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Agency Report

Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Slovenia

NRA: Agencija za Energijo
TSO: Plinovodi

13 December 2018

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1. ACER conclusion

- (1) Plinovodi, the Slovenian Transmission System Operator ('TSO'), proposes to use a matrix methodology which is based on capacity, distance and network costs as cost drivers. The network costs are determined by different cost factors that are applied to geographical areas of the network. The methodology results in an entry-exit split of 16/84. In addition, reference prices for domestic exits are equalised to provide a single reference price. Commodity tariffs are proposed, covering 4.6% of the allowed revenue, in addition to non-transmission services for metering (covering 0.98% of the allowed revenue).
- (2) The Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR') foresees a cost allocation assessment ('CAA') and the comparison of the chosen reference price methodology ('RPM') with the capacity-weighted distance ('CWD') methodology. The proposed RPM results in lower tariffs at IPs (both entries and exits) and higher tariffs at domestic exits, compared to the CWD methodology. This result is consistent with the Agency's interpretation of the CAA¹ result of 36%, which suggests a significant degree of subsidisation of the cross-system use of the network. At the same time, the Agency notes that the CAA is calculated using unit costs as a cost driver, an option that is not foreseen by the NC TAR. For this reason, the CAA result is invalid and can only be taken as an approximation. Article 5 of the NC TAR requires that results above 10% are justified. The Agency considers that the justification provided by Plinovodi is not adequate.
- (3) The Agency, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR, concludes that:
 - The consultation document does not include all the required information pursuant to Article 26(1). Particularly it misses the justifications and the assumptions related to the cost drivers. In addition, the Agency considers the publication of all steps of the matrix methodology a best practice, as the simplified model provided leads to an inaccurate estimation of reference prices.
 - The proposed RPM is not compliant with the requirements of transparency, cost-reflectivity, preventing undue cross-subsidisation and not distort of cross-border trade.
 - The use of commodity tariffs is compliant with the requirement of Article 27(2)(b)(3).
 - The use of non-transmission tariffs is compliant with the requirement of Article 27(2)(b)(4).
- (4) The Agency notes that the proposed RPM might aim at incentivising cross-border competition by lowering tariffs at IPs. While this aim is not made explicit in the consultation, it is a central aspect of the RPM and, presumably, it leads to the subsidisation of the cross-system use of the network. Should there be pipe-to-pipe competition and should this objective be maintained in the final decision, the Agency recommends the National Regulatory authority ('NRA') to make use of benchmarking following Article 6(4)(a) of the NC TAR and to explore, in accordance to Article 13(1)(b) of the NC TAR, setting low multipliers for daily standard capacity products and for within-day standard capacity products. The application of benchmarking should facilitate simplifying the RPM, which currently does not allow forecasting tariffs accurately, nor understanding the objectives of the methodology.

¹ Throughout this document, 'CAA' is used to refer to the capacity cost allocation comparison index described in Article 5(3)(c) of the NC TAR.

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- (5) The Agency recommends that the NRA includes the following missing elements in the motivated decision referred to in Article 27(4) of the NC TAR:
- An improved tariff model, providing the necessary information to reproduce and forecast tariffs accurately. Explain whether the forecasted value for the allowed revenues for 2020-21 is an accurate enough estimation.
 - The RPM calculation for the derivation of reference prices. This element is key to prove compliance of the methodology with the requirements in Article 7 of the NC TAR in cases where the methodology is complex or uses network costs as an input. In addition, this tool can substitute the simplified tariff model as the version provided is not sufficiently accurate.
 - A justification explaining how all the cost drivers are calculated and used.
 - A justification of the entry-exit split, possibly reconsidering it.
 - Recalculation of the CAA following the requirements of Article 5 of the NC TAR. Following this calculation, justify the results of the CAA in light of the objectives of the methodology, particularly in light of the aim of facilitating cross-border flows. The results of the CAA should be compared for both the proposed methodology and the CWD methodology. The Agency notes that the recalculation of the CAA could affect the conclusion provided in this analysis.
 - A clarification of the adjustments applied to reference prices. In particular, the use of rescaling is not described in the consultation document but it is mentioned in the clarifications on the RPM received from Plinovodi.
 - Clarification on the alternative reconciliation mechanisms that could be used. Plinovodi refers to the possibility of extending the reconciliation of revenues over longer periods of time to protect users from tariff volatility related to cross-system flows. The Agency recommends to clarify the circumstances under which this mechanism would be used and its functioning.
- (6) Finally, the Agency concludes that Plinovodi introduces additional tariff schemes for domestic users that are not compliant with the NC TAR. These adjustments differentiate tariffs depending on the quantity of capacity booked by users. While Plinovodi proposes this approach to increase the cost reflectivity of reference prices, the Agency remarks that this differentiation discriminates between small and large users and can potentially hamper market competition. This adjustment is not compliant with the NC TAR as it is not included in the list of possible adjustments to the RPM provided in Article 6(4) thereof.

