

**RESOLUTION OF 4 AUGUST 2016
464/2016/R/GAS**

**COMPLETING THE IMPLEMENTATION OF EUROPEAN PROVISIONS RELATING TO THE
RESOLUTION OF CONGESTIONS AT INTERCONNECTION POINTS WITH OTHER
COUNTRIES OF THE NATIONAL GAS PIPELINES SYSTEM**

**THE ITALIAN REGULATORY AUTHORITY FOR ELECTRICITY
GAS AND WATER**

In the meeting of 4 August 2016

HAVING REGARD TO:

- Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009;
- Regulation (EC) of the European Parliament and of the Council No. 713/2009 of 13 July 2009;
- Annex 1 of EC Regulation No. 715/2009, of 13 July 2009, as amended by the Commission Decision of 24 August 2012 (hereinafter: CMP Regulation);
- Law No. 481 dated 14 November 1995, including any additions and amendments;
- Legislative Decree No. 164 of 23 May 2000;
- Decree of the President of the Italian Republic No. 244 of 9 May 2001;
- Law No. 239 of 23 August 2004;
- Legislative Decree No. 93 of 1 June 2011;
- Resolution No. 137/02 of the Italian Regulatory Authority for Electricity Gas and Water (hereafter: The Authority) of 17 July 2002, including subsequent additions and amendments (hereinafter: Resolution 137/02);
- The Authority Resolution No. 332/2013/R/gas of 25 July 2013;
- The Authority Resolution No. 411/2013/R/gas of 26 September 2013, (hereinafter: Resolution 411/2013/R/gas);
- The Authority Resolution No. 555/2015/R/gas of 20 November 2015;
- Authority consultation document No. 270/2013/R/gas of 20 June 2013, (hereinafter: consultation document 270/2013/R/gas);
- The Authority consultation document No. 60/2016/R/gas of 18 February 2016, (hereinafter: consultation document 60/2016/R/gas);
- The most recently approved network code of Snam Rete Gas S.p.a. (hereinafter: Snam Rete Gas);
- The document “*Guidance on best practices for congestion management procedures in natural gas transmission networks*”, published on 11 July 2014 by the European Commission.

WHEREAS:

- the CMP regulation requires that the transmission system operators make available to the market any possible capacity unused by primary users by means of one of the following congestion management procedures:
 - “oversubscription and buy back” system (hereafter: OS&BB);
 - capacity release;
 - long-term “use-it-or-lose-it” mechanism;
 - day-ahead based “use-it-or-lose-it” mechanism (hereafter: FDA UIOLI);
- the application of the above-mentioned provisions at interconnection points with other countries of the national gas pipeline system (for Italy: Gorizia-Sempeter and Tarvisio-Arnoldstein) became compulsory from 1 October 2013, except for the FDA UIOLI mechanism that has to be introduced starting from 1 July 2016 for the cases indicated in this Regulation;
- in particular, the CMP Regulation makes the application of FDA UIOLI compulsory at interconnection points where, based on the ACER annual monitoring report, demand continues to exceed supply for an established number of cases and capacity products;
- this is without prejudice to the right of the National Regulators to carry out an evaluation of the relationship between the FDA UIOLI and OS&BB mechanisms and to decide not to apply OS&BB at its own interconnection points, should it be deemed unsuitable, based on evaluations of the specific situation of the interconnection point; this option was put in practice by the Austrian Regulator;
- the CMP Regulation does not oblige the same measures to be used at both sides of an interconnection point, but the application of different mechanisms does not facilitate the contractual congestion management of bundled products;
- the CMP Regulation requires that the OS&BB is introduced based on a proposal by the TSO; therefore, the Authority, on 13 May 2013, invited Snam Rete Gas to prepare the above-mentioned proposal;
- the Authority started the implementation of the provisions related to the management of contractual congestions with the publication of consultation document 270/2013/R/gas, which led to the approval of Resolution 411/2013/R/gas;
- Resolution 411/2013/R/gas postponed the approval of the OS&BB provisions, taking into account the time necessary to Snam Rete Gas for defining the detailed implementation proposal, for the consequent evaluation by the Authority and for the coordination among the regulators of the neighbouring countries;
- with a letter of 18 March 2014 (Authority reference No. 8618) and based on user consultation, Snam Rete Gas submitted to the Authority the implementation proposal for the OS&BB mechanism as outlined in the previous paragraph, along with a TSO incentive mechanism plan;

- with a letter of 13 June 2014 (Authority reference No. 16678), the Authority:
 - i) requested to Snam Rete Gas to complete the OS&BB proposal with specific quantitative information;
 - ii) highlighted the risk that the proposed incentive mechanism, based on the recognition of additional revenues with regard only to the amount of additional capacity offered, even if it is not allocated, may produce incentives which are not consistent with the benefits, in terms of the reduction of any possible contractual congestion, which can be obtained by introducing the OS&BB mechanism;
 - iii) invited Snam Rete Gas to expand the possibility of buy-back providing additional options instead the sole purchase on the secondary market through the Prisma platform, in order to minimize the risk of reducing single user programmes in order to deal with a possible demand for a physical flow exceeding technical capacity;
- with the letter of 7 August 2014 (Authority reference No. 22568) and the letter dated 19 December 2014 (Authority reference No. 37260), Snam Rete Gas sent to the Authority quantitative analysis data regarding transport capacity and essentially reaffirmed the principles of its own OS&BB proposal, highlighting its consistency with the provisions of the CMP Regulation;
- the non application of the OS&BB mechanism at interconnection points of the national gas pipeline system has not caused criticalities for the absence, in thermal years 2014/15 and 2015/16, of contractual congestions related to yearly, quarterly or monthly products.

