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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.

13 December 2018

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GAZ-SYSTEM S.A. NATIONAL NETWORK WITHIN POLAND

Contents

1. ACER conclusion

(1) The Polish Transmission System Operator ('TSO') of the national network, GAZ-SYSTEM, proposes a postage stamp methodology. GAZ-SYSTEM proposes to apply an 80% discount at entry points from, and exit points to, storage facilities, a 100% discount at entry points from LNG facilities, no commodity charges, and no non-transmission charges. The Agency for the Cooperation of Energy Regulators ('the Agency') appreciates that GAZ-SYSTEM conducts the consultation in English, since this provides transparency also to non-Polish stakeholders.

(2) The Agency, after having completed the analysis of the consultation documents pursuant to Article 27(2) of Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR'), concludes that:

- The consultation document contains all required information, with the exception of the elements listed in paragraph (3).
- The consultation lacks a consistent evaluation of the proposed RPM against the principles defined in Article 7 of NC TAR and does not include sufficient details on the current characteristics of the network, nor on the investments expected to take place; nonetheless, based on its own analysis, the Agency was able to conclude that;
  - .i. The possibility for network users to forecast the reference prices is hindered by the lack of transparency on the period for which the proposed methodology would apply, as well as the presence of a range of possible entry-exit splits for the years after 2020.
  - .ii. The proposed Reference Price Methodology ('RPM') complies with the principle of cost-reflectivity, as distance is not a main cost driver in the Polish transmission network;
  - .iii. The proposed RPM does not lead to undue cross-subsidies;
  - .iv. In the GAZ-SYSTEM network it is not the case that significantly more gas is transported than used for consumption, hence volume risk does not seem to be an issue;
  - .v. The reference prices does not distort cross-border trade;
- The compliance analysis pursuant to Articles 27(2)(b)(2)-(3) does not apply as neither commodity charges nor non-transmission charges are proposed.

(3) The Agency recommends the National Regulatory Authority ('NRA'), in its final decision, to:

- Specify the time period for which the proposed RPM and parameters are set, or at least to provide clarity on the conditions that would trigger a new consultation process.
- Set a fixed entry-exit split or provide a due justification on the conditions that would trigger a change of the split.
- Provide all relevant information supporting the choice of the RPM, in particular the considerations supporting the definition of the system as 'meshed'. This information should be supported by an assessment of the infrastructure projects that could be realised (for which a FID has been taken) during the period for which the RPM is proposed.
- Provide a consistent comparison with the Capacity Weighted Distance ('CWD') methodology, including at least the results pre- and post-adjustments (also for the proposed postage stamp RPM), and the comparison of tariffs for homogenous set of points also based on their geographical location in the network.
- Provide a more consistent evaluation of the impact of the proposed RPM on cross-subsidisation;

- Provide an assessment of the volume risk in the proposed methodology. While the volumes exiting the system are only marginal, and seem not to imply a volume risk, this analysis is not included in the consultation. The assessment should be included in the final decision and should consider the current network configuration and also the future investments that are mentioned in the consultation (e.g. Baltic pipeline).

2. Introduction

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

(5) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems[1]. This Report presents the analysis of the Agency for the RPM for the transmission system operated by GAZ-SYSTEM in Poland[2].

(6) GAZ-SYSTEM, forwarded the consultation document to the Agency. The consultation was launched on 28 August 2018, and remained open until 31 October 2018. GAZ-SYSTEM published the responses to the consultation accompanied by a short summary. The Agency has taken these into consideration for this analysis and notes that the summary provided by GAZ-SYSTEM is limited, as it only consists of a listing of the topics raised by stakeholders without providing any further information. Within five months following the end of the final consultation, and pursuant to Article 27(4) of the NC TAR, the Energy Regulatory Office of Poland (Urząd Regulacji Energetyki, hereinafter 'URE') shall take and publish a motivated decision on all the items set out in Article 26(1) of the NC TAR.

