

## ***Questionnaire for the Draft Framework Guideline on Harmonised transmission tariff structures<sup>1</sup>***

Please provide the Agency with your full contact details, allowing us to revert to you with specific questions concerning your answers.

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Please indicate, if your company/organisation is:

- a. European association
- b. National association
- c. **TSO**
- d. Shipper or energy trading entity
- e. End-user
- f. Other (e.g. Power Exchanges, Storage Operator etc.), namely:.....

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1 Further also referred to as “FG”. The resulting Network code on Harmonised transmission tariff structures is further also referred to as “NC”.

**Please provide, if relevant, reasoned indication if you wish to consider (part of) your response as confidential<sup>2</sup>.**

**When writing your responses could you include how your arguments contribute to the objectives set out in section 1.2 of the draft Framework Guideline. For definitions please consult section 1.3 of the draft FG.**

FGSZ Ltd would like to thank for the opportunity to provide its opinion about ACER's Draft Framework Guidelines on Tariffs. Based on the given accompanying documents, the ACER IIA and the Brattle report, we now have a better understanding about the dilemmas ACER faced while composing the questionnaire and acknowledge the need for more clarity about European tariff systems. FGSZ is convinced that precise problem definition is the key to address issues on a European level, which enables stakeholders to focus on the most important issues addressed and supported by hard evidence, and do not stretch valuable resources by compelling to discuss issues of minor relevance.

We are of the opinion that 1) CMP and CAM NC significantly will reduce trade barriers within EU Member States and 2) differences in licensing and network access conditions cause much more inconvenience to network users than tariffs. Therefore, we propose an approach that firstly identifies tangible problems about tariff systems, secondly assesses the necessary level of solving the identified issue in line with the principle of subsidiarity, and thirdly gives guidance to a further Network Code elaboration.

For the avoidance of doubt, we use the terms 'tariff system' and 'tariff methodology' as synonymous throughout the response document.

Should you have any questions regarding our answers, please do not hesitate to contact us.

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<sup>2</sup> The Agency shall carefully consider all responses received (whether confidential or not) subject to the provision that anonymous responses or responses from respondents who do not want their identity to be made public will generally not be taken into consideration. The Agency will make public the number of responses received to formal consultations, the names of the respondents, and all non-confidential responses. Respondents may request that information or data in their responses is treated as confidential. The Agency will assess, in co-ordination with the respondents requesting confidentiality, which information or data shall not be made public and may request from the respondents an explanation of their confidentiality interests and a non-confidential version of their response for publication. The Agency will evaluate confidential responses as transparently as possible without undermining the respondents' confidentiality interests.

**1. General provisions. Scope, application, definitions and implementation (Chapter 1 of the draft Framework Guideline)**

**1.1. Please explain whether any of aspects of the application of the draft FG (NC) to existing contracts would cause disproportionate effects on gas business in relation to 3<sup>rd</sup> Package objectives?** Please give reasons for your answer, including any quantitative evidence, tables and examples (if required, under confidentiality).

We believe that a mandatory renegotiation of existing contracts poses significant risks to both Network Users and TSOs, for the following reasons:

- Network Users entered into existing transmission capacity contracts in the faith and belief that those contracts serve as stable instruments to ship gas. It is questionable, whether these Network Users would have entered into the same contracts having knowledge about the possible changes to their contracts.
- A selective approach of applying a certain type of cross-border transmission tariff methodology to a certain type of cross-border infrastructure might be discriminatory, especially if this is applied retroactively. We assess it to be discriminatory to impose a certain type of tariff methodology upon TSO networks while this does not apply to pipelines exempted from third party access. Such a selective approach does not support the single European gas market, by artificially distorting pipeline-to-pipeline competition. With the increasingly frequent phenomenon of single, dedicated and exempted pipelines that do not form part of any TSO network, where NRAs have no possibility to regulate tariff methodology and/or tariffs themselves and such pipelines enjoy an advantage to regulated TSO pipelines.
- With the intensification of European gas-to-gas competition, we believe that an important aspect of the new Tariffs Network Code should be to encourage and enable network users to use the existing networks more efficiently (as this goal appears in other Network Codes already), which might reduce the need for new investments. Inappropriate European rules might lead to more TSO stranded assets and overinvestment at the same time.
- Reopening tariff arrangements may encourage certain network users to quit their current capacity contracts or claim such rights at courts. Both long and short term financial positions of TSOs are largely dependent on their stock of capacity contracts as well as network users' tariff stability on the other hand. Endangering existing contracts may lead to highly fluctuating TSO cashflow, which affects the credit position of TSOs, and tariff stability, which affects network users' cashflow positions. If TSOs are bound to renegotiate existing capacity contracts,

appropriate safeguards should be in place in order to offset the additional risk arising from the new regulation.

We are concerned about the usage of a single type of tariff methodology for all type of TSO assets, even for one regulated asset base. We believe that gas transmission infrastructure can be built for different reasons that inevitably lead to the application of different tariff methodologies. For instance, a security of supply piece of infrastructure fundamentally differs from a market demand driven investment underpinned by an Open Season procedure.

