ACER

European Union Agency for the Cooperation of Energy Regulators

Agency Report

Analysis of the Consultation Document on the Gas Transmission Tariff Structure for GAZ-SYSTEM S.A. national network within Poland

NRA: Urząd Regulacji Energetyki (URE)
TSO: GAZ-SYSTEM S.A.

21 December 2021

Contents

1. ACER conclusion

(1) The Transmission System Operator ('TSO') of the Polish national network, GAZ-SYSTEM, has carried out the second consultation on the reference price methodology ('RPM')[1] since the entry into force of the Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR'). The TSO proposes a postage stamp RPM, while applying an 80% discount at entry points from, and exit points to, storage facilities, and a 100% discount at entry points from LNG facilities. GAZ-SYTEM does not propose an ex-ante fixed entry-exit split, but a range from 30-70 to 70-30 where the entry-exit split can flexibly evolve. GAZ-SYSTEM does not propose commodity charges, and proposes two non-transmission services (pressure reduction and compression). The proposed RPM is expected to be applied as of 1 January 2023 for two years. GAZ-SYSTEM explains that a short period is preferable because important investment are carried out on the Polish transmission network projects (new interconnections with Denmark, Lithuania, Slovakia and new internal developments).

(2) The NC TAR foresees a cost allocation assessment[2] ('CAA') to assess the impact of the RPM on cross-subsidisation. The results of the CAA is 9.39%, which is below the 10% threshold foreseen in the Article 5 of the NC TAR requiring a justification by the national regulatory authority ('NRA').

(3) The NC TAR also foresees a comparison of the proposed RPM with the capacity weighted distance ('CWD') methodology. The comparison carried out by GAZ-SYSTEM shows that the proposed postage stamp leads to lower cross-border tariffs with neighbouring Member States[3], both for entries and exits. On the contrary, it leads to higher tariffs for domestic production points and for the entry point from the SGT pipeline.

(4) The Agency, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR and concludes that:

- The consultation document contains almost all required information listed in Article 26(1) of the NC TAR;
- The simplified tariff model is in line with the requirements of Article 30(2)(b) of the NC TAR;
- Network users would be able to reproduce the calculation of the reference prices for 2023 using the tariff model provided in the consultation document;
- The proposed postage-stamp RPM is cost-reflective and does not induce undue cross-subsidies.

(5) However, the Agency considers that network users would need more detailed information to challenge GAZ-SYSTEM assumptions and to perform their own tariff forecasts. In particular:

- The assumptions of capacity bookings should be published in a less aggregated manner. A dedicated forecast should be published for each interconnection points, for the

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[1] The link to the first consultation can be found in the Agency's website: http://www.acer.europa.eu/gas/network-codes/tariffs/acer-reports-national-tariff-consultations/acer-analysis-national-tariff-consultation-documents

[2] Throughout this document, 'CAA' is used to refer to the cost allocation assessment index described in Article 5(3)(c) of the NC TAR.

[3] With the exception of the Cieszyn interconnection point (with the Czech transmission network)

aggregation of all domestic production points and for the aggregation of all domestic exits points.

- The consequences of the ongoing large investment projects should be detailed, in particular the expected commissioning date of each project, its impact on the allowed revenue and on the capacity bookings.

(6) The Agency considers that more detailed assumptions of capacity bookings are necessary to understand the detailed calculation of the cost-allocation assessment, as requested by Article 26(1)(a)(iv).

(7) Moreover, GAZ-SYSTEM's consultation document does not indicate a fixed entry-exit split, only a range (from 30-70 to 70-30). The Agency considers that publishing a range of entry-exit split is not sufficient to comply with the transparency requirement of the NC TAR set out in Article 26(1)(b).

(8) Although the Agency agrees with the objective of GAZ-SYSTEM and considers that the costs associated with non-transmission services should be allocated to their beneficiaries, the Agency considers that the cost of the gas pressure reduction service could be directly included in the domestic exit tariffs where a reduced pressure is physically required.

(9) The Agency recommends that, in its final decision, URE take into consideration the following improvements:

- Providing additional transparency regarding the use of the network. A dedicated booking forecast should be published for each interconnection point, for the aggregation of all domestic production points and for the aggregation of all domestic exits points.
- Based on these forecasted bookings, publishing the detailed calculation of the cost-allocation assessment, as requested by Article 26(1)(a)(iv).
- Providing additional transparency on investment projects (expected commissioning dates of each investment project and their impact on allowed revenue and on capacity bookings).
- Setting a fixed entry-exit split or providing a proper justification on the conditions that would trigger a change of the split.
- Reassessing the classification of the gas pressure reduction service as a non-transmission service, while allocating its costs to its beneficiaries.

2. Introduction

(10) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas.

(11) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems[4]. This Report presents the analysis of the Agency for the national transmission system operated by GAZ-SYSTEM in Poland.

