

1. Auctioning restrictions in the German NCG market area

Since 2017, restrictive conditions have been announced by the TSO on the PRISMA platform for all annual and quarterly auctions, e.g. the conditions for the quarterly auction on 6 November 2017 by terranets bw:

- „RC Lindau, RC Basel: In case the offered capacity for the first quarter 2018 is not sold out during the auction on November 6th, 2017, terranets bw is obliged to re-allocate the respective capacity to other connection points. Therefore it will not be possible to book the unsold capacity in the following monthly, daily and within-day auctions.”

Apparently, the German Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway (*Bundesnetzagentur, BNetzA*) requested all TSOs operating in the NCG market area to re-allocate capacities after the annual and quarterly auctions, which is confirmed by corresponding references of the TSOs on the PRISMA platform. The table below lists the concerned IPs.



| Number | Point | German TSO |
|--------|----------------------------------|---------------|
| 1 | RC Basel (CH) | terrannets bw |
| 1 | RC Lindau (AT) | terrannets bw |
| 2 | Zone Kiefersfelden-Pfronten (AT) | bayernets |
| 3 | Steinitz (DE) | OGE |
| 4 | Wallbach (CH/IT) | OGE |
| 5 | Oberkappel (AT) | OGE |
| 6 | Remich (LUX) | OGE |
| 7 | Medelsheim (FR) | GRTgazD |

2. Capacity marketing at interconnection points in the NCG market area: non-compliance with the NC CAM

Art 8 (6) NC CAM sets forth that an amount at least equal to 20 % of the existing technical capacity at each interconnection point has to be set aside and offered, with the offering conditions being specified in more detail in Art 8 (7) NC CAM.

Art 8 (7), first sentence, requires the TSO to offer the entire volume set aside (“*Any capacity set aside[...]*”).

Art 8 (7)(b) NC CAM lays down that “a further amount at least equal to 10 % of the existing technical capacity at each interconnection point shall first be offered no earlier than the annual quarterly capacity auction as provided for in Article 12, held in accordance with the auction calendar during the gas year preceding the start of the relevant gas year”, i.e. Art 8 (7)(b) NC CAM sets forth both the earliest possible offering time (“*shall first be offered no earlier than the annual quarterly capacity auction as provided for in Article 12*”) and the TSO’s obligation to offer the unused capacity set aside in the following auctions (“*shall first be offered no earlier than the annual quarterly capacity auction as provided for in Article 12*”).

It can be derived from Art 8 (3) NC CAM that the TSO has to offer the standard capacity products in their logical order. If a certain capacity product is not marketed completely, i.e. sold out, *“the product with the next shortest duration for use during the same period”* is offered.

The German Federal Network Agency takes a corresponding legal point of view, holding in its Decision (BK7-15-001 dated 14 August 2015, clause 4.4. (4) (b) (aa)) that the *“capacities available from the preceding (annual) auctions”* always have to be offered by the TSOs in the quarterly, monthly and daily auctions and/or the within-day auctions.

Articles 11 to 15 NC CAM accordingly define specific rules for the auctions of the individual standard capacity products, including a mandatory formula for each of the standard capacity products. The formulas are all based on the transmission system operator's technical capacity, which is used to calculate the capacity to be offered in each case in the auctions under Articles 11 to 15 by adding and subtracting specific, clearly defined parameters.

An analysis suggests that the re-allocation of capacities is not covered by any of the calculation parameters defined in Articles 11 to 15, and that it is not covered even if the reduction is imposed by the regulatory authority.

Unless the TSOs offer the unused capacities set aside according to Art 8 (6) NC CAM as monthly, daily and within-day standard capacity products, they are - in our point of view - in breach of the requirement to offer capacities set aside according to Art 8 (6) and (7) and do not comply with the calculation formulas of Articles 11 to 15 NC CAM as the re-allocation of capacities is not covered by any of the calculation parameters defined in Articles 11 to 15 NC CAM.

In addition, this approach is in contradiction to the BNetzA's Decision BK7-15-001 of 14 August 2015.

As a result the TSOs in the NCG market area generate additional income for the capacities actually required by network users because network users are forced to cover their capacity requirements from the quarterly and annual capacity products offered, rather than from ordinary structured capacity bookings.

In general we point out that the auctioning restrictions in the NCG market area make it impossible for market participants to acquire short-term capacity products, and are therefore in stark contrast to the objective to develop a competitive short-term wholesale gas market (e.g. Art 14 (1) (c), Art 16 (2) (b), Annex I 2.1.1. Regulation (EC) No 715/2009, recital 3 Regulation (EU) No 312/2014). On the contrary, they cause sub-optimal market conditions due to inefficient use of the available capacities, which negatively impacts on gas flowing freely across the European Union.