**1.2. Please explain if any further definitions should be added for clarity of the FG (NC)?**

We seek clarification:

- Whether Open Season procedures are exempted from the current regulation?
- Whether the regulatory account shall regulate regulated revenue only or the elements of the regulated revenue as well (i.e. operating expenses, amortization and regulated return)? This could be important from the incentives point of view.
- About the definition of '*significant* risk of under or over recovery' (see point 4.2.3.)
- About the definition of the entry-exit zone.

**1.3. Please suggest the top-5 *core indicators*<sup>3</sup> for monitoring the future EU-wide implementation of the future tariff FG (NC)?** ACER and ENTSO-G both have legal obligations to monitor NC implementation (in accordance with Article 9 (1) and Article 8(8) of Regulation (EC) No 715/2009 respectively).

We believe that this question can be best defined by regulators.

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<sup>3</sup> An example of a *core indicator* could be e.g. the relative size of (positive or negative) Regulatory account in comparison to overall Tariff revenues, indicating under- or over recovery of the tariff regime in a specific entry- and exit zone.

## **2. Cost allocation and determination of the reference price (Chapter 2 of the draft Framework Guideline)**

### **2.1. Transparency provisions**

#### **2.1.1 Do you agree with the level of harmonization proposed for the transparency in relation to tariffication methodologies<sup>4</sup>?**

- a.** Yes, because.....;
- b.** **No, because.....;**
- c.** No opinion, because.....

Where we see merit in harmonizing is how NRAs use data for the calculation of tariffs applying a given methodology. In case of an NRA tariffs proposal, we strongly advocate the usage of transparent and publicly available parameters for tariffs calculation because we believe transparency should not only apply to TSOs but to NRAs as well especially in such important issues as tariffs calculation. Such transparency should prove among others that why tariffs are not cross-subsidising any classes of network users and do not have any element of implicit or explicit subsidies to (groups of) network users.

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<sup>4</sup> Article 18(2) of Regulation 715/2009 states that: “In order to ensure transparent [...] tariffs [...], transmission system operators or relevant national authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure”. The proposed text in the draft FG seeks to ensure such reasonable and sufficient detailed information.

**2.1.2 Would you support additional requirement(s) to ensure “reasonable and sufficiently” detailed tariff information<sup>5</sup>? For example, one could consider including a provision such as: “the transmission system operators or relevant national authorities shall provide additional information if a significant tariff fluctuation is expected on a specific or on all entry- and exit points”.**

**a.** Yes, such as.....;

**b.** No, because.....;<sup>6</sup>

**c.** No opinion, because.....

National legislation already obliges us to publish the main underlying parameters of tariffs calculation methodology further to the methodology itself. Therefore, we already comply with the suggested depth of information provision and as this can be done on national level, we believe this issue can be best solved by taking the principle of subsidiarity maximally into account. In case of additional data provision is not clear which information should be provided to whom and what would be the benefit of this. We agree partly with ACER about what network users are most worried about, i.e. the future evolution of tariffs. On the other hand, we do not see how more information, e.g. a published step-by-step tariffs calculation would help network users foresee future tariffs. In our opinion the problem lies within forecasting future supply and demand for natural gas, future flows and transmission capacity demand, which are all difficult tasks and require parameters that can be hard to estimate beforehand, especially with increasingly deeper EU gas market integration. Due to these, not even NRAs or TSOs are able to foretell the long term evolution of transmission tariffs with high accuracy. Therefore, we do not see practical merit in an increased data provision obligation.

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<sup>5</sup> Article 18(2) of Regulation 715/2009 states that: “In order to ensure transparent [...] tariffs [...], transmission system operators or relevant national authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure”.

<sup>6</sup> Please consider specifically if there are legal barriers in your jurisdiction(s), preventing such level of transparency. E.g. it might be that the transmission system operators or relevant national authorities could be liable for such a ‘prediction’.

## **2.2 Cost allocation and reference price setting methodology, general questions.**

### **2.2.1 Do you agree with proposed level of harmonization for the reference price setting methodology, aiming for same methodology for all types of network users per one entry-exit zone?**

- a. Yes, because.....;
- b. No, because.....;
- c. **No opinion, because.....**

We did not see conclusive evidence that different tariff systems constitute a major barrier to cross-border trade. While different tariff systems indeed require more effort from network users to understand tariff formation, TSOs and NRAs provide tools to help network users, e.g. by tariff calculators and dedicated customer service personnel. It is very challenging to tell whether we agree or disagree with something that can take different shapes in function of our understanding and experience.

Therefore, we can imagine a great variety of outcomes out of the current ACER questionnaire to define 'a' tariff system because it contains a number of policy choices based on a broad selection of, and in some instances mutually exclusive assumptions. In order to have a mature proposal in the end of the TAR FG/NC process, we believe that at the initial phase the broadest possible concept should be presented so that stakeholders would have multiple rounds of opportunities to shape the TAR NC.

## **2.3 Cost allocation and the Reference price setting methodology, detailed questions.**

### **2.3.1 Do you agree with proposed option for setting reference prices for entry capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?**

- a. **Yes, because.....;**
- b. No, because.....;
- c. No opinion, because.....

We agree that entry and exit capacity fees should be based on main cost drivers. Distance, however, is the major cost driver in a point-to-point system, whereas a

decoupled entry-exit system per definition should avoid extensive reliance on distance as a major cost driver. Such cost drivers may significantly differ in Member States; therefore we do not support to eventually define a list of accepted cost drivers on a European level.