(12) On 31 August 2021, GAZ-SYSTEM forwarded a consultation document to the Agency proposing an RPM for the transmission system for the period 1 January 2023 to 31 December 2024. The consultation was launched on 31 August 2021 and remained open until 31 October 2021. On 19 November 2021, the consultation responses and their English summary were published. The Agency has taken these into consideration for this analysis. Within five months following the end of the final consultation, and pursuant to Article 27(4) of NC TAR, URE, the Polish NRA, shall take and publish a motivated decision on all the items set out in Article 26(1) of the NC TAR.

(13) GAZ-SYSTEM had already carried out a public consultation based on the NC TAR and published a decision in 2018 for the period 2021-2022. GAZ-SYSTEM has currently several significant on-going investment projects[5] that explain the choice of a short regulatory period, lasting only 2 calendar years. Besides the impact of these investments on the allowed revenue, the main evolutions proposed in the new public consultation document relate to non-transmission services.

(14) This Report discusses both the RPM and the accompanying information published in the public consultation document, and the new information provided by GAZ-SYSTEM during bilateral discussions.

(15) In parallel with this consultation, GAZ-SYSTEM also carried out a public consultation on the RPM to be applied to the Transit Gas Pipeline System (the Polish section of the Yamal-Western Europe gas pipeline owned by EuRoPol GAZ s.a.). This other consultation is assessed in a separate report[6], prepared and published simultaneously by the Agency.

Reading guide

(16) Chapter 3 describes and assesses the proposed reference price methodology. Chapter 4 presents the analysis on completeness, namely whether all the information referred to in Article 26(1) of the NC TAR has been published. Chapter 5 focusses on compliance, namely whether the RPM complies with the requirements set out in Article 7 of the NC TAR and whether the criteria for setting non-transmission tariffs as set out in Article 4(4) are met. The document contains two annexes, respectively on the legal framework and a list of abbreviations.

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[4] With the exception of Article 10(2)(b), when different RPMs may be applied by the TSOs within an entry-exit zone.

[5] Poland - Denmark Interconnector (Baltic Pipe) and its connection with the National Transmission System, Poland - Lithuania interconnector (GIPL), Poland - Slovakia interconnector, North - South Corridor (from the LNG Terminal in Świnoujście and the Baltic Pipe to the southern and eastern region of Poland)

[6] Report on the Gas Transmission Tariff Structure for GAZ-SYSTEM S.A. SGT pipeline within Poland, to be published in the following link: http://www.acer.europa.eu/gas/network-codes/tariffs/acer-reports-national-tariff-consultations/acer-analysis-national-tariff-consultation-documents