Reading guide

(7) Chapter 3 presents an analysis on completeness, namely if all the information in Article 26(1) has been published. Chapter 4 focusses on compliance, namely if the RPM complies with the requirements set out in Article 7 of the code, if the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met and if the criteria for setting non-transmission tariffs as set out in Article 4(4) are met. Chapter 5 includes other comments. This document contains two annexes, respectively on the legal framework and a list of abbreviations.

3. Completeness

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

(8) 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.

(9) 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.

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

[2] The Agency notes that, within Poland, GAZ-SYSTEM also performs the duties of the operator on the SGT pipeline (the Polish length of the Yamal pipeline), owned by EuRoPol GAZ. The corresponding consultation was launched on 28th August 2018 and remained open until 31st October 2018.

(10) The Agency concludes that, overall, the TSO has published all the information in Article 26(1) of the NC TAR, as noted in Table 1, with the observation formulated therein.

Table 1 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	Incomplete. Missing information on the expected investment projects.
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	Yes
26(1)(a)(v)	The assessment of the proposed reference price methodology in accordance with Article 7	Incomplete
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)	Yes
26(1)(b)	The indicative information set out in Article 30(1)(b)(i), (iv), (v)	Yes
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	Not applicable
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

4. Compliance

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

(11) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed RPM complies with the requirements set out in Article 7 of the NC TAR. This article refers to Article 13 of Regulation (EC) No 715/2009 and lists a number of requirements to be taken into account when setting the RPM. As these 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.

(12) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and distortion of cross border trade are closely related, the Agency concludes with an overall assessment.

(13) Also, the Agency notes that GAZ-SYSTEM proposes to apply the same methodology to the two separate subsystems of High-methane gas and Low-methane gas[3]. The methodology would be

[3] The Polish national network operated by GAZ-SYSTEM consists in two separate, hydraulically not connected subsystems: High-methane gas (E) subsystem, and Low-methane gas (Lw) subsystem. The Low-methane gas subsystem, which is standalone, consists of 8 domestic entry points, no storage facilities and supplying system

applied separately, meaning that each subsystem would have its own set of input data (allowed revenues, contracted capacity) while the entry-exit split would the same. The choice is justified on the ground that the two subsystems are completely separate, as there is no hydraulic connection between the two subsystems, and separate balancing areas were established. 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 Low-methane gas subsystem is marginal compared to the High-methane gas subsystem, hence the focus of the analysis is on the latter.

(14) The proposed RPM is the postage stamp methodology, which GAZ-SYSTEM justifies with the following arguments:

- The mitigation of the changes affecting GAZ-SYSTEM customers and the predictability of the RPM, given that the postage stamp methodology is the one used since 2014;
- The simplicity and clarity of the methodology, which mitigates the risk of manipulating the parameters used in the methodology;
- The limited risk of excessive cross-subsidisation between intra-system network use and cross-system network use (due to equal charges at interconnection points and at other points), and its limited impact on cross-system trade;
- The high level of complexity of the transmission network, which is highly meshed with several mutual interconnections.

4.1.1 Transparency

(15) **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.

(16) On the choice of the postage stamp methodology, the Agency considers that such RPM facilitates transparency on the tariff structure, as it is easy to understand and replicate.

4.1.1.1 Simplified tariff model

(17) The Agency finds the simplified tariff model, as required by Article 30(2)(b) of the NC TAR, useful, because it allows network users to simulate the impact of different variables (allowed revenues, forecasted capacity bookings) on the level of reference prices. GAZ-SYSTEM provided two separate tariff models, for the High-methane gas and the Low-methane gas subsystems, with different set of assumptions, aiming at forecasting the corresponding tariffs. The Agency considers that network users would be able to reproduce the calculation of reference prices.

(18) However, the Agency further considers that the possibility for network users to forecast the reference prices is hindered by the lack of transparency on the period for which the proposed methodology would apply, as well as the presence of a range of possible entry-exit splits for the years after 2020. This conclusion is reasoned in paragraphs (20) to (25) below.

users located mainly on the area of Greater Poland Voivodeship and Lower Silesian Voivodeship (76 exit points). The High-methane gas subsystem covers the rest of the territory of Poland, with 51 entry points, 7 underground storage facilities and more than 880 exit points.