**2.3.2 Do you agree with proposed option for setting Reference prices for exit capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please confer with point 2.3.1.

**2.3.3. Do you agree with the cost allocation principle that revenue from entry points should equal 50% of revenue from all entry and exit points?**

- a. Yes, because.....;
- b. No, because.....;
- c. **No opinion, because.....**

We believe that the application of the 50/50 split is feasible only on the basis of accounting and not by dividing and assigning the costs of physical infrastructure to certain entry or exit points. Applying exactly 50/50 seems too rigid to us; however we do understand the importance of avoiding extreme situations with very heavy entry or exit cost weighting. Based on this, the exact split ratio should be defined in each Member State, possibly with observing certain upper and lower limits defined on a European level. These limits should be subject to further discussions.

**2.3.4. Do you agree with application of the proposed options for setting reference prices to all entry and exit points (without any separate mechanism for the domestic points, whilst ensuring no discrimination between domestic and cross-border network usage)?**

- a. Yes, because.....;
- b. **No, because.....**
- c. No opinion, because.....:

We do not agree because we believe that different tariff methodologies applied within an entry-exit zone helps avoiding cross-subsidisation, contrary how it is suggested in the question. **If strictly one tariff methodology is used within an entry-exit zone, it means that all costs have to be socialised**, regardless of the beneficiaries of a specific investment. We believe that this brings a new regulatory risk in TSOs operations because NRAs, based on a cost-benefit analysis, might not want to incorporate any kind of investments into the tariffs – but they face the decisions either to socialise all costs or refuse the investment.

**2.4 Pricing of entry- and exit capacity on the transmission network to and from gas storage facilities (see also questions under ‘9’ Locational signals).**

**2.4.1. Do you agree with proposed option to base tariffs for entry and exit capacity on the transmission network to and from gas storage facilities at an adequate discount to other entry and exit points on the TSO?**

- a. Yes, because.....;
- b. No, because.....
- c. **No opinion, because.....**

We believe that this is the question of national energy strategies. It is important to highlight that if storages enjoy discounts over other types of TSO network points; this discount has to be offset also by such network users who do not use storage facilities. Therefore it is important to highlight that by advocating discounts for storages (or other kind of network points for whatever reason), one also advocates cross-subsidies and weakens the argument for cost reflectivity.

**2.4.2. Do you agree with harmonization of such a discount across all storage points in the EU?**

Please reason your answer, including any quantitative evidence, tables and examples. Please also specify, if you believe that harmonization should go even further, e.g. benchmarking absolute entry-exit tariff levels for gas storage sites.

- a. Yes, because.....;
- b. No, because.....
- c. **No opinion, because.....**

Please confer with point 2.4.1.

**2.4.3. If you prefer harmonization for an 'adequate' discount, which level of such a discount applied to firm capacity level do you advocate?**

- a. 0, because....
- b. 0-30%, because.....;
- c. 30-50%, because.....
- d. 50-80%, because...
- e. 80-100%, because....
- f. **No opinion or other suggestions, because....**

Please confer with point 2.4.1. Please note that this question, as all questions about discounts, may lead to different answers when bearing in mind the overall entry-exit split of 50/50 or another ratio.

**2.4.4. What are your views on harmonization of tariff measures, leading to harmonization of transmission tariff levels across all storage points in the EU (instead of harmonizing a discount across all storage points in the EU)?**

We strongly oppose this idea for several reasons:

- Regulatory and economic environment and network characteristics substantially differ across the EU; therefore storage tariff levels in themselves are not comparable.
- Further to this, we are of the opinion that such a tariff levelisation would distort competition.
- As the Tariffs FG aims at harmonising tariff structures, the exact level of tariffs seems to be out of scope.

### **3. Revenue recovery (Chapter 3 of the draft Framework Guideline)**

#### **3.1. General – interdependency questions.**

##### **Introduction.**

Revenue recovery (chapter 3), Reserve price for firm standard capacity products (chapter 4.1) and Payable price (chapter 7) cannot be considered separately. The main interaction is that a regime where auctions are used will have a greater level of uncertainty in revenues collected from auctions.

The use of specified in FG chapters 3, 4 and 7 policy options need to work together to meet the objectives of the FG whilst ensuring the TSO recovers their allowed revenues. There is a possibility that in practice there might be under- or over recoveries, especially as a consequence of policy options regarding short term reserve prices and payable price. Therefore there will need to be a Regulatory Account to ensure the TSOs recover their allowed revenues.

##### **3.1.1. Do you agree that the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price are consistent together?**

- a. Yes, because.....;
- b. No, because.....;
- c. No opinion, because.....**

We agree that these three aspects are of key importance, however we have the impression that short term product pricing as it is proposed might result in very volatile tariffs even if sufficient safeguards had been in place for revenue recovery.

##### **3.1.2. Are the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price properly addressing the ambition for the pricing of transmission capacity to strike the right balance between facilitating short-term gas trading on one hand and providing long-term signals for covering costs and promoting efficient investments on the other?**

- a. Yes, because.....;
- b. No, because.....**
- c. No opinion, because.....;

The draft FG lays more stress on short term trade than on efficient network usage or the provision of investment signals. We believe that if balance is shifted in favour of the short term trade, the risk of under recovery and tariff volatility is increased. Long term

investments should be addressed by specific measures, by mentioning options for investment incentives (e.g. investment premium above the regulated return etc.).

