

## **8.1. GENERAL RULES OF CAPACITY BOOKING**

- (a) Pursuant to the provisions of the Gas Supply Act and the Implementation Decree the available capacities of the natural gas network may and shall be offered to network users and booked pursuant to the Code by the transmission system operator in case of the natural gas transmission network, by the natural gas distributor in case of the natural gas distribution system, and by the licensed operator of the natural gas storage facility in case of the natural gas storage system.
- (b) The available capacities at the entry/exit points of the connected systems shall be published by the relevant system operators and harmonised prior to publication. Available capacities shall be offered by the transmission system operator
  - in the form of standard capacity products stipulated in Article 9 of Regulation (EU) No 2017/459 or
  - in the form of non standard capacity products stipulated in Clause 8.3.
- (c) The entities listed in Clause 3.1.3 have the right to take part in the procedure of allocating available capacities.
- (d) The network user or its agent shall book the capacity required to perform the commercial transaction planned by it, with the transmission system operator, the natural gas distributor and the licensed operator of the natural gas storage facility separately.
- (e) Capacities booked shall be used by network users in compliance with the law on the use of the integrated natural gas system and the provisions of the Code.

## **8.2. Rules applicable to interruptible capacities**

- (a) Interruptible capacities may be used in accordance with the terms and conditions, and to the extent agreed in the network usage contract concluded with the transmission system operator. In case of capacity interruption no natural gas may be injected into or withdrawn from the network against interrupted capacities.
- (b) Interruptible capacities may be sold on the natural gas transmission network at a given network point as follows:
  - i. If the firm capacity offered for sale in a booking period has been booked by network users as capacity product to the extent stipulated in the Price Application Decree, the transmission system operator may offer interruptible capacities for the given booking period.
  - ii. The capacity allocation procedure related to interruptible capacities shall be conducted following the firm capacity allocation published for the same service period and successfully closed but before the capacity allocation procedure of the next firm short-term product.
- (c) On the natural gas distribution network users may book interruptible capacities at the utilisation place to the extent of the capacity purchased only if at the entry point of the natural gas distribution network the transmission system operator has no firm capacities and undertakes to offer interruptible capacities.

- (d) Network users may also book interruptible capacities on the natural gas storage facility network as well. If the available capacities at the storage facility have been fully booked by network users, the system operator may offer interruptible natural gas storage capacities. The rules of booking interruptible natural gas storage capacities shall be stipulated in Clauses 8.11.1.8 and 8.11.1.9.

### **8.3. Capacity booking for the off-winter period**

- (a) Off-winter period capacity shall be deemed non standard capacity product. In accordance with the terms and conditions stipulated in the relevant clauses of the Price Application Decree transmission system operators and natural gas distributors shall enter into an off-winter network usage contract pursuant to which the network user is entitled to use off-winter capacities in accordance with the terms and conditions, and to the extent agreed in the contract concluded with the system operator.
- (b) Those network users may be entitled to book off-winter capacities that are in possession of the certificate issued by the Authority that authorizes the network user to book capacity during the off-winter period. Network Users shall submit a data supply as per the relevant annex of the Price Application Decree<sup>1</sup> to the Authority when applying for for such certificate.
- (c) The certificate approved by the Authority shall be submitted by the network user to the transmission system operator at least 4 business days before the commencement of the auction related to booking off-winter capacities. The auction related to booking off-winter capacities shall be conducted by the transmission system operator on the second Monday of August in such a way that the capacity to be offered at a given network point shall be the sum of the capacities initiated in the certificates in relation to the given network point as per paragraph (b) or the available capacity of the given network point, whichever is the lesser.
- (d) Off-winter capacity on the natural gas distribution network may be booked to the extent of the purchased capacities reduced by the annual firm capacity. Network users may submit their off-winter capacity demand on the second Monday of August. Network users may submit the certificates issued by the Authority to the natural gas distributor 4 business days before the due date of capacity booking. Off-winter capacities of the distribution pipelines of the shall be booked in the same manner as, but separately from the annual capacity booking procedure.
- (e) Off-winter capacity may be booked to the extent and at the network point stated in the certificate. If a network user participates in the auction with a capacity demand larger than the extent permitted in the certificate, the transmission system operator shall declare the auction to be invalid, and announce a new auction meeting the publication deadline. Network users participating in the auction with capacity demand higher than that indicated in the certificate, shall be liable for all kinds of damages. In case the capacity demand of a network user exceeds the extent indicated in the certificate, the natural gas distributor shall dismiss the surplus.
- (f) Off-winter capacities on the transmission pipelines shall be booked in the same manner as, but separately from the annual capacity booking procedure as stipulated in the Capacity Booking Platform Regulation.