4.1.1.2 Time period for which criteria are set

(19) The Agency notes that the consultation document does not specify the time period for which the proposed RPM would apply, the only information in this regard being the starting date (1 January 2020), with no explicit reference being made to an end date. Implicitly, it must be noted that the period cannot last more than five years as, according to the provisions of Article 27(5) of the NC TAR, the consultation procedure should be repeated at least every five years.

(20) In the view of the Agency, such uncertainty regarding the end of the period undermines the possibility for network users accurately to forecast reference prices in future years.

(21) The Agency recommends the NRA to specify, in its final decision, the time period for which the proposed RPM and parameters are set, or at least to provide evidence on the conditions that would trigger a new consultation process.

4.1.1.3 Entry-exit split

(22) In addition, the Agency finds the definition of the entry-exit split by GAZ-SYSTEM not compliant with the consultation requirements of the NC TAR. In particular, GAZ-SYSTEM is consulting on a 50/50 ratio to be applied in the year 2020, while for subsequent years a range of possible entry-exit splits (from 40/60 to 60/40) is provided. GAZ-SYSTEM specifies that '*The Entry-Exit split ranging from 40 to 60 or from 60 to 40 may apply only in the situations of high increases in reference prices at entry or exit points*'.

(23) While acknowledging the importance of tariff stability, the Agency's view is that not setting a single value for the entry-exit split is not compliant with the NC TAR provisions on the periodic consultation, in particular the obligation laid down in Article 26(1)(b) to include also information of Article 30(1)(b)(v), i.e. the entry-exit split ('the breakdown between the revenue from capacity-based transmission tariffs at all entry points and the revenue from capacity-based transmission tariffs at all exit points'). The Agency also finds that the proposal of a range raises transparency concerns, with special 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.

(24) The Agency recommends the NRA to set, in its final decision, a single entry-exit split pursuant to Article 26(1)(b) of the NC TAR. Any different proposal, such as the possibility to change the split in subsequent years, should be duly justified in the final decision in light of the principles set out in the NC TAR, and should not result in uncertainty over the level of tariffs in future years. In this respect, should such an option be considered in the final decision, the Agency recommends the NRA to complement the proposal with a description of quantitative criteria related, in particular, to the conditions that would trigger a change of the split.

4.1.2 Cost-reflectivity

(25) **Article 7(b)** of the 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.

4.1.2.1 Description of the system

(26) The Agency finds that the description of the national gas system in Poland is provided with an appropriate level of detail with regard to the system technical parameters. However, the Agency considers that additional evidence should have been provided in order to better support the definition of the current system as ‘meshed’, given that such a characteristic is listed as one of the reasons for the adoption of the postage stamp methodology. The Agency notes that the condition of a system being meshed not only relates to its technical features, but also to whether prevailing flow or contractual patterns can be identified, given that in these cases the notion of distance becomes more relevant. In this respect, the Agency considers that the analysis provided by GAZ-SYSTEM would benefit from additional data on, for example, capacity bookings at main entry and exit points (data have only been provided at aggregated level), possibly with a geographical representation, in order to assess the role of distance in the Polish network. In general, the Agency considers as a best practice to provide all relevant information supporting the choice of a RPM, not only those strictly required by the NC TAR for the purpose of calculation.

(27) Also, while noting that according to GAZ-SYSTEM the commissioning of the infrastructure projects currently under development in Poland is likely to deliver a (even more) meshed system, the Agency remarks that the methodology should be assessed against the system conditions at the time the methodology is applied. In this respect, the analysis would benefit from a clearer view on the length of the time period for which criteria are set (see paragraph (22)) and, where relevant, from a more detailed and comprehensive assessment of the impact of new infrastructures on the system. The consultation document provides no details on the new projects that could be realised (FID taken) and on how this specific infrastructure would impact the system and the tariffs resulting from the proposed RPM.