2. Introduction

- (7) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas (NC TAR).
- (8) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems². This Report presents the analysis of the Agency for the transmission system of Slovenia.
- (9) On 31 August 2018, Plinovodi forwarded the consultation documents to the Agency. The consultation was launched on 31 August and remained open until 31 October. On 26 November Plinovodi communicated to the Agency the publication of the consultation responses and their summary. 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 the NC TAR, the NRA shall take and publish a motivated decision on all the items set out in Article 26(1) of the NC TAR.
- (10) A number of bilateral exchanges to collect additional information took place between the Agency, the NRA and Plinovodi. Several clarifications were provided by Plinovodi, including a detailed calculation of the RPM and the CAA calculation. The Agency appreciates the interactions with Plinovodi during this process, as they supported the development of the analysis.

Reading guide

- (11) 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?

- (12) 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.
- (13) 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.

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

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- (14) Most of the information in Article 26(1) of the NC TAR has been published, as noted in Table 1. However the justification for the cost drivers, together with an accurate description of the matrix calculation (or the excel file used), were not included in the consultation.

Table 1 Checklist information Article 26(1)

Article	Information	Published: Y/N/NA
26(1)(a)	the description of the proposed reference price methodology	Partial. In the absence of the RPM calculation, the description provided is insufficient
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: <ul style="list-style-type: none"> 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 	Partial. Missing justification on the cost drivers
26(1)(a)(ii)	the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9	Partial. Not clear if additional adjustments are applied (e.g. rescaling)
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	Partial. The details and the assumptions used for the CAA are missing
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)	Yes
26(1)(b)	the indicative information set out in Article 30(1)(b)(i), (iv), (v)	Partial. Assess the accuracy of the allowed revenue forecast provided for all the tariff periods of the regulatory period
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 <ul style="list-style-type: none"> 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 	Yes
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: <ul style="list-style-type: none"> 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

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<p>26(1)(d)</p>	<p>the indicative information set out in Article 30(2);</p>	<p>No. The simplified tariff model included in the consultation is inaccurate and tariffs cannot be forecasted/reproduced. Missing allowed revenue forecast for 2020-21. Plinovodi provided ACER with the detailed calculation of the RPM.</p>
<p>26(1)(e) 26(1)(e)(i) 26(1)(e)(ii) 26(1)(e)(iii) 26(1)(e)(iv)</p>	<p>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:</p> <ul style="list-style-type: none"> • 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 	<p>Yes</p>

4. Compliance

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

- (15) 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.
- (16) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and cross-border trade are closely related, the Agency concludes with an overall assessment. Special attention is paid to the allocation of revenues between domestic and transit routes.
- (17) The proposed RPM is based on a matrix methodology which uses capacity, distance and network costs as cost drivers. The analysis provided focusses on the difference in tariffs for cross-system use and intra-system use.

4.1.1 Transparency

- (18) **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.
- (19) The Agency finds that the simplified tariff model, provided by Plinovodi, as required by Article 30(2)(b) of the NC TAR, is not sufficiently accurate, as it only provides two average reference prices,

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one for domestic points and one for cross-border points.(without any differentiation between entries and exits at IPs). The model is also missing input values for the allowed revenues of the year 2020. Finally, the RPM matrix calculation is not published as part of the consultation. For these reasons, the Agency considers that network users would not be able to reproduce and forecast reference prices. In this respect, the consultation document does not fully comply with the requirements of the NC TAR. The Agency recommends that the NRA improves the tariff model and publishes in the final decision an enhanced version, including all input data. Should the simplified model only serve to provide an inaccurate estimation of reference prices, the Agency suggests the NRA to consider the publication of the full matrix calculation. Regarding the allowed revenues for 2020-21, Plinovodi should include an estimated forecast for these tariff periods, if this information is not yet available. In the current model, the value for 2019 is rolled to 2020-21.