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<sup>1</sup>Annex No. 10 of the Price Application Decree

- (g) Booked off-winter capacity may be used by the network user under the following conditions beside the provisions of the Price Application Decree:
- i. as firm capacity in the period between 1 April and 30 September;
  - ii. as special capacity in the period between 1 October and 31 March, nominations submitted with respect to such special capacity shall be assessed by the system operator after the confirmation of nominations received for firm capacity bookings, together with the nominations received for interruptible capacity bookings in the order defined in paragraph (a) of Clause 9.2.9 subject to the availability of remaining available capacities.

## **8.4. RULES OF CUSTOMER MIGRATION**

- (a) Customers have the right to switch to another natural gas trader pursuant to the relevant sections of the effective Gas Supply Act and the Implementation Decree<sup>2</sup>.
- (b) Customers become entitled to the right to switch to another trader upon the expiry of the fixed term contract concluded with the natural gas trader, or in case of the termination of the contract if such is done on a date complying with the terms and conditions of termination stipulated in the contract concluded with the natural gas trader. Customers entitled to universal service may terminate the universal service agreement concluded for a fixed term in writing with a 30-day termination from the receipt of the termination notice by the natural gas trader.
- (c) 30 days before the expiry of the fixed term contract the user shall notify the trader in writing if it has no intention of entering into a new contract with the trader.

### **8.4.1. Rules related to the amendment of capacity booking contracts, and transactions of capacities**

- (a) Within 5 days after the receipt of the termination notice or in case of termination for the expiry of the fixed term contract, the customer's notice under paragraph (c) in Clause 8.4, the previous natural gas trader shall send to the customer, and if the new natural gas trader is acting on behalf of the customer, then to the new natural gas trader a written notice of
- i. either the confirmation of the termination,

Upon the confirmation of the termination or the expiry of the contract, the previous natural gas trader deliver the following information and customer data with respect to the termination of the contract:

- conditions precedent to the termination entering into force:
  - termination date of the natural gas trade contract,
  - the conditions not met at the time the termination was submitted, with the compliance with which the termination comes into effect.
- customer data:
  - special ID number of the service location,
  - the capacity purchased by the customer at the given service location,

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<sup>2</sup> Section 31/A-C of the Gas Supply Act and Section 26/A-B. of the Implementation Decree

- if the previous natural gas trader has already booked capacities for the customer, the entry-exit capacities booked, offered to the new natural gas trader,
    - the customer profile category of the customer.
  - ii. or the dismissal of the termination by a customer not supplied within the framework of universal service together with a specification of the reasons for the dismissal.
- (b) If the customer data indicated in the clause above is not available to the previous natural gas trader, then it has the right to request them from the relevant system operators.
- (c) The new natural gas trader shall initiate the conclusion or amendment of the network usage contracts with the relevant system operator immediately after the termination by the customer is accepted by the previous natural gas trader, but not later than 21 days before the termination date of the previous commercial contract.
- (d) With the exception of the transmission entry capacities, the transmission exit capacities related to the storage entry and the storage facility capacities, the customer or the new natural gas trader acting on behalf of it shall book the same capacity for the customer at the system operator within the gas year at the network point, and time proportionate capacity fee shall be paid until the end of the gas year. The transmission entry capacities, the transmission exit capacities related to the storage entry and the storage facility capacities shall be offered by the previous natural gas trader to the customer or the new trader supplying the customer. If the customer or the new natural gas trader accepts it, then the customer or the new natural gas trader shall book the same capacities at the network points with the system operator, and it shall pay the time proportionate capacity fee before the end of the gas year in case of transmission and distribution capacities, before the end of the storage year in case of storage capacity. If the customer or the new natural gas trader does not accept the transmission entry capacities, the transmission exit capacities related to the entry and the storage facility capacities offered by the previous natural gas trader, then the capacity booking of the previous natural gas trader shall remain unchanged, and so shall the obligation to pay the fees.
- (e) The relevant system operator shall conclude or amend the network usage contracts within 4 days after the termination of the previous natural gas trading contract in the manner described in its business code, and it shall send the annex of the contract with the customer data to the relevant network user in the electronic form specified in the Data Exchange Model.

