

**RECOMMENDATION No 02/2024
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS**

of 20 December 2024

**on reasoned proposals for amendments to the Commission Regulation (EU)
2017/459 of 16 March 2017 establishing a network code on capacity
allocation mechanisms in gas transmission systems and repealing
Regulation (EU) No 984/2013**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators¹, and, in particular, Articles 3(1) thereof,

Having regard to Regulation (EU) 2024/1789 on the internal markets for renewable gas, natural gas and hydrogen², and, in particular, Articles 71(2)(b) and 73(3) thereof,

Having regard to the outcome of the public consultations,

Having regard to the outcome of the consultation with ACER's Gas Working Group,

Having regard to the favourable opinion of the Board of Regulators of 18 December 2024, delivered pursuant to Article 22(5) of Regulation (EU) 2019/942,

Whereas:

1. INTRODUCTION

- (1) In April 2024 the European Commission invited ACER to submit to the Commission by December 2024 reasoned proposals for amendments (the 'reasoned proposals') to the Commission Regulation (EU) 2017/459 establishing a network code on Capacity Allocation Mechanisms in gas transmission system (hereafter: CAM NC)³. ACER

¹ OJ L158, 14.6.2019, p. 22.

² OJ L series, 15.7.2024.

³ OJ L 72, 17.3.2017.

prepared these reasoned proposals in accordance with Article 73(3) of Regulation (EU) 2024/1789 and Article 14 of Regulation (EU) 2019/942.

- (2) ACER acknowledges the importance of having European market rules that can readily align with the latest market developments, while guaranteeing that the decarbonisation targets set by the Green Deal can be met. As such, ACER recognises the need to revise the CAM NC which lays down details of the European market rules on the allocation of gas transmission capacity.
- (3) In May 2024, ACER published a draft Policy Paper⁴ that reflected ACER's considerations on the main areas of improvement to CAM NC following input received from stakeholders at the end of 2023 and the beginning of 2024.
- (4) The Policy Paper mainly built on ACER's Special Congestion Report ('Addressing congestion in North-West European gas markets')⁵ and the joint ACER-ENTSOG Solutions Note on the FUNC case 01/2020 ('Greater flexibility to book firm capacity at IPs')⁶.
- (5) Additionally, the 'EU hydrogen and gas decarbonisation package'⁷ ('decarbonisation package') introduced new regulatory elements to advance decarbonisation, enhance security of supply, and facilitate regional cooperation. CAM NC provisions are to be brought in alignment with this legislation.

2. PROCEDURE

- (6) From October 2023 until January 2024, ACER carried out a preliminary analysis to investigate what are the main achievements and potential improvements to the market rules for capacity allocation and to determine the scope of a potential revision of the CAM NC ('scoping'). To this end, ACER conducted a **public consultation**⁸ from 14 November 2023 to 5 January 2024 inviting stakeholders to identify the topics that deserve being investigated towards improving the CAM NC rules ('**scoping consultation**'). On 12 December 2023, ACER also organised an online workshop on the same topic.

⁴ Policy paper on the revision of the network code on capacity allocation mechanisms in gas transmission systems ('CAM NC revision'), available at: https://www.acer.europa.eu/sites/default/files/documents/Official_documents/Public_consultations/PC_2024_G_03/CAM_NC_revision_policy_paper_2024.pdf.

⁵ ACER Special Congestion Report, available at: https://acer.europa.eu/sites/default/files/documents/Publications/ACER_Special_Report_Congestion2023.pdf.

⁶ <https://www.gasncfunc.eu/gas-func/issues/01/2020/view>.

⁷ https://energy.ec.europa.eu/topics/markets-and-consumers/hydrogen-and-decarbonised-gas-market_en.

⁸ Public consultation on the Capacity Allocation Mechanisms Network Code: achievements and the way forward (scoping consultation), available at: <https://www.acer.europa.eu/documents/public-consultations/pc2023g09-public-consultation-capacity-allocation-mechanisms-network-code-achievements-and-way-forward>.

- (7) ACER shared its draft scoping conclusions⁹ with the European Commission, who in its response letter of 11 April 2024 asked ACER to submit proposals according to the process foreseen in the legislation for preparing amendments to network codes.
- (8) Building on ACER's scoping activity as well as on the Commission's invitation to submit reasoned proposals on revising the CAM NC, ACER launched an **early consultation**¹⁰ with stakeholders from 8 May 2024 until 14 June 2024 based on ACER's policy paper ('**policy consultation**'). Through this consultation, ACER collected stakeholders' views and concrete proposals to guide ACER in making amendment proposals on the CAM NC provisions. In addition, to further investigate these proposals, ACER organised a technical workshop with stakeholders (by invitation only) on 9 July 2024. ACER published its conclusions in the Evaluation Report¹¹ on the policy consultation (Annex IV).
- (9) Based on its evaluation of the inputs received, ACER prepared reasoned proposals for amendments and held a **final public consultation**¹² from 26 September to 25 October 2024 ('**proposals consultation**') to ensure the proposed amendments effectively address market needs and deliver the expected improvements before finalising and submitting them to the European Commission. ACER published its conclusions on the proposals consultation in its Evaluation Report¹³ (Annex III).
- (10) ACER's Gas Working Group (hereafter: AGWG) was consulted between 19 November 2024 and 26 November 2024, and provided its advice on 26 November 2024.
- (11) In its advice, the AGWG endorsed the draft ACER Recommendation on reasoned proposals for amendments to the CAM NC.
- (12) On 18 December 2024, ACER's Board of Regulators issued a favourable opinion, pursuant to Article 22(5)(a) of Regulation (EU) 2019/942, on the proposed amended CAM NC Regulation.