- (20) Regarding the requirement to compare the tariffs proposed for the first applicable tariff year and for *i)* the prevailing tariff period and *ii)* the rest of the tariff periods of the regulatory period, the Agency notes that Plinovodi provides this information in the consultation. This is a requirement pursuant to Article 30(2)(a)(i)-(ii) of the NC TAR. The Agency notes that the tariff differences are published in absolute terms and recommends Plinovodi to show this information also in relative terms (differentiating between increases and decreases).

4.1.2 Cost-reflectivity

- (21) **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.
- (22) The Slovenian transmission system network is not meshed: as Plinovodi explains in the consultation document, 'the system is not so intertwined and intermeshed that it would be possible to assume the whole system as being a homogenous network through which gas flows via different routes'³. Originally, the network was built to supply domestic customers, although historically there have been significant flows crossing the system, particularly from Austria to Croatia. The system is also sensible to flow changes in neighbouring networks. The Agency cannot conclude that the matrix methodology is more efficient when taking these characteristics into account. Given that reference prices at domestic points are equalised, the price signals provided by a more complex methodology are partially lost. An output similar to that of the proposed methodology could be achieved by means of a simpler methodology (e.g. postage stamp) combined with the application of benchmarking.
- (23) In addition to this consideration on the choice of the methodology, the Agency considers that the proposed matrix methodology is not compliant with the requirement of cost-reflectivity. This conclusion results from reference prices being comparatively lower at IPs (entries and exits) than at domestic points. As a result, revenues allocated to cross-system use are significantly below costs. This conclusion is reasoned in the following paragraphs (24) to (37).

³ See p. 12 of the consultation document.

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4.1.2.1 Cost drivers

- (24) Plinovodi refers to the RPM as a matrix methodology that is based on the cost drivers of capacity, distance and on an additional cost driver that refers to the costs of the network. This network cost driver is calculated for seven geographical areas to which a cost value is assigned. These factors are shown in Table 2.

Table 2: Network cost used as an input to the RPM. Source: Slovenia TAR consultation document

Area of the transmission system		Cost EUR/kWh/d
AT IP	P1	0.072161
IT IP	P2	0.134282
HR IP	P3	0.070711
Domestic area	P4	0.238234
Domestic area	P5	0.51533
Domestic area	P6	0.102973
Domestic area	P7	0.429069

- (25) The Agency notes that the consultation provides no information about how these cost areas are defined. Plinovodi mentions that the technical capacity, maximum load on the individual areas of the transmission system, the replacement value of the transmission system and the structure of the transmission network are taken into account for this purpose⁴, but it does not explain how this is done or whether other parameters are also taken into account. In addition, the Agency notes that it is not clear from the consultation how the use of areas relate to the costs of transporting gas between segments of the network:
- The costs assigned to IPs vary significantly and result from the definition of network areas. Changing the size of the areas would lead to changing the costs associated to IPs. This introduces some degree of discretion when assigning costs to points of the network, particularly to IPs. If the area assigned to an IP is small, reference prices at the IP could be reduced. Alternatively, if the area is set to be larger, the resulting reference prices would increase. The Agency cannot confirm from the information in the consultation document that the cost factors associated to areas lead to a cost reflective allocation of costs to network points.
 - When transporting gas between two IPs, it is not clear that the RPM takes into account the costs of the intermediate areas associated with the flow of gas⁵.
- (26) The Agency notes that, pursuant to Article 26(1)(a)(i), it is a requirement of the NC TAR to justify the input to the RPM. In methodologies that use network costs, a clarification on how costs are used is important given the degree of discretion that they allow. Therefore, the NRA should clarify:
- The criteria used to define network areas;
 - The methodology and assumptions used to calculate network cost factors;
 - The use of the cost drivers of capacity and distance.

⁴ See p. 5,7 of the consultation document.

