

Deliberation of the Commission de régulation de l'énergie of 13 February 2014 on rules for the progressive implementation of the European network code on the allocation of gas transmission capacity at interconnection points between entry-exit systems

Present: Philippe de LADOUCETTE, président, Jean-Pierre SOTURA, Michel THIOILLIERE, commissaires.

This deliberation, taken pursuant to article L. 134-2 of the Energy Code, aims at defining the arrangements for the progressive implementation of the Commission Regulation No 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems ("CAM network code"), which entered into force on 4 November 2013. The provisions of the CAM network code will be of binding application as of 1 November 2015. GRTgaz and TIGF's proposals are annexed to this deliberation.

1. Context

In accordance with articles 6 and 8 of the Regulation 715/2009¹, this network code was drafted by the European Network of Transmission System Operators for Gas (ENTSOG), on the basis of the framework guideline adopted on 9 July 2011 by the Agency for the Cooperation of Energy Regulators (ACER). After the examination of the text by the representatives of the Member States through the comitology process, it was adopted as Commission Regulation on 14 October 2013.

The objective of the CAM network code is to facilitate cross-border trade of gas thanks to the auctioning of transmission capacity at interconnection points between entry-exit systems within the European Union, in the form of products with standard durations and according to a common calendar. In so far as firm capacities are available on both sides of an interconnection point, these shall be offered as bundled capacities. In addition, the network code foresees that one or a limited number of allocation platforms shall be set up and jointly operated by the European transmission system operators (TSO).

In view of the deadline for complying with the network code, GRTgaz, TIGF and CRE have initiated discussions with the adjacent transmission system operators and regulators in order to enable a progressive and coordinated implementation of the CAM network code at cross-border interconnection points.

These works relating to the implementation of the CAM network code build upon the project launched in April 2012 by sixteen European TSOs, including GRTgaz, to develop a joint platform for capacity booking. The platform, called PRISMA, started operation in April 2013 and, from this date, GRTgaz allocated by auctions and via PRISMA bundled monthly capacities at the interconnection point Obergailbach and bundled daily capacities at the interconnection points Obergailbach and Taisnières H.

Building on this initiative and taking into account the discussions with the adjacent transmission operators and regulators, GRTgaz and TIGF have elaborated proposals regarding the calendar and specific terms of

¹ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) no 1775/2005

the implementation of the CAM network code for the sale of the available capacities at the cross-border interconnection points via the PRISMA platform.

CRE and the regulatory authorities of Belgium (Commission de Régulation de l'Electricité et du Gaz), Germany (Bundesnetzagentur) and Spain (Comisión Nacional de los Mercados y la Competencia) welcome the proposals of the transmission operators to go further in the early implementation of the CAM network code, which is a cornerstone of the European gas target model. At the meeting of 15 and 16 October 2013, the Madrid Forum welcomed the development of the PRISMA project and called for further work on the early implementation of the CAM network code. This gradual approach will allow network users to acquire better comprehension of the new rules before the binding application of all the provisions of the network code on 1 November 2015.

The TSOs' proposals for the progressive implementation of the CAM network code for the sale of the available capacities at the cross-border interconnection points were submitted to public consultation from 10 January to 31 January 2014. Thirteen responses have been received: three from associations, eight from shippers and two from infrastructure operators. The non-confidential responses are published on CRE's website.

2. Results from the public consultation and CRE's analysis

2.1 Interconnection points within the scope of implementation

2.1.1 TSOs' proposals

GRTgaz proposes to continue, in 2014, the progressive implementation of the CAM network code for the sale of the available capacity at the PIR Taisnières H and B with Belgium and at the PIR Obergailbach with Germany.

GRTgaz proposes to study in 2014 the conditions and risks linked to the implementation of the CAM network code at the entry point of Norwegian gas at Dunkerque for 2015. As a consequence, the offer of capacity at Dunkerque will remain unchanged for 2014.

GRTgaz proposes to progressively implement the CAM network code for the allocation of the available capacities at PIR Oltingue with Switzerland, but without implementing capacity bundling for the reason that there is no agreement on the matter with the adjacent TSO, Fluxswiss.