⁹ Evaluation Report on scoping consultation:

https://www.acer.europa.eu/sites/default/files/documents/Official_documents/Public_consultations/PC_2023_G_09/PC_2023_G_09_CAM_Scoping_EoR.pdf.

¹⁰ Early public consultation on amending the network code on capacity allocation mechanisms in gas transmission systems (policy consultation), available at:

<https://www.acer.europa.eu/documents/public-consultations/pc2024g03>.

¹¹ Evaluation Report on the policy consultation:

https://www.acer.europa.eu/sites/default/files/2024-09/PC_2024_G_03_CAM_Policy_EoR.pdf.

¹² Final public consultation on amending the network code on capacity allocation mechanisms in gas transmission systems (proposals consultation), available at:

<https://www.acer.europa.eu/documents/public-consultations/pc2024g09-public-consultation-amending-network-code-capacity-allocation-mechanisms-gas-transmission-systems>.

¹³ Evaluation Report on the proposals consultation:

https://www.acer.europa.eu/sites/default/files/documents/Official_documents/Public_consultations/PC_2024_G_09/PC_2024_G_09_CAM_NC_Evaluation_of_Responses.pdf.

3. LEGAL GROUNDS FOR THE PRESENT RECOMMENDATION

- (13) The European Commission invited ACER to submit to the Commission by December 2024 reasoned proposals for amendments (the ‘**reasoned proposals**’) to CAM NC.
- (14) The CAM NC is the network code, as referred to by Article 71 of Regulation (EU) 2024/1789 on the internal markets for renewable gas, natural gas and hydrogen (hereafter: recast gas Regulation)¹⁴, relating to the area of ‘capacity-allocation’ under Article 71(2)(b) of the recast gas Regulation. Capacity allocation rules include rules on *‘cooperation on maintenance procedures and capacity calculation affecting capacity allocation, the standardisation of capacity products and units including bundling, the allocation methodology including auction algorithms, sequence and procedures for existing, incremental, firm and interruptible capacity, and capacity booking platforms.’*
- (15) Article 73 of the recast gas Regulation defines a process for amendment of network codes within the areas listed in Article 71(1) and (2) thereof, with ACER having a formal role for the proposal of such amendments.
- (16) According to the first sentence of Article 73(3) of the recast gas Regulation, ACER may make reasoned proposals to the Commission for amendments, explaining how such proposals are consistent with the objectives of the network codes set out in Article 70 of the same Regulation. Article 70(2) of the recast gas Regulation does not refer explicitly to objectives and states that the network codes shall (a) provide a minimum degree of harmonisation required to achieve the objectives of this Regulation, (b) take into account regional specificities, where appropriate, (c) not go beyond what is necessary for the purpose of point (a), and (d) apply to all interconnection points within the Union and entry points from and exit points to third countries from 5 August 2026. Instead, subsequently, Article 71(4) and (11) define objectives for the development of network codes, namely contribution to market integration, non-discrimination, effective competition, and the proper functioning of the market. Accordingly, the reference in Article 73(3) of the recast gas Regulation to the objectives of Article 70 of that Regulation should be read together with Article 71(4) and (11) of the same Regulation and in light of the objectives listed therein. Therefore, these objectives are also relevant for the amendments proposed in this Recommendation.
- (17) According to the second sentence of Article 73(3) of the recast gas Regulation, where ACER considers an amendment proposal to be admissible and where it proposes amendments on its own initiative, ACER shall consult all stakeholders in accordance with Article 14 of Regulation (EU) 2019/942. Pursuant to Article 14(1) of Regulation (EU) 2019/942, ACER, in the process of proposing amendments of network codes

¹⁴ This Regulation entered into force on the twentieth day following that of its publication in the Official Journal of the European Union and will apply from 5 February 2025.

under Article 73 of Regulation (EU) 2024/1789, shall ‘*extensively consult at an early stage market participants, transmission system operators, consumers, end-users and, where relevant, competition authorities, without prejudice to their respective competence, in an open and transparent manner, in particular when its tasks concern transmission system operators*’.

