CONGESTION MANAGEMENT PROCEDURES IN THE EVENT OF CONTRACTUAL CONGESTION

IMPLEMENTATION PROPOSAL

On August 24, 2012, the European Commission adopted a Decision on amending point 2.2 of Annex I to Regulation (EC) No. 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks relating to congestion management procedures in the event of contractual congestion (hereafter "the Decision of August 24, 2012").

In this Decision, the European Commission notes that the frequent occurrence of contractual congestion is an obstacle on the road towards completing the internal energy market. The congestion management procedures should therefore apply to cases of contractual congestion, and seek to resolve them by "surrendering" (releasing) unused capacity onto the market, so that it can be reallocated as part of the usual allocation processes.
The European Commission also considers that the transmission system operators are best placed to determine the amount of additional capacity to be made available in addition to the calculated technical capacity. Thus, when the transmission system operators, on the basis of flow scenarios and contractual capacity, sell firm capacity in excess of that technically available, they take a risk that should be rewarded accordingly.

The Decision of August 24, 2012 provides for the establishment of four mechanisms designed to manage cases of contractual congestion.

1- Capacity increase through oversubscription and buy-back.
2- Surrender (release) of contractual capacity.
3- A *Use-It-Or-Lose-It* (UIOLI) mechanism for the supply of long-term capacity.
4- A *Use-It-Or-Lose-It* (UIOLI) mechanism for the supply of firm day-ahead capacity.

In the event of congestion, the implementation date is set at October 1, 2013 except for the "firm day-ahead Use-It-Or-Lose-It" mechanism, scheduled for July 1, 2016. The studies relating to the latter mechanism will begin in 2014. In addition, the long-term UIOLI mechanism is already applied in France; only minor adaptations relating to its implementation are still to be decided.

The third section of the Decision of August 24, 2012 specifies that "*The congestion-management procedures should apply in the event of contractual congestion and are aimed at resolving those events by bringing unused capacity back to the market to be reallocated in the course of the regular allocation processes*". In addition, since point 2.2. of part I of the Appendix to Regulation (EC) No. 715/2009 is entitled "*Congestion management procedures in the event of contractual congestion"*, we understand that the measures it stipulates are not applicable when no contractual congestion exists.

Several measures have been taken since 2005 to mitigate congestion on the transmission systems operated by GRTgaz and TIGF. These include the operations carried out to develop entry or exit capacity on the network, the measures designed to retain capacity for annual products or products with a shorter duration, or indeed the introduction of rules such as UIOLI or releasable capacity, not forgetting, of course, the secondary market. Today, there is no contractual congestion on all the points explicitly targeted by the Regulation, except the following cases:

- the North-South link and the Larrau interconnection point are affected by systemic physical congestion; The fourth section of the Decision of August 24, 2012 specifies that "*Where an interconnection point is frequently subject to the occurrence of physical congestion, congestion management procedures may often be of no avail*";
- contractual congestion exists on the interconnections with other countries (Dunkerque, Oltingue and Jura). It should be noted that the regulation measures are subject to approval by the regulator for points of this kind. In addition, in order to make the planned measures effective, work needs to be done with the adjacent operators to make the offers of capacity consistent, given that they are not subject to Regulation No.715/2009.

For the other points, the absence of congestion is demonstrated by the continuing availability of capacity, by the absence of demand for unallocated capacity over the last few years and by the availability of interruptible capacity, for which there is little demand. Our market analyses indicate that the situation is unlikely to change in the short to medium term.

As regards the capacity release mechanism, the shippers have indicated in the "Concertation Gaz" consultation process that the system had so many disadvantages that they found it impossible to use, whereas the secondary market provides the same service without the disadvantages. In the course of this consultation process, moreover, the shippers questioned the purpose of implementing these measures for the French market.

In conclusion, in the absence of contractual congestion on the interconnection points affected by the Regulation and in accordance with the views of the market players expressed during the Concertation Gaz process, GRTgaz and TIGF consider that the implementation of the Decision of August 24, 2012 does not require the introduction of measures for capacity release or for the oversubscription and buyback of capacity on October 1, 2013. A situation analysis on congestion will be carried out on a yearly basis and communicated to the market players for the purpose of setting an implementation date that matches the needs of the market.

However, if it is decided to implement these mechanisms, whether or not there is contractual congestion, the following approach could be implemented.

1- Surrender of contractual capacity.

