

ACER



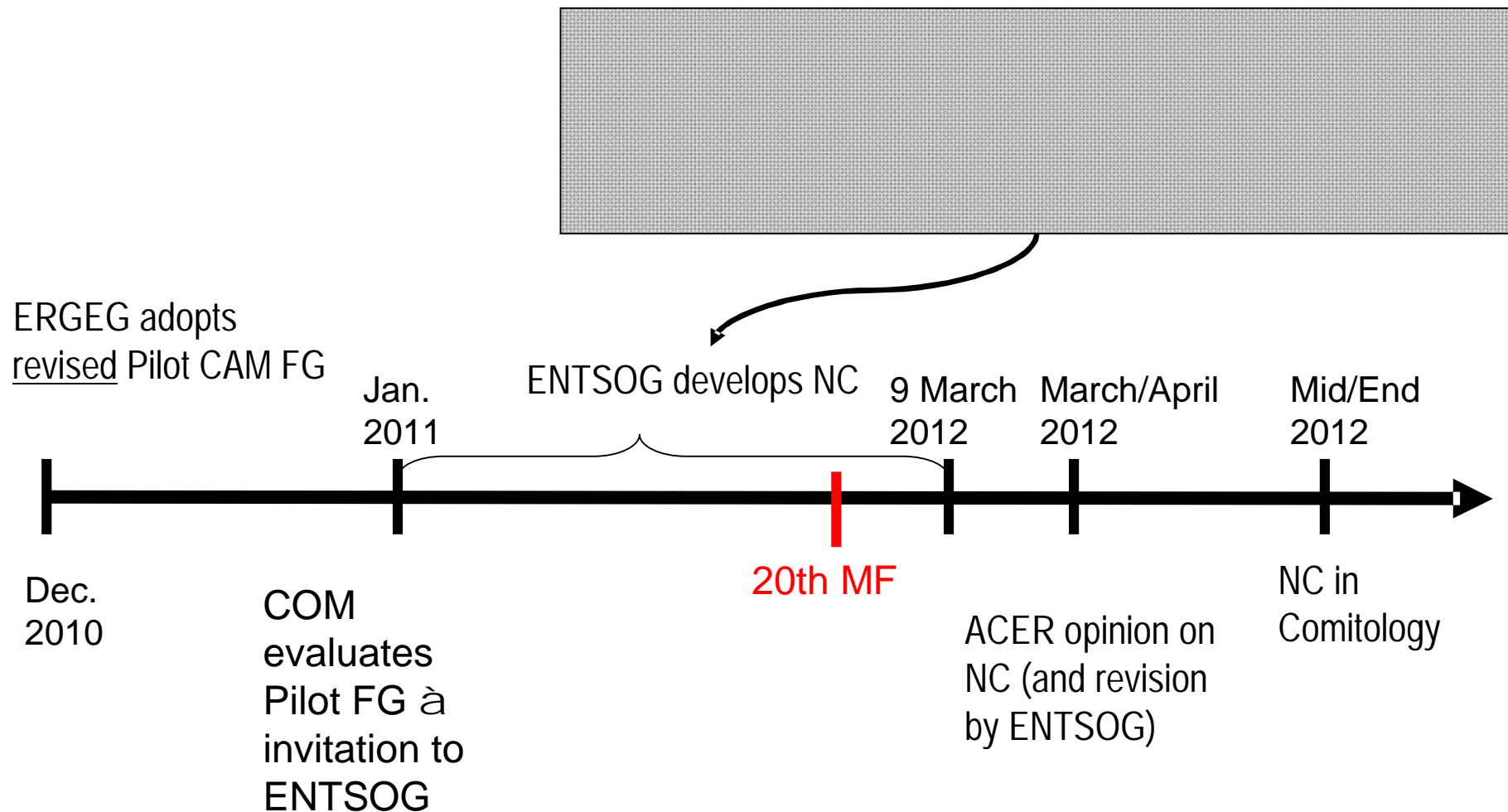
Agency for the Cooperation
of Energy Regulators