- (18) Finally, according to Article 3(1) of Regulation (EU) 2019/942, ACER may, upon a request of the European Parliament, the Council, or the Commission, or on its own initiative, provide an opinion or a recommendation to the European Parliament, the Council and the Commission on any of the issues relating to the purpose for which it has been established.
- (19) As indicated by Articles 71(2)(b) and 73(3) of the recast gas Regulation, ACER’s contribution to the amendments of network codes concerns issues relating to a purpose for which ACER has been established.

4. MAIN FINDINGS

- (20) The proposals for amendments build on the lessons from the gas market crisis of 2022, the recast gas Directive and recast gas Regulation, both of 2024, and requests from market participants, putting forward three main changes to the rules.
 - (1) **Focus on the efficient use of the gas system and a better monitoring of it.** The analysis of what occurred during the crisis years showed that capacity calculation and offer was not sufficiently transparent and that monitoring whether capacity is maximised and adjusted to the market needs is difficult. With decarbonisation advancing and the role of gas further changing, such as declining consumption, the optimal use of assets will become more important. ACER recommends improved transparency on how capacity is maximised so it can be better monitored by regulatory and other competent authorities, making EU Member States better prepared for handling the next crisis as well as have better information on system capability in view of possible decommissioning or repurposing of gas pipelines. Enhanced coordination and consultation of concerned regulatory authorities, transmission system operators and network users will be essential when removing parts of the gas system, reducing capacity, to ensure continued access to the gas system and security of supply.
 - (2) **More dynamic offer of capacity.** The vast majority of stakeholders had asked already in 2020 for more dynamic rules that enable capacity trading (auctions) to come closer to commodity trading (continuous). The price volatility during the crisis and the changing supply routes, in particular the uptake of LNG, would have been easier to handle had there been more auction opportunities and more efficient capacity allocation processes. ACER recommends more auction opportunities (of existing products) and creating product timeframes between monthly and daily (which align more with the needs of LNG deliveries) and as such also contributing to security of supply.

- (3) **Enabling quick modification of non-essential technical rules to align them with evolving market conditions.** While the current provisions of the CAM NC supported market functioning in general, the crisis made clear that more flexibility is needed to quickly modify some parameters without requiring the amendment of the CAM NC, so that the rules are adjusted to evolving market circumstances, including a next crisis. ACER recommends including flexibility for TSOs and NRAs to modify specific auction parameters (notably to speed up the capacity allocation processes) in view of changing market circumstances, while keeping the rules harmonised at all interconnection points and respecting the limitations of the mandates of ACER and ENTSOG.
- (21) ACER maintained a **continuous dialogue with stakeholders** and reported its conclusions on the scoping consultation¹⁵, the early policy consultation¹⁶ and the consultation on its draft proposal¹⁷ in the respective evaluation reports.
- (22) ACER found that amendments to the CAM NC would be required in the areas set out in paragraphs (28), (33) and (34) of this Recommendation. Consideration could be given to further investigate the areas set out in paragraphs (35) to (37). In line with the Commission's request and taking into account the outcome of extensive consultation with the relevant stakeholders, ACER recommends the amendments included in Annex I to this Recommendation for the reasons detailed in Annex II explaining how such proposals are consistent with the objectives in Article 71(4) of the recast gas Regulation.

4.1. Consultation of the AGWG

- (23) No comments were raised by NRAs following the end of the AGWG consultation period. During the 26 November 2024 AGWG meeting, no further comments were made, and no areas were identified where it was not possible to reach a consensus. In conclusion, the AGWG endorsed the ACER Recommendation on gas CAM NC amendment.

4.2. Amendment to CAM NC Regulation

4.2.1. Considerations on the restoration of the incremental capacity provisions in CAM NC

- (24) ACER provides below considerations and recommendations in support of the legal analysis by the European Commission on whether and to what extent rules on

¹⁵ Evaluation Report on scoping consultation, available at: https://www.acer.europa.eu/sites/default/files/documents/Official_documents/Public_consultations/PC_2023_G_09/PC_2023_G_09_CAM_Scoping_EoR.pdf.

¹⁶ Evaluation Report on the policy consultation, available at: https://www.acer.europa.eu/sites/default/files/2024-09/PC_2024_G_03_CAM_Policy_EoR.pdf.

¹⁷ Evaluation Report on the proposals consultation, available at: https://www.acer.europa.eu/sites/default/files/documents/Official_documents/Public_consultations/PC_2024_G_09/PC_2024_G_09_CAM_NC_Evaluation_of_Responses.pdf.

incremental capacity leading to investment may be included within the CAM NC in the aftermath of the Judgment of the European Union General Court ('Judgment').¹⁸