#### **8.4.2. Rules of clearing accounts with the customer**

- (a) In case of customer migration the closing/opening meter readings of the customer shall be defined pursuant to the provisions of the applicable section of the Implementation Decree<sup>3</sup>.
- (b) Within 20 days from the termination of the natural gas trading contract the previous natural gas trader shall issue a final invoice in consultation with the customer and the new natural gas trader.

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<sup>3</sup>Section 26/A of the Implementation Decree

- (c) If the customer performed its obligations related to customer migration, but the one of the natural gas traders or the system operator fails to perform its own obligations related to customer migration, and as a result customer migration cannot be completed, the previous natural gas trading contract of the customer remains in force with unchanged terms and conditions. The natural gas trader or system operator who fails to comply with the obligations related to customer migration, because of the frustration of migration, shall pay the damages and the costs thereof including interests of those who are concerned.
- (d) If following the termination of the non-retail natural gas trading contract the user entitled to universal services wishes to use universal services again, the universal service provider has the right to request from the customer the natural gas trader's certificate that proves that the natural gas trading contract was terminated for reasons other than disconnection resulting from non-payment. The natural gas trader shall issue the certificate at the request of the non-retail consumer entitled to universal services if the conditions are met.
- (e) During data exchange related to customer migration the natural gas distributors and network users may apply the provisions of Chapter 2 Rules of distributor's - trader's data traffic in Annex No. XVIII.
- (f) The process description of customer migration shall be set out in the Rules of distributor's - trader's data traffic.

## **8.5. RULES AND TERMS AND CONDITIONS OF SUSPENDING ACCESS**

- (a) System Operators may suspend access to the networks operated by them in the cases listed in the applicable section of the Gas Supply Act<sup>4</sup> and in the applicable section of the Implementation Decree<sup>5</sup> taking the exceptions defined therein into consideration:
  - i. the transmission system operator shall order limitation measures to be instituted which shall be performed pursuant to the procedural rules complying with Clause 11.3. herein;
  - ii. the quality of the natural gas to be supplied into the network failed to comply with the requirements stipulated in Clause 4.2.1. herein;
  - iii. the network user fails to continuously comply with and maintain the terms and conditions, and guarantees required in the applicable sections of the Gas Supply Act, other laws, herein or in the Business Code of the system operators;
  - iv. the network user fails to pay the network usage charge;
  - v. the provision of access poses a danger to life or the safety of property;
  - vi. at the initiative of the network user for the breach of contract by the customer in the manner stipulated herein.
- (b) If a customer is supplied by one natural gas trader, the transmission system operator shall suspend access to the transmission network in case of the network user's written demand delivered to the transmission network operator for the exclusion of the user from the direct transmission pipeline and in case of a simultaneous zero nomination.

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<sup>4</sup> Section 77 of the Gas Supply Act

<sup>5</sup> Section 86(1) of the Implementation Decree

- (c) If a customer is supplied by more than one natural gas trader, then in case of the network user's written demand delivered to the transmission system operator for the exclusion of the customer of the transmission pipeline and in case of a simultaneous zero nomination no quantity may be allocated to the network user initiating exclusion.
- (d) The neighbouring network operator shall send a notice to the transmission system operator about the occurrence of the cases under paragraphs (a) ii-vi and (b).
- (e) The process of suspending the service pursuant to paragraphs (a) ii.-vi. shall be as follows:
  - i. The system operator shall issue an oral or written order to suspend the services provided by it on the transmission and distribution pipeline operated by it, or on the natural gas storage facility towards network users and neighbouring network operators. Oral requests shall at all times be confirmed by the system operator in writing within 24 hours. Suspension of access shall be justified by the system operator.
  - ii. Neighbouring network operators shall send oral or written notices of the request to customers supplied by them and affected by the suspension. Oral requests shall at all times be confirmed by the neighbouring network operators in writing within 24 hours. Suspension of access shall be justified by the system operator.
  - iii. Customers involved in the suspension shall discontinue the reception of natural gas after the receipt of the notice.
  - iv. Should a customer fail to discontinue its reception of natural gas, such shall be deemed reception without a contract. The refusal of access shall be reported by the system operator to the Authority within 3 days from the occurrence of the event on which such refusal is based. The report shall be investigated by the Authority within 10 business days from receipt.

