Response to ACER public consultation

On

Framework Guidelines on Capacity Allocation and Congestion Management

for Electricity

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I. Introduction

1. EUROPEX welcomes the consultation by the Agency for the Cooperation of Energy Regulators (ACER) which follows the previous consultation by ERGEG on the Draft Framework Guidelines (FG) on Capacity Allocation and Congestion Management for Electricity (CACM) of November 2010 and the respective initial impact assessment.

2. It is our understanding that FG on CACM should be strictly limited to the matters of capacity calculation, capacity allocation and congestion management in different timeframes and should avoid mixing its scope with issues related to governance and the transparency and integrity of markets. These matters are dealt with elsewhere.

3. In addition, we raise the attention to ACER and the Regulators that the Target Models for electricity trading should always be defined in a flexible manner, allowing their adaptation to upcoming markets needs and evolutions. This is especially important for emerging markets, such as the Intraday one which is still evolving in some countries and will therefore require flexibility of design there. Beside the avoidance of too prescriptive descriptions of market designs, this requirement should be reflected by clear and manageable revision clauses to the Target Models proposed in the Framework Guidelines.

II Responses to consultation questionnaire

II.1 Forward Capacity Allocation

Q1) As price-based market coupling is the mandated capacity allocation method in the day-ahead framework, should FTRs be preferred to PTRs for long term capacity allocation?

1. The requirements for long-term capacity allocation products are threefold:
    a. They must provide efficient means of cross-border and area price hedging;
    b. They must be allocated on a firm basis;
    c. They must be fully compensated in case of curtailment.

Either PTRs allocated on a Use-It-Or-Sale-It basis, or FTRs, can meet these requirements, and are thus acceptable provided the entities in charge of issuing these hedging products do it in a sufficiently harmonized manner and are provided with the regulatory insurance necessary to enforce the full firmness of the allocation.

The main differentiation factors between PTRs with Use-It-Or-Sale-It and FTRs (either options or obligations – of which the latter can be a CfD) are:

- the ability to nominate cross-border flows with PTRs, which possibly eases physical OTC transactions (including the tracking of the production technology for green certifications and other subsidiary purposes);
- potentially reduced title tracking requirements with FTRs, which could ease innovations and transactions on capacity rights;
- The allocation of the full NTCs through the day-ahead market coupling mechanism when using FTRs.

EUROPEX so far could not conclude which of these factors are the most important, and hence cannot express a clear preference between PTRs under Use-It-Or-Sale-it and FTRs.

2. If efficient cross-border financial hedging tools are in place there is no need to make changes (i.e. FTRs, or CfDs can be acceptable).

3. Moreover, the obligation to offer PTRs or FTRs (either options or obligations) is not interpreted to apply everywhere, but rather only where adequate financial long term hedging markets are not in place (consistent with EC Regulation 714/2009).

4. For the forward market timeframe, a mix of different types of hedging products, PTRs Use-It-Or-Sell-It, CfDs or FTRs (either options or obligations) should not be forbidden on the different timeframes as long as the same methodology of allocation is applied for a given border.

II.2 Intraday Capacity Allocation

Q2) Is implementing implicit auctions on top of continuous trading considered to improve the intra-day market?

1. Implementing implicit auctions (i.e. similar paid-as-cleared implicit auction mechanism as for the day-ahead timeframe target model) in a compatible manner with cross-border

continuous trading is an evaluation that should be made locally/regionally and there is no standard answer that fits all.

2. It is indeed important to underline that Regulation (EC) No 714/2009 article 8, point 7 states: "*The network codes shall be developed for cross-border network issues and market integration issues and shall be without prejudice to the Member States' right to establish national network codes which do not affect cross-border trade*". Therefore, it is important that the correct integration of local/Regional implicit auctions and cross-border continuous trading is ensured as indicated in the Target Model and in the Draft FG on CACM.

3. Should new capacity pricing mechanisms be implemented where allocation of cross-border capacity is managed via continuous trading, EUROPEX supports that such mechanisms are fully in line and compatible with the continuous trading scheme (no market freeze…); note in that respect that a large set of market-based mechanisms could be used for capacity pricing . In any case, the effect of capacity pricing mechanisms on continuous markets should be carefully assessed.

Q3) Is allowing direct OTC access to the Capacity Management Module important as a transitional feature?

1. Cross-border OTC trading is a mean to address specific physical needs that possibly cannot be captured by all market participants with the current standard Power Exchanges products. The need for cross-border OTC trading must be evaluated by regulators today and for the future as the range of products offered by, and the liquidity available for cross-border trading opportunities at implicit platforms evolves.

2. The options on whether the OTC access – if accepted by Regulators – should be granted by the Capacity Management Module or by the Shared Order Book Function are currently being assessed within EUROPEX.

II.3 Capacity products co-existence and firmness

Q4) Should the draft Framework Guidelines be more explicit in the area of compensation? If yes, please indicate how?

1. Yes, EUROPEX is strongly supportive of full firmness of the offered capacity in any timeframe. This firmness can be guaranteed physically (in which case there is no curtailment and schedules are not impacted) or financially (in which case curtailed capacity is compensated with the actual price of the capacity, based on the full market spreads).

2. When it comes to Day-Ahead Implicit Auction capacity for Price Coupling between Power Exchanges Markets, it should be explicitly stated that the capacities in the financial and scheduling sense are guaranteed, i.e. no curtailment of results coming out of Implicit Auctions scheduled shall exist. This should also be applied in organised Continuous Implicit Cross-Border Intra Day Market.