

Gas Network Codes Functionality Process Issue Solution

Issue details	
Number:	01/2021
Name:	Amending the EU legislation
Reporting party:	Energy Community Secretariat on behalf of Ukraine's gas TSO, Gas TSO Ukraine LLC
Network Code / Guidelines concerned:	Network Code on Capacity Allocation Mechanisms, Commission Regulation (EU) 2017/459 and Network Code on Interoperability and Data Exchange Rules, Commission Regulation (EU) 2015/703
Article of the Network Code / Guidelines	Not defined
Category:	N/A
Abstract:	
<p>Ukraine's gas TSO, Gas TSO Ukraine LLC (GTSOU LLC), addressed the Energy Community Secretariat, ENTSOG and ACER, raising a proposal to amend the Regulations 459/2017 (NC CAM) and 703/2015 (NC on INT&DE) to ensure their mandatory implementation at the interconnection points (IPs) between an EU Member State and a Contracting Party to the Energy Community Treaty. According to GTSOU LLC, amending the selected NCs as proposed would rectify problems which they describe as occurring at the IPs between Ukraine, on one side, and Romania and Slovakia, on the other side, including an optimal capacity allocation at the afore-mentioned IPs and the development of a regional gas market.</p>	

Issue solution(s)	
Publication date:	19 07 2021
<p>In the process of validating, categorising, and prioritising the issue, ACER and ENTSOG have determined that the issue is not valid for the FUNC process. One reason for non-validation was that a similar issue has already been posted and discussed in 2018. (https://www.gasncfunc.eu/gas-func/issues/09/2018/view). The FUNC Platform Terms of</p>	

use does not allow for previously addressed issues to be re-submitted unless a change in materiality can be shown. A further reason was that in both instances the request focused to amend the EU legislation, which shall be addressed by a formal amendment request and not via the FUNC-process, which focuses on operational and technical issues (link to [Terms of use](#)).

According to Recital 13 of the Gas Directive 2019/692¹ (as recently amended), the NC on INT&DE² and NC CAM³ *'apply to entry points from and exit points to third countries, subject to the relevant decisions of the relevant national regulatory authority'*. This provision is repeated in the relevant scope articles of the afore-mentioned Codes, NC CAM and NC on INT&DE, which ensure a conditional application at the EU side of the connection points with third countries and the European Union, based on the decision of the relevant national regulatory authority.

The issue will therefore be closed on the FUNC Platform without being further processed. The concerned NRAs and TSOs, as well as the Energy Community Secretariat, have been informed and are aware of the approach taken, in particular the limitations of the FUNC process.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0692&from=EN>

² Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a Network Code on interoperability and data exchange rules (OJ L 113, 1.5.2015, p. 13).

³ 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 (OJ L 72, 17.3.2017, p. 1).