Business Rules
Incremental Proposal

I. Introduction

The objective of this document is to specify business rules based on the ACER Guidance for the amendment on the CAM NC and the ACER Tariff Framework Guidelines on issues regarding the offer of incremental and new capacity. These business rules were developed by the respective Working Group within ENTSOG based on an expert assessment of the member TSOs and form the basis for the drafting of two legal documents:

(1) An amendment proposal for the CAM NC on issues regarding the offer process of incremental and new capacity

(2) A proposal for a part of the Tariff NC on issues regarding the Economic Test and tariff-related issues to incremental and new capacity.

II. Stakeholder involvement

While the draft business rules were developed by ENTSOG, they are also based on intense stakeholder feedback throughout the process. ENTSOG has presented an initial interpretation of the ACER Guidance and the TAR FG to the market in the context of two Stakeholder Joint Working Sessions (SJWS) on February 10 and February 26. The objective of these meetings was to give stakeholders the opportunity to express comments and remarks on ENTSOGs initial proposal.

ENTSOG has taken stakeholder feedback at these meetings into account when drafting the initial business rules proposals, which were presented at two additional SJWS on March 13 and March 25. At these SJWS, stakeholders had again the opportunity to comment on the refined proposals and to discuss the draft business rules with

ENTSOG. The business rules specified in this document are the result of these discussions.

III. Definitions

- 'Existing capacity' means the technical capacity at an existing interconnection point which is already in place before the time of the capacity allocation.
- 'Incremental capacity' means capacity that could be made available at existing interconnection points beyond the level of existing capacity based on an investment or a long-term capacity optimisation5.
- 'New capacity' means technical capacity that could be created at a new interconnection point where no capacity existed before, as well as physical reverse capacity at an existing interconnection point, which has not been offered before.
- 'Open Season Procedure' is a procedure where a transparent and non-discriminatory call for binding commitments of any party for capacity is made by a group of TSOs together spanning two or more market areas, which may be preceded by non-binding expressions of interest of any party, in order to base an investment decision for a capacity expansion on the obtained commitments.
- 'Regulated Revenues' are either the Allowed Revenues in Revenue Cap Regimes or the expected revenues in Price Cap Regimes

IV. Business Rules

1. General Co-ordination Requirements

1.1. TSOs and NRAs involved in an incremental and new capacity development process shall co-operate and co-ordinate their activities throughout the process;

1.2. In the process of designing Offer Scenarios and conducting technical studies, TSOs shall agree on characteristics of the products to be combined into bundled capacity;

1.3. For the offer of incremental and or new capacity at an IP, TSOs shall aim at delivering harmonised capacity levels, single offer timeframes, joint commissioning timeframes and a consistent policy in case of delays. Furthermore, TSOs shall provide co-ordinated points of contact for network users during the incremental/new capacity process;

1.4. When designing the products and quantities to be offered, TSOs shall address market participant views;

1.5. Auctions are the default mechanism for the allocation of incremental and new capacity, however in case the conditions for using Open Season Procedures are met, TSOs involved shall commonly propose an Open Season Procedure to the respective NRAs for approval;

1.6. As further described in the section on the single Economic Test, TSOs and NRAs involved in a given incremental and new capacity development process shall co-ordinate decision-making towards a single Economic Test.

2. Information Provision

2.1. TSO shall report to their respective NRA whether non-binding demand indications for incremental and or new capacity have been received. Furthermore, TSOs shall assess the non-binding indications received and recommend to the respective NRA whether or not these non-binding indications justify an incremental and or new capacity process;

2.2. TSOs involved in a given incremental and or new capacity development process shall provide to the respective NRAs the planned Offer Scenarios including the respective capacity levels and investment costs for approval. Furthermore, an explanation for these factors shall be provided based on market signals;

2.3. In case of Open Season Procedures for the allocation of incremental and or new capacity, the involved TSOs shall prepare and propose to the relevant NRAs the features of the Open Season Procedure, including the allocation rules to be applied;

