

Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (Text with EEA relevance)

Article 16

Principles of capacity-allocation mechanisms and congestion-management procedures concerning transmission system operators

- 1 The maximum capacity at all relevant points referred to in Article 18(3) shall be made available to market participants, taking into account system integrity and efficient network operation.
- 2 The transmission system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms, which shall:
 - a provide appropriate economic signals for the efficient and maximum use of technical capacity, facilitate investment in new infrastructure and facilitate cross-border exchanges in natural gas;
 - b be compatible with the market mechanisms including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; and
 - c be compatible with the network access systems of the Member States.
- 3 The transmission system operator shall implement and publish non-discriminatory and transparent congestion-management procedures which facilitate cross-border exchanges in natural gas on a non-discriminatory basis and which shall be based on the following principles:
 - a in the event of contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead and interruptible basis; and
 - b network users who wish to re-sell or sublet their unused contracted capacity on the secondary market shall be entitled to do so.

In regard to point (b) of the first subparagraph, a Member State may require notification or information of the transmission system operator by network users.

- 4 In the event that physical congestion exists, non-discriminatory, transparent capacity-allocation mechanisms shall be applied by the transmission system operator or, as appropriate, by the regulatory authorities.
- 5 Transmission system operators shall regularly assess market demand for new investment. When planning new investments, transmission system operators shall assess market demand and take into account security of supply.

Changes to legislation:

There are outstanding changes not yet made to Regulation (EC) No 715/2009 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Art. 16(3) words omitted by [S.I. 2019/530 Sch. 2 para. 7\(3\)](#)
- Art. 16(4) words substituted by [S.I. 2019/530 Sch. 2 para. 7\(4\)](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Signature words omitted by [S.I. 2019/530 Sch. 2 para. 18](#)
- Art. 6(1)(d) words substituted in earlier amending provision [S.I. 2018/1286, reg. 10](#) by [S.I. 2020/1016 reg. 2\(5\)\(a\)](#)
- Art. 6(1)(h) words substituted in earlier amending provision [S.I. 2018/1286, reg. 10](#) by [S.I. 2020/1016 reg. 2\(5\)\(b\)](#)
- Art. 16(2)(c) substituted by [S.I. 2019/530 Sch. 2 para. 7\(2\)](#)
- Art. 28A28B inserted by [S.I. 2018/1286 reg. 14](#)
- Art. 30A30B substituted for Art. 30 by [S.I. 2019/530 Sch. 2 para. 16](#)