- (25) With respect to the incremental capacity provisions, after reviewing the justifications for full, partial or no restoration, ACER concludes the following:
- a. Arguments in support of **not restoring** the rules governing the incremental capacity process focus on the lack of effectiveness so far in leading to investment in interconnection capacity in the EU, as well as on the expected effectiveness of preserving such a process as interest in long term capacity has been low and is expected to remain low;
 - b. Arguments in support of **fully restoring** these rules focus on how they could be modified while not providing justification for having EU-wide harmonised rules and why incremental capacity investment could not happen without such rules;
 - c. Arguments in support of **partially restoring** the rules governing the incremental capacity process cite a need to ensure a structured and harmonized process for evaluating and adjusting the level of interconnectedness in Europe, for instance, by the introduction of a common template for expressing non-binding interest.
- (26) ACER notes that the arguments provided by stakeholders address mainly the design of incremental capacity rules and not the justification for having EU-wide harmonised rules for deciding on investment in incremental capacity.
- (27) ACER notes that ENTSOG and most TSOs favour a full restoration with improvements as included in ACER's proposed amendments, whereas shippers and traders express a mixed view between no restoration, partial restoration and full restoration. Regulatory authorities supported no restoration or partial restoration, questioning the effectiveness of the incremental capacity process while recognising the benefits of coordination between TSOs in the demand assessment steps and while preparing a project.
- (28) Considering these elements, ACER recommends:
- a. Not to restore the chapter with the provisions governing incremental capacity and to delete all further references to it in the other parts of the CAM NC. In addition, ACER could be tasked to issue a Recommendation to NRAs on how to organise coordinated national processes for incremental capacity.

¹⁸ Judgment of the General Court of 16 March 2022, MEKH vs ACER, case T-684/19 and T-704/19, EU:T:2022:138, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62019TJ0684>.

- b. In the case that the rules governing incremental capacity are restored partially¹⁹ or fully, ACER recommends carefully considering which elements of the process to be restored, and, in all cases, to reconsider ACER's involvement in the process in cases of disagreement between NRAs in light of the Judgement. ACER additionally recommends amending the process with respect to the robustness of non-binding demand as detailed in the amendment proposals included in Annex I.

4.2.2. Considerations on the introduction of a balance-of-the-month standard product with a dedicated price

- (29) The assessment carried out by ACER has shown that stakeholders, and in particular market participants, call for being able to secure capacity products on timeframes between the monthly and daily maturities. The 'balance-of-the-month' timeframe has been identified as the most appropriate.
- (30) ACER notes that while shippers express a preference for introducing a standard product for balance-of-the-month capacity, TSOs and national regulatory authorities express a preference for the solution that comprises a daily auction of a strip of daily capacities until the end of the month ('balance-of-the-month auction of daily capacity products') in view of having a more straightforward implementation process without the need to modify the Network code on harmonised tariff structures ('TAR NC') and at lower estimated implementation cost.
- (31) With respect to the role of price in designing a balance-of-the-month offer, ACER concludes the following:
 - a. Shippers emphasise that the multiplier element in the price definition is an essential design element. The use of the daily tariff multiplier might make the balance-of-the-month auction (of a strip of daily capacity products) not competitive at the start of a given month when many days are included. While many implementations of a dedicated balance-of-the-month multiplier can be imagined, foremost, it should have a level that is between the levels of the monthly capacity and daily capacity multipliers.
 - b. With respect to the justification of a targeted amendment of the TAR NC, ACER finds that respondents who identified the price as an essential element of a balance-of-the-month capacity product did not raise many arguments on the urgency of setting a dedicated price and multiplier for a balance-of-the-month product. They indicate a willingness to wait, if necessary, for the introduction

¹⁹ Partial restoration may focus on the non-binding demand assessment (Article 26) and coordinated project design by concerned transmission system operators (Article 27) while considering removing the links with provisions that would not be restored.

of the capacity product until a dedicated tariff multiplier and price have been set.

(32) ACER emphasises that:

- a. Without a dedicated multiplier and price, the balance-of-the-month auction of a package of daily products may not be appealing compared to other capacity products and therefore not effective in having a more dynamic capacity offering. The actual competitive disadvantage may be small if multipliers for monthly and daily products are not too different.
- b. The alternative introduction of a balance-of-the-month product, with a dedicated tariff multiplier, has a higher implementation cost (IT development) and longer implementation time (amendment of TAR NC).
- c. The offer of this possible standard product is conditional on first setting a dedicated price in the TAR NC that shall be based on a multiplier between the level of the monthly multiplier and the level of the daily multiplier.
- d. The balance-of-the-month product is compatible with the current rules for capacity surrender as provided under the Guidelines on Congestion Management Procedures ('CMP GL'), whereas this is uncertain in the case of a strip of daily products.

(33) Considering these elements, ACER recommends:

- a. To foresee the introduction of a balance-of-the-month auction of a strip of daily products as detailed in Annex I; and
- b. To foresee the option to introduce in the future, via targeted amendments of the CAM NC and TAR NC, a balance-of-the-month product if further justification from market participants is provided that the above option would be less effective.

4.2.3. Amendments proposed to the CAM NC

(34) ACER proposes amendments to the provisions listed in Table 1.