(28) On the basis of the information provided, the Agency cannot fully conclude on the condition of the current system being meshed for the purpose of justifying the postage stamp methodology according to the cost-reflectivity principle. Hence, the Agency finds the consultation document incomplete with regard to the justification of the proposed RPM.

(29) In order to provide an overall assessment of the methodology, the Agency has relied on the available information to evaluate the role of distance in the Polish system. In this respect, the Agency considers that the comparison with a distance-based methodology, such as CWD methodology, represents a valuable instrument for the analysis.

4.1.2.2 Comparison with the Capacity Weighted Distance methodology

(30) Pursuant to Article 26(1)(a)(vi), GAZ-SYSTEM provided a comparison between the reference prices calculated based on the CWD methodology detailed in Article 8 of the NC TAR and the postage stamp methodology. According to GAZ-SYSTEM, the main differences occur due to the inclusion of distance as a cost driver, and to the fact that adjustments for storage and LNG facilities (see paragraph (32) below) have not been applied.

(31) The Agency points out that the comparison provided by GAZ-SYSTEM is hindered by the following limitations:

- Different adjustments (namely, storage and LNG discounts) have been used for tariff calculation, and no pre-adjustments results have been shown; hence, it is not possible to clearly distinguish between the effects of adopting different adjustments, and those related to the adoption of a different RPM compared to the postage stamp.
- Clustering of points, or alternatively tariff equalisation, has only been performed with regard to production entries; hence it is difficult to compare the results for a homogenous set of points (e.g. storages, or domestic exits), considering that such points are associated with a wide range of tariffs. This is particularly relevant in the case of domestic exits, where the absence of any form of clustering (e.g. based on the geographical area), or the indication of the main points (e.g. in terms of forecasted contracted capacity) makes it more difficult to assess the effects of taking distance into account as a cost driver.

(32) To address the issue of different adjustments applied, the Agency carried out a relative assessment for the High-methane gas subsystem by comparing the corresponding CWD methodology outcomes provided by GAZ-SYSTEM to the outcomes of a hypothetical postage stamp methodology with no storage discount, i.e. a tariff of 1.839 PLN/MWh/h and 1.495 PLN/MWh/h for entries and exits respectively.

(33) Based on the results of the counterfactual methodology for the High-methane gas subsystem, the Agency observes the following.

- Entry tariffs from the CWD methodology as provided by GAZ-SYSTEM, for the main interconnection points (PWP from the SGT pipeline, Wysokoje from Belarus, Drozdowicze from Ukraine and Cieszyn from the Czech Republic) end up in the range between 1.5 and 1.8 PLN/MWh/h; entry from production at 1.617 PLN/MWh/h; entry from storages in the range between 1.4 and 2.2 PLN/MWh/h. Compared to the hypothetical entry tariff from the comparable postage stamp methodology (1.839 PLN/MWh/h), the Agency notes that, while the proposed RPM might result in a slight favouring of certain entry points over storage entry points, the extent of such impact is rather limited.
- For exit points, as already pointed out in paragraph (32), the impact of taking distance into account is more difficult to assess, given the large number of exit points in the comparison with the CWD methodology provided by GAZ-SYSTEM, and the lack of any clustering of points for the purpose of the comparison. Notwithstanding such shortcomings, the Agency performed an assessment based on ranges of tariffs, and considered such an impact as limited: most exit tariffs would be in the range between 1.3 and 1.6 PLN/MWh/h, not far from the results of the hypothetical postage stamp methodology (1.495 PLN/MWh/h). The tariff for the Hermanowicze cross-border exit point would be 1.767.

(34) Based on the results of the counterfactual methodology for the Low-methane gas subsystem, with particular regard to exit charges, the Agency notes that most tariffs end up in the range between 1.2 and 2.0 PLN/MWh/h, compared to an exit tariff resulting from the postage stamp methodology of 1.549 PLN/MWh/h.

(35) Based on the analysis of the comparison with the CWD methodology, the Agency concludes that the impact of taking distance into account in the given system would be limited. The Agency considers as a best practice to provide not only the results of the comparison with the CWD

methodology, but also, where relevant for the justification, a more detailed description of the effects of taking distance into account.

