



Publishing date: 15/02/2019

Document title: Agency Report - Analysis of the Consultation Document for Germany

We appreciate your feedback



Please click on the icon to take a 5' online survey and provide your feedback about this document

Share this document



Agency Report

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

NRA: Bundesnetzagentur für
Elektrizität, Gas, Telekommunikation, Post
und Eisenbahnen

TSO: all TSOs in the
NetConnectGermany / GASPOOL entry-
exit systems

13 February 2019

Contents

1. ACER conclusion.....	2
2. Introduction.....	5
3. Completeness.....	6
3.1 Has all the information referred to in Article 26(1) been published?	6
4. Compliance.....	7
4.1 Does the RPM comply with the requirements set out in Article 7?	7
4.1.1 Transparency	8
4.1.2 Cost-reflectivity.....	9
4.1.3 Cross-subsidisation and discrimination.....	16
4.1.4 Volume risk.....	17
4.1.5 Cross-border trade	17
4.1.6 Conclusion.....	18
4.2 Are the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) met?	18
4.3 Are the criteria for setting non-transmission tariffs as set out in Article 4(4) met?	18
4.3.1 Market area conversion charge.....	18
4.3.2 Biogas charge	19
4.3.1 Meter operation at exit points to end users	20
4.3.2 Alternative nomination procedure	21
5. Other comments	21
5.1 Biogas and power-to-gas reference prices	21
5.2 Regional networks as part of 'transmission'.....	22
Annex 1: Legal framework	23
Annex 2: List of abbreviations	27

1. ACER conclusion

- (1) The Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen ('BNetzA') proposes to apply the same reference price methodology ('RPM'), a postage stamp methodology, jointly for all transmission system operators ('TSOs') in each of the two entry-exit zones, NetConnect Germany ('NCG') and GASPOOL. While the entry-exit split is not a parameter of the methodology, the shares of revenues allocated to entries and exits are, respectively, 32% and 68% for NCG, and 38% and 62% for GASPOOL. BNetzA proposes to apply a 75% discount at entry points from and exit points to storage facilities, which also applies to storage facilities connected to neighbouring entry-exit systems, unless the specific capacity booking allows for a transfer of gas to the neighbouring entry-exit-system¹. Four non-transmission tariffs are proposed and no commodity-based transmission tariffs are used. The consultation includes conditional products, which are widely used by the German TSOs. BNetzA has additionally carried out a consultation for the inter-transmission system operator compensation ('ITC') mechanism.
- (2) The Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR') foresees a cost allocation assessment ('CAA') and the comparison of the chosen RPM with the capacity-weighted distance ('CWD') methodology. For the calculation of the CAA², BNetzA proposes several scenarios to assess the impact of storage on the cross-system and intra-system use of the network³. The CAA index for the different scenarios are calculated per market zone and are within the 10% threshold laid out in Article 5(6) of the NC TAR, except for an outlier. When calculated following the NC TAR rules as laid out in Article 5, the result of the CAA is 2.6% for NCG and 1% for GASPOOL. BNetzA also provides the CAA calculation for the CWD methodology based on capacity only. The CAA calculation for the CWD methodology brings poor outcomes.
- (3) The Agency concludes, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR, that:
 - The consultation document contains the required information listed in Article 26(1), except for the comparison of tariffs for the prevailing tariff period (2019) and for the proposed RPM (2020).
 - The Agency cannot conclude its analysis on the requirements of cost reflectivity, prevention of undue cross-subsidisation and non-distortion of cross-border trade listed under Article 7 of the NC TAR. While the consultation document provides a clear description of the proposed RPM, it misses a description of the network and an explanation of the changes in tariffs resulting from the application of the proposed methodology. In the absence of this information, the Agency cannot assess if the choice of the RPM is appropriate for the German network. At the same time, the Agency notes that the RPM is compliant with the requirements on transparency, non-discrimination and volume risk.
 - The criteria for setting the commodity charge are not applicable.

¹ Storage facilities allowing crossing two different entry-exit systems are located at the borders with Austria, the Netherlands and between the NCG and GASPOOL entry-exit systems.

² 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.

³ There are two situations applicable for the German network where storage can be used for cross-system flows: first, in the case of storages connected to neighbouring Member States; secondly, in the case of cross-system users that contract storage when crossing the German network. In order to understand the impact that the use of storage has on cross-subsidisation, resulting from the application of discounts to storage points, BNetzA proposes several scenarios where the use of storage for cross-system purposes varies according to different ratios (NCG:0%, 20%, 50%,100% ; GASPOOL: 0%, 26,9%, 50%,100%).