3. Assessment of the proposed reference price methodology

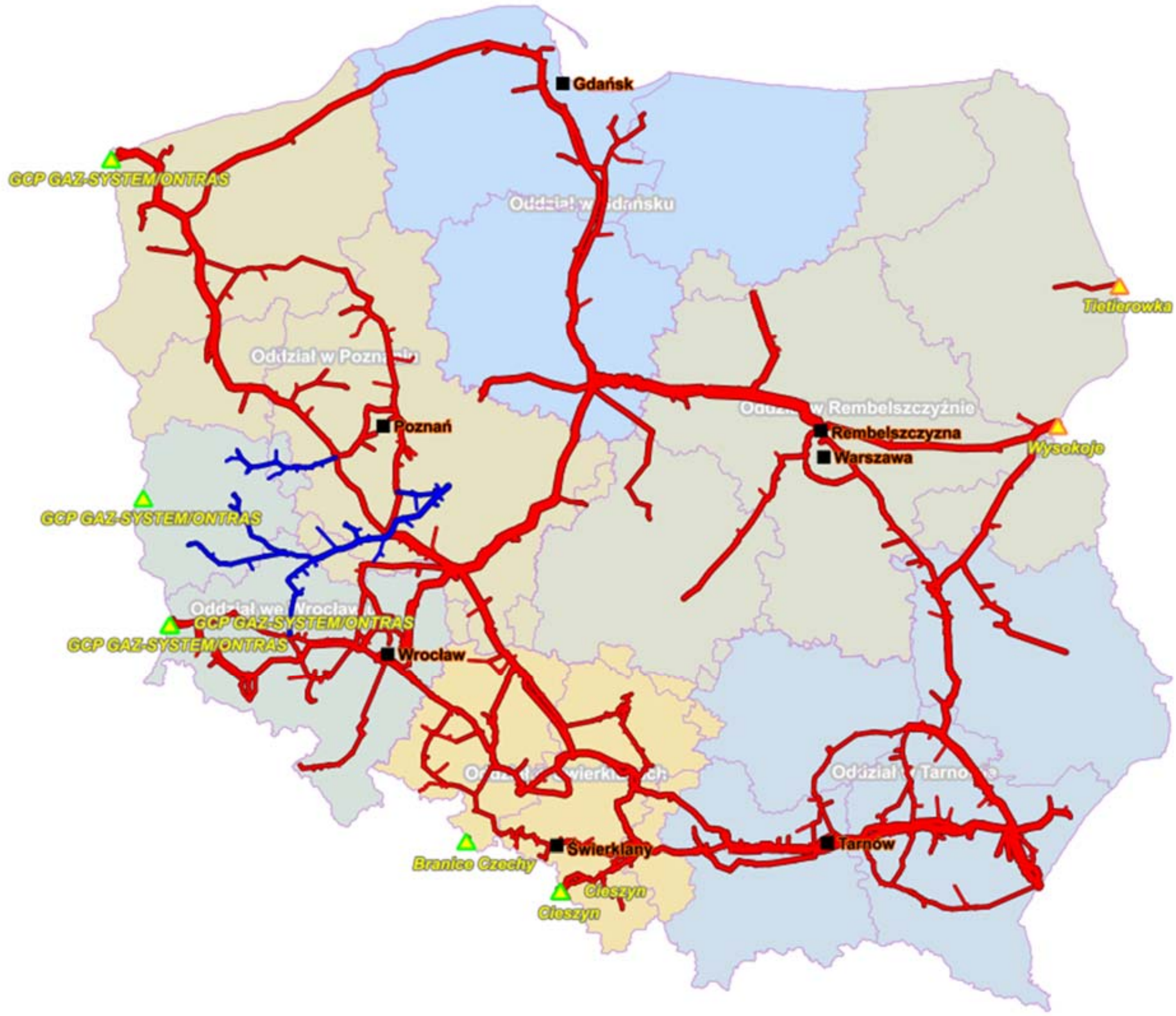
3.1 Description of the proposed RPM

(18) GAZ-SYSTEM proposes to apply the same postage stamp RPM to the two separate subsystems of High-methane gas (H-gas) and Low-methane gas (L-gas), based on the following arguments:

- The national Polish transmission system is a highly meshed and complex network, separated into two hydraulically not connected H-gas and L-gas subsystems[7]. The proposed RPM would be applied separately, meaning that each subsystem would have its own set of input data (allowed revenues, contracted capacity) while the entry-exit split would be the same. The choice is justified on the ground that the two subsystems are completely separate. Unless otherwise stated, the Agency's remarks are related to the RPM in general terms, i.e. for both subsystems; however, the Agency notes that the L-gas subsystem is marginal compared to the H-gas subsystem (2% of the allowed revenue, 3% of the exit capacities). Hence the focus of the analysis is on the latter.
- Since the majority of gas flows in the Polish national transmission system are intra-system flows, a postage stamp RPM does not create a risk of excessive cross-subsidisation between intra-system and cross-system network users.
- GAZ-SYSTEM applies a postage stamp RPM to its national transmission network since 2014. Keeping the same methodology with only few evolutions would limit the changes, to network users.
- GAZ-SYSTEM considers that the simplicity of a postage stamp RPM favours transparency and tariffs predictability, as it only requires a limited number of parameters and assumptions.

[7] The L-gas subsystem, which is standalone, consists of 702 km of pipes, 8 domestic entry points, no storage facilities and supplying system users located mainly on the area of Greater Poland Voivodeship and Lower Silesian Voivodeship (76 exit points). The H-gas subsystem covers the rest of the territory of Poland, with 10 400 km of pipes, 52 entry points, 7 underground storage facilities and more than 880 exit points.

Figure 1: Map of the current Polish national transmission system



- H-gas subsystem
- L-gas subsystem
- △ Interconnections with Member States or with Third countries

(19) Even if the indicative reference prices presented in the consultation document are calculated based on a 50-50 entry-exit split, GAZ-SYSTEM proposes to use a flexible entry-exit split ranging from 30-70 to 70-30 that could be modified from one year to another. GAZ-SYSTEM considers that this unusual flexibility is necessary to favour tariff stability as the on-going investments could otherwise lead to significantly different tariff changes at entry and at exit points.

(20) GAZ-SYSTEM uses booked capacities as the only cost driver of its RPM and does not plan to apply a commodity charge.

3.2 LNG and storage discounts and rescaling

(21) In accordance with Article 9 of NC TAR, GAZ-SYSTEM proposes to apply 80% discount at entry and exit points from storage facilities and a discount of 100% at the entry point from the LNG terminal in Świnoujście.

(22) In order to compensate the missing revenue created by this discount, GAZ-SYSTEM rescales the tariffs applied at all other network points (missing revenues at entries or exits are compensated by tariff increases at entries or exits, respectively to keep the entry-exit split unaltered).

(23) Some respondents to the public consultation note that the discount applied at the entry point from the LNG terminal in Świnoujście benefits only the single user of the LNG terminal. They consider that it may consequently distort competition.

