

**COMMISSION REGULATION (EU) No 984/2013****of 14 October 2013****establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No 715/2009 of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 715/2009 of 13 July 2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 <sup>(1)</sup>, and in particular Article 6(11) thereof,

Whereas:

- (1) Regulation (EC) No 715/2009 sets non-discriminatory rules for access conditions to natural gas transmission systems with a view to ensuring the proper functioning of the internal market in gas.
- (2) Duplication of gas transmission systems is in most cases neither economic nor efficient. Competition in natural gas markets therefore requires a transparent and non-discriminatory access to gas infrastructure for all network users. However, in large parts of the Union the lack of equal and transparent access to transmission capacity remains a major obstacle for achieving effective competition on the wholesale market. Furthermore, the fact that national rules differ from one Member State to another hampers the creation of a well-functioning internal market for gas.
- (3) Inefficient use of and limited access to the Union's high-pressure gas pipelines lead to suboptimal market conditions. A more transparent, efficient and non-discriminatory system of allocation of scarce transmission capacities needs to be implemented for the Union's high-pressure gas grids, so that cross-border competition can further develop and market integration can progress. Developing such rules has been consistently supported by stakeholders.
- (4) Bringing about effective competition between suppliers from inside and outside the Union requires that they are able to flexibly use the existing transmission systems to ship their gas according to price signals. Only a well-functioning network of interconnected trans-

mission grids, offering equal access conditions to all, allows gas to flow freely across the Union. That in turn attracts more suppliers, increasing liquidity at the trading hubs and contributing to efficient price discovery mechanisms and consequently fair gas prices that are based on the principle of demand and supply.

- (5) This Regulation establishing a network code on capacity allocation mechanism in gas transmission systems aims to establish the necessary degree of harmonisation across Europe. The effective implementation of this Regulation furthermore relies on the introduction of tariff systems which are consistent with the capacity allocation mechanisms proposed in this Regulation, to ensure the implementation without detrimental effect on the revenues and cash flow positions of transmission system operators.
- (6) This Regulation has been adopted on the basis of Regulation (EC) No 715/2009 which it supplements and of which it forms an integral part. References to Regulation (EC) No 715/2009 in other legal acts shall be understood as also referring to this Regulation. This Regulation does not apply to natural gas transmission systems situated in Member States for the duration of derogations granted under Article 49 of Directive 2009/73/EC of the European Parliament and of the Council <sup>(2)</sup>. This Regulation does apply to non-exempted capacities in major new infrastructures which have received an exemption from Article 32 of Directive 2009/73/EC or from the former Article 18 of Directive 2003/55/EC of the European Parliament and of the Council <sup>(3)</sup> to the extent the application of this Regulation does not undermine such an exemption and taking into account the specific nature of interconnectors when bundling.
- (7) This Regulation was established according to the procedure as set out in Article 6 of Regulation (EC) No 715/2009. It further harmonises the rules laid down in Article 16 of Regulation (EC) No 715/2009 and supplements the principles of capacity allocation mechanisms and congestion management procedures concerning transmission system operators as laid down in point 2.1 of Annex I to Regulation (EC) No 715/2009.
- (8) This Regulation is without prejudice to application of EU and national competition rules, in particular the prohibitions of restrictive agreements (Article 101 of the Treaty

<sup>(1)</sup> OJ L 211, 14.8.2009, p. 36.

<sup>(2)</sup> OJ L 211, 14.8.2009, p. 94.

<sup>(3)</sup> OJ L 176, 15.7.2003, p. 57.

on the Functioning of the European Union) and of abuse of a dominant position (Article 102 of the Treaty on the Functioning of the European Union). The capacity allocation mechanisms put in place should be designed in such a way as to avoid foreclosure of downstream supply markets.

- (9) This Regulation is without prejudice to public service obligations of a transmission system operator in accordance with Article 3 of Directive 2009/73/EC.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established pursuant to Article 51 of Directive 2009/73/EC.
- (11) National regulatory authorities and transmission system operators should have regard to best practices and endeavours to harmonise processes for the implementation of this Regulation. Acting in accordance with Article 7 of Regulation (EC) No 713/2009 of the European Parliament and of the Council<sup>(1)</sup> the Agency and the national regulatory authorities should ensure that capacity allocation mechanisms are implemented at the applicable interconnection points across the Union in the most effective way.

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### GENERAL PROVISIONS

##### Article 1

##### Subject matter

This Regulation establishes a Network Code setting up standardised capacity allocation mechanisms in gas transmission systems. The standardised capacity allocation mechanism shall include an auction procedure for relevant interconnection points within the Union and the standard cross-border capacity products to be offered and allocated. This Regulation shall set out how adjacent transmission system operators cooperate in order to facilitate capacity sales, having regard to general commercial as well as technical rules related to capacity allocation mechanisms.

##### Article 2

##### Scope

1. This Regulation shall apply to interconnection points. It may also apply to entry points from and exit points to third countries, subject to the decision of the relevant national regulatory authority. This Regulation shall not apply to exit points to end consumers and distribution networks, entry points from 'liquefied natural gas' (LNG) terminals and production facilities, and entry-exit points to or from storage facilities.

2. This Regulation shall apply to all technical and interruptible capacity at interconnection points as well as to

additional capacity in the meaning of point 2.2.1 of Annex I of Regulation (EC) No 715/2009. This Regulation shall not apply to interconnection points between Member States where one of these Member States holds a derogation on the basis of Article 49 of Directive 2009/73/EC.

3. Articles 8(1) to (7), Articles 11 to 18, 19(2) and 21 to 27 shall not apply to new technical capacity to be allocated by means of open allocation procedures for new technical capacity, such as open season procedures, apart from capacity which remains unsold after it has been initially offered by means of such procedures..