## **8.6. BOOKING AVAILABLE CAPACITY ON NATURAL GAS TRANSMISSION PIPELINES**

- (a) With respect to entry/exit points of the natural gas transmission pipeline where network users are obliged to book capacity, capacity booking shall take place on the Capacity Booking Platform pursuant to the allocation mechanism stipulated in Regulation (EU) No. 2017/459 and on the Informatic Platform of the transmission system operator in case of over-nomination procedure. The terms and conditions of capacity allocation and booking, and also the manner in which network usage contracts are concluded shall be defined in the Regulation (EU) 2017/459, the applicable sections of the Gas Supply Act<sup>6</sup> and the Implementation Decree<sup>7</sup>, the Capacity Booking Platform Operational Rules, the business code of the transmission system operator and Clause 8.6.1 to the present BCC in case of over-nomination procedure.
- (b) Only those network users that meet the following requirements before the date stipulated in the Capacity Booking Platform Operational Rules are entitled to take part in the capacity booking procedure:

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<sup>6</sup> Sections 71-79 of the Gas Supply Act

<sup>7</sup> Sections 73-92/C of the Implementation Decree

- i. registered itself on the Capacity Booking Platform and entered into the Network User Membership Agreement;
  - ii. in case of network users performing activities requiring a license, the existence of the license issued by the Authority has been verified to the transmission system operator;
  - iii. Network Usage Framework Contract is concluded pursuant to the business code of the transmission system operator ;
  - iv. Informatic Platform User Contract is concluded;
  - v. the contractual securities have been made available in the manner stipulated in the business code of the transmission system operator and the Capacity Booking Platform Operational Rules.
- (c) Capacity shall be booked for each entry and exit point of the natural gas transmission pipeline. The measure of capacity booking is kWh per hour calculated based on the combustion heat of 25/0 °C reference temperature at the entry/exit points.
- (d) The rules stipulated in this chapter shall not apply to the sale of the capacity at entry/exit points planned to be set up in the future on the natural gas transmission network prior to the installation of the relevant capacity within the framework of the so-called “open season” procedure approved by the Authority in advance or within the framework of another procedure equivalent.
- (e) With respect to cross-border entry/exit points and storage facility entry/exit points the commencement date of the transmission network capacity allocation procedures shall be defined in the auction calendar of the ENTSOG, while the commencement date of the capacity allocation auctions regarding other entry/exit points shall be defined in the capacity allocation calendar stipulated in relevant annex of the Implementation Decree.<sup>8</sup>
- (f) The transmission system operator shall undertake to transmit natural gas in an uninterrupted and unlimited manner up to the extent of firm capacities offered and booked if the sources are available, save for the cases stipulated herein.
- (g) Natural gas shall only be transmitted if the contractual securities stipulated in the business code of the transmission system operator are available.
- (h) The transmission system operator shall be entitled not to conduct or suspend the capacity allocation procedures regarding the capacities published pursuant to Clause (e) only if the given type of capacity is not available at the given entry/exit point in the given supply period for commercial or technical reasons.

### **8.6.1. Capacity booking through over-nomination procedure**

- (a) In accordance of the relevant provision<sup>9</sup> of Regulation (EU) No 2017/459 within-day interruptible capacities are allocated through over-nomination procedure at cross-border entry/exit points, unless otherwise indicated by the Authority with regard to a given cross-border entry/exit point.
- (b) Over-nomination is possible at those cross-border entry/exit points, where all firm capacity has been booked or firm capacity was not offered at all.
- (c) The over-nomination of a given network user shall not exceed the quantity of the interruptible capacity offered at a given cross-border entry/exit point.