TIGF proposes to progressively implement the CAM network code for the sale of the available capacity at the physical interconnection points of Biriadou and Larrau, with Spain. To this end, TIGF proposes to set up a virtual interconnection point, called PIRINEOS, gathering the two physical interconnection points as of October 2014.

2.1.2 Results from the public consultation

Almost all respondents expressed their support for the progressive implementation of the network code at Taisnières B and H, Obergailbach, Oltingue and at the virtual point PIRINEOs between France and Spain.

One respondent considers that the question whether it is appropriate to apply the CAM network code at Dunkerque should have been assessed already in 2013. This respondent regrets the postponement of the decision, which leads to applying in 2014 different allocation rules at the cross-border points in France.

One respondent questions the application of the CAM network code at Taisnières B, in so far as GDF SUEZ needs to have sufficient flexibility to supply all consumers of the Nord-B zone and ensure the delivery of the conversion service on behalf of GRTgaz.

2.1.3 CRE's analysis

CRE is in favour of GRTgaz and TIGF's proposals to progressively implement the CAM network code. CRE considers that the specificities of Taisnières B are not an obstacle to the sale of firm capacities according to the rules of the CAM network code because the merger scheme between the H and B zones does not undermine the conditions for third party access at this point. With regards to Oltingue, it will be necessary to continue the discussions with the adjacent operator Fluxswiss to enable the implementation of capacity bundling as a second step.

In so far as the interconnection point of Dunkerque, interconnection point with a third country, does not fall within the mandatory scope of application of the CAM network code, CRE is in favour of GRTgaz's proposal to further analyse the possibility of implementing the provisions of the CAM network point at this point as of 2015.

In accordance with CRE's deliberation of 11 December 2013², GRTgaz will submit to CRE before the end of the 1st semester 2014 the results from the work conducted with Fluxys on the rules for managing the interconnection point of Veurne and the conditions for the potential creation of a virtual interconnection point between France and Belgium, gathering the physical points of Taisnières H and Veurne.

2.2 Products offered

2.2.1 TSOs' proposals

GRTgaz and TIGF propose to allocate as of 2014 the following capacity products according to the auction mechanisms of the CAM network code:

- Yearly products offered in March for a time horizon of 15 years at Obergailbach (forward and backhaul), Oltingue (forward and backhaul) and at the virtual point PIRINEOS (in the two directions) ;
- Quarterly products offered in June for the coming gas year at Obergailbach (forward and backhaul), Taisnières H (forward and backhaul), Oltingue (forward and backhaul), and at PIRINEOS (in both directions) ;
- Monthly products offered on a rolling basis at Obergailbach (forward and backhaul) as well as at Taisnières H (forward and backhaul) and Taisnières B (forward) and Oltingue (forward and backhaul) as of April 2014 and at PIRINEOS (in both directions) as of September 2014;
- Daily products offered on a day-ahead basis at Obergailbach (forward and backhaul), Taisnières H (forward and backhaul) as well as at PIR Taisnières B (forward) and Oltingue (forward and backhaul) as of 1st April 2014 and at PIRINEOS (in both directions) as of 1st October 2014.

GRTgaz and TIGF propose to offer these products in the form of bundled products in so far as firm, or backhaul, capacity is available on both sides of the interconnection point. However, this rule would neither be applied for products offered at Oltingue, because there is no agreement with Fluxswiss, nor for daily products offered at the virtual point of PIRINEOS because Enagas will not implement daily auctions before 2015.

Moreover, GRTgaz and TIGF propose to offer in an unbundled way the firm or backhaul available capacity, which could not be bundled because of a lower amount of firm or backhaul capacity available with the adjacent TSO. The unbundled capacities will be offered up to a time horizon to going beyond the subscription duration of the corresponding unbundled capacity on the other side of the interconnection point or, by default, up to one year.

Finally, GRTgaz and TIGF suggest that, on all interconnection points apart from Dunkerque, a first quota of 10% of capacity will be dedicated to quarterly products over the coming gas year. A second quota of 10% of capacity dedicated to yearly products up to five years will be applied at the points where yearly capacities are offered via PRISMA.