Framework Guideline on gas capacity allocation

Stefanie Neveling, Co-Chair CAM TF
20th Madrid Forum, 27 September 2011

Process on CAM Guidelines and Codes



ACER public consultation process

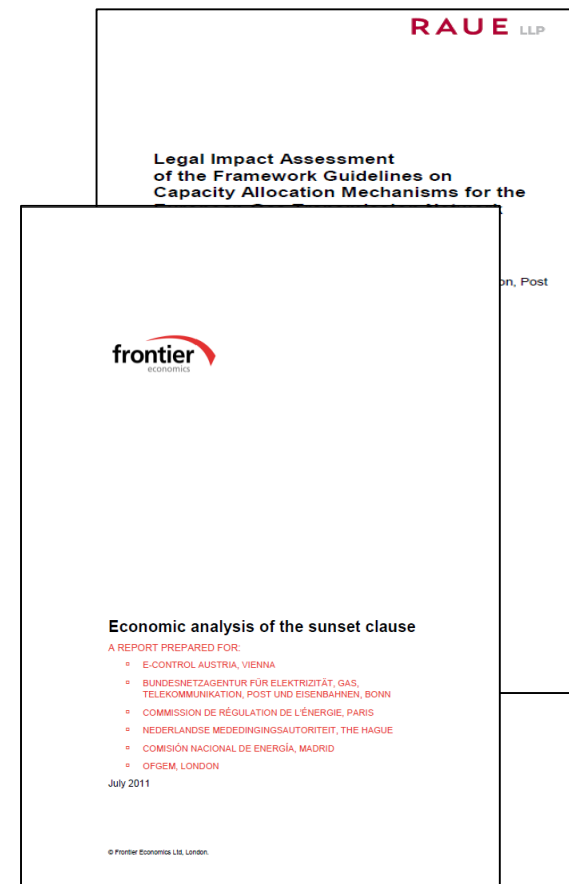
- Run from 3 March to 2 May 2011
- No detailed questions, 35 responses received, non-confidential answers published on ACER website
- Invitation to provide only comments that go beyond the input to ERGEG consultation (if any)
 - » Previous ERGEG consultations Jan. 2009, Dec. 2009
- Limited length for responses but possibility to enclose additional documents
 - » Comments were read and taken into account;
 - » Publication of Evaluation of Comments on ACER website on 2 August.

Results of Public Consultation

- Generally: stakeholder support CAM Guideline, recommendation to include incremental capacity.
- 2.4.1 Bundled services
 - » Majority of shippers: opposition to exclusive bundling, support bundled products as an option only;
 - » Industrial consumers and some shippers support exclusive bundling.
- 2.4.2 Amendment of existing capacity contracts (sunset clause)
 - » Majority of shippers and TSOs: opposition or serious concerns about the sunset clause (unilateral change of contract, risks of loss of revenues for TSOs, impact on supply contracts, benefits unproved);
 - » Default rule: concerns about respective roles of TSOs and NRAs.

Legal and economic analysis

- Six regulators commissioned consultants to provide an analysis on mandatory bundling.
- The study was split in two parts:
 - » RAUE LLP was chosen for the legal part;
 - » Frontier Economics took the economic part. The results of the two studies were submitted on 30 June 2011.
- Studies are published on ACER website.



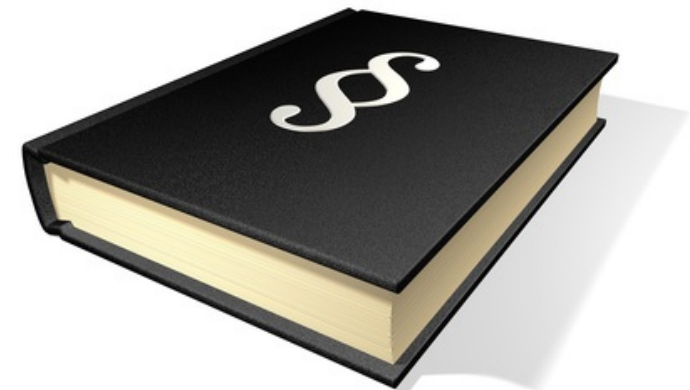
Summary of economic effects

- Concentration of all gas volumes at the VTPs
 » increase of liquidity at the hubs;
- “Spare Capacity” effect à increase of accessible capacity;
- Overall improvement of competition (HHI, RSI);
- Increase of transparency as one party can nominate.



Summary of legal analysis – sunset clause

- » European legislators can lay down new conditions for existing long-term capacity contracts;
- » Negative effects to fundamental rights reduced to a proportional level by a 5 years transitional period (proportionality);
- » Sunset Clause amends non-essential elements of the Gas Regulation by supplementing it;
- » Specific contractual structure necessary (one contract for customer).

