

(refined) Draft Network Code on Balancing – stakeholder support process

SSP Response Sheet

Please complete the fields below and send via email using the subject title, “Response to the BAL NC SSP” to info@entsog.eu by 28 September 2012.

Name

First and Last Name: Sina von Ketelhodt

Organisation

Company/Organisation Name: E.ON AG

Job Title: Political & Regulatory Affairs

Contact details

Email: sina.ketelhodt@eon.com

Tel: +49-211-4579-757

Mobile: +49-151-174-93-816

Address

Street: E.ON Platz 1

Postal Code: 40479

City: Düsseldorf

Country: Germany

Countries in which your organisation operates: Germany, UK, Spain, Italy, Hungary, Slovakia, Czech Republic, Nordic, Benelux, Russia, Romania, France

How would you describe your organisation?

<input type="checkbox"/>	Association	(please specify type)
<input type="checkbox"/>	End user	
<input checked="" type="checkbox"/>	Network user	
<input checked="" type="checkbox"/>	Trader	
<input type="checkbox"/>	Other	(please specify)

Question 1: Do you consider that the network code development process carried out by ENTSOG was appropriate, given the boundaries of the framework guideline? In particular, was the level of stakeholder engagement appropriate? If there is room for improvement, please inform us about possible suggestions for improvement.

Yes <input checked="" type="checkbox"/>	No
<p>Comments:</p> <p>The process carried out by ENTSOG was appropriate. In particular, the possibilities for active stakeholder involvement were excellent and ENTSOG even actively encouraged stakeholders who were perceived to be less vocal – for example eastern European network users – to participate in the discussion.</p> <p>However, there is still room for improvement, particularly with regards to the transparency of decision making processes within ENTSOG. For example, dates and decision points of relevant ENTSOG governmental bodies (board, general assembly, etc.) should be known in advance in order to enable stakeholders to properly assess the status of any draft issued by the project team.</p>	

Question 2: Please complete the table below, indicating whether you support the relevant sections of the Draft Network Code on Balancing, having regard to the process carried out and ENTSOG's aim to reflect the views of the majority of users during the development process.

Chapter	I: General Provisions	II: Balancing System	III: Cross-border Cooperation	IV: Operational Balancing
Support		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Do not support	<input checked="" type="checkbox"/>			
----------------	-------------------------------------	--	--	--

Chapter	V: Nominations	VI: Daily Imbalance Charge	VII: Within-day Obligations	VIII: Neutrality Arrangements
Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Do not support			<input checked="" type="checkbox"/>	

Chapter	IX: Linepack Flexibility Service	X: Information Provision	XI: Implementation, Interim Steps
Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Do not support			

Please provide brief reasoning for your responses, if you wish.

I: General Provisions

On balance we do not support this chapter.

The draft does not provide sufficient harmonisation as it:

- lacks the obligation to establish a single Virtual Trading Point per Balancing Zone; and
- lacks the obligation for each TSO to grant access to the VTP as soon as a network user has, either, acquired system entry capacity (IP, storage, field, LNG), or, has the right to deliver gas to a customer within the balancing zone, regardless of whether this customer is connected directly to the transmission system or to a distribution system downstream the transmission system.

For the development of a functioning wholesale market it would have been beneficial if the draft would have made clear, that a balancing zone must comprise both the transmission system(s) and the distribution systems connected to it.

II: Balancing System

On balance we support this chapter.

The provision on minimising the time for processing trade notifications is particularly positive as it potentially mitigates the imbalance risk for network users in case of interruptions to interruptible capacity which – as foreseen in the CAM NC – will only be notified 75 minutes before the event.

On the other hand a single rule on how to manage nomination mismatches – currently the draft provides for either the lesser-of or the zero rule – would potentially have limited inconsistent market rules on cross border points or at least reduced the need for TSO cooperation.

IV: Operational Balancing

On balance we support this chapter.

The provisions of Art. 13 on a merit order of STSPs are an excellent and positive example of how ENTSG took into account stakeholder reactions during the consultation process. The current set up of a clear priority for within-day title products over the use of any other STPS and priority for the use of any STPS over long term balancing services (subject to a cost benefit analysis that has to take into account the implications for the development of liquid short term traded markets) is a clear step towards common rules in all EU gas markets.

Having said that, the same chapter also witnesses a blatant disregard of almost unanimous stakeholder input as it allows for the procurement of balancing services without any limitation of terms and without introducing minimum provisions on transparency and non-discrimination with regards to the procurement process of said balancing services (see Art 16 (3) and (4) “A procedure other than a public tender may be approved by the national regulatory authority for the procurement of Balancing Services under specific circumstances in accordance with the National Rules.” and “Unless a decision by the competent national regulatory authority allows for a longer duration of a Balancing Service [...]”). At least the involvement of ACER should ensure a restrictive use of such unlimited, not tendered balancing services in exceptional circumstances only.

V: Nominations

On balance we support this chapter.

Chapter V is clearly one of the most important parts of the draft NC. It has potentially the biggest impact on lowering the barriers to access certain national gas markets as it will – together with provisions in the CAM NC and CMP Guidelines – provide for pipeline flexibility to be used to manage imbalance risks in markets where today network users have only limited and administered access to flexibility while facing the risk of draconic penalties on eventual imbalance positions during the day of delivery. The fact that such clear (Re)Nomination rules were included in the Balancing NC is to a large extent due to the constant and early involvement of ACER in the Network Code drafting process and should be an argument for similar future early involvement of the Agency in any outstanding code process.