Table 1. Articles for which amendments to CAM NC regulation are proposed

Article	Proposed amendment
Article 1	No amendment proposed.
Article 2	ACER invites the legal services of the European Commission to finalise the formulation of the scope of application with respect to entry points from and exit points to third countries to ensure its full alignment with Article 70 of the recast gas Regulation. ACER finds unnecessary the addition of optionality for applying CAM NC to other types of network points as NRAs can refer to or copy the CAM NC rules when adopting their respective national rules. ACER finds unnecessary the inclusion of conditional capacity in the scope of CAM NC as proposed by a stakeholder. Conditional capacity is a subset of firm capacity (and technical capacity is the maximum firm capacity that can be made available to the market). Amendment proposed with respect to paragraphs (1) and (5).
Article 3	ACER invites the Commission's legal services to ensure the legal clarity and consistent cross-referencing of definitions in lower-level network codes and guidelines. ACER considers that no definition is needed for 'initial auction' as the Annual yearly capacity auction, the Quarterly capacity auctions and the Monthly capacity auctions are fully defined in Articles 11 to 13, respectively. Amendment proposed with respect to paragraph (15) and adding a definition for 'additional auction'.
Article 4	ACER assessed that: "the principle of cooperation between TSOs at times of maintenance" is already incorporated in the current Article 4 of the CAM NC and considers this stakeholder suggestion does not require action. No amendment proposed.
Article 5	No amendment proposed.
Article 6	ACER agrees that structural changes in the gas system or in gas supply and demand are the primary trigger of capacity re-calculation, while information on those changes is collected through consultation of network users, including through the TYNDP process and the demand assessments. ACER believes a 2-year period for reviewing the assumptions underlying the capacity calculation is making explicit and transparent an expected current practice. ACER furthermore notes that a review of capacity calculation assumptions does not automatically lead to a full re-calculation. The review may simply confirm that assumptions are still valid. ACER finds it reasonable and proportionate to require consultation of network users when assessing future gas flows as these stakeholders are the best placed to inform TSOs about how they intend to use the network. Future gas flows are an essential element to consider in the capacity calculation and maximisation process, in particular when re-calculation may concern a reduction of technical capacity. ACER considers that planned reduction of capacity is a matter of capacity calculation and maximisation already covered under the provisions of Article 6 of the CAM NC. ACER does not move forward the separate new article that was proposed by a stakeholder.

	The amendment proposal included in Article 6(5)-(7) provides the essential elements to be included in the published information. Amendment proposed with respect to paragraphs (1) to (3) and new (5) to (7).
Article 7	No amendment proposed.
Article 7A	Article 7A ensures proper coordination between NRAs when deciding to apply an implicit allocation mechanism following a joint assessment of the expected effects. While ACER deems that NRAs consult relevant stakeholders as part of their normal decision processes, it modifies its proposal to include an explicit reference to consultation of stakeholders. Amendment proposed with respect to explicit coordination and consultation requirements for national regulatory authorities before deciding on the application of an implicit allocation mechanisms.
Article 8	The introduction of mandatory additional offer of firm capacity via UPA to allocate unsold firm capacity is largely supported and is the result of extensive consultations. Allocation rules should be applied at all Interconnections Points (IPs) and at either side of borders, optionality, as requested by a stakeholder, would not be consistent with this idea. ACER evaluated a stakeholder proposal to re-introduce First-Come First-Served (FCFS) and concluded that it would be a step back. ACER had assessed the possibility of higher levels of capacity set-aside and concluded the current rule provides that flexibility already to regulatory authorities. ACER noted that transmission system operators and network users indicate that lower minimum set-aside percentages could be considered. The downward adjustment of the EU-wide minimum level requires further investigation. No amendment proposed at this stage beyond improving editorial consistency. ACER recommends further consideration and investigation of the appropriate minimum level of capacity to be set aside.
Article 9	No amendment proposed.
Article 10	No amendment proposed.
Article 11	ACER evaluated the stakeholder proposal of longer forward capacity allocation and concluded 15 years remains a reasonable horizon for selling forward capacity products. ACER expects very few benefits from changing the time window during which auctions are to be organised. ACER rejects the stakeholder proposal to enable the modification of auction times in accordance with the parameter modification procedure. ACER finds useful to make the notification periods for publishing the available capacities modifiable as it will allow more auction opportunities to be organised if the market conditions require so. ACER proposes a few editorial improvements. Amendment proposed with respect to paragraphs (2), (4), (6), (8) and (11).
Article 12	ACER's proposed reduction in the notification period of quarterly capacity levels is consistent with the introduction of additional auctions for yearly capacity and the notification period is modifiable. ACER rejects the stakeholder proposal to delete its amendment. ACER expects very few benefits from changing the time window during which auctions are to be organised. ACER rejects the stakeholder proposal to enable the modification of auction times in accordance with the parameter modification procedure.