⁵ Plinovodi clarified to the Agency that the matrix optimisation takes into account the costs associated to the zones in between IPs when solving the matrix optimisation algorithm. The Agency has not been able to verify this point.

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- (27) In addition, the Agency notes that the matrix calculation for the derivation of reference prices is not provided in the consultation document. This does not enable an accurate assessment of how the proposed methodology ensures the requirements listed in Article 7 of the NC TAR. The Agency notes that Plinovodi provided the Agency with a detailed calculation of the RPM. This has facilitated completing this analysis. The resulting conclusions are also applicable to the clarifications provided by Plinovodi.

4.1.2.2 Entry-exit split

- (28) Plinovodi proposes an entry-exit split of 16%-84% which results from the application of the matrix calculation. The TSO argues that this split is justified by the fact that the network was historically built for the purpose of supplying domestic customers. In the view of the Agency, this argument is not supported by sufficient evidence, and it is not consistent with the fact that the Slovenian network has, in the past, transported large volumes of gas from Austria to Croatia (i.e. the system has not only functioned to supply domestic customers).
- (29) The Agency recommends the NRA to reconsider and properly motivate the choice of the entry-exit split. As this analysis argues below, the entry-exit split is a key aspect contributing to the lack of cost reflectivity of tariffs. When setting the entry-exit split, the NRA should consider the impact on cross-subsidisation between cross-system and intra-system use. The CAA is an indicator of this effect.

4.1.2.3 Adjustments to the RPM

- (30) Article 6(4) of the NC TAR lists several possible adjustments applicable to reference prices. In the consultation document, Plinovodi only refers to the application of equalisation to domestic tariffs. However the RPM calculation received from the TSO refers to the application of rescaling. The Agency recommends that the NRA clarify in the final decision whether any adjustments, additional to the equalisation of domestic points, are applied to reference prices.

4.1.2.4 Comparison with the CWD methodology and capacity cost allocation assessment

- (31) Compared to the CWD methodology, the proposed RPM results in higher tariffs at domestic exits (+70%) and lower tariffs at IP entries and exits (-69% on average). In the absence of detailed information on the RPM calculation, the Agency understands that this effect can result from: *i*) the entry-exit split (16-84 compared to 50-50 in the CWD methodology), *ii*) the use of network costs (the CWD methodology does not use network costs as an input), *iii*) the different use of distance in the compared methodologies, and/or *iv*) the optimisation applied as part of the matrix methodology.
- (32) The entry-exit split reduces the revenues allocated to entries. At the same time, the RPM decreases the exit tariffs at IPs. While the entry-exit split sets comparatively low tariffs to all entries, the higher share of revenues allocated to exits only results in higher tariffs at domestic exits and not at IP exits. The latter are decreased as a result of the application of the RPM. This outcome suggests that cross-system flows are allocated lower revenues than the costs they cause to the system. The result of the CAA is consistent with this conclusion.

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- (33) The result of the CAA is 36%. This result is significantly above the 10% threshold that, according to Article 5(6) of the NC TAR, requires a justification. The justification provided by Plinovodi refers to:
- The structure of the network which was originally designed for the supply of domestic customers⁶.
 - Flows crossing the network only traverse a short distance (80km), so their costs should be smaller compared to the greater distance used to supply domestic customers⁷. The optimisation used to solve the matrix RPM takes this into account when calculating reference prices.
- (34) In the Agency's view, this reasoning does not explain the result of the CAA. First, the original objective of the network of supplying domestic consumers should be considered together with the fact that the system allows cross-border flows and that, historically, large gas volumes have been transported across Slovenia, from Austria to Croatia. Second, the shorter distance traversed by cross-border flows should not necessarily lead to cross-subsidisation. An RPM using distance as a cost driver would result in a tariff proportional to the distance gas travels. In the current case, reference prices seem to be less than proportional to distance. Following this reasoning, the Agency interprets the result of the CAA as higher revenues being allocated to domestic users compared to the cost associated to their use of the system.
- (35) Plinovodi additionally provides the CAA result for the CWD methodology, which is higher than that of the proposed methodology (48%). This could imply that the CWD methodology is less cost-reflective than the proposed methodology. However, the Agency has not been able to verify this point, given that the cost drivers used of both CAA calculations are not the same (see paragraph (37) below). This renders both result not comparable. In order to make the CAA result of both methodologies comparable, the assumptions used should be the same. Currently, the CWD methodology, as calculated by Plinovodi, is based on a 50/50 entry-exit split, while the proposed methodology is based on a 16/84 split.
- (36) Following this conclusion, the Agency recommends the NRA further to elaborate on the result of the CAA, particularly by connecting it to the choice of the entry-exit split and to the potential cross-subsidisation effect between cross-system use and intra-system use. In addition, the Agency recommends further to elaborate on the CAA result for the CWD methodology in order to make both results comparable. The Agency recommends, as a best practice, to calculate the results of the CAA both pre- and post- adjustments for both the proposed methodology and the CWD methodology. For such a comparison, the assumptions used should be the same for both methodologies.
- (37) In addition, the Agency recommends the NRA to include in the final decision the details of the CAA calculation, including the cost drivers and the assumptions used, and to check that the calculations are carried out according to Article 5 of the NC TAR. The description provided by Plinovodi suggests that the calculation of the CAA is based on cost drivers related to the load factor of the network.