3.3 Comparison with the CWD methodology

(24) GAZ-SYSTEM provides a detailed comparison of the results of the postage stamp reference prices with those from the counterfactual CWD methodology. The counterfactual CWD methodology with a 50-50 entry-exit split is applied with the same discounts. GAZ-SYSTEM shared the detailed calculation of the CWD methodology with the Agency but did not publish it, as it considers the capacity bookings at domestic points a commercially sensitive information.

(25) Overall, the comparison with the counterfactual CWD methodology shows that the proposed postage stamp leads to lower cross-border tariffs, both for entries and exits (except at entries from Czech Republic and from Ukraine On the contrary, it leads to higher tariffs for domestic production points and for the entry point from the SGT pipeline.

3.4 Cost allocation assessment

(26) GAZ-SYSTEM calculates the CAA of its postage stamp RPM, using forecasted capacity bookings as cost drivers. GAZ-SYTEM only preformed the CAA for the H-gas subsystem, since the L-gas subsystem is not connected to any interconnection point.

(27) GAZ-SYSTEM shared the detailed calculation of the CAA with the Agency but did not publish it. GAZ-SYSTEM only published the final result, 9.39%[8], which remains just below the 10% threshold laid out in Article 5 of the NC TAR

3.5 Duration of the regulatory period.

(28) GAZ-SYSTEM proposes that the methodology described in its consultation document should be valid for a period of 2 years, i.e. from 1 January 2023, 6 a.m. to 1 January 2025, 6 a.m. The Agency notes that this period is of a lower duration compared to other consultations. However, the Agency acknowledges that, in the context of large investments, the use of the network can substantially change, creating uncertainty over capacity bookings and forecasts. The choice of a short period allows for the adjustment of the methodology, right on time, after the investments have taken place.

3.6 Non-transmission services

(29) GAZ-SYSTEM proposes to implement two non-transmission services: a gas pressure reduction service and a gas compression service.

[8] The result of the CAA published by GAZ-SYSTEM in its consultation document was slightly inaccurate (9.27%) due to a calculation mistake that was corrected during the bilateral exchanges with the Agency.

(30) The gas pressure reduction service is aimed at delivering the adequate gas pressure to final users connected to the transmission system. GAZ-SYSTEM operates approximately 670 pressure reduction and metering stations to provide this service. It requires additional maintenance and operational costs (fuel gas).

(31) The gas compression service would be provided at a given point upon a consumer's request and after GAZ-SYSTEM's confirmation. GAZ-SYTEM would permanently or temporary deliver a pressure at the entry or exit point to or from the national transmission system above or below the standard values published on its website. The compression service will be carried out using system compressors, through which gaseous fuel will be compressed at the request of the customer.

(32) Under the current regulatory period, the costs associated with these services are allocated across all network users and do not follow the beneficiary pays principle.

3.7 Main evolutions and comparison with the tariffs for the prevailing tariff period

(33) In substance, the proposed RPM for the next regulatory period is almost identical to the RPM currently used. However, tariffs will change significantly. Indeed, significant investment projects are on-going and the allowed revenue of GAZ-SYSTEM will increase (+ 34% expected from 2022 to 2023) without bringing sufficient additional capacity bookings[9] to maintain stable tariffs.

[9] 25% of entry bookings (approximately 365 GWh/d) are expected at interconnections with Denmark, Slovakia and Lithuania once the corresponding investment are completed. Exit bookings should remain stable (approximately additional 20 GWh/d at the interconnection with Lithuania).

Figure 2: Map of the planned development of the Polish national transmission system

(34) To a lesser extent, the entry-exit split may also change (45/55 in 2021 and 2022, while the indicative tariffs for 2023 are based on a 50/50 entry-exit split).

(35) As a result, the tariffs applied at entries and exits of the H-gas subsystem will increase by 32% and by 14%, respectively in 2023.

(36) The tariffs applied to the L-gas subsystem will remain more stable (14% tariff increase for entry points and 6% tariff decrease for exit points).

(37) The new consultation document published by GAZ-SYSTEM takes into account several recommendations issued by the Agency from its previous report[10] issued on 14 December 2018, but the main concerns remained unresolved:

- The entry-exit split is not fixed, and will create uncertainty for network users in the future.
- Assumptions of entry and exit bookings are only published at an aggregated level. Network users cannot challenge booking assumptions for each interconnection points, which reduces transparency.
- Although the document clearly indicates the evolution of the allowed revenue between 2022 and 2023, and presents the current investment projects, more information would be needed. In particular, GAZ-SYSTEM could publish the expected commissioning date of each project, its impact on allowed revenue and on capacity bookings.

[10] Agency Report, Analysis of the Consultation Document on the Gas Transmission Tariff Structure for GAZ-SYSTEM S.A. national network within Poland

4. Completeness

4.1 Has all the information referred to in Article 26(1) been published?

(39) Article 27(2)(a) of the NC TAR requires the Agency to analyse whether all the information referred to in Article 26(1) of the NC TAR has been published.