However, the inclusion of Art 23 (4) „amendment of gas quantity“ seems to be alien to the Balancing NC. It is clearly inappropriate to allow TSOs to reject nominations (respectively renominations) that are within a network user’s booked capacity rights if the TSO cannot deliver on its contractual obligation. This would undermine the value of firm capacity and discourage TSOs from using Locational and/or Temporal products to resolve constraints. The only exception to this could be where this is as a result of an emergency situation, or a pre-notified instance of force majeure.

If understood as an emergency procedure, applicable in extreme circumstances only than the provision of Art 23 (4) a should be rather put into Chapter I „General provisions“. We would then expect it to include a far more general competence to set out all standard procedures – including those of how to procure and use balancing products or services, how to calculate cash-out prices etc. etc. – in case of an extreme event.

VI: Daily Imbalance Charge

On balance, we support the methodology foreseen for the calculation of the standard cash-out prices.

Having said that, the marginal price shall incentivise network users to balance their inputs and offtakes. As network users’ balancing actions can by definition only be undertaken within-day, only prices derived within-day should contribute to the Marginal Price and not, as the current draft foresees, prices derived „with respect to“ the day of delivery, thus including day-ahead prices. For the same reason, locational or temporal products should not be included when determining cash-

out prices.

VII: Within-day Obligations

We do not support the provisions in Chapter VII.

The criteria in the Draft Code is clearly insufficient. Despite a clear mandate from ACER, the text of the ENTSGO draft does not go beyond the relevant provisions of the Framework Guidelines on Gas Balancing. The draft network code limits itself to request „adequate“ information „in a timely manner“ regarding the inputs and offtakes of network users as a prerequisite for any eventual within-day obligation. It does not even put an obligation on TSOs to provide this information to network users.

Network Users will only be able to comply with a within-day obligation to balance their inputs and offtakes if provided with the relevant information before the charge is imposed. Any within-day obligation needs to provide shippers with a sufficiently early warning that their current individual balancing positions will - if not changed - lead to penalties, due to a within-day obligation at a specified time (hour x).

A specific TSO balancing regime additionally will need to provide shippers with a sufficiently short lead time for renominations/trade notifications, in order to change their positions before the penalty kicks in. For example: an hourly matching obligation requires information to be provided about an individual shipper's balancing position at hour x-45minutes, with a 30 min lead time for renominations.

IX: Linepack Flexibility Service

We acknowledge the mandate of the Framework Guidelines to provide for such services and therefore support the current draft.

However, a Linepack Flexibility Service, as defined in Annex I, is one which allows network users to balance their inputs and offtakes over a period greater than a gas day. This undermines the principle of end of day settlement of imbalances and effectively amounts to a “carry-over tolerance”. But ENTSGO have taken a policy option to rule out “carry-over tolerances” in favour of a “price tolerances” for this very same reason, so it is hard to understand why these should be allowed instead under the guise of a Linepack Flexibility Service.

X: Information Provision

On Balance we support this chapter.

We welcome the fact that the code clarifies in Art 38 (2) a, that these models apply only to daily balancing regimes without additional within-day obligations. In case within-day obligations are applied, additional and more frequent information on offtakes (and inputs) must be provided to network users.

However, the exemption on the obligation to provide network users with intraday and daily metered offtakes provided for in Art 40 (ii) 5 is hardly acceptable as the draft network code does not oblige any other stakeholder – the one being responsible for apportioning those offtakes – to provide the respective information.

Question 3: Do you believe that the eventual implementation of the refined draft Network Code will enhance the functioning of the internal gas market?

Yes ☒

No

Comments:

The NC will certainly improve the functioning of the different existing EU gas markets. However, whether it will enable the establishment of an integrated internal gas market, where gas moves freely from each of these markets to the other, is less certain.

Once implemented and after eventual transitional measures have been phased out, the draft NC will above all provide network users with sufficient pipeline and trade flexibility to manage imbalance risks in each EU gas market. This will mainly be a consequence of the obligation on TSOs to offer the EASEE gas standard procedures on nomination/renomination. This provision will potentially enable network users to freely transport gas across borders, efficiently using available transport capacity to trade spreads and thereby contributing to price convergence and ultimately to the establishment of a common European gas price/ market.

Additionally, the obligation on TSOs to primarily procure balancing gas through short term standardised products on an easily accessible, 24/7 operational trading platform has the potential to kickstart the development of within-day/ day-ahead markets and hence the establishment of a spot market price – a feature that has proven to be of paramount importance for the development of infant traded markets in UK, France and Germany.

And although the draft code does not explicitly establish the obligation to implement a *single* virtual trading/ balancing point per balancing zone – an obligation, although already established by the first EU gas directive in 2005 through its stipulation to implement entry/exit systems, which has been ignored by many TSOs throughout Europe till today – we believe that this important feature will evolve as a natural consequence of the implementation of the target model for European gas balancing which the code pursues.

However, the draft provisions in Chapter VII of the NC on within-day obligations still represent a major risk of perpetuated fragmentation of the EU gas market. The draft NC allows for a wide array of potential measures without setting almost any limit – and certainly without setting a limit which would have the power to standardise the use of within-day obligations throughout Europe – to how, when and under what prerequisites TSOs can introduce such measures. Given that most NRAs have already approved the existing within-day obligations there is little hope that Europe will overcome this barrier on its way towards the establishment of an internal gas market.