4. Where implicit allocation methods are applied, national regulatory authorities may decide not to apply Articles 8 to 27.

5. In order to prevent foreclosure of downstream supply markets, competent national authorities may, after consulting network users, decide to take proportionate measures to limit up-front bidding for capacity by any single network user at interconnection points within a Member State.

##### Article 3

##### Definitions

For the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 715/2009 and Article 2 Directive 2009/73/EC shall apply. In addition, the following definitions shall apply:

- (1) 'ascending clock auction' means an auction in which a network user places requested quantities against defined price steps, which are announced sequentially;
- (2) 'auction calendar' means a table displaying information relating to specific auctions which is published by ENTSOG by January of every calendar year for auctions taking place during the period of March until February of the following calendar year and consisting of all relevant timings for auctions, including starting dates and standard capacity products to which they apply;
- (3) 'bidding round' means the period of time during which network users can submit, amend and withdraw bids;
- (4) 'bundled capacity' means a standard capacity product offered on a firm basis which consists of corresponding entry and exit capacity at both sides of every interconnection point;
- (5) 'competing capacities' means capacities for which the available capacity in one of the concerned auctions cannot be allocated without fully or partly reducing the available capacity in the other concerned auction;

<sup>(1)</sup> OJ L 211, 14.8.2009, p. 1.

- (6) 'first time undersell' means an occurrence where the aggregate demand across all network users is less than the capacity offered at the end of the second bidding round or a subsequent bidding round;
- (7) 'gas day' means the period from 5:00 to 5:00 UTC the following day for winter time and from 4:00 to 4:00 UTC the following day when daylight saving is applied;
- (8) 'implicit allocation method' means an allocation method where, possibly by means of an auction, both transmission capacity and a corresponding quantity of gas are allocated at the same time;
- (9) 'interconnection agreement' means an agreement entered into by adjacent transmission system operators, whose systems are connected at a particular interconnection point, which specifies terms and conditions, operating procedures and provisions, in respect of delivery and/or withdrawal of gas at the interconnection point with the purpose of facilitating efficient interoperability of the interconnected transmission networks;
- (10) 'interconnection point' means a physical or virtual point connecting adjacent entry-exit systems or connecting an entry-exit system with an interconnector, in so far as these points are subject to booking procedures by network users;
- (11) 'large price step' means a fixed or variable amount that is defined per interconnection point and standard capacity product;
- (12) 'over-nomination' means the entitlement of network users who fulfil minimum requirements for submitting nominations to request interruptible capacity at any time within day by submitting a nomination which increases the total of their nominations to a level higher than their contracted capacity;
- (13) 'reserve price' means the eligible floor price in the auction;
- (14) 'small price step' means a fixed or variable amount that is defined per interconnection point and standard capacity product which is smaller than the large price step;
- (15) 'standard capacity product' means a certain amount of transport capacity over a given period of time, at a specified interconnection point;
- (16) 'uniform-price auction' means an auction in which the network user in a single bidding round bids price as well as quantity and all network users, who are successful in gaining capacity, pay the price of the lowest successful bid;
- (17) 'virtual interconnection point' means two or more interconnection points which connect the same two adjacent entry-exit systems, integrated together for the purposes of providing a single capacity service;

- (18) 'within-day capacity' means capacity offered and allocated after the closure of the day-ahead capacity auctions with respect to that day.

## CHAPTER II

### PRINCIPLES OF COOPERATION

#### Article 4

#### Coordination of maintenance

Where maintenance of a pipeline or part of a transmission network has an impact on the amount of transmission capacity which can be offered at interconnection points, the transmission system operator(s) shall fully cooperate with their adjacent transmission system operator(s) regarding their respective maintenance plans in order to minimise the impact on potential gas flows and capacity at an interconnection point.

#### Article 5

#### Standardisation of communication

1. Transmission system operators shall coordinate the implementation of standard communication procedures, coordinated information systems and compatible electronic on-line communications such as shared data exchange formats and protocols, as well as agree principles as to how this data is treated.

2. Standard communication procedures shall include, in particular, those relating to network users' access to the transmission system operators' auction system or a relevant booking platform and the review of auction information provided. The timing and content of the data to be exchanged shall be compliant with the provisions set out in Chapter III.

3. The standard communication procedures adopted by transmission systems operators shall include an implementation plan and duration of applicability, which shall be in line with the development of booking platform(s) as set out in Article 27. Transmission systems operators shall ensure confidentiality of commercially sensitive information.

#### Article 6

#### Capacity calculation and maximisation

1. The maximum technical capacity shall be made available to network users, taking into account system integrity, safety and efficient network operation.

(a) In order to maximise the offer of bundled capacity through the optimization of the technical capacity transmission system operators shall take the following measures at interconnection points, giving priority to those interconnection points where there is contractual congestion pursuant to point 2.2.3(1) of Annex I to Regulation (EC) No 715/2009: 4 February 2015, the transmission system operators shall establish and apply a joint method, setting out the specific steps to be taken by the respective transmission system operators to achieve the required optimization:

- (1) the joint method shall include an in-depth analysis of the technical capacities, including any discrepancies therein on both sides of an interconnection point, as well as the specific actions and detailed timetable – including possible implications and containing the regulatory approvals required to recover costs and adjust the regulatory regime – necessary to maximize the offer of bundled capacity. Such specific actions shall not be detrimental to the offer of capacity at other relevant points of the concerned systems and points to distribution networks relevant for security of supply to final customers, such as those to storages, LNG terminals and protected customers as defined in Regulation (EU) No 994/2010 of the European Parliament and of the Council <sup>(1)</sup>. This in-depth analysis should take into account assumptions made in the Union-wide ten-year network development plan pursuant to Article 8 of Regulation (EC) No 715/2009, national investment plans, relevant obligations under the applicable national laws and any relevant contractual obligations;
  - (2) the relevant transmission system operators shall apply a dynamic approach to re-calculating technical capacity, where appropriate in conjunction with the dynamic calculation applied for additional capacity on the basis of point 2.2.2(2) of Annex I to Regulation (EC) No 715/2009, jointly identifying the appropriate frequency for re-calculation per interconnection point and having regard to the particular specificities thereof;
  - (3) adjacent transmission system operators shall include other transmission system operators specifically affected by the interconnection point in the joint method;
  - (4) transmission system operators shall have regard to information that network users may provide with regard to expected future flows when re-calculating the technical capacity.
- (b) the transmission system operators shall jointly assess at least the following parameters and where appropriate adjust them:
- (1) pressure commitments;
  - (2) all relevant demand and supply scenarios, including details on reference climatic conditions and network configurations associated with extreme scenarios;
  - (3) calorific value.

2. Where the optimisation of technical capacity causes costs to the transmission system operators, particularly costs that unevenly impact transmission system operators on either side of an interconnection point, transmission system operators shall be allowed to recover such efficiently incurred costs via the

regulatory framework established by the relevant regulatory authorities in accordance with Article 13 of Regulation (EC) No 715/2009 or Article 42 of Directive 2009/73/EC. Article 8(1) of the Regulation (EC) No 713/2009 shall apply.

3. Where appropriate, national regulatory authorities shall consult network users on the applied calculation method and joint approach.

4. Changes in the amount of bundled capacity offered at interconnection points as a result of the process pursuant to paragraph 1 shall be included in the report of the Agency published pursuant to point 2.2.1(2) of Annex I to Regulation (EC) No 715/2009.

#### *Article 7*

### **Exchange of information between adjacent transmission system operators**

1. Adjacent transmission system operators shall exchange nomination, re-nomination, matching and confirmation information at relevant interconnection points on a regular basis.

2. Adjacent transmission system operators shall exchange information about the maintenance of their individual transmission network in order to contribute to the decision making process with regard to the technical use of interconnection points. The procedures to exchange data between transmission system operators shall be integrated in their respective interconnection agreement.

## CHAPTER III

### **ALLOCATION OF FIRM CAPACITY**

#### *Article 8*

### **Allocation methodology**

1. Auctions shall be used for the allocation of capacity at interconnection points.

2. At all interconnection points the same auction design shall apply. The relevant auction processes shall start simultaneously for all concerned interconnection points. Each auction process, relating to a single standard capacity product, shall allocate capacity independently of every other auction process except where, subject to the agreement of the directly involved transmission system operators and the approval of relevant national regulatory authorities, competing capacity is allocated.

3. The standard capacity products shall follow a logical order by which products covering yearly capacity shall be offered first, followed by the product with the next shortest capacity duration for use during the same period. The timing of the auctions provided for in Articles 11 to 15 shall be consistent with this principle.

<sup>(1)</sup> OJ L 295, 12.11.2010, p. 1.

4. The rules on standard capacity products as set out in Article 9 and auctions as set out in Articles 11 to 15 shall apply to bundled capacity and unbundled capacity at an interconnection point.

5. For a given auction, the availability of the relevant standard capacity products shall be communicated in accordance with Articles 11 to 15 and according to the auction calendar.

6. An amount at least equal to 20 % of the technical capacity at each interconnection point shall be set aside and offered in accordance with paragraph 7, provided that the available capacity, at the time this Regulation enters into force, is equal to or greater than the proportion of technical capacity to be set aside. If the available capacity, at the time this Regulation enters into force, is less than the proportion of technical capacity to be set aside, the whole of any available capacity shall be set aside. This capacity shall be offered in accordance with paragraph 7(b), while any remaining capacity set aside shall be offered in accordance with paragraph 7(a).

7. Any capacity set aside pursuant to paragraph 6 shall be offered, subject to the following provisions:

(a) an amount at least equal to 10 % of the technical capacity at each interconnection point shall be offered no earlier than in the annual yearly capacity auction as provided for in Article 11 held in accordance with the auction calendar during the fifth gas year preceding the start of the relevant gas year; and

(b) a further amount at least equal to 10 % of the technical capacity at each interconnection point shall first be offered no earlier than the annual quarterly capacity auction as provided for in Article 12, held in accordance with the auction calendar during the gas year preceding the start of the relevant gas year.

8. In the case of new capacity, an amount at least equal to 10 % of the technical capacity at each interconnection point shall be set aside and offered no earlier than the annual quarterly capacity auction as provided for in Article 12, held in accordance with the auction calendar during the gas year preceding the start of the relevant gas year.

9. The exact proportion of capacity to be set aside in relation to paragraphs 6 and 8 shall be subject to a stakeholder consultation, alignment between transmission system operators and approval by national regulatory authorities at each interconnection point. National regulatory authorities shall in particular consider setting aside higher shares of capacity with a shorter duration to avoid foreclosure of downstream supply markets.

#### Article 9

##### Standard capacity products

1. Transmission system operators shall offer yearly, quarterly, monthly, daily and within-day standard capacity products.

2. Yearly standard capacity products shall be the capacity, which may be applied for, in a given amount, by a network user for all gas days in a particular gas year (starting on the 1st of October).

3. Quarterly standard capacity products shall be the capacity, which may be applied for, in a given amount, by a network user for all gas days in a particular quarter (starting on the 1st of October, 1st of January, 1st of April or the 1st of July respectively).

4. Monthly standard capacity products shall be the capacity, which may be applied for, in a given amount, by a network user for all gas days in a particular calendar month (starting on the 1st day of each month).

5. Daily standard capacity products shall be the capacity, which may be applied for, in a given amount, by a network user for a single gas day.