² Deliberation of the French Regulatory Commission of Energy of 11 December 2013 deciding on the evolution of the tariffs for the use of natural gas transmission networks as of 1 April 2014

2.2.2 Results from the public consultation

Without questioning the progressive implementation of the CAM network code, many stakeholders underlined that the sale of firm capacities in a bundled form is problematic for shippers who currently own a different volume of capacity on one and the other side of the same interconnection. More precisely, it will be more difficult for these shippers to book the unbundled capacity which is necessary to balance their portfolio. To avoid this situation, some stakeholders request that network users are temporarily authorized to exchange their capacities in surplus, with the TSO acting as an intermediary. Another respondent requests that capacity holders are allowed to adjust their current bookings by extending their contracts or by stepping out of their contracts for durations lower than twelve months.

Some stakeholders point that the exit and entry capacities that will be bundled feature different characteristics, for example in terms of access to the virtual hub. For market players to identify, without ambiguity, which products they want to acquire, these respondents request that TSOs guarantee full transparency on the nature of the capacities sold as bundled.

2.2.3 CRE's analysis

CRE is in favour of GRTgaz and TIGF's proposals relating to the offer of capacity products, the implementation of bundling and the rules for the offer of unbundled capacities.

CRE takes note of the reservations expressed by some stakeholders in relation to the introduction of bundling and the difficulties implied for shippers currently having an imbalanced capacity portfolio.

CRE points however that the principle of capacity bundling is known to market players since 2009, when the work on the CAM network code was launched. In addition, GRTgaz, TIGF and CRE have announced already at the beginning of 2013 their intention to go towards a progressive and coordinated offer of all the standard capacity products according to the rules of the CAM network code.

Moreover, CRE underlines that the secondary capacity market and the surrender mechanism introduced in accordance with CRE's deliberation of 27 June 2013³ are available to market players in order for them to adjust their capacity subscriptions according to their needs.

2.3 Treatment of interruptible capacities

2.3.1 TSOs' proposals

GRTgaz and TIGF propose to offer interruptible capacities using the same auction mechanisms as for firm capacities.

TIGF proposes to limit the offer of interruptible capacities to products with a duration equal or lower than a quarter as of October 2014.

GRTgaz proposes to offer interruptible capacity in the form of yearly, quarterly and monthly products. GRTgaz would convert this interruptible capacity into firm capacity, on a monthly basis, in case not all firm capacity offered during the rolling monthly auction has been allocated. The capacities converted would be paid at the regulated price of the corresponding firm capacity to which the potential auction premium of the interruptible capacity would add up.

Finally, the TSOs propose to trigger the offer of interruptible capacity only if 98% of the firm capacity has been allocated during the corresponding auction.

³ Deliberation of the French Energy Regulatory Commission (CRE) of 27th June 2013 deciding on the rules for the implementation of the Annex I to Regulation (EC) n° 715/2009 on the Congestion Management Procedures

2.3.2 Results from the public consultation

The great majority of respondents consider that the automatic conversion of interruptible capacity into firm is not foreseen in the CAM network code and would reduce the volume of firm capacity offered on a daily basis.

The majority of shippers consider that there is no economic justification for the auction premium of the previously acquired interruptible capacities to be added to the regulated tariff of monthly firm capacities when the automatic conversion is done.

2.3.3 CRE's analysis

CRE is in favour of the TSOs' proposal to sell the interruptible capacities according to the same rules as for firm capacities.

Given that the ascending clock auction mechanism may generate unsold quantities, CRE is of the view that it is necessary to adapt the principle according to which the offer of interruptible capacity is triggered when all the firm capacity has been allocated. In this regard, CRE considers that the introduction of a 2% threshold would constitute a relevant measure.

With regards to the automatic conversion, on a monthly basis, of the interruptible capacity acquired as a yearly product into firm capacity, the network code states that the unsold quantities of an auction are offered in the subsequent auction for products with a lower duration. In the present case, the conversion rule proposed by GRTgaz would lower the volume of firm capacity offered during the firm day-ahead auctions.