### 3.2 Regulatory account

#### 3.2.1 Do you agree with the principle to set reference prices to minimise the difference between allowed and collected revenues?

- a. **Yes, because.....;**
- b. No, because.....
- c. No opinion, because.....

We agree, this is a very important objective to minimize tariff volatility.

#### 3.2.2 Do you agree with proposed level of harmonization of using the regulatory account?

- a. Yes, because.....;
- b. **No, because.....**
- c. No opinion, because....

We do agree with the concept of the regulatory account; however we disagree with the proposed level of harmonisation. FGSZ would like to have a European harmonisation in 'how often and how fast the regulatory account has to be reconciled.'

Furthermore, we propose to formulate the wording about *costs to be logged in the regulatory account* in point 3.1. of the draft FG as:

- instead of *'which fraction of the under- or over-recovery will be logged on to the regulatory account (and therefore paid by, or returned to, consumers), and which part should be met by the TSO(s)'* to have
- *'whether to use incentive schemes with regard to under- or over-recovery based on risk and reward sharing,'* which latter formulation corresponds to the principle of cost reflectivity while at the same time not excluding the possibility of the original proposal.

**3.2.3 Do you agree that NRAs should determine or approve how often and how fast the regulatory account has to be reconciled on a national level, whilst preserving balance between timely cost recovery and sudden adjustments to tariffs?**

- a. Yes, because.....;
- b. No, because.....**
- c. No opinion, because.....

The questions of over and under recovery are key elements in the new market model. Without proper national implementation of a regulatory account mechanism, (as stated in 3.1.1.), goals of the FG/NC cannot be achieved. We believe that leaving under and over recovery issues to be interpreted on a national level adds additional regulatory risk to TSOs, and consequently, we favour to have these questions defined on a European level.

**3.2.4 What is your view on including the option to use the Regulatory Account (including the potential over-recoveries from auction premium) to contribute to solving congestion? How could this be done, especially in view of principles of non-discrimination and cost-reflectivity? Please give reasons for your answer, including any quantitative evidence, tables and examples.**

This is a good idea, and auction revenues can contribute to solving congestions. In our experience, however, auction premium revenues alone are not enough to de-bottleneck congested network points within a reasonable (3-5 years) period of time. It is a good step towards solving congestions to channel auction premia revenues to new investments but the real solution would be to guarantee attractive regulated return on investments. If auction premia alone should be a source of de-bottlenecking, then the goal mentioned under this point is possibly in conflict with point 3.2.1., which aims at the minimisation of the difference between regulated and collected revenues.

**3.3. Reconciliation of Regulatory accounts.**

**3.3.1. Which option for the reconciliation of regulatory accounts do you prefer?**

- a. **Option 1; because....**
- b. Option 2; because....If preferred, what percentage of revenues should be recovered through capacity charges and why?
- c. No opinion, because.....

We prefer to reconcile the regulatory account via capacity fees. We believe that using the commodity fee to recover revenues would have a detrimental effect on short-term cross-border trade if the account is negative, or would not be possible if the account is positive beyond an extent (because it would result in negative commodity charges).

**3.3.2. In line with the interdependency discussion above in question 3.1, what are your views on recovering revenues by means of a separate charge set at the start of the gas year with the aim of minimising the amount that goes into the regulatory account?** This charge could be based either on gas flows (commodity) or capacity bookings (capacity). Then the regulatory account would be reconciled through the reserve or reference price. See chapter 3 of the draft FG.

We believe that it is not necessary to levy a separate under-recovery charge, differences in regulated revenue and achieved revenue should be built in capacity fees. This approach would be in line with the goals presented in 3.1. We see however this approach justified as a transitory measure in the first year of application of the new Tariff NC to mitigate possible large account differences.

**3.3.3. Do you agree with application of the option on reconciling regulatory account to all entry and exit points (both domestic and cross-border)?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....:

Yes, we agree, with the exception of revenues that had been guaranteed as investment incentive. Such revenues should be treated independently from the regulatory account.

**3.3.4. Do you agree that the regulatory account should be recovered by splitting the total under- or over- recovery across all entry and exit points in the same proportion as set out in the cost allocation methodology?** For example if the cost allocation methodology is a 50:50 split then 50% of all under- or over- recovery will be from the entry points and 50% from the exit points.

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because....

We agree, however we propose a range for entry and exit splits instead of 50/50 as we stated in point 2.3.3.

#### **4. Reserve prices (Chapter 4 of the Framework Guideline)**

NB: when answering, please specify if your answer differs for daily, monthly and/or quarterly products.

##### **4.1 General.**

##### **4.1.1 Do you consider it sufficient to have rules on firm, interruptible and non-physical backhaul capacity products or are you aware of other capacity products that should be addressed in the FG?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Yes, we think that the proposed types of capacities are sufficient.

##### **4.2 Reserve prices (firm)**

##### **4.2.1 Do you agree with proposed level of harmonization?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please see points 4.2.2. and 4.2.3.