6. Within-day standard capacity products shall be the capacity, which may be applied for, in a given amount, by a network user from a start time within a particular gas day until the end of the same gas day.

#### Article 10

##### Applied capacity unit

The capacity offered shall be expressed in energy units per unit of time. The following units shall be used: kWh/h or kWh/d. In case of kWh/d a flat flow rate over the gas day is assumed.

#### Article 11

##### Annual yearly capacity auctions

1. The yearly capacity auctions shall be held once a year.

2. Capacity for each yearly standard capacity product shall be auctioned through the annual yearly capacity auction using an ascending-clock auction algorithm in accordance with Article 17.

3. The auction process shall offer capacity for no longer than the upcoming 15 years.

4. Annual yearly capacity auctions shall start on the first Monday of March each year unless otherwise specified in the auction calendar.

5. During the annual yearly capacity auction network users shall be able to participate in one or several concurrent auctions in relation to each interconnection point in order to apply for standard capacity products.

6. The capacity to be offered during the annual yearly capacity auction shall be equal to:

$$A - B - C + D$$

Where:

A is the transmission system operator's technical capacity for each of the standard capacity products;

B for annual yearly auctions offering capacity for the next five years, is the amount of technical capacity (A) set aside in accordance with Article 8(7)(b); for annual yearly auctions for capacity beyond the first five years, is the amount of technical capacity (A) set aside in accordance with Article 8(7);

C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;

D is additional capacity, for such year, if any.

7. The capacity to be offered may be either bundled capacity or unbundled capacity in accordance with Article 19. This also applies to all other auctions as set out in Articles 12 to 15.

8. One month before the auction starts, transmission system operators shall notify network users about the amount of technical capacity to be offered for each year for the upcoming annual yearly capacity auction. In addition the transmission system operators shall notify network users whether any additional capacity may be made available.

9. The bidding rounds of each auction shall take place between 08:00 UTC to 17:00 UTC (winter time) or 07:00 UTC to 16:00 UTC (daylight saving) on all relevant gas days. Bidding rounds shall be opened and closed within each gas day, as specified in Article 17(2)

10. The allocation results of the auction shall be published, as soon as reasonably possible, and no later than the next business day after the closing of the bidding round, simultaneously to individual network users participating in the respective auction.

11. Aggregated information on auction results shall be published to the market.

#### Article 12

##### Annual quarterly capacity auctions

1. The annual quarterly capacity auction shall be held once a year.

2. Capacity for each quarterly standard capacity product shall be auctioned through the annual quarterly capacity auction using an ascending-clock auction algorithm in accordance with Article 17.

3. Each gas year, capacity for each quarter from the first quarter (October-December) of the upcoming gas year to the last quarter (July-September) of the upcoming gas year (inclusive) shall be auctioned through the annual quarterly capacity auction.

4. During the annual quarterly capacity auction network users shall be able to participate in one to four concurrent auctions in relation to each interconnection point in order to apply for quarterly standard capacity products.

5. Annual quarterly capacity auctions shall start on the first Monday of June each year unless otherwise specified in the auction calendar.

6. The capacity to be offered in the annual quarterly capacity auction shall be equal to:

$$A - C + D$$

Where:

A is the transmission system operator's technical capacity for each of the standard capacity products;

C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;

D is additional capacity, for such quarter, if any.

7. Two weeks before the auction starts, transmission system operators shall notify network users about the amount of capacity to be offered for each quarter for the upcoming annual quarterly capacity auction. In addition the transmission system operators shall notify network users whether any additional capacity may be made available.

8. The bidding rounds of each auction, shall take place between 08:00 UTC to 17:00 UTC (winter time) or 07:00 UTC to 16:00 UTC (daylight saving) on all relevant Gas Days. Bidding rounds shall be opened and closed within each gas day, as specified in Article 17(2).

9. The allocation results of the auction shall be published, as soon as reasonably possible, and no later than the next business day after the closing of the bidding round, simultaneously to individual network users participating in the respective auction.

10. Aggregated information on the auction results shall be published to the market.

#### Article 13

##### Rolling monthly capacity auctions

1. The rolling monthly capacity auction shall be held once a month.

2. Capacity for each monthly standard capacity product shall be auctioned through the rolling monthly capacity auction using an ascending-clock auction algorithm according to Article 17. Each month, the monthly standard capacity product for the following calendar month shall be auctioned.

3. During the rolling monthly capacity auction network users shall be able to apply for one monthly standard capacity product.

4. Rolling monthly capacity auctions shall start on the third Monday of each month for the following monthly standard capacity product unless otherwise specified in the auction calendar.

5. The capacity to be offered in the rolling monthly capacity auction shall be, each month, equal to:

$$A - C + D$$

Where:

A is the transmission system operator's technical capacity for each of the standard capacity products;

C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;

D is additional capacity, for such month, if any.

6. One week before the auction starts, transmission system operators shall notify network users about the amount of capacity to be offered for the upcoming rolling monthly capacity auction. In addition the transmission system operators shall notify network users whether any additional capacity may be made available.

7. The bidding rounds of each auction shall take place between 08:00 UTC to 17:00 UTC (winter time) or 07:00 UTC to 16:00 UTC (daylight saving) on all relevant gas days. Bidding rounds shall be opened and closed within each gas day, as specified in Article 17(2).

8. The allocation results of the auction shall be published, as soon as reasonably possible, and no later than the next business

day after the closing of the bidding round, simultaneously to individual network users participating in the respective auction.

9. Aggregated information on the auction results shall be published to the market.

#### Article 14

##### Rolling day ahead capacity auctions

1. The rolling day ahead capacity auction shall be held once a day.

2. Every day, a standard capacity product for the following gas day shall be auctioned through the rolling day ahead capacity auction.