As a consequence, CRE considers that only the general rule proposed by TIGF, according to which interruptible capacity is offered for a duration not exceeding a quarter at cross-border interconnection points, is compliant with the CAM network code. However, as a transitional measure, CRE considers that GRTgaz can offer in 2014 the interruptible yearly capacities available between 1st October 2014 and 30 September 2015 at PIR Taisnières H, Taisnières B, Obergailbach and Oltingue. GRTgaz can apply the automatic conversion rule after the monthly auctions for firm capacity, as described at point 5.3 of its proposal, for the yearly interruptible capacities sold in March 2014. Regarding the yearly interruptible capacities allocated on a long-notice basis before March 2014, the rule for automatic conversion into yearly firm capacity can still be applied. However, these automatic conversions will need to be performed after the March yearly auction and only to the extent that firm capacity remains available beyond the 10% quota dedicated to quarterly products.

For the link between GRTgaz North and South, CRE considers that it is necessary to maintain the offer of yearly interruptible capacity products, to the extent that significant volumes are concerned. In addition, the potential difficulties linked to the automatic conversion on a monthly basis are lower at this point because of the likely subscription of all firm capacity potentially available at the monthly auctions and of the limitation of the offer of capacity up to 2018, as defined in CRE's deliberation of 17 October 2013.

With regards to the price to be paid for converted capacities, CRE shares the opinion of the majority of respondents and considers it is appropriate to price the converted capacities at the maximum level between the regulated tariff for monthly capacities and one twelfth of the final price of the interruptible capacity acquired during the yearly auction.

Finally, CRE reminds that article 24 of the CAM network code provides that the order in which interruptions are performed shall be determined based on the contractual timestamp. The TSOs will need to study, within the Concertation Gaz, how compliance with this rule can be achieved by November 2015.

2.4 Secondary capacity market

2.4.1 TSOs' proposals

Concerning transfers of use and assignments, GRTgaz proposes to transfer its secondary trades offer from the Capsquare platform to the PRISMA platform as of 1 April 2014. GRTgaz indicates that the notice periods for assignments as foreseen in the transmission contracts could be adjusted with a view of ensuring consistency with the auction calendar.

As previously, the unbundled capacities subscribed with TIGF may be subject to assignments or transfer of use. TIGF proposes that yearly and quarterly capacity bookings can be subject to assignments for a period starting on the 1st day of a calendar month and covering a complete number of quarters, and no longer a season. The rules concerning transfers of use will remain unchanged.

The Spanish TSO, Enagas, will have a pilot contract with PRISMA which does not include the use of the secondary market functionalities of the platform for the year 2014. Consequently, TIGF and Enagas propose to put in place, as a transitional measure, an electronic procedure allowing network users to notify assignments of bundled capacity products to the two TSOs. The initial holder would have the possibility, as of the fifth working day following the publication of the auction results, to assign its capacity, in full or part of it. This assignment of rights and obligations would start on the first day of a calendar month and cover a complete number of months. The assignment would be notified by electronic means to TIGF and Enagas by the initial holder. The beneficiary would also notify its confirmation to the two TSOs, at the latest 10 days before the start of the period of transfer. TIGF and Enagas would finally indicate by electronic means to the initial holder and the beneficiary that the assignment is accepted.

2.4.2 Results from the public consultation

All respondents are in favour of PRISMA of becoming, at the earliest, the only platform on which the two TSOs would propose the secondary capacity exchanges. Some shippers indicate that the functionalities of the PRISMA platform should be further developed in view of favouring the attractiveness and the liquidity of the secondary market. In this sense, two respondents suggest that PRISMA provides a compensation service. One shipper points that the rules for assignments of unbundled products should be aligned with the rules for assignments of bundled products.

GRTgaz indicates that they are ready to change the rules for assignments and to allow exchanges on a period at least equal to one month.

TIGF confirms its intention to organise its secondary market offer via PRISMA as of 2015 and indicates that they are ready to propose that, as for bundled products, the assignments of unbundled products can take place for a period lower than one month.

2.4.3 CRE's analysis

CRE welcomes the implementation of a secondary market platform on PRISMA, as a complement to the primary capacity offer, and which enables assignments and transfers of use. In addition, CRE considers that the implementation of a European-wide secondary market platform will facilitate compliance with the provisions of article 19(8) of the network code according to which capacities initially allocated as bundled can only be resold in the form of bundled capacities on the secondary market.