⁶ See pages 13, 17 of the consultation document.

⁷ See page 13 of the consultation document

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This option is not foreseen in Article 5 of the NC TAR, and renders the result partially invalid and only useful as an approximation. The Agency notes that the recalculation of the CAA could affect the conclusion provided in this analysis. The Agency sees as a good practice to provide the full calculation of the CAA. This is particularly relevant if the results of the CAA are above the 10% threshold stated in the NC TAR.

4.1.2.5 Conclusion

- (38) Following the reasoning provided in paragraphs (21) to (37), the Agency concludes that the reference prices resulting from the application of the proposed RPM are not cost reflective. In particular, they set cross-border tariffs below the costs associated to IPs.

4.1.3 Cross-subsidisation and non-discrimination.

- (39) **Article 7(c)** of the NC TAR requires the RPM to ensure non-discrimination and prevent undue cross-subsidisation.
- (40) The Agency has not identified discrimination resulting from the application of the RPM. For this analysis, the Agency defines 'discrimination' as 'applying different rules to comparable situations or the same rule to different situations'. The allocation of all transmission costs via a single RPM to all entry-exit points minimises the possibility of discrimination not allowed by the NC TAR.
- (41) The Agency finds that the RPM results in undue cross-subsidisation. This conclusion is based on the non-cost reflectivity of the RPM as reasoned in the previous paragraphs, which results in the cross-subsidisation of cross-system users. The Agency refers this analysis, particularly to the results of the CAA of 36%.

4.1.4 Volume risk

- (42) **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.
- (43) In Slovenia it is not the case that significantly more gas is transported than used for consumption. At the same time, Plinovodi refers to the possibility of extending the reconciliation of revenues over longer periods of time to protect users from tariff volatility related to cross-system flows. The Agency recommends the NRA to provide clarity on the duration of the alternative reconciliation. Such clarification should aim at facilitating the calculation and forecast of tariffs to users.
- (44) The Agency considers the consultation document compliant with the requirement to sheltering captive customers from the risks related to large transit flows.

4.1.5 Cross-border trade

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

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- (46) Following the conclusions on cost-reflectivity and on cross-subsidisation, the Agency concludes that the proposed RPM can potentially distort cross-border trade. For this analysis, the Agency assumes that tariffs deviating from cost reflective levels can potentially distort cross-border trade. Following the results of the CAA, and the comparison with the CWD methodology, tariffs at entry point and exits at IPs are below cost reflective levels. The Agency concludes that the RPM does not ensure that the resulting reference prices do not distort cross-border trade.