(40) Article 26(1) of the NC TAR requires that the consultation document be published in the English language, to the extent possible. The Agency confirms that the consultation document was published in English.

(41) Overall, almost all the information in Article 26(1) of the NC TAR has been properly published.

(42) However, the Agency notes that the consultation document does not propose a fixed entry-exit split. Moreover, network users would need additional information (more detailed booking assumptions and impacts of future investments) to accurately forecast tariff evolutions.

Table 2 Checklist information Article 26(1)

Article	Information	Published: Y/N/NA
26(1)(a)	the description of the proposed reference price methodology	Yes
26(1)(a)(i) **26(1)(a)(i)(1)** **26(1)(a)(i)(2)**	the indicative information set out in Article 30(1)(a), including: • the justification of the parameters used that are related to the technical characteristics of the system • the corresponding information on the respective values of such parameters and the assumptions applied	Partially. The Agency considers that additional information should be published to improve predictability of tariffs.
26(1)(a)(ii)	the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9	Yes
26(1)(a)(iii)	the indicative reference prices subject to consultation	Yes
26(1)(a)(iv)	the results, the components and the details of these components for the cost allocation assessments set out in Article 5	Partially. The detailed calculation is not published
26(1)(a)(v)	the assessment of the proposed reference price methodology in accordance with Article 7	Yes
26(1)(a)(vi)	where the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8, its comparison against the latter accompanied by the information set out in point (iii)	Partially. The detailed calculation is not published
26(1)(b)	the indicative information set out in Article 30(1)(b)(i), (iv), (v)	Partially. The entry-exit split is not fixed.
26(1)(c)(i) **26(1)(c)(i)(1)** **26(1)(c)(i)(2)** **26(1)(c)(i)(3)**	where commodity-based transmission tariffs referred to in Article 4(3) are proposed • the manner in which they are set • the share of the allowed or target revenue forecasted to be recovered from such tariffs • the indicative commodity-based transmission tariffs	Not applicable

26(1)(c)(ii) **26(1)(c)(ii(1)** **26(1)(c)(ii)(2)** **26(1)(c)(ii)(3)** **26(1)(c)(ii)(4)**	where non-transmission services provided to network users are proposed: • the non-transmission service tariff methodology therefor • the share of the allowed or target revenue forecasted to be recovered from such tariffs • the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3) • the indicative non-transmission tariffs for non-transmission services provided to network users	Yes
26(1)(d)	the indicative information set out in Article 30(2);	Yes
26(1)(e) **26(1)(e)(i)** **26(1)(e)(ii)** **26(1)(e)(iii)** **26(1)(e)(iv)**	where the fixed payable price approach referred to in Article 24(b) is considered to be offered under a price cap regime for existing capacity: • the proposed index; • the proposed calculation and how the revenue derived from the risk premium is used • at which interconnection point(s) and for which tariff period(s) such approach is proposed • the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 24 are proposed	Not applicable

5. Compliance

5.1 Does the RPM comply with the requirements set out in Article 7?

(43) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed reference price methodology complies with the requirements set out in Article 7 of the NC TAR. This article refers to Article 13 of Regulation (EC) 715/2009 and lists a number of requirements to take into account when setting the RPM. As the requirements overlap, in the remainder of this chapter, the Agency will take a closer look at the five elements listed in Article 7 of the NC TAR.

(44) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and cross border trade are closely related[11] the Agency concludes with an overall assessment. Special attention is paid to the allocation of revenues between domestic and transit routes.

5.1.1 Transparency

(45) **Article 7(a)** of the NC TAR requires that the RPM aim at ensuring that network users can reproduce the calculation of reference prices and their accurate forecast.

(46) The consultation document published by GAZ-SYSTEM is transparent and provides almost all the information required by the NC TAR. Moreover, GAZ-SYSTEM shared with the Agency detailed calculations allowing a thorough analysis of the comparison between the chosen RPM and the CWD methodology and of the cost allocation assessment[12].

(47) The Agency notes that the dataset and the simplified tariff model published by GAZ-SYSTEM allow network users to understand and reproduce the indicative reference prices in 2023, but not beyond. The Agency considers that network users would need more detailed information to challenge GAZ-SYSTEM's assumptions and to perform their own tariff forecasts.

(48) As noted by some respondents to the public consultation, assumptions of capacity bookings should be published in a less aggregated way without compromising commercially sensitive information: a dedicated forecast should be published for each interconnection point, for the aggregation of all domestic production points and for the aggregation of all domestic exits points. This level of detail is necessary to understand the calculation of the CAA. Moreover, network users should be able to assess for themselves the expected bookings at each interconnection point.