4.1.2.3 Conclusions on cost-reflectivity

(36) First, the Agency considers the choice to apply two separate RPMs to the High-methane gas and the Low-methane gas subsystems to be, in principle, cost reflective, and not leading to cross-subsidies between users of the two systems.

(37) The Agency notes that the choice of a postage stamp methodology is generally best suited in a meshed system, where distance as a cost driver is less relevant, or its effects tend to be mitigated. This could be assessed either by looking at the system characteristics, or by looking at the results of the comparison with the CWD methodology. The Agency is of the view that, in the consultation document, GAZ-SYSTEM was not able to provide a comprehensive description of the system to define it as meshed, hence the Agency finds the consultation incompliant in this respect. However, from the results of the comparison with the CWD methodology, the Agency performed an assessment of the role of distance, concluding that it does not play a crucial role when setting tariffs in the given system.

(38) The Agency recommends the NRA to provide, in the final decision:

- All relevant information supporting the choice of the RPM, in particular those supporting the definition of the system as 'meshed'. This should include an assessment of the infrastructure projects that could be realised during the period for which the RPM is being proposed.
- A consistent comparison with the CWD methodology, including at least the results pre- and post-adjustments, and the comparison of tariffs for homogenous sets of points also based on their geographical location on the network.

4.1.3 Cross-subsidisation

(39) **Article 7(c)** of the NC TAR requires the RPM to ensure non-discrimination and prevent undue cross-subsidisation. One instrument to evaluate this is the cost allocation assessment (CAA, Article 5 of the NC TAR). The result for the capacity cost allocation comparison index is 9.96%. The CAA is not calculated for commodity charges as the consultation document does not foresee the use of commodity tariffs.

4.1.3.1 Discrimination

(40) The Agency has not identified discrimination resulting from the correct application of the NC TAR, nor from practices not allowed by the NC TAR. For this analysis, the Agency defines 'discrimination' as 'charging different prices to different network users for the identical gas transmission service'. The allocation of all transmission costs via a single RPM to all entry-exit points minimises the possibility of forms of discrimination not allowed by the NC TAR.

4.1.3.2 Cross-subsidisation between cross-system and intra-system network users

(41) The Agency preliminarily notes that, in the case of Poland, two separate entry-exit systems are in place, one being the Polish national network operated by GAZ-SYSTEM, the other being the SGT pipeline (the Polish segment of the Yamal pipeline) owned by EuRoPol GAZ and operated by GAZ-

SYSTEM. It follows that the connection point between the two systems (the virtual PWP point) is a cross-system point for the purpose of the CAA, but not a cross-border point. Hence, the CAA can represent a useful tool to assess potential cross-subsidisation between cross-system and intra-system network users, but not to assess potential distortions of cross-border trade.

(42) Also, given that the Low-methane gas subsystem has no cross-system points, GAZ-SYSTEM only performed the CAA with regard to the High-methane gas subsystem.

(43) The result for the CAA (9.96%) 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.

4.1.3.3 Cross-subsidisation between different network users within Poland

(44) GAZ-SYSTEM claims that the chosen RPM does not create undue cross-subsidies between different types of users within Poland, because they all pay the same reference price based on the capacity they book.

(45) The Agency's view is that the postage stamp methodology does not avoid, as such, cross-subsidisation, as the extent of cross-subsidies depends on how the chosen cost drivers (in this case, the forecasted contracted capacity only) relate to the characteristics of the network[4]. Hence, the Agency finds the consultation incomplete with regard to the justification of the proposed RPM against the avoidance of cross-subsidisation.

(46) The Agency considers that the evaluation of the degree of cross-subsidisation between different network users within Poland can be assessed in conjunction with the assessment of the cost-reflectivity principle. In this respect, the Agency already concluded that the comparison with the CWD methodology is a valuable tool for the analysis, and that the effect for domestic exits of taking distance into account is relatively small. For the High-methane gas subsystem, most tariffs for domestic exit points would be in the range between 1.3 and 1.6 PLN/MWh/h, compared to a 1.495 PLN/MWh/h tariff resulting from the hypothetical postage stamp methodology; for the Low-methane gas subsystem, most exit tariffs would be in the range between 1.2 and 2.0 PLN/MWh/h, compared to a 1.549 PLN/MWh/h exit tariff resulting from the postage stamp methodology.