Consequently, CRE welcomes the proposal of GRTgaz to transfer its secondary market offer on PRISMA as of 1 April 2014. At this stage, CRE considers satisfactory the procedure jointly proposed by TIGF and Enagas, as a transitional measure, for the organisation of assignments of bundled products. However, CRE considers necessary that the secondary market offer is transferred on PRISMA as of 2015 and that transfers of use for bundled products are also made possible at this date. To this end, CRE invites TIGF to continue the work with Enagas. Finally, CRE welcomes TIGF's proposal to enable assignments of unbundled products for a period at least equal to one month.

2.5 Cross-border coordination and network interoperability

2.5.1 CRE's proposal in the public consultation

The provisions of the CAM network code go beyond the procedures for allocating capacity and cover the aspects linked to the interoperability of the networks. CRE notes that, at this stage, GRTgaz and TIGF have not submitted detailed procedures concerning the implementation of the following articles:

- Articles of Chapter II of the CAM network code relating to the principles of cooperation with respect to maintenance (article 4), standardisation of communication (article 5), capacity calculation (article 6) and the exchange of information between adjacent TSOs (article 7) ;
- Article 19(7) according to which holders of bundled capacity shall have the possibility to nominate the flows of their bundled capacity via a single nomination ;
- Article 23 relating to the coordination of the interruption process between the adjacent TSOs.

2.5.2 Results from the public consultation

All respondents share CRE's analysis with regards to the need to carry out in a timely manner the work and discussions that are necessary to ensure compliance with the provisions of the network code. GRTgaz indicates that the rules for the technical implementation of the CAM network code are under discussion within the working groups of ENTSOG and that non-binding implementation guidance would be soon published.

2.5.3 CRE's analysis

CRE considers that these provisions relating to the operational cooperation between TSOs are key elements of the CAM network code. Consequently, GRTgaz and TIGF will need to engage discussions with the adjacent TSOs in a timely manner in order to ensure full compliance with the network code in November 2015. The progress and results of these works shall be presented within the Concertation Gaz.

3. CRE's decisions

CRE approves the capacity allocation rules proposed by GRTgaz and TIGF, provided that the following modifications are made:

- as of 2015, interruptible capacities will not be offered for products with a duration longer than a quarter at cross-border interconnection points ;
- as a transitional measure, GRTgaz will offer, in 2014, the yearly interruptible capacities available between 1st October 2014 and 30 September 2015 at Taisnières H, Taisnières B, Obergailbach and Oltingue and eventually apply the automatic conversion rule on a monthly basis. These interruptible capacities converted automatically by GRTgaz will be priced on the basis of the maximum value between the regulated tariff for monthly capacities and one twelfth of the final price of the interruptible capacities acquired during the yearly auction ;
- the yearly interruptible capacities allocated before March 2014 on a long-notice basis will be converted on a yearly basis after the March yearly auction, to the extent that firm capacity remains available beyond the 10% quota of firm capacity dedicated to quarterly products ;
- TIGF will make possible, in 2014, assignments for unbundled products for a period equal to at least one month ;
- TIGF will make possible, as of 2015, a secondary capacity market via PRISMA. This should allow transfer of use for bundled products.

CRE asks GRTgaz and TIGF:

- to present feedback on the yearly capacity auctions within the Concertation Gaz during the second semester of 2014 ;
- to submit to CRE, before the end of the 1st semester 2014, the results from the work conducted with Fluxys about the management rules of the Veurne IP and the conditions for the potential creation of a virtual interconnection point between France and Belgium, gathering Taisnières H and Veurne ;
- to engage discussions with the Swiss transmission operator, Fluxswiss, and study the implementation of capacity bundling at Oltingue in 2015 ;
- to study within the Concertation Gaz the conditions for ensuring compliance with the provisions of article 24 of the CAM network code ;
- to present progress and results of the work on cross-border coordination and network interoperability, within the Concertation Gaz, during the second semester of 2014.

The present deliberation will be published in the Official Journal of the French Republic.

Done in Paris, 13 February 2014

For the Commission de régulation de l'énergie,
The president,

Philippe de LADOUCETTE