3. Capacity for each daily standard capacity product shall be auctioned through the rolling day-ahead capacity auction using a uniform price auction algorithm according to Article 18. Each day, the daily standard capacity product for the following gas day shall be auctioned.

4. During the rolling day-ahead capacity auction network users shall be able to apply for capacity for one daily standard capacity product.

5. The bidding round shall open every day at 15:30 UTC (winter time) or 14:30 UTC (daylight saving).

6. A capacity bid for the daily standard capacity product for the rolling day ahead capacity auction shall be handled as follows: submission, withdrawal or amendment from 15:30 UTC to 16:00 UTC (winter time) or 14:30 UTC to 15:00 UTC (daylight saving).

7. The capacity to be offered in the rolling day ahead capacity auction shall be, each day, equal to:

$$A - C + D$$

Where:

A is the transmission system operator's technical capacity for each of the standard capacity products;

C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;

D is additional capacity, for such day, if any.

8. At the time the bidding round opens, transmission system operators shall notify network users about the amount of capacity to be offered for the upcoming rolling day-ahead capacity auction. In addition the transmission system operators shall notify network users whether any additional capacity may be made available.

9. The allocation results of the auction shall be published, no later than 30 minutes after the closing of the bidding round, simultaneously to individual network users participating in the respective auction.

10. Aggregated information on the auction results shall be published to the market.

#### Article 15

##### Within-day capacity auctions

1. Subject to capacity being made available, a within-day capacity auction shall be held every hour during gas day using a uniform price auction algorithm in accordance with Article 18.

2. The first bidding round shall open directly on the next hour bar following the publication of results of the last day-ahead auction (including interruptible if offered) in accordance with Article 14. The first bidding round closes at 01:30 UTC (winter time) or 00:30 UTC (daylight saving) before the gas day. The allocation of successful bids shall be effective from 05:00 UTC (winter time) or 04:00 UTC (daylight saving) on the relevant gas day.

3. The last bidding round shall close at 00:30 UTC (winter time) or 23:30 UTC (daylight saving) on the relevant gas day.

4. Network users shall be entitled to place, withdraw or amend bids from the opening of each bidding round until closure of that bidding round.

5. Each hour on the relevant gas day, capacity effective from the hour + 4 shall be auctioned as within-day capacity.

6. Each bidding round shall open at the start of every hour on the relevant gas day.

7. The duration of each bidding round shall be 30 minutes as of the opening of the bidding round.

8. The capacity to be offered in the within-day capacity auction shall be, each hour, equal to:

$$A - C + D$$

Where:

A is the transmission system operator's technical capacity for each of the standard capacity products;

C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;

D is additional capacity, if any.

9. Transmission system operators shall publish the available amount of within-day firm capacity on offer, after closure of the last day-ahead auction and in accordance with Article 21(9).

10. Transmission system operators shall provide network users who bid in the day-ahead auctions with the option to have valid unsuccessful bids automatically entered into the subsequent within-day auction.

11. The capacity shall be allocated within 30 minutes of the closure of the bidding round provided that the bids are accepted and the transmission system operator runs the allocation process.

12. The results of the auction shall be made available simultaneously to individual network users.

13. Aggregated information on the auction results shall be published at least at the end of each day.

#### Article 16

##### Auction algorithms

1. If several standard capacity products are offered during an auction, the respective allocation algorithm shall be applied separately for each standard capacity product when it is being allocated. Bids for the different standard capacity products shall be considered independently from each other in the application of the auction algorithm.

2. For annual yearly, annual quarterly and rolling monthly capacity auctions, an ascending clock auction algorithm, with multiple bidding rounds, as provided for in Article 17, shall be applied.

3. For rolling day-ahead capacity auctions and within-day capacity auctions, a uniform-price auction algorithm, with a single bidding round, shall be applied in accordance with Article 18.

#### Article 17

##### Ascending Clock auction algorithm

1. Ascending Clock auctions shall enable network users to place volume bids against escalating prices announced in consecutive bidding rounds, starting at the Reserve Price  $P_0$ .

2. The first bidding round, with an associated price equal to the Reserve Price  $P_0$ , shall have a duration of 3 hours. Subsequent Bidding Rounds shall have a duration of 1 hour. There shall be a period of 1 hour between Bidding Rounds.

3. A bid shall specify:

(a) the identity of the network user applying;

(b) the concerned interconnection point and direction of the flow;

(c) the standard capacity product for which the capacity is applied for;



(d) per price-step, the amount of capacity for the respective standard capacity;

(e) product applied for.

4. A bid shall be considered valid if it is submitted by a network user and complies with all provisions of this Article.

5. In order for network users to participate in an auction, it shall be mandatory to place a volume bid in the first bidding round.

6. Transmission system operators shall provide network users with the option to enter bids automatically against any price step.

7. Once the relevant bidding round closes, no modification, withdrawal or variation to valid bids shall be accepted. All valid bids shall become binding commitments of a network user to book capacity to the amount requested per announced price, provided the clearing price of the auction is that announced in the relevant bidding round.

8. The volume bid in any bidding round per network user shall be equal or smaller to the capacity offered in a specific auction. The volume bid per network user at a specific price shall be equal to or less than the volume bid placed by this network user in the previous round, except where paragraph 16 applies.

9. Bids may be freely entered, modified and withdrawn during a Bidding Round, providing all bids comply with paragraph 8. Valid bids shall remain valid until modified or withdrawn.

10. A large price step and a small price step shall be defined per interconnection point and per standard capacity product and published in advance of the relevant auction. The small price step shall be set such that an increase by an integer number of small price steps is equal to an increase by a large price step.