<sup>8</sup> Annex No. 15 of the Implementation Decree

<sup>9</sup> Article 32 of Regulation (EU) No 2017/459

- (d) If the capacity of the network user that can be nominated for, is less than the nomination of the same network user in the given flow direction, at the given cross-border entry/exit point and the transmission system operator has offered interruptible capacity, then within-day interruptible capacity is going to be allocated automatically for the whole difference following the beginning of the renomination cycles from the hour that cannot be modified by renomination, till the end of the gas day.
- (e) Following the allocation described in point (d) the transmission system operator notifies the network user of the allocation result.

## **8.7. PROCEDURAL RULES FOR CAPACITY SURRENDER AND CAPACITY TAKE-BACK**

### **8.7.1. Surrender of booked capacities**

- (a) Save for one-day or even shorter capacity bookings, the transmission system operator shall accept the surrender of firm capacity booked at a given cross-border entry/exit point by the network user. Bundled capacity can be surrendered only as bundled capacity.
- (b) Firm capacities offered to be surrendered shall be taken into consideration as available capacities in the sale of short-term capacities if they were returned before 12 a.m. on the business day prior to the publication date of the auction concerning the given short-term capacities.
- (c) The rights and obligations arising from the network usage contract shall be reserved by the network user until and to the extent any part of the capacity surrendered by it is sold again by the transmission network operator of which the transmission system operator shall immediately notify the network user.
- (d) The capacity surrendered shall be recorded among the available capacities for network users during booking procedures.
- (e) Capacities surrendered may only be sold after the sale of other available firm capacities at the given point by the transmission system operator. Capacities surrendered are sold on the basis of timestamp, i.e. the surrender submitted earlier shall be sold earlier.
- (f) Capacities surrendered shall not be sold on the secondary capacity market and shall not be transmitted to another network user during customer migration.
- (g) The quantity delivered/received by the given network user through secondary capacity trade is taken into account during capacity surrender in such a way that the quantity delivered shall decrease but the quantity received shall not increase the capacity of the network user that can be surrendered.
- (h) During the procedure of capacity surrender, if the transmission system operator sold the capacity surrendered in part or in full, the financial clearing shall be settled with the network user on the basis of the Price Application Decree. The concerning network user surrendering the capacity shall not hold a share of the auction premium income, if any, regarding the surrendered capacity sold by the transmission system operator through capacity auctions.



### **8.7.2. Take back of long-term booked capacities (long term 'use-it-or-lose-it' mechanism)**

- (a) The surrender of a part or the whole of the capacity booked and regularly left unused by the network user at a given cross-border entry/exit point shall be accepted if the unused capacity was not sold by the network user in secondary capacity trade, and other network users request firm capacity booking at the given cross-border entry/exit point, but there is no sufficient firm capacity available at the given point.
- (b) Booked capacities may be considered regularly unused if:
  - i. the contract applies to a period longer than one year, and on average less than 80 per cent of the booked capacity is used both between 1 April and 30 September, and 1 October and 31 March according to the allocated date, and such conduct was not properly justified; or
  - ii. the first nomination submitted for a given gas day is regularly higher than 80 per cent of the capacity booked, but the last valid nomination resulting from the re-nomination(s) submitted for the given gas day is less than 80 per cent of the booked capacity.
- (c) In the procedure under paragraph (b), if the transmission system operator finds that, on the basis of the allocated data, the network user holding a contract concluded for a period longer than one year, on average uses less than 80 per cent of the booked capacity both between 1 April and 30 September, and 1 October and 31 March, the transmission system operator shall notify the Authority and the network user concerned about the fact of the unused capacity. In the notice the transmission system operator shall indicate that other network users submitted requests for firm capacity at the given network point and this request could not be satisfied for the lack of available capacity. At the request of the Authority the network user shall verify within 5 days that the capacity booked, but not used has been sold or offered for sale in secondary capacity trade. If based on the reasoning the Authority decides that the unused capacity has not been offered for sale by the network user with reasonable terms and conditions on the secondary market, then it shall issue a resolution in which it orders the capacity to be surrendered to the transmission system operator and to be offered for sale.
- (d) From 1 July 2016 the application of the firm day-ahead 'use-it-or-lose-it' mechanism shall not be considered as appropriate reason for not applying paragraph (a).
- (e) As a result of the take-back the network user loses the capacity booked for a given period of time or the unused capacity partially or fully for the remaining period of the contract.
- (f) The rights and obligations arising from the network usage contract shall be reserved by the network user until and to the extent any part of the capacity taken back is allocated again by the transmission system operator of which the transmission network operator shall immediately notify the network user.
- (g) Surrendered capacities shall not be sold on the secondary capacity market and shall not be transmitted to another network user during customer migration.
- (i) The quantity delivered/received by the given network user through secondary capacity trade is taken into account during long term 'use-it-or-lose-it' mechanism in such a way that the quantity delivered shall decrease but the quantity received shall not increase the capacity that can be surrendered.