WHEREAS:

- with consultation document 60/2016/R/gas, of 18 February 2016, the Authority, with the aim of completing the CMP Regulation implementation, envisaged the introduction of the FDA UIOLI mechanism into the Italian regulation, in order of avoiding the risk of burdening the system with costs, which cannot be determined *ex ante*, which are not necessarily related to significant benefits, as well as to facilitate coordination with neighbouring countries;
- almost all of the parties who took part in the consultation expressed their support regarding the possibility of implementing the FDA UIOLI mechanism in Italy from the next thermal year onwards, provided that it is planned as established in the CMP Regulation, with particular reference to its non-application to users who hold less than 10 percent of capacity at the interconnection point and to the rights on an interruptible basis for the restricted part of the contractual capacity;
- users, moreover, highlighted the necessity of ensuring the consistency of the implementation of European regulations on congestion management with the regulations on capacity allocation and balancing;
- one user suggested applying the FDA UIOLI mechanism as a preventive measure, even in the absence of contractual congestions;

- two participants in the consultation, however, were against the introduction of the FDA UIOLI mechanism and suggested persisting with the idea of introducing an OS&BB system, considering possible different implementation methods and envisaging an incentive system for the TSO linked to the allocated capacity and not only to the additional capacity offered;
- Snam Rete Gas:
 - i) highlighted its disagreement regarding the Authority's orientation towards the introduction of FDA UIOLI, claiming that the OS&BB mechanism is the most suitable and efficient congestion solution for the national system as well as being the most consistent with the provisions of the CMP Regulation;
 - ii) expressed its availability to carry out further analysis and in-depth examination regarding the proposals sent to the Authority thus far, in order to resolve the critical issues identified;
 - iii) highlighted, however, the impossibility of adapting its own information systems to the new FDA UIOLI mechanism starting from the beginning of the next thermal year.

CONSIDERED :

- to proceed with the completion of the CMP Regulation implementation into the Italian regulation;
- that applying the OS&BB mechanism in Italy, as proposed by Snam Rete Gas, in the current market situation could lead to the risk of burdening the system with (potentially high) costs that cannot be determined *ex ante* not necessarily related to significant benefits; moreover, this choice would not facilitate the management of congestion related to bundled products;
- that it is, therefore, appropriate to confirm the guidelines, expressed in consultation document 60/2016/R/gas, on the introduction of the FDA UIOLI mechanism, since it is the most suitable tool, in the current market situation, to achieve the harmonisation of the contractual congestion management rules among the neighbouring systems;
- that, considering the fact that the FDA UIOLI mechanism only concerns daily capacity, it is, nevertheless, appropriate that Snam Rete Gas prepare and submit to the Authority a proposal for the possible integration of the same mechanism with other contractual congestion prevention tools, in line with the CMP Regulation and with the characteristics of the national system and the European market, which can be applied with reference to capacity products with a duration of more than one day;
- to provide for the TSO to apply the FDA UIOLI mechanism with reference to the daily capacities allocated to the users for all the gas days of a month M for which capacity demand exceeded the offer in the monthly auction which took place in the month $M-1$;

- to provide that the TSO recognizes to the user initially holder the contractual capacity made available through the application of the FDA UIOLI mechanism, the value of the capacity allocated to third parties, identified as outlined in Paragraph 14.bis.4 of Resolution 137/02;
- to provide that Snam Rete Gas prepare, subject to user consultation, a proposal to update its network code to implement the provisions of this resolution, also taking into account the flexibility that the new balancing system requires;
- to provide that the provisions of this resolution are applied starting from the date that will be indicated in the resolution that will approve the proposal to update the network code as per previous paragraph.

RESOLVES

1. to introduce the following article 14.querter, after article 14.ter of Resolution 137/02:

“Article 14.querter

Day-ahead “use-it-or-lose-it” mechanism

- 14.querter.1 At the entry and exit points interconnected with other countries of Tarvisio and Gorizia, the TSO applies, subject to the conditions outlined in Paragraph 14.querter.2, a day-ahead “use-it-or-lose-it” mechanism (FDA UIOLI), which envisages procedures and timeframes, specified in the network code, which ensure the compliance with the criteria outlined in Paragraphs 3, 4 and 5, of Article 2.2.3 of Annex 1 of EC Regulation No. 715/2009 and subsequent additions and amendments.
 - 14.querter.2 The TSO applies the FDA UIOLI mechanism described in Paragraph 14.querter.1 with regard to the gas days of the months *M* for which the capacity demand exceeded the offer in the auction for the allocating of the capacity held in the month *M-1*.
 - 14.querter.3 The TSO recognize to the user initially holder the contractual capacity made available through the application of the FDA UIOLI mechanism, the value of the capacity allocated to third parties, identified as outlined in Paragraph 14.bis.4 of Resolution 137/02.”
2. to provide for Snam Rete Gas sending to the Authority:
 - a) subject to user consultation, a proposal to update its network code, to implement the provisions of this resolution, taking into account the flexibility that the new balancing system requires;
 - b) together with the proposal as per a), a proposal to integrate the FDA UIOLI mechanism with other contractual congestion prevention tools, in line with the CMP Regulation and with the characteristics of the national system and the

- European market, which can be applied with reference to capacity products with a duration of more than one day;
3. to provide that the provisions of this resolution are applied starting from the date that will be indicated in the resolution approving the proposal to update the network code as per a) of Paragraph 2;
 4. to forward this decision to the Ministry of Economic Development, to the European Commission, to ACER, to the Austrian and Slovenian Energy Regulatory Authorities and to Snam Rete Gas;
 5. to publish this decision and Resolution 137/02, as amended by this decision, on the Authority 's website www.autorita.energia.it.

4 August 2016

THE PRESIDENT
Guido Bortoni