##### **4.2.2 Do you agree with proposed option for the Reserve price for short-term products including the possibility that the national regulatory authority may decide to allow for higher short-term prices that may apply (via multiplier higher than one, but not higher than 1.5) if there is risk of *significant* under-recovery of allowed revenues?**

- a. Yes, because.....;
- b. No, because.....
- c. **No opinion or other view, because.....**

We do not have a definite opinion on the proposed level of multipliers and seasonal correction factors. Before introducing such measures, extensive research (involving all TSOs) is required to assess the impact of the application of such multipliers. We believe

that multiplier and seasonal factor levels are influencing network users' behaviour in capacity booking, therefore we propose to develop a dynamic model with which TSOs can test the effect of the proposal.

The proposed low level of multipliers do not seem to acknowledge the fact that gas networks have been built for peak capacity and TSO costs are related to the maintenance of peak capacities of the network. Instead, low multipliers encourage pay-as-you-use network usage, which model has not been a common practice in the past.

Without prior knowledge and experience about low multipliers, there is a TSO motivation to increase the price of the reference product (annual capacity) considerably so that low multipliers do not affect significantly TSO revenues. Therefore, the sum of the network usage fees will not change (the regulatory account is to ensure this), just redistributed in a drastically differing way among network users. Based on the current proposal, this redistribution will occur along the line of flat vs. profiled network users, where the former group is cross-subsidising the latter one.

Unless and until extensive calculations and simulations are done and presented in a transparent way, the proposed rules on multipliers and seasonal correction factors lack the evidence of viability and pose rather downside risks to both TSOs (revenue recovery and network integrity) and network users (tariff level stability and cost-reflectivity).

**4.2.3 Do you agree with application of the proposal on short-term Reserve prices to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?**

- a. Yes, because.....;
- b. No, because.....
- c. **No opinion, because.....:**

We have not seen evidence about the effects and viability of the proposed option, therefore we are unable to tell whether its range of application is good or not.

**4.2.4. What criteria would you propose to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?**

- By allowing multipliers higher than 1,
  - Revenues will likely not fall below the regulated amount. With this provision, under-recovery and upwards tariff adjustments could be avoided.
  - Cross-subsidisation between flat and profiled users can be avoided.
- The network point in question should not be congested.

**4.2.5. Would you agree with using Seasonality (or other criteria, which you may suggest) of the systems as criteria to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?**

a. Yes, because.....;

b. No, because.....

c. I don't know:

Yes, because this way the network usage can be optimised.

**4.3 Reserve prices (interruptible)**

**4.3.1 Do you agree with proposed option to set Interruptible Reserve prices at a discount to firm capacity where the discount is based on the likelihood of interruption, and to recalculate once a year?**

a. Yes, because.....;

b. No, because.....

c. No opinion, because.....

Yes we agree because it acts against cross-subsidisation and contributes to better network and capacity utilisation.

**4.3.2 If you prefer a fixed discount, which level of such a discount applied to firm capacity level do you advocate?**

a. 0, because.....; whereas risk of interruption is 0%

b. 0-30%, because.....; whereas risk of interruption is 1-60%

c. 30-50%, because.....; whereas risk of interruption is above 60%

- d. 50-80%, because...; whereas risk of interruption is.....; we would not apply this
- e. 80-100%, because...; whereas risk of interruption is.....; we would not apply this
- f. ....% (customized value, as above values are chosen arbitrary to allow for a global grouping of answers), because....; whereas risk of interruption is.....; and risk of interruption is calculated as follows:.....

**4.3.3 Do you agree with application of the proposed option to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Yes, it should be applied to cross-border interconnections only.

**4.4. Reserve price (backhaul)**

**4.4.1 Do you agree with proposed level of harmonization?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Please see 4.4.2.

**4.4.2 Do you agree with proposed option to set backhaul prices at a discount to firm capacity level so that Reserve prices reflect the level of actual marginal costs (= IT and administrative costs)?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

We do not agree that the cost of backhaul is equal to the sum of IT and administrative costs. A backhaul product can only be offered if there is an infrastructure enabling forward flow. Therefore, at least the cost elements of amortisation, regulated return on the asset and dispatching costs shall be calculated into the price of the backhaul capacity product, additionally to IT and administrative costs.

**4.4.3 Do you agree with application of the proposed option on backhaul capacity pricing to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Yes because backhaul is typically applied at cross-border interconnections.

**5. Virtual IPs**

**Do you support the proposed option for Reserve price in Virtual IPs as EU-wide standard? Please reason your answer, including any quantitative evidence, tables and examples on balance between cost-reflectivity and cross border trade stimulation.**

- a. Yes, because.....;
- b. No, because.....
- c. **No opinion, because.....**

FGSZ is not affected at the moment by this issue; however we remain concerned about cost reflectivity, the issue of long term contracts and pipe-to-pipe competition in the case of the VIPs. We suggest evaluating the experiences of VIP pilot projects before making any European standard about such IPs.

**6. Bundled capacity products**

**6.1 Reserve price (Bundled)**

**6.1.1 Do you agree with proposed level of harmonization?**

- a. Yes, because.....;
- b. No, because.....
- c. No opinion, because.....

Yes we agree because the proposal is in line with the CAM NC.