4.1.6 Conclusion

- (47) Following this analysis, the Agency concludes that the methodology is not cost reflective as tariffs at IPs at entry and exit points are below the cost associated to these points. This setting results in lower costs for cross-system users compared to intra-system users. As a result, the Agency also concludes that tariffs do not prevent undue cross-subsidisation. This conclusion is supported by the result of the CAA. Furthermore, the setting of non-cost reflective tariffs at IPs can distort cross-border trade. The Agency concludes that the proposed RPM is therefore not compliant with Article 7 of the NC TAR.
- (48) This conclusion is reasoned on the basis of a limited visibility of the calculation of reference prices. The Agency notes that the consultation document does not provide sufficient information to facilitate an accurate analysis of how reference prices are derived. In addition, several key justifications are missing, regarding the calculation of the network costs and the use of distance as a cost driver. These aspects render the consultation document incompliant with the requirements of enabling network users to reproduce the calculation of reference prices, as required by Article 7(1). In the absence of such information, the Agency has derived the conclusion of this analysis based on the comparison with the CWD methodology and on the results of the CAA.
- (49) Regarding the objective of the proposed RPM, the Agency remarks that the information provided in the consultation does not explain satisfactorily the setting of lower tariffs provided to cross-system users. Only in one reference Plinovodi mentions the objective of ensuring competitive prices to cross-border flows⁸. However, this aim seems central to the methodology. From discussions held with Plinovodi on 8 October 2018⁹, the Agency has further understood that the RPM is intended to incentivise cross-border flows by lowering tariffs at IPs. This objective is set to make the Slovenian network competitive vis-à-vis other transmission routes in Europe. Higher tariffs at IPs would make the Slovene network less attractive potentially decreasing network flows. In such a scenario, of lower cross-system usage, tariffs to all users of the Slovene network would increase. The Agency understands that Plinovodi opts for subsidising cross-system users to avoid a potential decrease of the utilisation of the network.
- (50) The Agency notes that the NC TAR allows the use of benchmarking at entry and exit points so that the resulting values meet the competitive level of reference prices, in case of competing routes. Such adjustment could simplify the design of the RPM by adding transparency to the calculation of reference prices. The Agency refers the NRA to the Commission Staff Working Document on the

⁸ See p. 14 of the consultation document

⁹ The Agency met with Plinovodi and the NRA on 8 October 2018 at the premises of the Agency.

application of benchmarking¹⁰. The use of this adjustment should be based on a justification considering at least:

- That there is effective pipe-to-pipe competition.
- The criteria used to determine the existence of pipe-to-pipe competition.
- That the application of cost reflective tariffs would distort competition.
- That the requirements laid out in Article 7 of the NC TAR would be better achieved by tariffs emerging from benchmarking.

- (51) In addition to this, the Agency notes that pursuant to Article 13 of Regulation (EC) 715/2009, the NRA can further adjust multipliers for the purpose of incentivising short-term cross border trade¹¹.

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

- (52) 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.
- (53) The use of commodity-based transmission tariffs is an exception. Plinovodi proposes to apply commodity-based transmission tariffs. The commodity-based transmission tariffs are expected to constitute 4.6% of the transmission services revenue. The Agency considers that this share is consistent with the requirements of the NC TAR (see Table 3 below summarising the criteria for setting the flow-based charge).
- (54) The NC TAR allows for two types of commodity-based transmission tariffs: a flow-based charge and a complementary revenue charge. Plinovodi proposes to apply a flow-based charge.
- (55) The commodity charge is applied following a formula provided in Annex 3 to the consultation document, which allows calculating and forecasting the flow-base charge. The Agency notes that the consultation document provides a formula including a factor (' Q_m ', the transmitted quantities of natural gas from the exit point), that suggests that the flow-based charge is calculated based on a distance value that is different at each point of the network. Such an approach would lead to the charge not being equal at all exits, contrary to the requirement of Article 4(3)(a)(ii). This issue was communicated to Plinovodi and the response of the TSO¹² clarified that the flow-based charge is set in a way that it is the same at all exit points. The Agency considers that the proposed flow-based charge therefore meets the criteria set in Article 4(3). In addition, the Agency recommends the NRA to clarify this aspect in the formula provided in Annex 3 to the consultation document. Particularly, the Agency recommends to clarify how the Q_m factor is calculated and how it leads to the same charge being set at all exit points.

¹⁰ Commission Staff Working Document on Tariffs for Access to the Natural Gas Transmission Networks Regulated under Article 3 of Regulation 1775/2005. Brussels, 20.4.2007. SEC(2007) 535.

