



**Conditionalities stipulated in contracts for standard
gas capacity products for firm capacity in the Energy
Community Contracting Parties**

Status Review

March 2022



Content

INTRODUCTION	2
1. About ECRB.....	2
2. Background	2
3. Definitions.....	4
4. Scope and methodology	5
FINDINGS	6
SUMMARY OF FINDING AND RECOMMENDATIONS.....	9



INTRODUCTION

1. About ECRB

The Energy Community Regulatory Board (ECRB) operates based on the Energy Community Treaty. As an institution of the Energy Community¹, ECRB advises the Energy Community Ministerial Council and Permanent High Level Group on details of statutory, technical and regulatory rules and makes recommendations in the case of cross-border disputes between regulators. ECRB is the independent regional voice of energy regulators in the Energy Community and also executes a number of legal obligations, among which monitoring. ECRB's mission builds on three pillars: providing coordinated regulatory positions to energy policy debates, harmonizing regulatory rules across borders and sharing regulatory knowledge and experience.

2. Background

Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 was incorporated into the Energy Community *acquis communautaire* by Decision 2018/06/PHLG-EnC of the Permanent High Level Group of 28 November 2018 (hereinafter 'the adapted Regulation (EU) 2017/459'). The Decision set a transposition deadline of 28 August 2019 and an implementation deadline of 28 February 2020.

Article 38 (4) of the adapted Regulation (EU) 2017/459, stipulates that no later than two years after the expiry of the deadline for transposition of the Regulation, ECRB shall report on the conditionalities stipulated in contracts for standard capacity products for firm capacity, having regard to their effect on efficient network use and the integration of the Energy Community gas markets. ECRB shall be supported in its

¹ www.energy-community.org. The Energy Community comprises the EU and Albania, Bosnia and Herzegovina, North Macedonia, Georgia, Kosovo*, Moldova, Montenegro, Serbia and Ukraine. Armenia, Turkey and Norway are Observer Countries. [*Throughout this document the symbol * refers to the following statement: This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Advisory Opinion on the Kosovo declaration of independence.].

assessment by the national regulatory authorities and transmission system operators (TSOs).²

Entry-exit transmission pricing system allows network users to book capacity independently at any entry and any exit point of a transmission system. Compared to point-to-point contracts, it introduces a more market-based system simplifying network users' access to various end-users in one market area. Full implementation of an entry-exit system also includes access to a Virtual Trading Point (VTP) for all network users who have booked firm capacity at either entry or exit points and provides free allocability of standard firm capacity products, including short term products.

Conditionalities exist in transmission contracts in case a network user is not allowed to book entry and exit capacities independently one from each other, or faces restrictions on freely flowing gas from any entry to any exit point of a market area.

Conditionalities also exist when a transmission system operator offers to network users tariff discounts in exchange for accepting a more restrictive contract conditions that exclude the possibility to use the freely allocable firm capacity.

Conditionalities imposed in contracts or chosen by network users in exchange for discounts lead to similar outcomes.

More in general, also long-term contracts have a negative impact on natural gas market, as they limit allocability of capacity products at entry and exit points and access to VTPs .

In the present first report on conditionalities in contracts for firm capacity, ECRB benefitted from ACER experience on this topic. ACER published the report on the conditionalities stipulated in contracts for standard capacity product for firm capacity in April 2019 (hereinafter 'the ACER report').³ The ACER report is based on results of a study prepared by an external consultant,⁴ concluding that offering of conditional products and services affecting allocability occurs in some countries, mostly in Western

² On EU level this task is performed by ACER.

³

https://extranet.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%20Report%20on%20the%20conditionalities%20stipulated%20in%20contracts%20for%20standard%20capacity%20products%20for%20firm%20capacity.pdf

⁴

https://documents.acer.europa.eu/Official_documents/Publications/AnnexestotheACERReportontheconditionalitiesstipula/Underlying%20consultant%20study.pdf

Europe. Dedicated transit pipelines and legacy transit contracts are found in some South - South East European countries.

3. Definitions

Definitions of terms used in the present report are the same as those applied in the ACER report, namely:

1. FZK - Firm capacity, free allocability without any restrictions.

Conditional products

2. bFZK - Free allocability, but the possibility to use the contracted capacity is restricted in case a predefined external condition apply (temperature conditions, physical gas flows within the network).