	ACER finds useful to make the notification periods for publishing the available capacities modifiable as it will allow more auction opportunities to be organised if the market conditions require so. ACER proposes a few editorial improvements. Amendment proposed with respect to the title and paragraphs (1) to (6) and (9).
Article 13	ACER finds the deletion of ‘rolling’ in the title has little impact. ACER recommends using the same naming convention for the quarterly and monthly capacity auctions of Articles 12 and 13, respectively as their offer and auctioning modalities are proposed to be aligned. ACER expects very few benefits from changing the time window during which auctions are to be organised. ACER rejects the stakeholder proposal to enable the modification of auction times in accordance with the parameter modification procedure. Amendment proposed with respect to the title and paragraphs (1) to (6) and (9).
Article 13A	ACER proposed the introduction of additional auctions to enable the re-offering of unsold firm capacity of yearly, quarterly and monthly standard products. ACER considers the UPA time-efficient and expects few benefits from changing the auction times, therefore, ACER does not move forward the stakeholder suggestion to enable the modification of auction times. ACER finds beneficial to organise additional auctions early in the day and finds reasonable to organise additional auctions of yearly capacity and of quarterly capacity with the same timings considering they will not be organised on the same daybut. ACER considers the timings could be modified during comitology. ACER acknowledges that for the determination of available capacity in an additional auction, any capacity set-aside shall be treated pursuant to Article 8. ACER does not have indications that aggregated information is not made available by booking platform operators in a reasonable timeframe and does not move forward the stakeholder suggestion to add a deadline in its amendment proposal as no such deadline exists for other comparable auctions. Amendment proposed with respect to the introduction of additional auctions of firm capacity products with a duration of a month and longer.
Article 13B	ACER proposed the introduction of a capacity offer between the month-ahead and day-ahead timeframes as the market expressed an interest in it. Among the many possible implementations considered, a balance-of-the-month design was most favoured. ACER proposed a design for the auction of a balance-of-the-month strip of daily capacity products while referring to the considerations above on the possible introduction of a standard balance-of-the-month product. ACER notes that Point 2.2.4 of Annex I to Regulation (EU) 2024/1789 requires TSOs to accept any surrender of firm capacity contracted by a network user “with the exception of capacity products with a duration of a day and shorter”. In the “BoM auction” option, the BoM sale allocates a strip of individual daily products to a network user. ACER signals this issue to the European Commission as a CMP related matter that necessitates further clarification. ACER considers the UPA time-efficient and expects few benefits from changing the auction times. ACER does not move forward the stakeholder suggestion to enable the modification of auction times of BoM auctions. ACER understands more time may be needed for network users to prepare the balance-of-the-month auction and includes a notification period of at least 1 hour for available capacities to be published and considers it may be revised during comitology. This proposal could be considered as well for the day-ahead auction should stakeholders deem that useful. Amendment proposed with respect to the introduction of a ‘balance-of-the-month’ auction.

Article 14	ACER proposes a few editorial improvements. ACER considers the UPA time-efficient and expects few benefits from changing the auction times. ACER does not move forward the stakeholder suggestion to enable the modification of auction times. Amendment proposed with respect to paragraphs (3) and (10).
Article 15	ACER proposes a few editorial improvements and an earlier closing of the first auction round ('WD24') as requested by the market. The stakeholder proposal for including a 2nd auction bidding round for WD24 is discarded based on the September Evaluation Report on the policy consultation. Amendment proposed with respect to paragraphs (1) and (2).
Article 16	ACER proposes the use of the UPA algorithm for the additional auctions and balance-of-the-month auctions as it is efficient and known to the market and already used for day-ahead and within-day capacity auctions. ACER proposes to make modifiable the duration of the auction rounds and the intervals between auction rounds, to enable a faster allocation process should the market conditions require so. ACER consulted on having all interruptible capacity auctions run under the UPA algorithm and concluded that stakeholders are split on this proposal and does not propose to change the default rule. However, the choice for the auction algorithm to be applied for allocating a specific product will be among the adjustable parameters in order to ensure the algorithm shall be adapted to market circumstances and shippers' needs. Amendment proposed with respect to paragraphs (2), (2A), (3), (3A) and (3B).
Article 17	ACER proposes a few editorial improvements and introduces the possibility for price steps to be modified at the end of each auction day for use as of the first auction round of the next auction day should transmission system operators assess the misalignment of the price step and the prevailing market conditions. This provision will increase the likelihood that ACA auction processes allocate capacity in due time. Amendment proposed with respect to paragraphs (2), (9), (10) and (22).
Article 18	ACER rejects the stakeholder proposal to move away from pay as cleared and considers a same capacity product should be allocated at the same price, reflecting its scarcity value, to all network users at a given point in time. No amendment proposed.
Article 19	ACER takes note of the point by a stakeholder made to "limit possibility of transmission system operators to declare bundled capacity as available only on one side of the interconnection point during maintenance works", but considers the comments better be addressed as part of the TSO transport contracts and TSO-TSO interconnection agreements and not to be included in this amendment process. No amendment proposed.
Article 20	The repetition of cataloguing main terms and conditions applicable to bundled contracts will allow ENTSOG to review and update its template taking into account the most recent market conditions as well as ACER's remarks in the Opinion 06/2018. ACER disagrees with the stakeholder assertion that this task implies a full harmonisation of contracts. Moreover, ACER noted several stakeholder comments touch on national terms and conditions, such as how maintenance is dealt with or the specific procedure for interrupting interruptible contracts. Amendment proposed with respect paragraph (1).
Article 21	The extension of the conversion mechanism to daily and within-day capacities requires further investigation.