11. The determination of the large price step shall seek to minimise, as far as reasonably possible, the length of the auction process. The determination of the small price step shall seek to minimise, as far as reasonably possible, the level of unsold capacity where the auction closes at a price higher than the reserve price.

12. If the aggregate demand across all network users is less than or equal to the capacity offered at the end of the first bidding round, the auction shall close.

13. If the aggregate demand across all network users is greater than the capacity offered at the end of the first bidding round or a subsequent bidding round, a further bidding round shall be opened with a price equal to the price in the previous bidding round, plus the large price step.

14. If the aggregate demand across all network users is equal to the capacity offered at the end of the second bidding round or a subsequent bidding round, the auction shall close.

15. If a first time undersell occurs, a price reduction shall take place and a further bidding round shall be opened. The further bidding round will have a price equal to the price applicable in the bidding round preceding the first time undersell, plus the small price step. Further bidding rounds with increments of the small price step shall then be opened until the aggregate demand across all network users is less than or equal to the capacity offered, at which point the auction shall close.

16. The volume bid per network user in the first bidding round where small price steps are applied shall be equal to or less than the volume bid placed by this network user in the bidding round which preceded the first-time undersell. The volume bid per network user in all bidding rounds where small price steps are applied shall be equal to or greater than the volume bid placed by this network user during the bidding round in which the first-time undersell occurred.

17. If the aggregate demand across all network users is greater than the capacity offered in the bidding round with a price equal to that which led to the first time undersell, minus one small price step, the auction shall close. The clearing price shall be the price that led to the first time undersell and the successful bids shall be those submitted during the original bidding round in which the first time undersell occurred.

18. After each bidding round, the demand of all network users in a specific auction shall be published as soon as reasonably possible in an aggregated form.

19. The price announced for the last bidding round in which the auction closes shall be considered as the clearing price of the specific auction, except cases where paragraph 17 applies.

20. All network users who have placed valid volume bids at the clearing price are allocated the capacity according to their volume bids at the clearing price. Successful network users shall pay the clearing price of the specific auction, which may be a fixed or a variable price as set out in Article 26(2), and any other possible charges applicable at the time when the capacity allocated to them can be used.

21. Following every closed auction, the final auction result including the aggregation of allocated capacities and the clearing price shall be published. Successful network users shall be informed about the amount of capacities they are allocated, individual information shall be communicated only to concerned parties.

22. If an ascending clock auction has not ended by the scheduled starting point (according to the auction calendar) of the next auction for capacity covering the same period, the first auction shall close and no capacity shall be allocated. The capacity shall be offered in the next relevant auction.

## Article 18

**Uniform-Price auction algorithm**

1. In a uniform price auction, there is a single bidding round in which the network user bids price as well as quantity.
2. During the bidding round of a given auction, network users may submit up to 10 bids. Each bid shall be treated independently from other bids. After the closure of the bidding round, remaining bids may not be amended or withdrawn.
3. A bid shall specify:
  - (a) the identity of the network user applying;
  - (b) the concerned interconnection point and direction of the flow;
  - (c) the standard capacity product for which the capacity is applied for;
  - (d) the amount of capacity for the respective standard capacity product applied for;
  - (e) the minimum amount of capacity for the respective standard capacity product which the network user is willing to be allocated according to the relevant algorithm in case the network user is not allocated the amount requested in accordance with point (d);
  - (f) the bid prices, which shall not be less than the reserve price applicable for the relevant standard capacity product, which the network user is willing to pay in respect of the capacity applied for. Bids with a bid price below the reserve price shall not be accepted.
4. The transmission system operator shall rank all bids relating to a given standard capacity product according to their bid price, the highest price ranking first.
5. All remaining bids at bidding round closing time shall be considered as binding on those network users that are allocated at least the minimum amount of capacity requested in accordance with point (e) of paragraph 3.
6. Following the ranking of the bids in accordance with paragraph 4, and subject to paragraphs 7 to 10, capacity shall be allocated to the bids in function of their price ranking. All bids for which capacity is allocated shall be considered as successful. After the allocation of capacity, the remaining unallocated capacity shall be reduced by such quantity.
7. Following the application of paragraph 6 and subject to paragraph 9, where the amount of capacity bid for by a network user exceeds the remaining unallocated capacity (after capacity has been allocated to network users placing higher bids), this network user shall be allocated capacity equal to the remaining unallocated capacity.
8. Following the application of paragraph 7 and subject to paragraph 9, where each of two or more bids specifies the same bid price, and the amount of relevant capacity remaining applied for in aggregate under such bids exceeds the

remaining unallocated amount, the remaining unallocated amount shall be allocated pro rata to the amounts applied for in each such bid.

9. Where the amount to be allocated in respect of a bid pursuant to paragraph 6, 7 or 8 is less than the minimum amount of capacity according to paragraph 3(e), the bid shall be disregarded and become null and void, and a revised allocation shall be made between remaining equal price bid(s) under paragraph 8, or (as the case may be) an allocation shall made in respect of the next priced bid, pursuant to paragraph 6.

10. Where the remaining amount to be allocated in respect of any bid pursuant to paragraphs 6, 7, 8 or 9 is equal to zero no further capacity shall be allocated to the remaining bids. Those bids shall be considered unsuccessful.

11. The clearing price shall be defined as the price of the lowest successful bid, if the demand exceeds the offer at the reserve price. In all other cases, the clearing price shall be equal to the reserve price. Successful network users shall pay the clearing price of the specific auction, which may be a fixed or a variable price as set out in Article 26(2) and any other possible charges applicable at the time when the capacity allocated to them can be used.