3. BZK - Firm capacity with restricted allocability. The TSO defines specific entry-exit routs at which BZK products are available. Any additional use, including access to the VTP, is not possible.

4. DZK - Firm capacity with dynamic allocability. The TSO defines specific entry-exit routs at which DZK products are available. Any additional use, including access to the VTP, is offered on an interruptible basis.

Services leading to modified allocability

5. Operational capacity usage commitments (OCUC) – a point to point services for gas transportation between predefined combinations of entry and exit Interconnection Points (IPs). Users needs to book capacity at the relevant points to access the service. Access to any other network points, or the VTP is not possible. For transit users which not enter to the market area.

6. Shorthaul – a point to point service, where the distance between entry and exit points does not exceed a maximum predefined distance (for example 50-60 km). Access to the VTP is not possible. Users need to book capacity at the relevant points to access the service. A discount on the tariff is applied in case the service is used.

7. Wheeling – a point to point service for direct transportation of gas between two adjacent IPs located within the same physical connection facility. Users need to book capacity at the relevant points to access the service. A predefined combination of

network points with very short distance for user that wish to deliver and withdraw gas at the same border station but not to enter the market area. Tariffs to cover fixed costs of the TSO for providing the service are very low. Access to the VTP is not possible.

4. Scope and methodology

The information on conditionalities in contracts for firm capacity in Energy Community Contracting Parties was provided by the national regulatory authorities. National regulators have had the possibility to consult transmission system operators.

The questionnaire was organized in excel sheets for following conditionalities: bFZK, BZK, DZK, OCUC, Shorthaul, Wheeling and Long-term contracts.

Data was required separately for entry and exit interconnection points (IPs) for those conditionalities as regards:

- available conditional capacity
- booked conditional capacity and share of booked conditional capacity in all booked capacity
- information about which type of standard capacity products (yearly, quarterly, monthly, daily or within-day) are offered and booked for conditional capacity
- the name of the relevant IP
- tariff discounts for conditional capacity
- possible plans for removal of conditionalities
- possible plans for introduction of conditionalities.

Data presented in this report refers to the gas years 2018/2019, 2019/2020 and 2020/2021.

FINDINGS

Commercial consumption of natural gas in Energy Community is developed in Bosnia and Herzegovina, Georgia, Moldova, North Macedonia, Serbia and Ukraine.

The present report covers Georgia, Moldova, Serbia and Ukraine. Bosnia and Herzegovina and North Macedonia did not provide input to the survey.

Currently only Ukraine and Serbia have an entry–exit tariff system in place.

Only Ukraine has conditionalities other than long-term contracts.

Findings by countries are listed below.

Georgia

According to the information provided by the energy regulatory authority of Georgia, GNERC, there are no capacity contracts in Georgia. Technical capacity is allocated at the IPs of the Azerbaijani and Russian pipelines from where Georgia imports natural gas. Only Azerbaijani and Russian companies have access to these entry points. Therefore there is no capacity booking at these points and capacity contracts or booked capacity are not in place.

Moldova

The legislation of the Republic of Moldova exhaustively establishes the list of services provided by the natural gas transmission system operator, including the tariff applicable to those services. At present „Moldovatransgaz” LLC provides natural gas transmission services in accordance with the tariffs approved by national regulatory authority of Moldova, ANRE, by Decision no. 536/2019 of 27 December 2019. Tariffs are calculated according to the provisions of the ‘methodology for calculating, approving and applying the regulated tariffs for the natural gas transmission service’, approved by ANRE Decision no. 535/2019 of 27 December 2019. The capacity established under the contract for the provision of natural gas transmission services is firm and allocated without any restrictions (FZK). Transmission tariffs only have a commodity component. ANRE did not confirm existence of long-term contracts, but

confirmed that all natural gas quantities in previous periods came from one import source.

Serbia

The transmission tariff system in Serbia does not include conditionalities. The long-term transmission contract for transit to Bosnia and Herzegovina⁵ expired on 1 April 2021; since then, all network users pay the same entry- exit transmission tariffs.