(47) Following the reasoning and conclusions on cost-reflectivity, the Agency finds that the adoption of a postage stamp methodology does not lead to undue cross-subsidies between different network users within Poland.

(48) Nonetheless, the Agency recommends the NRA to provide, in the final decision, a more consistent evaluation of the proposed RPM against the avoidance of cross-subsidisation.

[4] For example, in a system where costs are mainly driven by distance, a postage stamp methodology would result in some level of cross-subsidisation.

4.1.4 Volume risk

(49) **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.

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

4.1.5 Cross-border trade

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

(52) GAZ-SYSTEM considers that, as in the national network gas mainly flows for intra-system use, and the RPM applies the same charges at cross-border and domestic points, the chosen RPM does not affect cross-border trade.

(53) The Agency sees the merits of applying the same reference price at all entry points for the purpose of avoiding distortion of cross-border trade. However, in the Agency's view, a postage stamp methodology does not avoid, as such, the distortion of cross-border trade. The Agency interprets that tariffs do not distort cross-border trade when they are set at cost reflective levels. On cost-reflectivity, the Agency already concluded that the postage stamp methodology represents a consistent approach as the impact of distance is limited (see paragraph (38)). The comparison between reference prices at the border resulting from the proposed RPM and the CWD methodology confirms this finding, as entry tariffs for the main cross-border points (Wysokoje from Belarus, Drozdowicze from Ukraine and Cieszyn from Czech Republic) would be in a limited range of values.

(54) Finally, the Agency notes that domestic production is not favoured over imports as the proposed RPM sets the same tariff at all entry points (except for entries from storage). In comparison, the CWD methodology results in a lower tariff at domestic production points than most cross-border points.

(55) Therefore, the Agency concludes that reference prices are compliant with the principle of not distorting cross-border trade.

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

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

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

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

(58) 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.

(59) In the consultation document it is proposed not to make use of non-transmission tariffs.

5. Other comments

(60) The Agency concludes this report with a remark on the configuration of the Polish network, which is divided into two entry-exit systems: the Polish national network and the SGT pipeline. As a result of this, the supply of gas to the Polish market via the SGT pipeline is more expensive than through the other entries into the Polish national network. The difference is determined by the two additional tariffs that result from the use of the SGT pipeline:

- Gas coming into the Polish national network faces a uniform entry tariff following the proposal of a postage stamp methodology for this system (3.517 PLN/MWh/h).
- Gas entering the Polish national system via the SGT pipeline faces an entry tariff into the SGT pipeline at the Belarus border (1.3885 PLN/MWh/h), and an exit tariff from the SGT pipeline to Poland (0.4597 PLN/MWh/h). This adds up to 1.8482 PLN/MWh/day, to which the entry tariff to the Polish national system has to be added. The surcharge for supplying the Polish market via the SGT pipeline represents a 52% increase compared to the standard entry fee charged when entering directly into the Polish national network.

(61) The Agency recommends the NRA to assess the costs and benefits of a merger of the two entry-exit systems.

Annex 1: Legal framework

Article 27 of the 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.

Article 26(1) of the 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.

Article 7 of the 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.

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 non discriminatory 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.

Article 4(3) of the 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.

Article 4(4) of the NC TAR reads:

4. The non-transmission services revenue shall be recovered by non-transmission tariffs applicable for a given nontransmission 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
NRA	National Regulatory Authority
TSO	Transmission System Operator
EC	European Commission
EU	European Union
NC TAR	Network code on harmonised transmission tariff structures for gas
RPM	Reference Price Methodology
CWD	Capacity Weighted Distance
CAA	Cost Allocation Assessment
URE	Urząd Regulacji Energetyki (Polish NRA)
SGT pipeline	Polish segment of the Yamal pipeline

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