(49) Network users would also need additional information regarding GAZ-SYSTEM's investment projects, in particular the expected commissioning date of each project, its impact on the allowed revenue and on the capacity bookings. This is important in the Polish context where network development is one of the main reasons for tariff changes. Network users cannot anticipate how

[11] The principle of cost-reflectivity is related to the principles of cross-subsidisation and non-distortion of cross-border trade. Tariffs that are fully cost-reflective do not result in any form of cross-subsidisation (and hence they do not distort cross-border trade), as they charge users for the exact costs they cause to the system. Following this reasoning, tariffs that are less cost-reflective may result in cross-subsidisation between users.

[12] Throughout this document, 'CAA' is used to refer to the capacity cost allocation comparison index described in Article 5(3)(c) of NC TAR.

tariffs will evolve in 2024 if neither GAZ-SYSTEM's allowed revenue nor expected bookings at that time are known.

(50) The Agency recommends that URE in its motivated decision includes these additional elements.

(51) Moreover, the consultation document does not indicate a fixed entry-exit split, only a range (from 30-70 to 70-30). As mentioned in its analysis of the previous GAZ-SYSTEM consultation on its transmission tariffs, the Agency considers that publishing a range of entry-exit split is not sufficient to comply with the transparency requirement of the NC TAR set out in Article 26(1)(b). The Agency finds that the proposal of a range raises transparency concerns with regard to the impossibility for network users to accurately forecast reference prices in future years. This is particularly relevant as only qualitative, rather than quantitative, criteria are proposed to justify a change in the split. The Agency notes that, in bilateral exchanges, GAZ-SYSTEM considered that it might be easier to propose a fixed entry-exit split for the next regulatory period, once the main investment projects are completed and once amounts of entry and exit capacities are stabilised.

(52) The Agency recommends that, in its motivated decision, URE sets a fixed entry-exit split or provides a due justification on the conditions that would trigger a change of the split and on how the new spit will be determined. A narrower range and forecasted splits for 2023 and 2024 would also improve transparency. However, the Agency considers that URE and GAZ-SYSTEM should work towards the implementation of a longer regulatory period with fixed parameters (a regulatory account can be used to compensate for forecasting errors instead of adjusting parameters every year).

(53) The Agency also considers that the detailed calculation of the cost-allocation assessment, as requested by Article 26(1)(a)(iv), is missing in GAZ-SYTEM's consultation document. The Agency recommends URE to publish this calculation together with its motivated decision.

(54) The Agency finds the simplified tariff model in line with the requirements of Article 30(2)(b) of the NC TAR.

(55) GAZ-SYTEM published the responses to the public consultation and their translation in English as requested by Article 26(3) of the NC TAR.

5.1.2 Cost-reflectivity

(56) **Article 7(b)** of NC TAR requires the RPM to take into account the actual costs incurred for the provision of transmission services, considering the level of complexity of the transmission network.

(57) The Agency considers that choice of a postage stamp RPM suits the characteristics of the Polish national transmission system (which is meshed and connected with several IPs, domestic production points, LNG and storage facilities, allowing various flow patterns).

(58) Given the information shared by GAZ-SYSTEM, the Agency considers these settings as cost-reflective.

5.1.3 Cross-subsidisation and discrimination

(59) **Article 7(c)** of NC TAR requires the RPM to ensure non-discrimination and prevent undue cross-subsidisation.

5.1.3.1 Cross-subsidisation

(60) For this analysis, the Agency defines 'cross-subsidisation' as a deviation from cost-reflectivity whereby users of the entry-exit system are charged tariffs that differ from the costs they cause to the system. One instrument to evaluate cross-subsidisation is the CAA.

(61) Regarding the discounts applied to the Świnoujście LNG entry and to the connections with storage facilities, the Agency finds GAZ-SYSTEM's approach to be compliant with Article 9 of the NC TAR.

(62) The result for the CAA (9.39%) does not require further justification according to Article 6(4) of the NC TAR. However, given that the result is only marginally below the 10% threshold, and that discounts at LNG and storage points have a significant impact on the degree of cross-subsidisation between intra-system and cross-system network use, the Agency considers as a good practice to provide a calculation of the CAA pre- and post- adjustments.

(63) Also, the tariffs applied to the H-gas and to the L-gas subsystems, respectively, cover the costs of their own parts of networks and do not induce any risk of cross-subsidisation.

5.1.3.2 Non-discrimination

(64) For this analysis, the Agency defines 'discrimination' as 'applying different rules to comparable situations or the same rule to different situations'. The Agency highlights that the allocation of all transmission costs via a single RPM to all entry-exit points minimises the possibility of discrimination.

(65) The Agency has not identified discrimination resulting from the correct application of the NC TAR, nor from practices not allowed by the NC TAR.

(66) The Agency nevertheless considers that URE should encourage the use of the LNG terminal in Świnoujście by several shippers (for example by setting up UIOLI-type congestion management procedures), so that the tariff discount granted at this entry point does not benefit only one stakeholder.

5.1.4 Volume risk

(67) **Article 7(d)** of the NC TAR requires that the RPM ensure that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system.