2.4. For a given incremental and or new capacity development process the involved TSOs shall propose to the respective NRAs a timeline for the project development until the final commissioning of the incremental and or new capacity for approval;

2.5. For a given incremental and or new capacity development process the involved TSOs shall propose to the respective NRAs all the necessary parameters to validate an Economic Test for approval;

2.6. Following the approval for the Offer Scenarios and the Economic Test procedure by the relevant NRAs, the involved TSOs shall make public the information stated in 2.2. – 2.4., with a lead time of one month before the auction or beginning of the binding phase of the Open Season Procedure;

2.7. The information described in 2.5 is to be published according to the provisions in the Economic Test section;

2.8. TSOs shall make public the aggregated provisional results after the allocation procedure in accordance with Art. 11.10 of Regulation (EU) No 984/2013 unless another date has been specified and published.

3. Conditions for when to offer incremental and or new capacity

3.1. The process of designing one or more possible Offer Scenario(s) for incremental or new capacity shall be launched by a TSO, if at least one of the following conditions is met:

3.1.1. In case the ENTSOG Ten Year Network Development Plan or the relevant Network Development Plan of the respective Member State identifies in a reasonable peak scenario that a specific region is undersupplied and offering incremental or new capacity could close the gaps in gas supply to this region;

3.1.2. In case no yearly capacity product linking two adjacent entry-exit-zones is available in the long-term annual capacity auctions for the year in which incremental or new capacity could be offered for the first time and in the three subsequent years, because all the capacity has been contracted;

3.1.3. In case network users submit a non-binding demand indication requesting incremental or new capacity for a sustained number of years and the requirements set out in paragraph 2 of this Article are met.

3.2. A non-binding demand indication as mentioned in 3.1.3 shall be considered if the following criteria is met:

3.2.1. All other economic efficient means for increasing the availability of capacity between two or more involved adjacent entry-exit-zones or along the relevant transportation route were exhausted;

3.2.2. The non-binding demand indication is submitted within the time window defined in paragraph 3 of this Article;

3.2.3. The non-binding demand indication contains at least the information defined in paragraph 4 of this Article;

3.3. In each year, when non-binding demand indications can be expressed, the formal time window for their submission shall start 10 calendar days after the starting date of the annual long-term capacity auction in accordance with Art. 11 paragraph 4 of NC CAM and shall last for two months;

3.4. The non-binding demand indications shall at least contain the following information:

3.4.1. The two or more adjacent entry-exit-zones between which demand for incremental or new capacity is expressed and the requested direction of transport;

3.4.2. The gas years for which a demand for incremental or new capacity is expressed;

3.4.3. The amount of capacity demanded at the respective IP or along the respective transportation route;

3.4.4. The corresponding information, such as IPs and the amount of capacity, which was or will be submitted to any other TSO, in case the non-binding indications are in any way linked to each other or are at least partially mutually exclusive.

3.5. TSOs may charge fees for activities resulting out of the submission of non-binding demand indications in case the regulatory framework does not allow an alternative mechanism for the recovery of costs associated with technical design studies. These fees shall be reimbursed to the network user if the incremental or new capacity is contracted.

3.6. TSOs shall make public a specified format and a point of contact for network users to submit non-binding demand indications.

3.7. When designing Offer Scenarios, TSOs shall assess all the conditions defined in paragraph 1 of this Article in combination and propose the Offer Scenarios to the relevant NRA for approval;

4. Auction mechanisms

4.1. In case an auction is chosen as allocation mechanism for incremental capacity, the involved TSOs shall offer the incremental capacity together with the existing capacity at an IP as bundled products to the extent possible, in accordance with Article 8 of Regulation (EU) No 984/2013.

4.2. The offer of incremental capacity together with existing capacity at an IP in an auction procedure shall be made in a transparent, non-discriminatory and cost efficient manner, taking into account willingness to pay of network users.

4.3. For each Offer Scenario, one bidding ladder shall offer existing capacity at an IP and the respective level of incremental capacity, if any. The bidding ladders shall run in parallel and independent to each other in accordance with Article 17 of Regulation (EU) No 984/2013.