**6.1.2. Do you agree with the proposed option that the sum of Reserve prices for unbundled capacity is used as bundled Reserve price?**

- a. Yes, because.....;
- b. No, because.....

c. No opinion, because.....

Yes we agree because the proposal is in line with the CAM NC.

**6.1.3 Do you agree with application of specified the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?**

a. Yes, because.....;

b. No, because.....

c. No opinion, because.....:

Yes we agree because the proposal is in line with the CAM NC.

**6.2. Do you support the proposed option for Reserve price (if unbundled) as the EU-wide standard? Please give reasons for your answer, including any quantitative evidence, tables and examples on balance between cost-reflectivity and cross border trade stimulation. We encourage you to specify if you support the Unbundled Reserve price being higher to support bundling of products.**

a. Yes, because.....;

b. No, because.....

c. No opinion, because.....

Yes, because we agree with the policy to offer as much bundled capacity as possible.

**6.3 The Network Code on Tariffs shall specify that the revenues from Reserve price of bundled capacity products shall be attributed to the TSOs proportionally to the Reserve prices of their respective capacities in the Bundled Capacity. The revenues from the auction premium from bundled capacity above the Reserve price shall be split according to agreement between the relevant national regulatory authorities. Furthermore, the Network Code on Tariffs shall in the case that no agreement is concluded before the auction, specify that the revenues from the auction premium shall be split equally between the TSOs.**

**6.3.1 Do you agree with proposed level of harmonization in that approach above?**

- a. Yes, because.....;
- b. No, because.....
- c. **No opinion, because.....**

Please see point 6.3.2.

**6.3.2 Do you agree with proposed option for splitting auction revenues from bundled products to the relevant TSOs?**

- a. Yes, because.....;
- b. No, because.....
- c. **No opinion, because.....**

We agree because the proposal is in line with the CAM NC. We also could support the proportional split option provided that tariffs are cost reflective, however this is hard to question in the case of an adjacent TSO/NRA, therefore we are content with the equal split as well.

**6.3.3 Do you agree with application of the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?**

- a. Yes, because...
- b. No, because...
- c. No opinion, because.....

Yes we agree because the proposal is in line with the CAM NC.

**7. Payable price**

**7.1.1 Do you agree with proposed level of harmonization?**

- a. **Yes, because.....;**
- b. No, because.....
- c. No opinion, because.....

Please see points 3.1. and 7.1.2.

**7.1.2 Do you agree with the proposed option to set payable price equal to the current Reserve price for year in which capacity is used plus any premium?**

- a. **Yes, because...**

b.No, because.....

c. I don't know.

Yes we agree because the proposal is in line with the CAM NC.

**7.1.3 Do you agree with the application of specified options regarding payable price to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?**

a.Yes, because...

b.No, because...

c. No opinion, because.....

Yes we agree because the proposal is in line with the CAM NC.

**8. Incremental capacity (no explicit chapter in draft FG, implications at least to chapters 2/3 foreseen).**

In EC letter ACER is invited to consider in the Impact Assessment if tariffication principles should be developed in the Framework Guideline for Incremental Capacity.

Incremental capacity is defined as capacity that is provided (by investment) on top of capacity at an existing IP, after a 'market test' has been met. The market test sets out what the criteria are for providing incremental capacity. The key issue from 'incremental capacity' for tariffication is that incremental capacity can expose consumers to costs incurred by TSOs which may be problematic if incremental capacity costs are not fully recovered by users triggering the capacity provision as a result of the market test.

Therefore it is very important how economic test(s) (principles) are constructed at country- or even broader EU level, to get a balance between timely increases in capacity, efficient increases in capacity and under-recovery of revenues.

We note that in CEER-roundtable 2012 discussions on Incremental capacity experts have noted that harmonization of the specific parameters in the market test might not be needed, but rather a consistent approach to the principle of having a market test to trigger Incremental capacity may be needed at the EU level<sup>7</sup>.

**8.1. Please provide evidence of concrete problems with the current arrangements for incremental capacities, whereas these problems affect tariff structures in EU.** Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

We are certain that pipe-to-pipe / network-to-network competition is already present in Europe (and not only in the case of VIPs) besides gas-to-gas competition. While the new set of tariff regulation aims at easing short term hub-to-hub trade, it is done at the expense of long term network usage. We see a high risk that network users wishing to use infrastructure for long term will flee to pipelines with TPA exemptions that can offer more competitive long term transmission prices because the new European tariffs regulations do not apply to them. Since European gas transmission is still mainly based on long term supply contracts, and we believe this situation will not change suddenly, major volumes might shift from TSO networks to such dedicated pipelines. This may lead to TSO network underutilization and uncompetitive transmission prices as a consequence and stranded assets from an investor's point of view.

**8.2. Please therefore consider if harmonization, or partial harmonization of any parameters in the “market test” is appropriate within Tariffication principles at EU-level ?**

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please e.g. specifically address if FG/NC should set minimum and maximum thresholds for such a “market test”, whilst NRAs would set actual thresholds at national level. Please also address how such thresholds for a “market test” should take account of positive externalities (such as Security of Supply), as well as of the

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<sup>7</sup> Please consider the ongoing consultation on Incremental capacity issues by CEER, available via [http://www.energy-regulators.eu/portal/page/portal/EER\\_HOME/EER\\_CONSULT/OPEN%20PUBLIC%20CONSULTATIONS/Investment%20Procedures%20for%20Gas%20Infrastructure](http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/OPEN%20PUBLIC%20CONSULTATIONS/Investment%20Procedures%20for%20Gas%20Infrastructure) . Please also note that ACER will work with CEER during 2012 to further analyze the issues in this area.

risk that incremental capacity can expose consumers to costs incurred by TSOs which may be problematic if incremental capacity costs are not fully recovered by users triggering the capacity provision as a result of the market test.