Ukraine

The regulatory authority of Ukraine, NEURC, informed about implementation of shorthaul capacity, calculated as follows:⁶

$$\text{Shorthaul available capacity} = (\text{available firm capacity} + \text{available interruptible capacity}) - (\text{booked firm capacity} + \text{booked interruptible capacity}).$$

For the purpose of this calculation, 'shorthaul' means interruptible capacity for monthly, day-ahead and within-day periods.

Shorthaul capacity can be booked at the start of the offering period; however, in case shippers book all firm and interruptible capacity, shorthaul capacity will not be available and the transmission system operator will compensate the shippers that booked shorthaul capacity.

As described above, available shorthaul capacity is calculated dynamically by subtracting the booked firm and interruptible capacity from the amount of available firm and interruptible capacity.

Shorthaul services were offered in the last two gas years, i.e. 2019/2020 (since 01 January 2020) and 2020/2021. On entry IPs 237 918 MWh/day⁷ in 2019/2020 and

⁵ This contract put aside capacity of 15,871 MWh/day on entry IP Horgos and exit IP Zvornik. This capacity amounts 11,54% of technical capacity on entry IP Horgos and 75 % of technical capacity on exit IP Zvornik.

⁶ Ukraine informed that GTSOU offers shorthaul services. We could not confirm whether transmission distance is used as an element to define shorthaul services. According to shorthaul definition, presence of distance criterion is precondition for a conditionality to be considered as shorthaul. GTSOU have given discounts only for transmission between IPs with TSO from EU and underground gas storages.

⁷ The share of total technical capacity was 6,51%, the share of total booked capacity was 8,85%.

1 072 MWh/day⁸ in 2020/2021 were offered and booked.⁹ On exit IPs 8 117 MWh/day¹⁰ in 2019/2020 and 24 634 MWh/day¹¹ in 2020/2021 were offered and booked.¹²

The same IPs are offered as entry and exit points for shorthaul services. These are the IPs with Poland (GCP Gaz-System/UA TSO), Slovakia (*Uzhorod/Velke Kapusany*), Hungary (*VIP Bereg*) and Romania (*Tekovo/Meadiasu Aurit*).

Tariff discounts are defined for all shorthaul services. For all entry IPs in the gas years 2019/2020 and 2020/2021 applicable tariffs were multiplied by 0,66. For exit IPs for both gas years applicable tariffs were multiplied with 0,49 on the IP with Poland for both gas years, 0,36 on the IP with Slovakia and 0,44 on the IP with Hungary. The multiplier value 0,41 for the exit IP Romania is available only for the gas year 2020/2021, when shorthaul services was introduced for the first time.

The gas transmission system operator of Ukraine, GTSOU, is a new natural gas transmission company which has commenced work on 1 January 2020. Long-term transit contract with Gazprom Export expired on 31st December 2019. Due to the fact that the new transmission system operator is newly established legal entity, it was not possible to obtain information on the previously applied transmission tariffs for transit.

⁸ The share of total technical capacity was 0.04%, the share of total booked capacity was 0.09%.

⁹ Average annual capacity at all points for all kind of products (monthly, day-ahead and within day capacity).

¹⁰ The share of total technical capacity was 0.004%, the share of total booked capacity was 0.01%.

¹¹ The share of total technical capacity was 0.63%, the share of total booked capacity was 1.55%.

¹² Average annual capacity at all points for all kind of products (monthly, day-ahead and within day capacity). The share of total technical capacity was 0.04%, the share of total booked capacity was 0.09%.

SUMMARY OF FINDING AND RECOMMENDATIONS

Except for Ukraine and Serbia an entry-exit system has not been implemented in the analysed Contracting Parties. Therefore, as a **first priority transmission tariff systems with entry-exit tariffs for booked capacity should be introduced** in all Energy Community Contracting Parties with operating gas markets.

Long term transport contracts exist or existed in all reviewed Energy Community countries.

Conditionalities in contracts limit full access to the entry-exit system and deviate from from preferable gas market design. Therefore it is therefore **recommended to reduce or eliminate all conditainalities** without reducing the amount of firm cross-border capacity offered. If conditionalities are applied, they should however be implemented on all entry or/and exit points of the transmisson system equally and in a transparent manner with a goal to avoid any kind of discrimination between network users.