## CHAPTER IV

**BUNDLING OF CROSS-BORDER CAPACITY**

## Article 19

**Bundled Capacity products**

Adjacent transmission system operators shall jointly offer bundled capacity products, according to the following principles:

- (1) on both sides of an interconnection point all firm capacity shall be offered as bundled capacity, in so far as there is available firm capacity on both sides of the interconnection point;
- (2) transmission system operators shall offer capacity for the relevant standard capacity product on a booking platform, in accordance with Article 27 and in accordance with the applicable allocation procedure, as set out in Chapter III;
- (3) the bundled capacity to be offered by the transmission system operators concerned at an interconnection point shall be contracted through a single allocation procedure;
- (4) network users shall comply with applicable terms and conditions of the transport contract(s) of the transmission system operators concerned as from the time the transport capacity is contracted;
- (5) where there is more available firm capacity on one side of an interconnection point than on the other side for any period considered, the transmission system operator with

the most available firm capacity may offer such extra capacity to the network users as an unbundled product in accordance with the auction calendar and the following rules:

- (a) where there is an existing unbundled transport contract at the other side of the interconnection point, capacity may be offered on an unbundled basis not exceeding the amount and duration of the existing transport contract at the other side;
  - (b) where such extra capacity would not fall under paragraph 5 (a), it may be offered for a maximum period of one year;
- (6) any unbundled capacity allocated in accordance with paragraph 5 may be used and nominated as such. It may also be traded on the secondary market;
  - (7) adjacent transmission system operators shall establish a joint nomination procedure for bundled capacity, providing network users with the means to nominate the flows of their bundled capacity via a single nomination;
  - (8) the obligations to offer bundled capacity also apply, to the extent that they are relevant, to secondary capacity markets. Without prejudice to paragraph 1, capacity originally allocated as bundled capacity can only be resold as bundled capacity on the secondary market;
  - (9) where two or more interconnection points connect the same two adjacent entry-exit systems, the adjacent transmission system operators concerned shall offer the available capacities at the interconnection points at one virtual interconnection point. In case more than two transmission system operators are involved because capacity in one or both entry-exit systems is marketed by more than one transmission system operator, the virtual interconnection point shall include all of these transmission system operators, to the extent possible. In all cases a virtual interconnection point shall be established only if the following conditions are met:
    - (a) the total technical capacity at the virtual interconnection points shall be equal to or higher than the sum of the technical capacities at each of the interconnection points contributing to the virtual interconnection points;
    - (b) they facilitate the economic and efficient use of the system including but not limited to rules set out in Article 16 of Regulation (EC) No 715/2009.

Adjacent transmission system operators shall start the necessary analysis and, shall establish functional virtual interconnection points no later than 5 years after the entering into force of this Regulation.

#### Article 20

##### **Bundling in case of existing transport contracts**

1. The network users who are parties to existing transport contracts at the time of the entry into force of this Regulation

at respective interconnection points, should aim to reach an agreement on the bundling of the capacity via contractual arrangements ('bundling arrangement'), in compliance with the provisions set out in Article 19 of this Regulation. These network users and transmission system operators shall report to the relevant national regulatory authorities of all bundling arrangements reached by all parties to existing transport contracts. On that basis the national regulatory authority shall send a report to the Agency regarding the yearly progress on bundling capacity in the concerned Member State. The Agency shall, two years from the entry into force of this Regulation, publish a report on the progress made on bundling capacity.

2. The transmission system operators who are parties to the existing transport contracts may participate in the discussions regarding the bundling arrangement at any time, upon invitation of the network users who are parties to the existing transport contracts.

3. Where a bundling arrangement is agreed upon between respective network users, the transmission system operators involved at the interconnection point shall be informed by the parties of such intended bundling arrangement without undue delay and the transfer of the concerned capacity shall be implemented. In any case, the bundling arrangement shall be implemented subject to the applicable terms and conditions of existing related transport contracts. Once the bundling arrangement is implemented, the relevant capacity shall be treated as bundled capacity.

4. In any case, the duration of the bundling arrangements regarding the capacity bundled under the amendment of the existing contracts shall not exceed the duration of the original transport contracts.

5. All capacity shall be bundled at the earliest opportunity. Existing transport contracts for unbundled capacity cannot be renewed, prolonged or rolled over after their expiration date. Such capacity shall become available capacity as of the expiration date of the transport contracts.

#### CHAPTER V

#### INTERRUPTIBLE CAPACITY

##### Article 21

##### **Allocation of interruptible services**

1. Transmission system operators shall offer a daily capacity product for interruptible capacity in both directions at interconnection points where firm capacity has been offered but was sold out day-ahead. At unidirectional interconnection points where technical capacity is offered only in one direction, transmission system operators shall offer a daily product for interruptible capacity in the other direction. Transmission system operators may offer interruptible capacity products of longer duration as well.

2. If interruptible capacity is offered, this shall not be detrimental to the amount of firm capacity on offer. Transmission

system operators shall not set aside capacity that can be offered as firm capacity in order to offer it as interruptible capacity.

3. To the extent interruptible capacity products other than daily products are offered, the same standard capacity products for firm capacity shall also apply for interruptible capacity, in terms of duration of the products.

4. To the extent interruptible capacity is offered, it shall be allocated via an auction process with the exception of within-day interruptible capacity.

5. Within-day interruptible capacity shall be allocated by means of an over-nomination procedure.

6. Within-day interruptible capacity shall only be allocated when firm capacity, whether technical capacity or additional capacity, is sold out.

7. Where auctions are held for any interruptible products longer than within-day transmission system operators shall, if known, publish the amounts of interruptible capacity on offer before the start of the auction process.

8. If offered, interruptible capacity shall be allocated by means of a separate auction after firm capacity of equal duration has been allocated, but before the auction of firm capacity with a shorter duration starts, with the exception of within-day interruptible capacity.