We support to develop a unified market test methodology for incremental capacity, provided that it could be applied on a voluntary (i.e. not a mandatory) basis.

**8.3. Are there any other elements required in the Network Code on transmission tariff structures, to accommodate incremental capacity offer (e.g. influence on regulatory accounts, regulatory periods length, requirement for a fixed for period of years tariffs).**

Please give reasons for your answer, including any quantitative evidence, tables and examples<sup>8</sup>.

**9. Usage of locational signals (no explicit chapter in FG, implications at least to chapters 2/3/4 foreseen).**

Locational signals are considered to contribute to shippers using the system in a way which minimises future costs. Locational signals can be defined as specific tariff measures for specific entry or exit points in the system.

In EC letter ACER is invited to consider in IA if locational signals should be developed in the Network Code on transmission tariff structures. For example to address decisions on locating gas-fired power plants and/or gas storages and/or LNG terminals.

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<sup>8</sup> Please specify per below option, if your answer differs, if the approach to Incremental capacity identification (and, where applicable, allocation) would be based on 1 of the following options:

- Open Seasons (according to 2007 GGPOS),
- Coordinated Open Seasons (in light of the experience gained in the years since 2007)
- Identification via TYNDP, GRIPs and/or national TYNDPs,
- Regular integrated capacity auction for incremental and existing capacity,
- Incremental capacity auction if demand is identified in a regular process, and
- One time integrated auctions.

**9.1 Please provide evidence of concrete problems with the current arrangements for locational signals.** Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

**9.2. Are there any other elements required in the Network Code on transmission tariff structures to accommodate locational signals?**

Please give reasons for your answer, including any quantitative evidence, tables and examples.

**9.3. Please consider whether the chapter on ‘Reference price’ should have more options added in regard to use of locational signals. Please consider specifically how tariff structures can be used to signal investment for e.g. gas-fired power plants, storages, LNG terminals, etc.**

Please give reasons for your answer, including any quantitative evidence, tables and examples.

**9.4 Shorthaul as a form of ‘locational signal’ in e/e systems.**

Recent THINK-study, commissioned by European Commission, recommended ‘some harmonization in natural gas transmission tariffication to ensure that the breakdown of costs among grid users and among entry- and exit points respects the principle of cost-reflectiveness as much as possible. Adequate discounts on short-haul transports should be encouraged’<sup>9</sup>.

Entry-exit systems require users who want to take gas onto the system and deliver it to others in the system to buy entry capacity (to allow them to flow gas from the entry point to the virtual hub) and exit capacity (to allow them to flow gas from the virtual hub to the exit point). If users want to flow significant volumes of gas from an entry point to a nearby exit point they may consider building their own pipeline between the two points if that is cheaper for the user than paying for entry and exit capacity plus any additional revenue recovery charges (as their own pipeline would also be subject to less onerous tariff regulation in general). Building additional pipelines when there is capacity available on the system may not be the most efficient way to develop the network. Whilst it must be considered that permitting construction of such a pipeline might not be a realistic option in all EU Member-States. E.g. in GB a user could decide to locate a CCGT (= Combined Cycle Gas Turbine power plant) 1 km from a large entry point and decide to build their own pipeline from the large entry point to their CCGT. This is

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<sup>9</sup> See summary under weblink: <http://www.eui.eu/Projects/THINK/Documents/Thinktopic/PB/PB201201.pdf>

an example of how such a concern arises in practice, stemming mainly from inefficiency of constructing an additional pipeline.

As we noted before, any kind of discounts evokes the question of cross-subsidisation and adds 'exceptions to the rule' that decrease tariff system consistency.

**9.4.1. Should the FG have a tariff structure in place to avoid the incentive for inefficient building of pipelines (to avoid the entry-exit system charges) described above?**

- a. Yes, because.....
- b. **No, because.....**
- c. No opinion, because.....

We believe that shorthaul is a point-to-point concept and it should not be regulated on a European level but it should be left in joint TSO-NRA discretion. We see additional risk in increased demand for locational balancing products in case of extensive use of shorthaul, i.e. what happens if a network user is unable to provide 'significantly large volume of gas' in the short route?

An additional problem in this respect would be the definition of inefficient building of pipelines as there is no single set of criteria that could be used for all potential shorthaul connection across Europe.

**9.4.2. How could this tariff structure be designed?**

Shorthaul should be subject to national legislation only.

**9.4.3. Should there, in order to address risk of cross-subsidies and discrimination - be a limitation on the capacities that can be "shorthaul capacities"?** Based on expert advice on current EU-practices, following options are proposed:

- a. Maximum 50 km (only distances of maximum 50 km can be considered as shorthaul capacities)
- b. Max 20% of the average gas travelling distance in the E/E system
- c. Max 10% of the total capacities of a E/E system can be considered as "shorthaul"
- d. **Other, namely:.....**

If shorthaul regulation will be part of the Tariffs FG, cross-border shorthaul should not be permitted due to that it can lead to stranded assets and drain liquidity from markets.