4.4. In case the bidding ladder representing the highest level of incremental capacity resulting in a positive Economic Test outcome clears with an auction premium, a new auction shall open offering at least the next higher Offer Scenario, in order to give network users the possibility to revise their bids;

5. Products on offer in Open Season Procedures

5.1. All relevant provisions of Regulation (EU) No 984/2013 on capacity products apply to products on offer in Open Season Procedures with following exceptions:

5.2. Network user commitments for capacity can be obtained for 15 years as of the capacity becoming useable, e.g. Year+20. Beyond that, commitments for an additional period of up to 5 years can be obtained (Year+25). The requirement for the additional period has to be shown to and assessed by the relevant NRAs.

5.3. If existing capacity is still available at an IP for the years for which binding bids for incremental and new capacity are invited, these capacity products can be included in the offer of incremental and new capacity.

5.4. Conditional commitments, for instance across a number of years requested, including or excluding bids at other IPs, or for a minimum amount of capacity required (fill-or-kill) can be obtained in Open Season Procedures.

6. Applicability of Open Season Procedures

6.1. Open Season Procedures are applicable in cases where an auction process as set out in chapter 4 does appear to be a robust approach to the realisation of incremental or new capacity. Example situations are specified in 6.3.

6.2. The decision whether the criteria are met to use an Open Season Procedure requires the approval of the concerned NRA. The involved TSOs shall provide an assessment to the NRAs whether an Open Season Procedure is applicable.

6.3. The NRAs shall take into account each projects uniqueness when assessing additional justifications for Open Season Procedures. The following non-exhaustive list of situations call for the use of Open Season Procedures instead of auctions:

6.3.1. When the project for incremental or new capacity involves more than one interconnection point that crosses more than two market areas;

6.3.2. When size and complexity are such that the investment decision for incremental and new capacity requires additional coordination with adjacent TSOs and network users to manage the inherent risks of the infrastructure.

6.3.3. When conditional bidding is envisaged regarding the volume of capacity or the time period in which the capacity is requested or allocation over several interconnection points;

6.3.4. When an auction cannot efficiently accommodate all potential market scenarios;

6.3.5. When the horizon of user commitments that is necessary to pass the Economic Test is expected to be higher than the 15 years horizon provided in the auctions as stated in Art 11 of Regulation (EU) No 984/2013;

6.3.6. When the development of new or incremental capacity is linked to or influenced by the realisation of an exempted infrastructure;

6.3.7. When TSOs and NRAs might select the iterative approach as described in article 11.5.3. as a mechanism for possible redistribution of revenues.

7. Principles and processes for the use of Open Season Procedures

7.1. The NRAs from the adjacent markets involved in the open season procedures shall monitor the Open Season Procedures until the technical conclusion of the project.

7.2. Open Season Procedures shall always aim to satisfy all expressed market demand as long as it passes the Economic Test described in article 9.

7.3. The Open Season Procedures shall offer capacity in a way that is accessible to the market in a transparent manner and on a non-discriminatory basis.

7.4. The Open Season Procedure shall consist of two phases: A preparatory, non-binding phase and a binding phase.

7.5. To ensure the transparency of Open Season Procedures, the TSOs in cooperation with the relevant NRA shall consult all relevant stakeholders on the Open Season Procedure;

7.6. A notice describing the different steps of the Open Season Procedures shall be publicised by the TSO to attract interest from stakeholders and be available at least in English. The notice shall contain at least the following general information:

7.6.1. The start and end dates for making non-binding offers;

7.6.2. How to make non-binding offers;

7.6.3. How and when the Economic Test parameters will be determined

7.6.4. The procedure that will be applied to decide the level of allocated capacity to be allocated;

7.6.5. The allocation rules that will be applied in case the demand indicated in the open season cannot be fully met;

7.6.6. The date on which capacity allocations will be directed/assigned to open season participants;

7.6.7. The date by which open season participants have to sign a binding agreement;

7.6.8. Rules for the identification of the start date of the new or incremental capacity and the related rights and liabilities;

7.6.9. Drafts of the legally binding agreements;

7.6.10. The procedures and timetable for the ensuing regulatory approvals;

7.6.11. Regional coordination aspects;

7.6.12. Mechanisms to deal with cost-overruns;

7.6.13. Penalties applied to the TSO if capacity is not delivered on time;

8. Allocation in case of market demand overrun

8.1. Open Season Procedure aims to satisfy all expressed market demand as long as it passes the Economic Test. In case not all market demand expressed via the bid (art.