	No amendment proposed at this stage. ACER recommends further consideration and investigation of the possible extension of the conversion mechanism to daily and within-day capacities.
Article 22	No amendment proposed.
Article 23	No amendment proposed.
Article 24	No amendment proposed.
Article 25	ACER proposes a few editorial improvements. Amendment proposed with respect to paragraph (2).
Article 26	ACER notes that the proposed amendments of provisions pertaining to incremental capacity are subject to the partial or full restoration of these provisions. ACER proposes a few editorial improvements and proposes to task ENTSOG with the development of a template to facilitate the administrative work of transmission system operators. ACER emphasises that the obligation on TSOs to regularly assess market demand for new capacity is embedded in Article 10(4) of the recast gas Regulation. Market participants as well as regulatory authorities expect the outcome of that assessment to be reported on. ACER evaluated different options for launching the demand assessment process and concluded the frequency is subsidiary to raising the credibility of the non-binding demand indications expressed by network users. ACER considers that the approval by the regulatory authority shall ensure that fees cover efficiently incurred costs of activities initiated on the basis of the non-binding demand indications. ACER proposes to introduce the possibility to charge a deposit at the time a shipper submits a non-binding demand indication. That deposit shall be returned to shippers whose non-binding demand indication was confirmed with the placement of a matching bid in the binding phase and also in case the incremental process ends with a positive economic test at least for one offer level. ACER finds reasonable the stakeholder proposal to include a proportionate reimbursement in case of downward adjusted bids and the proposal to disregard non-binding demand indication if the deposit is not paid in time by the relevant shipper. ACER considers necessary that fees and deposits meant to raise credibility of non-binding demand indications for incremental capacity are approved by regulatory authorities and does not move forward the different proposal made on that aspect. Amendment proposed with respect to paragraphs (1), (8), (9A), (9B), (11), (11A), (12)(b), (12)(c), (12)(d) and (13).
Article 27	No amendment proposed.
Article 28	ACER proposed the inclusion of the energy-efficiency-first principle as an element of consideration when evaluating an incremental capacity proposal. Amendment proposed with respect to paragraph (2).
Article 29	No amendment proposed.
Article 30	No amendment proposed.
Article 31	Deletion of article proposed.
Article 32	ACER emphasises that the objective of the proposed amendments is to align the market rules with the lessons from the 2022 gas market crisis.

	ACER proposed to clarify the application of the maximisation principle to interruptible capacity while considering congestion, probability of interruption and system integrity. ACER concluded on the basis of the public consultations that the market prefers to keep ACA for interruptible capacity and rejects the proposal to apply UPA for all interruptible auctions. The auction algorithm may be modified in accordance with the parameter modification procedure. ACER agrees with the stakeholder comment that the notification period must be aligned with the introduction of additional auctions of remaining firm capacity. It may be modified through the parameter modification procedure. Amendment proposed with respect to paragraphs (1), (3), (3A), (5) and (10).
Article 33	No amendment proposed.
Article 34	No amendment proposed.
Article 35	No amendment proposed.
Article 36	No amendment proposed.
Article 37	ACER proposed to extend the maximum validity of the appointment of a booking platform operator by a regulatory authority. ACER notes that transmission system operators enter into a contractual relation with the designated booking platform and that any early termination clauses and termination fees are part of that contractual relation. ACER may issue a recommendation on the selection criteria for appointing a booking platform. Amendment proposed with respect to paragraphs (3) and (7).
Article 37A	As a lesson of the gas market crisis of 2022 and in light of the expected evolution of the gas market following EU's decarbonisation objectives, ACER proposes to have a quick modification process to modify non-essential technical CAM NC parameters and align them to changing market conditions. ACER asserts that modified parameters are to stay within the stated ranges and modifications shall occur on the basis of evaluation considering implementation costs and timelines. This procedure delivers flexibility to adjust parameters and react to market conditions faster than through the full amendment process, while ensuring the appropriate degree of harmonisation of cross-border rules, predictability of parameter ranges and stability by means of a robust process including assessment and consultation on the effectiveness of a considered modification. ACER considers its amendment proposal includes the necessary safeguards to ensure sufficient levels of predictability, stability and harmonisation of market rules in light of changing market conditions. ACER finds efficient the alignment of the publication of any modified parameters at the latest with the yearly publication of the auction calendar. ACER clarifies that a modified parameter remains in place until modified again following the process for parameter modification. Amendment proposed with respect to introducing a quick procedure for modifying non-essential technical parameters of allocation processes and aligning them to changing market conditions.
Article 38	No amendment proposed.
Article 39	No amendment proposed.
Article 39A	ACER finds necessary to foresee transitional measures. ACER agrees with the stakeholder proposals to foresee a transition period for the changes requiring significant IT developments. Amendment proposed with respect to the introduction of transitional measures.
Article 40	Not applicable.