Please give reasons for your answer, including any quantitative evidence, tables and examples.

**Please specifically address who should pay the difference between the shorthaul tariff and the overall tariffs.**

We would like to remark that this latter sentence is a call for explicit cross-subsidising even if applied on national level, going against the principle mentioned in the Tariffs FG.

**9.5 Specific treatment of LNG (if any) considered, in view of considering specific storage treatment (see questions under 2.4).**

LNG competes with the natural gas from other sources, like national production points or other entry points. It could therefore be argued that any discount on the entry and exit tariffs at points where CAP applies could produce a cross-subsidy, reducing cost reflectivity of system as a whole, and resulting in a discriminatory effect on the cross-border trade between LNG- and IP entry users. In addition, storage – contrary to LNG - is mostly considered as part of the system, as it uses gas, which has already ‘paid e/e fees’. Namely, gas injected into underground storages have flowed across the system, which means it has been charged entry/exit fees, this is not the case for LNG which is stored after it has been unloaded from LNG-ship cargoes, before any entry fee on the transmission system is charged.

On other hand, it could be argued that LNG and Storage are both valuable flexibility tools in some EU gas market systems (especially in systems where LNG is due to geology & geographical situation potentially the only source of flexible gas) for shippers that should be stimulated, and similar to storage special treatment could be envisaged (contrary to gas production entry points, which with very few exceptions in EU, deliver much less flexibility in comparison to LNG). It must be also considered that – with similar logic – special treatments might be required by any end-user with flexibility for the system (e.g. power plants). In any case, justification is sought, as any special treatment must be reasoned and justified for a category of e/e points, to ensure non-discrimination.

**9.5.1. Do you think that tariffs for entry and exit capacity from the LNG terminal could incorporate a discount relative to other entry and exit tariffs on the TSO, similar to the proposed option for underground gas storage?**

a. Yes, because...

**b. No, because....**

c. No opinion, because....

This question should be addressed on national level.

**10. Effects Entry-Exit Zone mergers & Virtual IPs (no explicit chapter in FG, implications at least to chapters 2/3 foreseen).**

In the CAM network code (art 5.1(10)) Virtual Interconnection points are addressed (see draft FG, chapter 5).

In EC letter ACER is invited to consider in IA if the effects of entry-exit zone mergers should be developed in the Network Code on transmission tariff structures. This could address, for instance, the topics of tariff alignment and the disappearance of interconnection points, and the corresponding cross-border tariffs, due to the zone merger’.

Both topics affect the setting of reserve prices at IPs and, more importantly, underlying cost allocation within and between entry-exit zones; as well as revenue recovery consequences.

**10.1. Please provide evidence of concrete problems with the current arrangements for mergers of entry-exit zones at national level.** Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

N/A

**10.2. Please advise, if there are alternatives or additional requirements within Tarification setting harmonization steps, to accommodate ‘Effects Entry-Exit Zone mergers’ (once there). Please consider the Initial (draft) Impact assessment, when answering.**

N/A

**11. What additional tariff structure measures do you envisage could improve the network code?**

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please also, if relevant, suggest and explain reasons why any of the proposed measures should rather have been left to voluntary exchange of best practices at national level (e.g. via Guidelines of Good Practice)<sup>10</sup>.

**12. Please share below any further comments concerning the draft Framework Guideline.**

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<sup>10</sup> Please e.g. specifically consider if the FG/NC should include an EU-wide provision providing for “incentives” for implementation of CMP measures, and or additional EU-wide provisions ensuring that transmission system operators do not experience detrimental effects as consequence of the roll-out of EU-wide implementation of the auctions under CAM NC and/or other NC.

N/A

- 13. Please comment on any factual incorrectness of the attached Initial (draft) Impact Assessment, if possible with specific page references, including quantitative evidence, tables and examples from your experience in the gas market(s) (if necessary, subject to confidentiality).**

We noted some inaccuracies in the 'Initial assessment conclusions on RESERVE PRICES FOR SHORT-TERM CAPACITY and for Interruptible capacity (including backhaul); section, on page 54 and 55, in the table 'Relation between prices of monthly products and annual products' and the following table 'Relation between prices of daily products and annual products'. In the case of Hungary, the information could be misunderstood and be misleading. Therefore, please find below some comments on this data and tables.

The above mentioned data are correct for the first month, in the case of monthly and daily products, but as the shipper reaches the 110% (in case of monthly capacity fee) and 145% (in case of daily capacity fee) of the yearly capacity fee for the short term product, this shipper does not have to pay over this amount. Therefore, it serves as a 'cap on payable capacity fee': if the shipper wants to use the same amount of capacity as a monthly product instead of a yearly product, or as a daily product instead of a yearly product, then the multipliers that apply are 1.1 and 1.45 respectively. Even though the multipliers in the IIA report might seem high, with this cap on the capacity fee they are much lower on a yearly basis.

**Thank you very much for your contribution, and do not hesitate to contact ACER staff if you have any questions regarding the questions.**