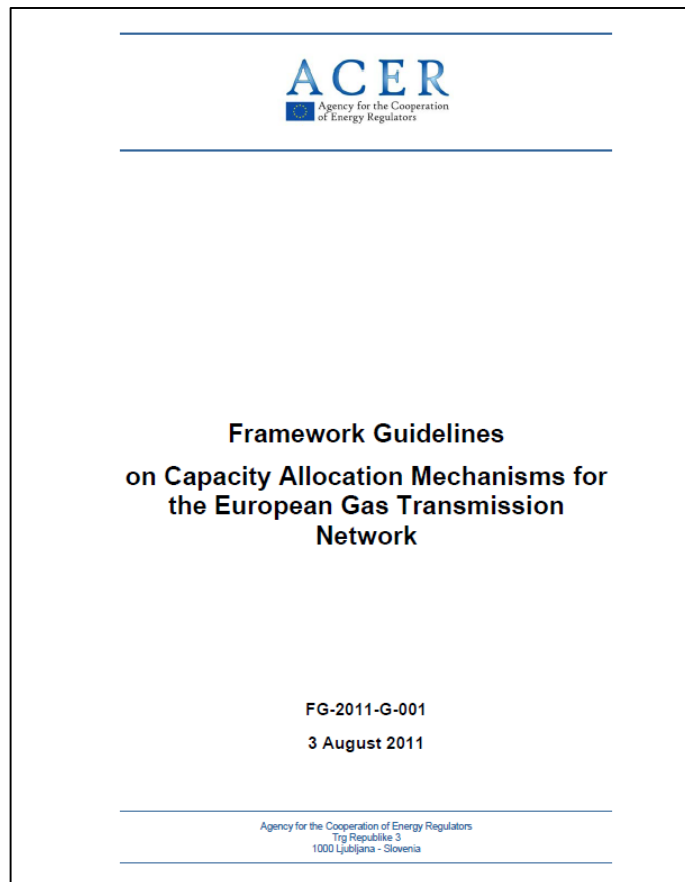


Summary of legal analysis – default rule

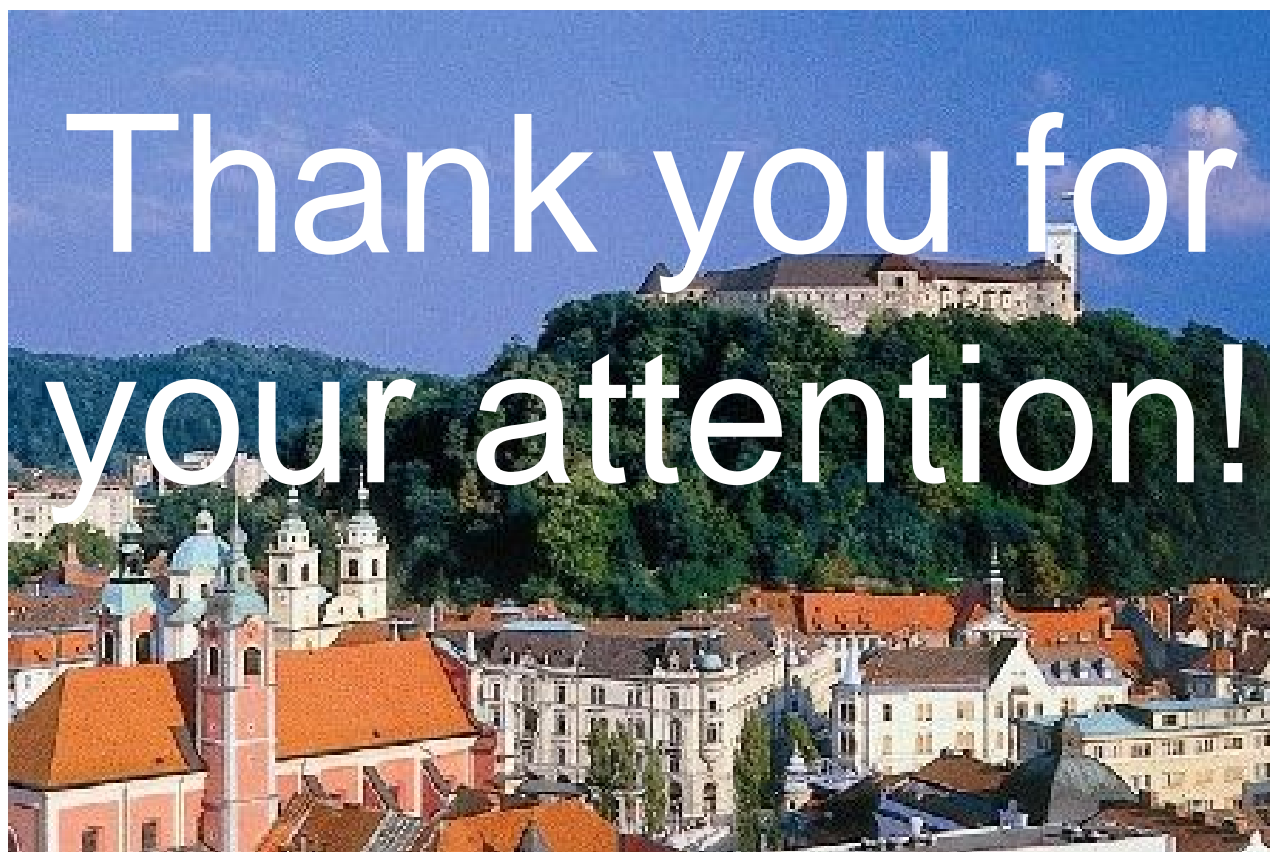
- » Obligation on all parties of the capacity contracts;
- » NRAs to impose appropriate sanctions if necessary;
- » No unilateral right to terminate supply contract è security of supply not at stake!
- » Modification of existing contracts according to the “default rule” does not impose a significant risk to the TSO;
- » ENTSOG’s legal concerns are fully addressed.