¹¹ Article 13 of Regulation (EC) 715/2009 states that tariffs shall 'facilitate efficient trade and competition'¹¹. On the basis of to the TAR NC, this can be implemented by setting the level of multipliers for daily standard capacity products and for within-day standard capacity products below 1, but higher than 0, pursuant to Article 13(1)(b) of the NC TAR. This allows to set reserve prices for short-term products at very low levels, albeit not negative. The NRA appealing to Article 13 is expected to provide a justification arguing how the decrease below cost-reflective levels can have potential benefits that surpass the resulting cross-subsidies.

¹² Email from Plinovodi on 28 November 2018.

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- (56) The commodity cost allocation comparison index calculated by Plinovodi is 0%. This value does not exceed 10% and therefore does not require further justification. The Agency remarks that Article 5(1)(b) of the NC TAR gives two options to use as cost drivers for the commodity-based CAA: (i) the amount of gas flows or (ii) the amount of gas flows and distance.

Table 3 Criteria for setting the flow-based charge, as laid out in Article 4(3a)

Criteria	Y/N?
levied for the purpose of covering the costs mainly driven by the quantity of the gas flow	Yes
calculated on the basis of forecasted or historical flows, or both	yes
set in such a way that it is the same at all entry points and the same at all exit points	Yes
expressed in monetary terms or in kind	Yes

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

- (57) 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.
- (58) The consultation document proposes the use of non-transmission tariffs. Only metering services are recovered via non-transmission tariffs. These services can qualify as non-transmission services as the costs are not driven by capacity and distance.
- (59) The non-transmission services revenue for 2019 are 358.000€. The Agency recommends the NRA to clarify whether the 0.98% share of revenues to be recovered via non-transmission applies to the total allowed revenues or to the total transmission revenues. This aspect is not clarified in the consultation document.
- (60) Plinovodi explains in the consultation document that non-transmission costs are charged to system users who book capacity taking into account the technical characteristics of each connection. A formula is provided for this purpose, which clearly states the cost drivers to be used. These include a factor related to the size of the metering station and a factor related to the number of reduction steps. The Agency understands that this calculation meets the criteria laid out in Article 4(4)(b) of the NC TAR of non-transmission charges being cost-reflective, non-discriminatory, objective and transparent and of being charged to the beneficiaries of the non-transmission service.

5. Other comments

- (61) The consultation document introduces the tariff adjustments for domestic users. Plinovodi defines a factor that increases as capacity decreases. This results in a premium to users booking less capacity. The factor is based on 8 steps that introduce a gradual adjustment ranging from 1 to 1.63. This is shown in Table 4 below. Such an approach is discriminatory towards users booking less capacity and can potentially hamper competition. This adjustment is not compliant with the NC TAR and it is not included in the list of possible adjustments to the RPM provided in Article 6(4). The

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Agency recommends the NRA to reconsider the application of differentiated tariffs to domestic consumers in the light of the NC TAR rules.

Table 4: Exit tariff item levels by customer groups according to the total capacity of the exit points in Slovenia.
Source: Slovenia Tariff Consultation Document, Annex 2.

Total exit capacity of exit points in the Republic of Slovenia in kWh/day	Exit tariff item level "k"
$0 \leq PK < 50,000$	1.63000
$50,000 \leq PK < 100,000$	1.37000
$100,000 \leq PK < 250,000$	1.20000
$250,000 \leq PK < 500,000$	1.14000
$500,000 \leq PK < 1,000,000$	1.07000
$1,000,000 \leq PK < 2,000,000$	1.03000
$2,000,000 \leq PK$	1.00000
Distribution	1.00000

Annex 1: Legal framework

(62) 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.*

(63) 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:

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- (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.
- (64) 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;

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(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.

(65) 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.

(66) 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;*

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(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.

(67) 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
ENTSOG	European Network of Transmission System Operators for Gas
NRA	National Regulatory Authority
TSO	Transmission System Operator
EC	European Commission
EU	European Union
MS	Member State
NC TAR	Network code on harmonised transmission tariff structures for gas
IP	Interconnection Point
VIP	Virtual Interconnection Point
RPM	Reference Price Methodology
CWD	Capacity Weighted Distance
CAA	Cost Allocation Assessment
RAB	Regulated Asset Base
OPEX	Operational Expenditures
CAPEX	Capital Expenditures



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