(68) The Agency, while noting that in the GAZ-SYSTEM network the gas transported is not significantly more than consumed, recommends the NRA to provide an assessment of volume risk in the proposed methodology, in its final decision. The assessment should consider the current network configuration and also the future investments that are mentioned in the consultation document (e.g. Baltic pipeline).

5.1.5 Cross-border trade

(69) **Article 7(e)** of the NC TAR requires that the RPM ensure that the resulting reference prices do not distort cross-border trade.

(70) The Agency considers that the proposed RPM does not unduly distort cross-border trade.

5.2 Are the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) met?

(71) GAZ-SYSTEM proposes not to apply commodity-based transmission tariffs.

5.3 Are the criteria for setting non-transmission tariffs as set out in Article 4(4) met?

(72) Article 27(2)(b)(3) of the NC TAR requires the Agency to analyse whether the criteria for setting non-transmission tariffs as set out in Article 4(4) are met.

(73) As explained in Section 3.6 of this Report, GAZ-SYSTEM proposes to offer two non-transmission services: a gas pressure reduction service and a gas compression service.

(74) The Agency considers that these services can be considered as non-transmission services, insofar as they form part of the TSO's regulated activity, and it is possible to identify the beneficiaries and charge them the corresponding costs (as provided for in Article 4(4) of the NC TAR). The Agency agrees with GAZ-SYSTEM that the costs associated with these services should not be socialised.

(75) Nonetheless, while the gas compression service would be provided upon a consumer's request, it is not the case for the gas pressure reduction service. Consumers connected downstream of a reduction and metering station have no choice but to use of this service (they would otherwise have to relocate their connection and to build their own pressure reduction facility).

(76) The Agency considers that it might be simpler to directly include the cost of the gas pressure reduction service in the exit tariff for the concerned consumers. The RPM would then slightly deviate from a pure postage stamp, with two different domestic exit tariffs depending on the pressure level.

(77) The Agency recommends that, in its final decision, URE reassess the classification of this gas pressure reduction service as a non-transmission service and consider the option to directly include the associated costs in the concerned domestic exit tariffs.

Annex 1: Legal framework

(79) Article 27 of NC TAR reads:

1. Upon launching the final consultation pursuant to Article 26 prior to the decision referred to in Article 27(4), the national regulatory authority or the transmission system operator(s), as decided by the national regulatory authority, shall forward the consultation documents to the Agency.

2. The Agency shall analyse the following aspects of the consultation document:

(a) whether all the information referred to in Article 26(1) has been published;

(b) whether the elements consulted on in accordance with Article 26 comply with the following requirements:

(1) whether the proposed reference price methodology complies with the requirements set out in Article 7;

(2) whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met;

(3) whether the criteria for setting non-transmission tariffs as set out in Article 4(4) are met.

3. Within two months following the end of the consultation referred to in paragraph 1, the Agency shall publish and send to the national regulatory authority or transmission system operator, depending on which entity published the consultation document, and the Commission the conclusion of its analysis in accordance with paragraph 2 in English.

The Agency shall preserve the confidentiality of any commercially sensitive information.

4. Within five months following the end of the final consultation, the national regulatory authority, acting in accordance with Article 41(6)(a) of Directive 2009/73/EC, shall take and publish a motivated decision on all items set out in Article 26(1). Upon publication, the national regulatory authority shall send to the Agency and the Commission its decision.

5. The procedure consisting of the final consultation on the reference price methodology in accordance with Article 26, the decision by the national regulatory authority in accordance with paragraph 4, the calculation of tariffs on the basis of this decision, and the publication of the tariffs in accordance with Chapter VIII may be initiated as from the entry into force of this Regulation and shall be concluded no later than 31 May 2019. The requirements set out in Chapters II, III and IV shall be taken into account in this procedure. The tariffs applicable for the prevailing tariff period at 31 May 2019 will be applicable until the end thereof. This procedure shall be repeated at least every five years starting from 31 May 2019.

(80) Article 26(1) of NC TAR reads:

1. One or more consultations shall be carried out by the national regulatory authority or the transmission system operator(s), as decided by the national regulatory authority. To the extent possible and in order to render more effective the consultation process, the consultation document should be published in the English language. The final consultation prior to the decision referred to in Article 27(4) shall comply with the requirements set out in this Article and Article 27, and shall include the following information:

(a) the description of the proposed reference price methodology as well as the following items:

(i) the indicative information set out in Article 30(1)(a), including:

(1) the justification of the parameters used that are related to the technical characteristics of the system;

(2) the corresponding information on the respective values of such parameters and the assumptions applied.