- (j) Surrendered capacities shall be sold only following the sale of other, available, firm capacities of transmission system operator at the given network point. Surrendered capacities are sold on the basis of timestamp, i.e. the capacity taken back earlier shall be sold earlier.
- (k) The provisions of paragraphs (a) and (b) of Clause 8.7.2 shall be applied to the capacities obtained in the secondary capacity market. In this case the provisions of paragraph (j) of Clause 8.7.2 regarding the capacity booking fee shall be enforced against the primary capacity booking network user, while with respect to the volume and odorization fee they shall be enforced against the network user to whom the capacity was transferred on the secondary market. With respect to the contractual relationship between the capacity transferer and transferee parties participating in the secondary capacity market transaction, the transmission system operator shall not be liable whatsoever, such contractual relationship shall not stipulate any obligations for the transmission network operator. Following the completion of the take-back and the re-sale the capacity transferer and transferee parties shall settle accounts with each other regarding their other rights and obligations arising from the secondary market transaction.
- (l) In the long-term 'use-it-or-lose-it' mechanism, if the transmission system operator sold the capacities taken back in part or in full, the financial clearing shall be settled with the network user who surrendered the capacity, on the basis of the Price Application Decree. The network user takes no share of the action premium income, if any, regarding taken back capacity sold by the transmission system operator through capacity auctions.

### **8.7.3. Capacity extension by applying the overbooking-repurchase mechanism**

- (a) The transmission system operator shall file a proposal with the Authority before 30 November of the year before the following gas year that shall contain an incentive based overbooking-repurchase mechanism as a result of which firm extra capacities can be offered in the system. If the proposed mechanism is approved by the Authority, the transmission system operator shall implement such mechanism prior to the following gas year and offer extra capacity for booking for the following gas year before 31 December. Extra capacity shall mean the firm capacity offered over and above the technical capacity defined for the cross-border entry/exit point. The Authority approved it, but requires to amend it.
- (b) The overbooking-repurchase system shall encourage the transmission system operator to make additional capacity available subject to the technical conditions, including combustion heat, the temperature, the expected consumption in the entry/exit system involved and the capacities available on neighbouring networks.
- (c) The incentive system on which the overbooking-repurchase mechanism is based, should reflect the risk taken by the transmission system operator in offering extra capacity. The mechanism shall be developed in a way that the transmission system operator and the network users share the income from the sale of the extra capacity and the costs arising from the repurchase or the measures under paragraph (f). The Authority shall define the distribution of the income and the costs between the transmission system operator and the network users.

- (d) When the income of the transmission system operator is defined, the allocation of the technical capacity, in particular the surrendered capacity and capacity arising from the application of the long-term 'use-it-or-lose-it' mechanisms, shall be considered to have taken place before that of the extra capacity, if any.
- (e) In defining the extra capacity the transmission system operator shall take into consideration the statistical scenarios related to the possible quantities of capacities existing, but physically unused at the cross-border entry/exit points in different points of time. Furthermore, when offering extra capacity the transmission system operator shall take into consideration a risk profile that does not entail excessive repurchase obligation. The overbooking-repurchase mechanism should provide an estimate of the possibility and costs of market capacity repurchases, and such estimate shall be taken into consideration in defining the value of the extra capacity offered.
- (f) If, in order to maintain the integrity of the system, it is necessary the transmission system operator shall apply a transparent market based repurchase procedure that allows network users to offer capacities. Network users shall be notified of the repurchase procedure to be applied. The application of the repurchase procedure shall not affect the implementation of emergency measures.
- (g) Prior to the application of the repurchase procedure the transmission system operator shall verify that the system integrity cannot be maintained through other technical and commercial measures in a more cost effective way.
- (h) The Authority may request the transmission system operator to review the mechanism.

