



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2012)

Opinion

Title **DG ENER - Impact Assessment for a proposal for a Network Code on Capacity Allocation Mechanisms in Gas (Comitology)**

(draft version of 30 July 2012)*

(A) Context

This Impact Assessment has been prepared in the context of a proposed Network Code on Capacity Allocation Mechanisms (CAM NC). European Network Codes are introduced by the Third energy package. Their goal is to set detailed rules on the coordinated technical or commercial operation of gas and electricity transmission networks. Three main stakeholders – the Commission and the representative bodies of energy regulators (ACER) and transmission network operators (ENTSOG) – are responsible for proposing the text to Comitology. The existing legal framework already underlines the essential nature of access to gas infrastructure. The issue of third party access plays a central role in current internal energy market legislation, notably the Third energy package. These rules will replace the current rules laid down in Annex I.2.1 to the Gas Regulation: "Guidelines on Principles of capacity-allocation mechanisms and congestion-management procedures concerning transmission system operators".

(B) Overall assessment

The report should be improved in a number of respects. First, it should provide a more complete explanation of the context for the actions proposed, for instance by better describing how this initiative fits with the gas congestion guidelines and other elements of the Third energy package. Second, the problem definition section should provide concrete evidence for the existence of the problem and clearly demonstrate its scale and extent, including which Member States/regions are most affected. Third, the choice of options should be better justified in terms of their feasibility and a stronger justification of the need for a harmonised approach across all interconnection points should be provided. Fourth, it should provide a better assessment of the likely costs and benefits of the options including the administrative burden and quantify them whenever significant. Fifth, a more detailed analysis of the views of key stakeholders should be included throughout the report particularly concerning the capacity bundling aspects of the preferred option. Finally, the report should compare the impacts in terms of efficiency, effectiveness and coherence criteria.

In their written communication with the Board DG ENER accepted to amend the report along the lines of these recommendations.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

1) Provide a clearer policy context and strengthen the problem definition. While the report explains the context for the problem by providing a description of how the natural gas sector works, this area should be strengthened further by clarifying the linkages between the physical and contractual aspects of gas transportation and delivery. In particular the report should better explain the relationship between this initiative and the related congestion management proposal in terms of content as well as timing. The report should strengthen the evidence base for the problems cited in particular by generally providing more information on the categories of stakeholders supporting a particular position. The report should provide a more detailed description of the geographical scope of the problem across Member States as well as the scale of the problem in terms of numbers of Interconnection Points affected and where these are.

2) Better justify the policy options. The report should critically consider the feasibility of the options in particular for option 3, where the proportionality of using unlimited physical increase in the network capacity in order to solve a limited contractual capacity issue should be better explained. How the current package of sub-options in option 2a was chosen should also be better explained. The report should better justify the need for a harmonised allocation method in particular by including more detail on the views of different categories of stakeholders, including transmission system operators, shippers, producers and traders.

3) More fully assess and compare impacts. The level of quantification of costs and benefits in the report should be enhanced in particular by providing an assessment of the type and estimated scale of the costs per measure, describing which stakeholder groups are affected. The report should attempt to quantify the level of administrative burden in greater depth or, where this is not possible, a full explanation should be given. Given the divergent views of stakeholders, the report should better justify the 'best efforts' approach to bundling of capacity and better explain how this approach will impact the effectiveness of the chosen option given that many of the interconnection points appear to be fully booked. The report should provide an assessment of the impacts on SMEs and international aspects. The options should be compared in terms of their efficiency, effectiveness and coherence with other policy measures, such as congestion management.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation

Technical terms should be fully explained. The figures/graphs included should be reviewed to ensure that they are comprehensible for the lay reader.

(E) IAB scrutiny process

Reference number	2013/ENER/006
External expertise used	No
Date of IAB meeting	5 September 2012 (Written Procedure)