7.2) can be met while passing the Economic Test, an allocation rule needs to be applied. The allocation rule must be transparent and non-discriminatory. The NRAs shall ensure this.

8.2. In the binding phase of the Open Season Procedure the network users express their demand to the TSO(s) via bids. These bids contain: the amount of capacity requested, the premium on top of the reserve price if any, the conditionalities in accordance with 1.4 if any.

8.3. When applying the allocation rule, TSOs rank the bids according to the present value of the bids.

8.4. When allocating capacity according to the value of the bids is sufficient to pass the Economic Test, the allocation rule will be that the highest bid per single product prevails.

8.5. When allocating capacity according to the bid price per product is insufficient to pass the Economic Test the aggregated present value of all bids of the same network user reflecting the conditionality's, if any, between bids will be used as allocation mechanism, whereby the bid constituting the highest present value prevails.

8.6. In case these allocation rules appear to be an obstacle to the economic viability of the project concerned, an alternative allocation rule may be applied. Application of an alternative allocation rule requires the approval of all concerned NRAs.

9. Economic Test principles

9.1. The Economic Test is a mathematical calculation applied in the context of incremental and new capacity projects to each Offer Scenario after the binding phase of the capacity allocation process;

9.2. The Economic Test compares the present value of binding network user commitments (PVUC) with a specified share of the present value of the increase in Regulated Revenues associated with a given Offer Scenario (PVRR);

9.3. For every Offer Scenario of a given incremental or new capacity project, the NRA or Member States, if the Member State so decides, shall endorse the parameters of the Economic Test and the formula to be applied;

9.4. The Economic Test is positive if PVUC is equal to or exceeds the share of PVRR defined according to art. 10.1 for a given Offer Scenario:

9.5. For a given incremental or new capacity project, the Offer Scenario resulting in the highest amount of capacity with a positive Economic Test result shall be used as basis for pursuing next steps of the project deployment;

10. The f-Factor

10.1. The f-factor defines the share of PVRR that needs to be covered by PVUC for a given Offer Scenario in order to pass the Economic Test;

10.2. The f-Factor for each Offer Scenario shall be approved by the competent NRA. When setting the f-Factor, the NRA shall specify and take into account the following factors:

10.2.1. To which extent a reservation quota for technical capacity in accordance with CAM NC art 8.8 and 8.9 shall be applied;

10.2.2. Positive externalities benefitting the market or system as such, if any;

10.2.3. The extent to which the demand for the capacity can be expected to continue after the initial capacity allocation horizon;

10.3. The part of the Regulated Revenues associated with the new or incremental capacity not covered by the initial bookings shall be covered by future capacity bookings of the incremental or new capacity and to the extent future bookings do not occur, be guaranteed through tariffs paid by network users also at other points of the system or through another appropriate payment cover mechanism established by the NRA or the Member State.

10.4. The recovery mechanism as described in 10.3 shall also apply for the share of PVRR defined by the f-factor if the initial booking or parts of the initial booking are for any reason cancelled.

11. Combination into Single Economic Test

11.1. The individually determined parameters for each TSO involved shall be used to calculate one specified level of PVRR, PVUC and one f-Factor per Offer Scenario for a Single Economic Test for bundled capacity products.

11.2. The PVRR of the Single Economic Test shall be the sum of the individual PVRR of all TSOs involved.

11.3. The f-Factor of the Single Economic Test shall be defined in a way that allows all involved TSOs to cover the upfront individually defined share of their respective PVRR according to 10.1.