#### **8.7.4 Firm day-ahead 'use-it-or-lose-it' mechanism**

- (a) The Authority – after consulting the concerning neighbouring national regulatory authority – may require the transmission system operator to apply the firm day-ahead 'use-it-or-lose-it' mechanism at a given cross-border entry/exit network point, if on the basis of the yearly monitoring report of the Agency regarding cross-border points, in accordance with point 2.2.1(2) of Annex I to Regulation (EC) No 715/2009, it is shown that demand exceeded offer, at the reserve price when auctions are used, in the course of capacity allocation procedures in the year covered by the monitoring report for products for use in either that year or in one of the subsequent two years,
  - i. for at least three firm capacity products with duration of one month or
  - ii. for at least two firm capacity products with duration of one quarter or
  - iii. for at least one firm capacity product with a duration of one year or more or
  - iv. where no firm capacity product with duration of one month or more has been offered.
- (b) On the basis of the mechanism, the renomination of the network user for firm capacity is defined as follows:

Nomination	The lower quantitative limit of the firm capacity in the probable renomination	The upper quantitative limit of the firm capacity in the probable renomination
$20\% < \sum Q_{fnom} \leq 80\%$	$\sum Q_{fcap} * 10\%$	$\sum Q_{fcap} * 90\%$
$\sum Q_{fnom} > 80\%$	$\sum Q_{fcap} * 10\%$	$\sum Q_{fcap} - ((\sum Q_{fcap} - \sum Q_{fnom})/2)$
$\sum Q_{fnom} \leq 20\%$	$\sum Q_{fnom} / 2$	$\sum Q_{fcap} * 90\%$

$\sum Q_{fnom}$ : sum of the quantities nominated by the network user for the firm capacities available at a given cross-border entry/exit network point as per point (d).

$\sum Q_{fcap}$ : sum of the firm capacities available for the network user at a given cross-border entry/exit network point as per point (d).

The application of the firm day-ahead 'use-it-or-lose-it' mechanism is without prejudice to the applicable emergency measures in case of crisis, gas-supply breakdown or technical malfunction.

- (c) The network user may renominate the part of its contracted firm capacity that is restricted in accordance with point (b), on an interruptible basis.
- (d) When defining the firm capacity booked as per point (b), the quantity delivered/received through secondary capacity trade is taken into account in such a way that in case of delivery it shall decrease the booked firm capacity, in case of receipt it shall increase that but maximum to the extent of the capacity primarily booked. The delivered/received capacities recorded during the capacity surrender and the long term 'use-it-or-lose-it' mechanism shall decrease the booked firm capacity taken into account during the procedure.
- (e) The renomination limits as per point (b) related to the given gas day and the given network user shall be defined by 16.00 on the calendar day prior to the gas day on the basis of the nominations submitted for the gas day till 14.00 and the booked firm capacities defined as per point (d). The transmission system operator sends a notification of the result to the network user concerned.
- (f) Due to the restriction defined in point (b), the network user is not eligible for capacity fee refund and nomination difference surcharge on behalf of the transmission system operator.
- (g) Restriction described in point (b) shall not apply to network users defined in point 2.2.3 (5) of Annex I to Regulation (EC) No 715/2009.
- (h) If, on the basis of the yearly monitoring report mentioned in point (a), it is shown that a situation as defined in point (a) is unlikely to reoccur in the following three years, the Authority may decide to terminate the firm day-ahead 'use-it-or-lose-it' mechanism at the concerning interconnection entry/exit point.
- (i) On cross-border entry/exit points where the Authority orders to apply a firm day-ahead 'use-it-or-lose-it' mechanism, an evaluation of the relationship with the oversubscription and buy-back scheme pursuant to point 8.7.3 shall be carried out by the Authority, which may result in a decision by the Authority not to apply the provisions of point 8.7.3 at those cross-border entry/exit points. Such a decision shall be notified, without delay, to ACER and the Commission.

