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SGRI consultation on the proposal for the oversubscription and buy-back scheme for cross-border capacity at the Spanish-French and Spanish-Portuguese borders

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EFET comments – 30 October 2015

The European Federation of Energy Traders (EFET)[1] welcomes the opportunity to comment on the CNMC consultation on the national TSOs', ENAGAS, REN and TIGF, proposal for the oversubscription and buy-back scheme for cross-border capacity in the region.

As EFET we have continually supported the implementation of oversubscription and buy-back mechanisms (OSBB), as they are an effective tool for the internal European gas market to overcome cross-border contractual congestion. When designed appropriately, buy-back can ensure fair and efficient distribution of the risks associated with the functioning of the scheme between Transmission System Operators (TSOs) and the users of the network.

However, having in mind the particularities of the gas markets in the region, we would like to draw your attention towards some issues of the currently proposed scheme.

2. CALCULATION OF ADDITIONAL CAPACITY METHODOLOGY

2.2.2. Risk level quantification/ 2.2.3 Trigger Value definition/2.2.4 Additional capacity

In our view, TSOs take a rather **generous margin to cover the possible risk** related to the implementation of this process. Taking into account that this could affect negatively the implementation process of the congestion management rules,

[1] The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 28 European countries. For more information, visit our website at www.efet.org.

we urge TSOs to justify adequately the proposed margin and call NRAs to supervise the applied margin and its effects.

As example, we can mention the proposed calculation of M_D factor. While TSOs propose to consider directly the **maximum deviation** between the last nomination on D-1 for D and the last confirmed renomination of day D within the period of analysis that comprises the historical reference base, the European Commission say, in its decision of 24 August 2012, that the **probability of occurrence** (statistical scenarios) should be also taken into account when calculating this parameter. **Therefore, without considering the probability of occurrence, the security margin probably increases in a relevant manner, limiting the efficacy of this mechanism.**

2.3 Update of the Calculation of additional capacity Methodology

The proposal should include a sensitivity scenario to assess the probability of curtailment at the VIP Pirineos as a consequence of curtailment within France market areas. The probability of offering additional capacity and afterwards having an operational capacity lower than technical capacity due to curtailment should also be quantified. If this event happens, the buy-back procedure should be triggered and shippers will be exposed to the risk to be cashed-out at the imbalance prices in both the French and Spanish (as of October 2016) markets for the curtailed volumes. In order to hedge the consequences of this case and ensure the financial firmness of the capacity oversold, we believe that TSOs should compensate the shippers with the cash-put prices at the local hubs during the curtailment period. The above solution provides enough firmness for shippers, at least financial, in case the voluntary buy back process is not successful.

2.4 Offer of additional capacity

The first paragraph establishes that additional capacity will be offered jointly with the available capacity through auctions.

> The point 2.2 of the Annex I of Regulation EC 715/2009 (Congestion management procedures in the event of contractual congestion) establishes that technical capacity (surrendered capacity, capacity arising from the application of firm day-ahead UOLI and long term UOLI) should be allocated prior to any additional capacity. Therefore, the allocation of additional and technical capacity should be different procedures.

> Additionally, the Spanish regulation about congestion management procedures (Circular 1/2013, de 18 de diciembre) establishes, in point Sexto.3, that the

additional capacity offered will be allocated to users once available technical capacity and the capacity arising from applying the remaining congestion management procedures is allocated.

So, **we propose the following wording for the first paragraph:**

> *"Additional capacity will be always offered at VIP Ibérico and/or VIP Pirineos* ***<u>through auctions</u>*** ***<u>after</u>*** *~~jointly with~~ the available capacity* ***<u>has been allocated</u>*** *~~through auctions~~. Both additional capacity and available capacity will be treated as firm capacity and there will not be any distinction between them."*

The last paragraph of this point defines the cases in which the additional capacity will not be offered in the VIP.

We consider that these cases are not defined with enough detail, leaving discretionarily to the TSOs. Thus, **we ask for a more detailed description or definition of the cases** in which the additional capacity will not be offered in the VIP.

3. BUY-BACK PROCEDURE

At first place, **we do not support the suggestion for a mechanism that applies pro rata to all capacity** (firm and additional capacity). In our opinion, users who have booked annual, quarterly or monthly capacity need to ensure that their nominations are firm and cannot be affected by a buy-back procedure if pro-rata applies. Therefore, the compromise level and risk assumed by shippers who book ex ante firm capacity products (annual, quarterly or monthly) or daily oversubscription capacity needs to be taken into account in the current proposal. The same applies to the TSO´s proposal on explicit order of interrupting interruptible capacity.

For the above mentioned reasons, we would like to **propose** the following design of this mechanism, that in our view minimizes the risk of the system.

- The additional capacity offered could be distributed in the following products:
  - Interruptible capacity
  - Oversubscription capacity.
- If scheduled capacity is above technical capacity, the following steps should apply:
  1. Management of OBA
  2. Interruption of interruptible capacity, with the following order: Daily, Monthly, Quarterly Yearly

3. Voluntary buyback process. All capacity holders (firm/oversubscription) could participate in this process

4. If the problem is solved in step 3, the process would end

But, if it is not, the default rule would suppose that:

5. The TSO would buy back firm capacity via a competitive tender from shippers who voluntarily decide to sell their capacity holding

6. TSO would mandatorily buy back capacity from shipper **holding "oversubscription capacity" on the point in question**, in proportion to the oversubscription capacity it holds. We believe such a step will not be necessary if caps on the maximum price TSOs can pay is avoided.

3.2 Trigger of the buy-back procedure

The list of exceptional events that can inhibit the buy-back procedure from being triggered is not closed and by including the word "etc." leaves it open for the TSOs interpretation. The list of events should be closed and clearly defined and curtailment should not be one of its elements.

3.4 Market-based procedure

We strongly believe that **the suggested market-based procedure should not restrict the renomination rights**, given to users by the regulatory framework. In fact, the principles of oversubscription mentioned in annex 1 of Regulation 715 do not consider such limitation. In contrary, the TSOs' current proposal suggests that **if a buy-back process is initiated, shippers would not be able to renominate from D-1.** With this proposal, **TSOs seem to aim implementing a process near to firm day-ahead UIOLI, as applying a renomination limitation is one of the main differences between the two models, OSBB and firm day-ahead UIOLI.** Therefore, the buy-back mechanism as currently proposed goes against the real essence of the OSBB scheme, that we support as short term mechanism, and it would neutralise the main difference with the firm day-ahead UIOLI. Furthermore, **implying limitations to shippers when managing their position, certainly contradicts the main objectives of the European regulation and key principles of market liberalisation and competition.**

As mentioned above, **if renomination is used to help reduce the difference between the nominated and the actual technical capacity** (i.e. downward nomination or an upward nomination that increase the backhaul capacity), **it should be always accepted as mechanism**, independently if a buy-back process is initiated or not.

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4. PRICING

4.1 Maximum price TSOs are allowed to pay

EFET **does not support the principle of imposing a cap on the price TSOs would pay to buy back the capacity from shippers.**

The buy-back price should be determined through a market-based mechanism to ensure all buy-back is voluntary and shippers do not see their nomination curtailed when they intend to flow gas.

4.2 Clearing price

We do not agree with the definition, proposed by the TSOs of “clearing price” as “the price of the lowest successful offer to sell”. In our view, the “clearing price” should reflect the “**highest** successful offer to sell” (the marginal market price) or alternatively the pay as bid principle.