Changes made to the final FG text



- Clarification of the “Default rule”:
 - » Based on the legal advice the “default rule” has been changed to oblige both parties to a capacity contract, i.e. TSO and shipper;
 - » NRAs to ensure compliance with Regulation 715/2009 and annexes.
- Adaptation of existing transportation arrangements
 - » Extension from six to nine months implementation period.
- General wording improvements.



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3. Summary of economic analysis – 1

- Main conclusions – without foreclosure of new capacity
 - » Without foreclosure the sunset clause unambiguously improves competitive outcomes;
 - » In all cases, the application of the sunset clause reduces the extent to which any player is pivotal, i.e. the RSI increases.

Country	Wholesale market	Firm	Acquirer of spare capacity			
			Counter-factual	Producer	Importer	50/50
Austria	Upstream	Gazprom	82%	84%	87%	86%
	Downstream	OMV	56%	61%	56%	59%
France	Upstream	Statoil/Troll consortium	134%	140%	143%	141%
	Downstream	GDF SUEZ	45%	54%	46%	50%
Germany	Upstream	Statoil/Troll consortium	115%	123%	127%	125%
	Downstream	E.ON Ruhrgas	95%	107%	100%	104%
Slovenia	Upstream	Gazprom	169%	172%	176%	174%
	Downstream	Geoplin	112%	119%	112%	115%
Netherlands	Upstream	GasTerra	45%	46%	45%	46%
	Downstream	GasTerra	36%	37%	36%	37%

Source: Frontier

3. Summary of economic analysis – 2

- Main conclusions – with foreclosure of new capacity
 - » Under the “with foreclose” assumption, in most cases the Sunset Clause improves competition.

Wholesale market		HHI Counterfactual	Change in HHI by acquirer of spare capacity		
			Producer	Importer	50/50
Austria	Upstream	4655	15	-297	-149
	Downstream	8200	-726	24	-359
	Coalesced	3785	-118	101	-16
France	Upstream	1633	21	-161	-82
	Downstream	8809	-1049	27	-522
	Coalesced	2614	-200	248	12
Germany	Upstream	2534	2	-378	-204
	Downstream	2791	-435	34	-214
	Coalesced	1482	-12	32	-5
Slovenia	Upstream	4410	0	-387	-202
	Downstream	10000	-920	0	-468
	Coalesced	3602	-125	141	0
Netherlands	Upstream	4645	-26	31	-54
	Downstream	6075	-129	-23	-77
	Coalesced	5334	-93	-5	-65