## 8.8. Use of the MGP

- (a) The MGP point is used to perform other title transfer transactions performed beyond the scope of the TP, the organised natural gas market and the above.

- (b) To use the MGP network users shall enter into a network usage and a title transfer contract with the transmission system operator. The clearing house delivers trade notifications to the transmission system operator within the framework of the cooperation agreement concluded with the transmission system operator and/or the organised natural gas market licensee.
- (c) With respect to the MGP the contract under paragraph (a) shall not stipulate any capacity limitation.
- (d) In using the MGP network user shall not book capacities, and they shall not pay any capacity or volume fee with respect to the MGP.
- (e) All transactions concluded at MGP are allocated as trade notifications in the shipping portfolio of the network user.

## **8.9. SECONDARY CAPACITY TRADE**

### **8.9.1. General rules of secondary capacity trade**

- (a) This chapter shall regulate the secondary capacity transactions conducted outside the TP. The procedural rules of the secondary capacity transactions conducted on the TP shall be regulated by the TP regulation.
- (b) Network users with capacity bookings may sell the capacity booked by them partially or fully to other network users with the same rights and obligations.
- (c) Network users may sell their capacities only if network usage contract regarding these capacities has been concluded.
- (d) In the secondary market capacities may only be purchased by network users that have a network usage contract with the relevant system operator.
- (e) If the original capacity holder has already made a nomination with respect to the capacity to be transferred for a given gas day, the bi-lateral capacity transaction shall be refused by the system operator.
- (f) The original network user shall continue to pay the entry/exit point capacity booking fees to the system operator pursuant to the primary network usage contract. The volume based network usage and odorization fees shall be paid by the secondary transferee network user.
- (g) If the original capacity holder loses its network usage right, temporarily or permanently, the system operator has the right to take back the capacity booked by the given network user, including the capacities with a right to use which has already been transferred by the capacity holder to third parties within the framework of secondary capacity trade.

### **8.9.2. Secondary capacity trade on the natural gas transmission network**

- (a) Network users with primary capacity booking shall announce their secondary capacity sale demand on the Capacity Booking Platform together with the main parameters on the day prior to the gas day before the start of the second hour prior to the nomination due time.
- (b) The main parameters of capacity sale demand are defined in the concerning chapter of the Capacity Booking Platform Regulation.
- (c) Capacities re-sold in secondary trade may be enforced only if they are confirmed by the other party participating in the capacity sale on the Capacity Booking

Platform. Until the re-sold capacity is confirmed on the Capacity Booking Platform, the network user booking the primary natural gas transmission capacity continues to dispose of the whole capacity primarily booked, including the option of selling the capacity on the TP. Secondary market transactions registered on the Capacity Booking Platform shall be considered as a network usage contract in applying this rule.

- (d) Monitoring of natural gas transmission system capacity overrun shall be performed by the transmission system operator taking into account the secondary capacity sales. As a part of this, capacities purchased from other network user in secondary capacity trade shall be considered as an increase, while capacities sold to other network user in secondary capacity trade as a decrease in the available capacities regarding the given network point and service period. Capacities taken over or transferred shall be taken into consideration pursuant to the valid data file of the Capacity Booking Platform.

## **8.12. CERTIFICATION OF CAPACITY BOOKING RIGHT IN CASE OF CROSS BORDER DELIVERIES VIA HUNGARY, OR LEASED STORAGE IN UNDERGROUND GAS STORAGE FACILITIES**

- (a) When booking capacities, foreign or Hungarian network users, who use the available capacities of the natural gas transmission network for cross border deliveries through the territory of Hungary or leased storage in underground gas storage facilities, shall submit a certificate to the transmission system operator in which it specifies the border entry, or the storage entry and the border exit point of the transmission network through which it intends to transmit the natural gas or perform the leased storage activity in underground gas storage facilities.
- (b) Based on the statement above the given foreign or Hungarian network user may take part in the capacity auction with respect to the entry/exit points indicated therein.
- (c) The quality of the supplied gas guaranteed by the network user requesting capacity shall comply with the requirements of 2H quality natural gas stipulated in Annex No. 11 of the Implementation Decree, and also the quality requirements stipulated in the cooperation agreement between the neighbouring network operators, with respect to the entry/exit point.