9. If offered, interruptible capacity auctions shall be conducted in accordance with the same design principles and timescales as applied for firm capacity. The exact timescales applied for the interruptible capacity auctions shall be detailed within the auction calendar with the exception of within-day interruptible capacity.

#### Article 22

##### Minimum interruption lead times

1. Interruptible capacities shall have minimum interruption lead times, which shall be decided jointly by adjacent transmission system operators.

2. The default minimum interruption lead time for a given gas hour shall be forty five minutes after the start of the re-nomination cycle for that gas hour. Where two transmission system operators wish to shorten the lead time for interruptions, any related agreement entered into between the transmission system operators shall be subject to competent national regulatory authority approval.

#### Article 23

##### Coordination of interruption process

The transmission system operator that initiates the interruption shall notify the relevant adjacent transmission system operator. Adjacent transmission system operators shall notify their respective affected network users as soon as possible, but with due regard to the reliability of the information.

#### Article 24

##### Defined sequence of interruptions

1. The order in which interruptions shall be performed, if the total of nominations exceeds the quantity of gas that can flow

at a certain interconnection point, shall be determined based on the contractual timestamp of the respective transport contracts on an interruptible basis. In case of an interruption, transport contract coming into force earlier shall prevail over transport contract coming into force later.

2. If, after applying the procedure described in paragraph 1, two or more nominations are ranked at the same position within the interruption order and the transmission system operator does not interrupt all of them, a pro rata reduction of these specific nominations shall apply.

3. To accommodate the differences between the various interruptible capacity services within the Union, the adjacent transmission system operators shall implement and coordinate the joint procedures provided for in this Article on an interconnection point by interconnection point basis.

#### Article 25

##### Reasons for interruptions

Transmission system operators shall include reasons for interruptions either directly in their interruptible transport contracts or in the general terms and conditions that govern these contracts. Reasons for interruptions can include but are not limited to gas quality, pressure, temperature, flow patterns, use of firm contracts, maintenance, up- or downstream constraints, public service obligations and capacity management deriving from congestion management procedures.

#### CHAPTER VI

##### TARIFFS AND CAPACITY BOOKING PLATFORMS

#### Article 26

##### Tariffs

1. The tariff as calculated using the methodology set and/or approved by the national regulatory authority, or the tariff set and/or approved by the national regulatory authority, shall be used as the reserve price in all auctions for all standard capacity products for firm and interruptible capacity.

2. The payable price determined in a capacity auction can be either a fixed price or a variable price or be subject to other arrangements provided for in the applicable regulatory regime. The fixed price shall consist of the applicable tariff at the time of the auction plus the auction premium. The variable price shall consist of the applicable tariff at the time when the capacity can be used plus the auction premium. The arrangements can be different for the capacities in a bundled product on either side of an interconnection point.

3. The appropriate tariff arrangements for the implementation of this Regulation shall be set out on a Union and/or national level in due time. These arrangements shall enable the due implementation of the capacity allocation mechanisms

established by this Regulation, without incurring detrimental effects on the revenue and cash flow positions of transmission system operators, due to the implementation of this Regulation, in particular the provisions regarding the setting aside of a proportion of capacity, including new capacity, in accordance with Articles 2(3), 8(7), and 8(8) and Article 19(5)(b).

4. Auction revenues from bundled capacity need to be split between the transmission system operators placing capacities in bundled capacity. The reserve price of the bundled capacity shall be the sum of reserve prices of the capacities in the bundled capacity. All revenues from sales of bundled capacity shall be attributed to the contributing transmission system operators after each capacity transaction.

5. The revenues from the reserve price of bundled capacity shall be attributed to the transmission system operators in proportion to the reserve prices of their capacities in the bundled capacity. The revenues from the auction premium from bundled capacity above the reserve price shall be split according to agreement between the transmission system operators, approved by the relevant national regulatory authority, where appropriate, in advance of the auctions. Where no agreement is concluded before the auction, the revenues from the auction premium from bundled capacity shall be attributed to the transmission system operators in equal proportions.

6. National regulatory authorities shall approve over and under recovery mechanisms. Where a price cap regime is applied, the national regulatory authority shall approve the usage of revenues from capacity prices exceeding the respective tariff.

#### Article 27

### Capacity booking platforms

1. Transmission system operators shall apply this Regulation by offering capacity by means of one or a limited number of joint web-based booking platforms. Transmission system operators can operate such platforms themselves or via an agreed party that, where necessary, acts on behalf of them towards the network users.

2. Joint booking platforms shall apply the following rules:

(a) the rules and procedures for the offer and allocation of all capacity in accordance with Chapter III shall apply;

(b) the establishment of a process to offer firm bundled capacity in accordance with Chapter IV shall have priority;

(c) functionalities for network users to offer and obtain secondary capacity shall be provided;

(d) in order to use the services of the booking platforms network users shall accede to and be compliant with all applicable legal and contractual requirements that enable them to book and use capacity on the relevant transmission system operators' network under a transport contract;

(e) capacity at any single interconnection point or virtual interconnection point shall be offered at not more than one booking platform.

3. The establishment of one or a limited number of joint booking platforms shall facilitate and simplify capacity booking at interconnection points across the Union for the benefit of network users. To that end, ENTSOG shall, within six months after the entry into force of this Regulation, carry out a public consultation to identify the market needs. The consultation process shall last no more than six months, including the publication by ENTSOG of a report with the results of the consultation. The report shall identify options to implement the indicated market needs, having regard to costs and time, with a view to implement the most appropriate option, by transmission system operators or third parties on behalf of them. Where appropriate, ENTSOG and the Agency shall facilitate this process.

#### CHAPTER VII

### FINAL PROVISIONS

#### Article 28

### Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Without prejudice to Article 6(1)a, this Regulation shall apply from 1 November 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 October 2013.

For the Commission

The President

José Manuel BARROSO