With regard to capacity release ("surrender"), the shippers could be asked to surrender capacity with a duration of one month or more and of 12 months or less, with a start-up date prior to September 30 in the following calendar year. The surrendered capacity would be put on the market as part of the usual allocation processes. In the event that not all the surrendered capacity is acquired by a shipper, the balance would no longer be offered in the form of releasable capacity (therefore "surrendered" to the shipper which initially held the capacity) following the period of sale of capacity with a duration of one month (end of the OSP, FCFS or auction period, depending on the point concerned).
The shippers would retain their rights and obligations under the capacity contract for as long as the capacity had not been reallocated by the transmission system operator. Once surrendered, the capacity will no longer be open for sale on the secondary market before the end of the monthly capacity sale period.
Initially, the whole "surrender" system would be operated via preformatted e-mail. Indeed, it should be noted that the handling of requests for surrendering capacity would involve the TSOs in a number of operations (processing of requests, acknowledgement of receipt, product split, integration and identification of the product in the offer, handling of allocation priorities, billing, data publication), notably requiring either a change to the IT system or manual operations which will generate costs in proportion to the number of requests for capacity release. It should be noted that these costs are not at present included in the tariff roadmap.

In the medium term, a capacity surrender platform – preferably run with other transmission system operators and connected to the primary capacity sales platforms – would have to be developed to facilitate the use of this mechanism. However, the capacity offering would continue to be designed manually, in order to retain control. It should be noted that these costs have not yet been assessed, and are therefore not included in the authorised revenue.

Point 2.2.4 of Section I of the Annex to Regulation (EC) No. 715/2009 stipulates that "*specific terms and conditions for surrendering capacity, (…) shall be approved by the national regulatory authority*".
Given that this proposed service is optional for the shipper, it could be described as an "additional service" as defined in Article L. 452-1 of the Energy Code and approved as such by CRE. The charge for this service should be set in such a way as to cover all the costs borne by the transmission system operator and to reflect the service provided. Thus, the shipper holding the original capacity would be billed for the surrender service at a level equal to the maximum of the two following amounts:

- 1% of the initial selling price,
- the initial price minus the resale price.

This price would prevent surrender becoming a mechanism for buying capacity at the best price, and thereby avoiding the auction system. Indeed, offering shippers a free service would encourage them to use the release mechanism to play again the auction process, for example in the case of a congestion due to flow conditions disappearing.

This mechanism would be applicable to all the Network Interconnection Points and Links.

2- Increasing capacity through oversubscription and buyback.

Capacity oversubscription and buyback must be based on market mechanisms. This mechanism will generate costs, linked with the quantity of capacity offered for oversubscription and the amount of capacity to be bought back in the event of physical congestion. This means that a miscalculation of the quantity of capacity offered for oversubscription could generate risks and therefore costs that the market should ultimately bear.
Hence the importance of carrying out a risk analysis as part of a dynamic process of at least annual updating, with a frequency depending on the duration of the capacity offered. An initial study for the Taisnières H and L, Obergailbach, North-South Link, PIR Midi, Larrau and Biriatou points will be communicated to CRE in July 2013.

In addition, the introduction of this mechanism would entail coordination with the adjacent transmission system operators to decide on the amount of capacity to offer and the associated buyback mechanism.

In addition, this market-based buyback mechanism would require the development of an electronic platform, also in coordination with adjacent transmission operators and even at European level. The cost of this platform has not yet been assessed and is therefore not included in the authorised revenue.

Finally, it should be noted that, in order to be applicable, the launch of this buyback procedure would imply a prohibition on shippers being able to re-nominate upwards on the point in question.

We therefore propose that, to start with, the buyback mechanism should be based on the application of the following simple rule. When shippers' nominations on a given point exceed the performances of the transmission system on a given day, the transmission operator would buy back firm capacity at the annual regulated price divided by 365 from each shipper holding firm capacity on the point in question, in proportion to the firm capacity it holds and after suspending interruptible capacity at the point concerned. The practical requirements of the system are currently being studied, since they depend on how often buyback is used.

Next, from 2014-2015, we could consider proposing a market-based buyback mechanism operating on the above-mentioned electronic platform and/or via the capacity buyback option.
In our view, this proposal for gradual implementation is both more reasonable and more efficient. It will allow us:

- to adjust more effectively the exact amount of oversubscription that could subsequently be proposed, based on feedback from the first period;
- to introduce a mechanism that is harmonised with the adjacent countries;
- to share the cost of implementation with other transmission system operators.

3- Treatment of revenues.

It is proposed that the transmission operators should retain all the additional revenue generated by these two mechanisms.
As far as surrendered capacity is concerned, the additional revenue would be set by the difference, if positive, between the resale price and the initial price.
For oversubscription, the additional revenue would correspond to the income generated by the capacity proposed for the oversubscription process.