(ii) the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9;

(iii) the indicative reference prices subject to consultation;

(iv) the results, the components and the details of these components for the cost allocation assessments set out in Article 5;

(v) the assessment of the proposed reference price methodology in accordance with Article 7;

(vi) where the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8, its comparison against the latter accompanied by the information set out in point (iii);

(b) the indicative information set out in Article 30(1)(b)(i), (iv), (v);

(c) the following information on transmission and non-transmission tariffs:

(i) where commodity-based transmission tariffs referred to in Article 4(3) are proposed:

(1) the manner in which they are set;

(2) the share of the allowed or target revenue forecasted to be recovered from such tariffs;

(3) the indicative commodity-based transmission tariffs;

(ii) where non-transmission services provided to network users are proposed:

(1) the non-transmission service tariff methodology therefor;

(2) the share of the allowed or target revenue forecasted to be recovered from such tariffs;

(3) the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3);

(4) the indicative non-transmission tariffs for non-transmission services provided to network users;

(d) the indicative information set out in Article 30(2);

(e) where the fixed payable price approach referred to in Article 24(b) is considered to be offered under a price cap regime for existing capacity:

(i) the proposed index;

(ii) the proposed calculation and how the revenue derived from the risk premium is used;

(iii) at which interconnection point(s) and for which tariff period(s) such approach is proposed;

(iv) the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 24 are proposed.

(81) Article 7 of NC TAR reads:

The reference price methodology shall comply with Article 13 of Regulation (EC) No 715/2009 and with the following requirements. It shall aim at:

a) enabling network users to reproduce the calculation of reference prices and their accurate forecast;

(b) taking into account the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network;

(c) ensuring non-discrimination and prevent undue cross-subsidisation including by taking into account the cost allocation assessments set out in Article 5;

(d) ensuring that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system;
(e) ensuring that the resulting reference prices do not distort cross-border trade.

(82) Article 13 of Regulation (EC) No 715/2009 reads:
1. Tariffs, or the methodologies used to calculate them, applied by the transmission system operators and approved by the regulatory authorities pursuant to Article 41(6) of Directive 2009/73/EC, as well as tariffs published pursuant to Article 32(1) of that Directive, shall be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments, and, where appropriate, taking account of the benchmarking of tariffs by the regulatory authorities. Tariffs, or the methodologies used to calculate them, shall be applied in a nondiscriminatory manner.
Member States may decide that tariffs may also be determined through market-based arrangements, such as auctions, provided that such arrangements and the revenues arising therefrom are approved by the regulatory authority.
Tariffs, or the methodologies used to calculate them, shall facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.
Tariffs for network users shall be non-discriminatory and set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the national regulatory authorities. By 3 September 2011, the Member States shall ensure that, after a transitional period, network charges shall not be calculated on the basis of contract paths.

2. Tariffs for network access shall neither restrict market liquidity nor distort trade across borders of different transmission systems. Where differences in tariff structures or balancing mechanisms would hamper trade across transmission systems, and notwithstanding Article 41(6) of Directive 2009/73/EC, transmission system operators shall, in close cooperation with the relevant national authorities, actively pursue convergence of tariff structures and charging principles, including in relation to balancing.

(83) Article 4(3) of NC TAR reads:
3. The transmission services revenue shall be recovered by capacity-based transmission tariffs.
As an exception, subject to the approval of the national regulatory authority, a part of the transmission services revenue may be recovered only by the following commodity-based transmission tariffs which are set separately from each other:
(a) a flow-based charge, which shall comply with all of the following criteria:
(i) levied for the purpose of covering the costs mainly driven by the quantity of the gas flow;
(ii) calculated on the basis of forecasted or historical flows, or both, and set in such a way that it is the same at all entry points and the same at all exit points;
(iii) expressed in monetary terms or in kind.
(b) a complementary revenue recovery charge, which shall comply with all of the following criteria:
(i) levied for the purpose of managing revenue under- and over-recovery;
(ii) calculated on the basis of forecasted or historical capacity allocations and flows, or both;

(iii) applied at points other than interconnection points;

(iv) applied after the national regulatory authority has made an assessment of its cost-reflectivity and its impact on cross-subsidisation between interconnection points and points other than interconnection points.

(84) Article 4(4) of NC TAR reads:

4. The non-transmission services revenue shall be recovered by non-transmission tariffs applicable for a given non-transmission service. Such tariffs shall be as follows:

(a) cost-reflective, non-discriminatory, objective and transparent;

(b) charged to the beneficiaries of a given non-transmission service with the aim of minimising cross-subsidisation between network users within or outside a Member State, or both.

Where according to the national regulatory authority a given non-transmission service benefits all network users, the costs for such service shall be recovered from all network users.

Annex 2: List of abbreviations

Acronym	Definition
ACER	Agency for the Cooperation of Energy Regulators
CAA	Cost Allocation Assessment
VERT	The Lithuanian NRA, Valstybinė energetikos reguliavimo taryba
CWD	Capacity Weighted Distance
EC	European Commission
EU	European Union
IP	Interconnection Point
MS	Member State
NC TAR	Network code on harmonised transmission tariff structures for gas
NRA	National Regulatory Authority
RPM	Reference Price Methodology
TSO	Transmission System Operator