4.2.4. Points requiring further consideration and investigation

- (35) ACER believes that, following the interest manifested by TSOs and network users, consideration could be given to lowering the minimum percentage of capacity to be set aside pursuant to Articles 8(6) to (8) of the CAM NC, or to allowing flexibility to lower the minimum percentage in the future. However, not having had the time to carry out an in-depth analysis on the issue and seeing that the introduction of such flexibility provision for modification in the CAM NC requires a legally robust process, ACER does not propose an amendment at this stage. Nevertheless, ACER invites the Commission to consider further investigation on this point:
- a. Requesting ACER to assess the effectiveness of the current minimum level of capacity to be set aside;
 - b. Requesting ACER to investigate the design of a procedure for modifying the minimum level and recommended proportions of capacity to be set aside for different capacity products.
- (36) ACER believes consideration could be given to include daily and within-day capacities under the conversion mechanism of Article 21(3) of the CAM NC in view of the changed market dynamic and a greater focus on shorter term capacity products. However, not having had the time to carry out an analysis on this issue, ACER does not propose an amendment at this stage. Nevertheless, ACER invites the European Commission to consider further investigation on this point:
- a. Requesting ACER to assess the current practice with respect to the voluntary inclusion of daily and within-day capacities under the conversion mechanism;
 - b. Requesting ACER to issue a Recommendation to national regulatory authorities on extending the national conversion mechanism to daily and/or within-day capacities.
- (37) ACER believes consideration could be given during the comitology process to the further specification of three technical CAM NC parameters, to set them in accordance with network users' needs. These parameters are:
- a. the exact auction timings for the proposed 'additional auctions' of Article 13A;
 - b. the exact notification period for publishing the available capacity for the proposed 'balance-of-the-month auctions' of Article 13B;
 - c. the exact deadline for informing the market about a change of the price step in an ongoing auction pursuant to Article 17(10).

4.2.5. Interactions with other network codes and guidelines

- (38) As part of its analysis on the revision of the CAM NC, ACER noted possible interactions exist with other Network Codes and Guidelines to implement the proposed changes to the CAM NC.

- (39) Interactions with the Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas ('TAR NC') may include:
- a. Articles 13 and 14 of the TAR NC, in case balance-of-the-month standard products are to be introduced;
 - b. Chapter IX of TAR NC on incremental capacity.
- (40) Interactions with Point 2.2 of Annex I of Regulation (EU) 2024/1789 on the 'guidelines on congestion management procedures in the event of contractual congestion' ('CMP GL') include:
- a. The rule on capacity 'surrender' could be clarified with respect to the introduction of balance-of-the-month auctions of a strip of daily capacity products,

HAS ADOPTED THIS RECOMMENDATION:

1. ACER recommends amending the Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems, in accordance with Annex I on amended CAM NC Regulation, for reasons explained in Annex II on reasoning to proposed amendments to the CAM NC Regulation as well as in the Evaluation Report on the proposals consultation (Annex III) and the Evaluation Report on the policy consultation (Annex IV).
2. ACER recommends deleting the provisions governing incremental capacity for the reasons contained in paragraphs (24) to (28) of this Recommendation. In case the comitology process concludes on the full or partial restoration of the provisions, ACER recommends amending the Regulation in accordance with Annex I and the considerations expressed in paragraphs (24) to (28) .
3. ACER recommends foreseeing the possibility of the future introduction of balance-of-the-month standard products with a dedicated tariff multiplier and price for the reasons contained in paragraphs (29) to (33). A dedicated tariff multiplier and price have to be determined through an amendment of the Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas.
4. ACER recommends further investigation to be carried out with respect to the points raised under paragraphs (35) to (37)c.
5. ACER recommends consideration to be given to the interactions between the proposed amendments in this Recommendation and other legislative acts as raised in paragraphs (38) to (40).

This Recommendation is addressed to the European Commission.

Done at Ljubljana, on 20 December 2024.

- SIGNED –

*For the Agency
The Director*

C. ZINGLERSEN

Annexes:

Annex I – Amended CAM NC Regulation

Annex II – Reasoning to proposed amendments to the CAM NC Regulation

Annex III – Evaluation Report on the Public Consultation on amending the network code on capacity allocation mechanisms in gas transmission systems (26 September 2024 – 25 October 2024) (PC_2024_G_09)

Annex IV – Evaluation Report on the Public Consultation on amending the network code on capacity allocation mechanisms in gas transmission systems (8 May 2024 – 14 June 2024) (PC_2024_G_03)