contracts, we would suggest including these elements as part of those also required in the public consultation (art 20b.3).

Article 20d – Principles for alternative capacity allocation mechanisms

EDF understands that the ascending clock auction remains the default allocation rule but that an alternative mechanism can be used where “*market feedback expressed a clear need for conditional bids*”. However, EDF is of the opinion that the possibility of expressing conditional bids should not be limited to the demand assessment phase but should also be extended to the design phase (in particular to the public consultation). Indeed, EDF deems that one of the main goals of the design phase is to assess whether an alternative allocation is needed. Therefore, EDF considers that interested parties should be able to feed in all relevant parameters during this design phase.

Besides, EDF understands that article 20d.2 aims at specifying the type of conditional bids that could be requested. As provided in the explanatory document, these conditional bids are either “route conditionality” (bids are requested along several IPs) and “duration conditionality” (bids spanning a number of different yearly capacity products at an IP are requested). Nevertheless, we believe that the wording in draft proposal is quite unclear. In particular, we consider that the current wording fails in providing clear tools to assess when the alternative capacity mechanisms can be applied.

Finally we advocate for more flexibility regarding the terms that will be allowed for conditional bids in the binding phase according to article 20d.3. Indeed, we believe the list of conditional bids should not be limited and must allow other conditions to be added. There are indeed cases where some conditions may not have been foreseen by the network code. Furthermore, we consider that this should not be a problem since commitments that are admitted in the binding phase must be fed in the project proposal which is actually approved by the relevant NRAs.

2. Do you support ENTSOG’s envisaged proposals to change the default auction calendar in relation to the discussions on the draft Network Code on Tariffs (i.e. to move the annual yearly capacity auctions from March to July, the annual quarterly auctions from June to August and the rolling monthly auctions’ start from the third to the second Monday of each month)? If not, please explain why.

During the discussions on the draft Network Code on Tariffs, many stakeholders raised the importance of a timely publication (before the annual capacity auction) of all the binding reference prices, multipliers and applicable seasonal factors if any. This set of information is deemed of paramount importance to enable shippers to develop commercial booking strategies and to prevent any bias towards short-term booking.

ENTSOG took into consideration the concerns of stakeholders and proposed during last Open House on Tariffs (April 1st) to publish the aforementioned elements before the annual auction provided two adjustments: first, in order to reduce its uncertainties, ENTSOG asked to move the auction calendar for annual capacities. Second, ENTSOG advocated for a shorter minimum notification period (7 days). This notification period has been confirmed in the version of TAR NC re-submitted end of July by ENTSOG to ACER. Indeed, the new article 21 of TAR NC states that *“The transmission system operator or the national regulatory authority depending on the party responsible for calculating the transmission tariffs, shall publish: (1) at the latest seven days before the annual yearly capacity auction, the information set out in Article 18¹.”*

As a first comment, EDF welcomes that off-setting the annual and quarterly auctions calendar will put the auction period closer to the delivery period (e.g. July for October instead of March for October for the annual auction). Therefore, we consider it reduces risks and enables TSOs to provide all binding tariffs and relevant information for the whole gas year for which auctions take place.

On the other hand, we disagree with ACER’s proposal (article 13) to bring the monthly auction forward (from the third to the second Monday of each month). This will leave shippers with not enough visibility to know whether monthly capacity is needed or not and will result in a decrease in bookings of monthly products. ENTSOG should also note that monthly auctions lasting several days are a rare event, which could be avoided altogether by setting higher ‘price steps’ to allow the auction to clear more rapidly. In sum, these shortcomings clearly outweigh benefits of having more time for running the monthly interruptible auctions (a product not mandatory under that CAM Network Code and that not many TSOs offer). In addition, this

¹ i.e. the reference price for annual yearly capacity; the reserve prices and formulas of the calculation of reserve prices for non-yearly standard capacity products, justification of the level of multipliers, seasonal factors

change is not justified in order to allow for sufficient time to calculate and publish the tariffs for the upcoming tariff period.

We consider that the envisaged 7-days notification period in TAR NC is too short and would like ACER to extend this period, ideally to 30 days as initially foreseen.

In case of a calendar change we consider shippers need to be informed well in advance, ideally in March N-1 for a change in year N. According to article 28 of CAM NC, EDF understands that a new auction schedule should have a different applicable date. It is unclear when the new auction calendar will be applicable, should this calendar be approved. EDF would like to have a precise timescale and recalls that shippers need to be informed well in advance.

3. Do you support the further technical changes introduced (e.g. on the auction algorithms (Art. 17 (16) and Art. 18 (3d) & (9)); on the bundling of existing capacity (Art. 20(1); on the allocation of interruptible services (Art. 21(9)) etc.? If not, please list which amended articles you disagree with and explain why.

EDF has no particular comments on the technical changes that have been introduced. However we are quite surprised that “further amendments” to CAM NC not directly related to Incremental capacity issues have been proposed here. Indeed, neither a public hearing nor a workshop has been organized in order to better explain these modifications and their rationale. Although we understand this may be a pragmatic way to proceed, EDF is of the opinion that amendments related to other issues than incremental capacity should be treated apart since this is not a revision process of the code. More generally, we deem important to engage in further discussion between ACER and market participants to assess the CAM NC and allow stakeholders to both express their views on what they think should be improved and prioritize their concerns. For example, we believe there is an issue with the opening time of bidding rounds: we consider 9:00 am CET for the annual auction is too early and 16:30 CET for the day-ahead auction too late.

4. Do you have any other comments related to the proposed NC CAM, changes, and if so which?

EDF has no other comments.

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