11.4. The parameters of the Single Economic Test shall be proposed by the involved TSOs to the relevant NRAs for approval. TSOs and NRAs may consider mechanisms for a redistribution of revenues, if all parties agree and if such a redistribution of revenues could potentially lead to a decrease in the PVUC required to pass the Single Economic Test.

11.5. Potential redistribution of revenues shall be considered in the following ways:

11.5.1. TSOs and NRAs agree on redistribution of revenues or costs before the incremental or new capacity is offered;

11.5.2. TSOs and NRAs agree on redistribution of revenues or costs afterwards in case the Single Economic Test has not passed;

11.5.3. If incremental or new capacity is offered in an Open Season Procedure, TSOs and NRAs agree on redistribution of revenues or costs based on the binding user commitments. An additional round of binding commitments may be conducted by the involved TSOs.

12. Publication requirements relating to the Economic Test

12.1. For a given incremental or new capacity project, the following information shall be made public by the involved TSOs, referring to the approval of the relevant NRA:

12.1.1. PVRR for each Offer Scenario;

12.1.2. The f-Factor to be applied to each Offer Scenario and any justification provided by the NRA;

12.1.3. The estimated and indicative projection of tariffs that is used in order to calculate PVUC for each Offer Scenario and for each IP;

12.2. The involved TSOs shall publish the information stated above with a lead-time of at least one month before the auction or the binding phase of the Open Season Procedure in a transparent and open manner on the respective websites of the TSOs;

12.3. The involved NRAs shall publish their approval to the Economic Test parameters defined in 4.1 with a lead-time of at least two month before the auction or the binding phase of the Open Season Procedure.

13. Tariff issues

13.1. The minimum price at which network users can request incremental capacity is the reference price resulting from the cost allocation methodology;

13.2. If allocation of all the incremental or new capacity offered at the reference price doesn't generate sufficient revenues to pass the Economic Test or if there are reasonable doubts that future capacity bookings will generate sufficient revenues to cover in the years after the period for which the Economic Test applies 13.3 shall apply.

13.3. After approval of the NRA the yearly amount of the depreciation for the incremental and new capacity can be adjusted according to 13.4. Otherwise, to reflect the higher costs during the booking horizon, the following tariff adjustment shall be applied as a default: Applying a premium to the tariff paid by those users booking capacity in the first auctions in which incremental capacity is offered (those users triggering the investment). Other options are:

13.3.1. Adjusting the reference price for all capacity users at the IP;

13.3.2. Adjusting the reference price, except for those users who booked capacity before the incremental or new capacity is offered,

13.3.3. Adjust the yearly depreciation according to 13.4

13.4. At the start of the use of the incremental and new capacity the depreciation amount will be based on the period used in the Economic Test. The amount of yearly depreciation will be linear in accordance with this period.

13.4.1. At the end of each regulator period the NRA will assess and decide whether the outlook for the generation of sufficient future revenues has improved to such extend that a lower yearly depreciation amount is warranted. If this is the case he will establish the amount of depreciation in the following manner. The amount of the investment which has not been depreciated divided by the period of the Economic Test. The NRA will continue this assessment until the overall resulting depreciation period equals the depreciation period of the general cost allocation methodology.

13.5. When introducing tariff adjustments for incremental or new capacity according to 13.3, NRAs shall ensure the following criteria are met:

13.5.1. Preserving the financial integrity of the Economic Test;

13.5.2. Avoiding cross subsidy between network users;

13.5.3. Compatibility with the cost allocation methodology;

13.5.4. Avoiding fragmentation of reserve prices at the same entry or exit point;

13.6. Since the Payable price for booked capacity is set at the Reference price at the time of the usage of the capacity plus the Auction premium, the Payable price to calculate the PVUC shall be approved by the respective NRA. The Reference price shall be estimated by making the relevant assumptions in terms of future capacity, network changes, future costs taking into account tariff adjustments according to 13.3, if relevant.