



**11th meeting of the EU Gas Regulatory Forum
Madrid, 18-19 May 2006**



Principles of Congestion Management Procedures under Regulation 1775/2005

Johannes ENZMANN

Administrator

European Commission

***Directorate General for Energy and
Transport***



Directorate General for Energy and Transport



Overview

- ★ **Introductory remarks**
 - ★ **Capacity allocation and congestion management**
 - ★ **Distinction between contractual and physical congestion**
 - ★ **Requirements of new transportation contracts**
 - ★ **Requirements of existing transportation contracts**
 - ★ **Physical congestion**
-





Capacity situations and additional principles

★ Situation I: offer exceeds requests

★ Situation II: requests exceed offer (short term)

★ Situation III: requests exceed offer (long term)

★ „rucksack“ or „capacity goes with customer“

★ „buy-back“ principle

★ Firm UIOLI („use-it-or-lose-it“)

★ Interruptible UIOLI („use-it-or-lend-it“)

★ Secondary markets





Contractual congestion

- ★ **Features constituting contractual congestion:**
 - ↪ A situation where the level of firm capacity demand exceed the technical capacity and
 - ↪ Where unused capacity exists.
- ★ **Unused capacity to be made available by interruptible UIOLI**
- ★ **Contractual congestion may or may not point to capacity hoarding**
- ★ **Allocation of unused capacity in the event of contractual congestion according to CAM in situation I and II**





Physical congestion

- ★ Characterised by full nomination of technical capacity and need for incremental capacity to accommodate all physical gas flows actually occurring or likely to occur
- ★ Efficient use of capacity and physical congestion
 - ↪ Both require full use of capacity, but
 - ↪ technical capacity not sufficient to allow physical flow of the gas according to nominations
- ★ Sorting out physical congestion entails either capacity increases or refusal of access to the system
 - ↪ Question of short term and long term congestion





Capacity situation II and III and corresponding CMPs

Capacity situation	Type of congestion	CMP instruments (examples)	CAM	result
II	Contractual	Interruptible UIOLI, rucksack principle, buy-back, secondary markets ets	First-come-first served	All requests accommodated
	Physical (short term)		Examples: Auction, pro rata	Not all requests accommodated
III	Physical (long term)	investment		All requests accommodated





Requirements of new transportation contracts: unused capacity

- ★ Art 5(3)a establishes obligation of the TSO to offer unused capacity on the primary market in the event of contractual congestion
 - ★ This means the mandatory application of the interruptible UIOLI principle on a day-ahead as a minimum requirement
 - ★ „Reasonable endeavours to offer at least parts of the unused capacity ...as firm capacity“ (Point 2.4 of Guidelines), e.g.
 - ↪ Use of historical flows to identify unused capacity with sufficient reliability in advance
 - ↪ Nomination process
 - ★ No infringement of rights of initial capacity holders
-





Requirements of new transportation contracts: **secondary market**

- ★ Network user enjoys the right to re-sell capacity on the secondary market
- ★ Sort of precedence of secondary market to the interruptible capacity on the primary market
- ★ Interruptible UIOLI as a possible corrective to shortcomings accruing from secondary capacity trading





Revenue and price issues in the context of interruptible capacity

- ★ **Obligatory split of revenues from interruptible capacity**
 - ↳ *According to rules laid down by the relevant regulatory authority*
- ★ **This should include incentives to the TSO to market unused capacity to the extent possible**
- ★ **Allocation and purpose of total revenue from released interruptible capacity approved/determined by relevant national regulatory authority**
- ★ **Possible examples:**
 - ↳ Improving system integrity, reducing capacity bottlenecks
 - ↳ Transfer back to users through lower tariffs





Requirements of existing transportation contracts

- ★ UIOLI and secondary market provisions for new contracts apply to old contracts, too
 - ↳ *Unless this would infringe the requirements of the existing contracts*
- ★ Infringement of existing contracts if
 - ↳ Proper execution jeopardised
 - ↳ Explicit provision forbidding application of interruptible UIOLI
- ★ Interruptible UIOLI does not jeopardise proper execution of contracts
- ★ Latter provisions have to comply with general competition rules;
- ★ If so, obligation to call on capacity holder for offering his unused capacity on secondary market





Physical congestion: difference between long and short term congestion

- ★ **Principal difference: capacity allocation mechanism**
 - ↪ Capacity situation II: for example: auction, pro rata
 - ↪ Capacity situation III: investment
- ★ **Differences among national gas markets and Member States require certain amount of discretionary with respect to the identification of a capacity situation prevailing in a specific situation (Article 1)**
- ★ **Criteria to be defined by national regulatory authorities based on European principles that fully reflect:**
 - ↪ The need for full consistency and compatibility with adjacent systems
 - ↪ Necessary incentives for investments
 - ↪ The need to promote competition
 - ↪ The requirements of security of supply





Capacity situation II: short-term congestion

- ★ Congestion arises from transportation requests not justifying new investments
- ★ CAM: auction, pro rata or alternatives
- ★ Depending on the level of unbundling, the involvement of regulatory authorities is necessary, also in order to ensure efficient use of capacity
- ★ Full application and implementation of relevant instruments for capacity allocation





Capacity situation III: long-term congestion

- ★ Congestion that justifies investments
 - ★ Natural tendency of properly unbundled TSOs to invest in new infrastructure if investment is economically viable and regulatory incentives are right
 - ★ Role of CAM and regulatory criteria
 - ★ Article 8(1a) and 2(4) of Directive 2003/55/EC
 - ★ Without prejudice to other considerations, any refusal to invest may point to abuse of dominant position
 - ★ Under certain circumstances, application of the firm UIOLI principle might be appropriate.
-





Further procedure

- ★ **Commission invites stakeholders to submit final comments by end of June**
- ★ **On the basis of the discussion today and the final comments, the Commission intends to issue the final explanatory note**
- ★ **If necessary, the Commission may request advice from ERGEG with a view to amending existing guidelines**