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

- The Agency concludes that most of the criteria for setting non-transmission charges are met. At the same time, several clarifications are missing, as indicated in paragraph (7) below.
- (4) The Agency remarks that the consultation proposes a postage stamp methodology, the appropriateness of which the Agency cannot assess. At the same time, the Agency notes that compared to 2019, a significant amount of cross-border capacities will experience a significant tariff increase in 2020, while a majority of domestic delivery points will experience a tariff decrease. This change, which the Agency cannot fully assess with the information provided in the consultation document, raises a concern regarding the compliance of the RPM with the principles of cost reflectivity, preventing undue cross-subsidisation and of non-distortion of cross-border trade.
- (5) The Agency recommends BNetzA further to substantiate the choice and the design of the RPM. This analysis should take into account the actual characteristics of the network. In particular, the Agency recommends BNetzA to take into consideration the following elements:
- The impact of applying a postage stamp methodology in view of the unit cost differences between the infrastructure associated with cross-system and intra-system use⁴;
 - An assessment of how the significant unit costs differences across the German network could be best accommodated through the choice of an appropriate RPM;
 - The extent to which the network can be considered as meshed, in view of its internal physical constraints reflected by the extensive use of conditional products;
 - An explanation of the changes between the current tariffs applicable for 2019 and the tariffs resulting from the proposed RPM applicable by 2020. This is a requirement of the NC TAR according to Article 30(2)(a)(i).
- (6) Should the proposed postage stamp methodology prove not to be cost reflective after carrying out this analysis, the Agency recommends BNetzA to review properly the advantages and disadvantages of various RPMs against the legal requirements, including the possibility to adopt a more cost reflective RPM (e.g. a matrix approach) based on cost drivers that better reflect the underlying unit costs of the network.
- (7) In addition, the Agency recommends BNetzA to include the following elements as part of the motivated decision:
- A structural representation of the transmission network, in order to link it to the choice of RPM. The Agency views this as a best practice in accordance to Article 26(a)(i)(1) of the NC TAR;
 - A comparison with the CWD methodology based on the same parameters as the proposed postage stamp RPM (e.g. same level of discounts to storage);
 - A specification of the period during which the RPM will be applicable, or at least a clarification on the conditions that would trigger a new consultation on the RPM;
 - An assessment of potential flow decreases that could occur in the German network to further substantiate the assessment of volume risk;

⁴ According to Article 3(8) 'intra-system network use' means transporting gas within an entry-exit system to customers connected to that same entry-exit system. According to Article 3(9) 'cross-system network use' means transporting gas within an entry-exit system to customers connected to another entry-exit system.

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

- A reconciliation mechanism for the market area conversion charge and for the biogas charge (both non-transmission charges), ensuring that the under- and over- recoveries are not allocated to all users of the network (including IPs);
 - A clarification on whether the same criteria has been applied systematically to allocate the costs of metering services as a non-transmission service at all domestic exits.
- (8) The Agency notes that the proposed tariff for entries from biogas and power-to-gas ('PtG') installations⁵ are set to zero. The Agency understands the rationale behind this choice, which is driven by policies on climate change. At the same time, the Agency remarks that this approach is not compliant with Article 6(3) of the NC TAR, which requires that the RPM be applied to all points of the network. For this reason, the Agency invites BNetzA to consider if the support to renewable gasses could be met in a different way than a discount on the entry tariff.
- (9) The consultation was provided in English, in a clear and well-reasoned document.

⁵ Entry points for hydrogen produced by water electrolysis, or gas manufactured using hydrogen produced by water electrolysis with subsequent methanisation.

2. Introduction

- (10) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas ('NC TAR').
- (11) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems⁶. The Agency notes that BNetzA proposes to apply the same RPM jointly for all TSOs within each of the two market zones in Germany, NCG and GASPOOL. This Report presents the analysis of the Agency for the consultation document for Germany.
- (12) The Agency notes that the consultation on the ITC mechanism, as referred to in Article 10(5) of the NC TAR, is published at the same time as the consultation document on the RPM. However, Article 27(1) of the NC TAR only requires the NRA or TSO to forward the consultation document pursuant to Article 26 of the NC TAR to the Agency. Therefore, the Agency did not analyse the consultation document on the ITC mechanism.
- (13) On 17 October 2018, BNetzA, forwarded the consultation documents to the Agency. The consultation was launched on the same day and remained open until 17 December 2018. On 17 January 2018, the consultation responses and their summary were published. The Agency has taken these into consideration for this analysis. Within five months following the end of the final consultation, and pursuant to Article 27(4) of the NC TAR, BNetzA shall take and publish a motivated decision on all the items set out in Article 26(1) of the NC TAR.
- (14) A number of bilateral exchanges to collect additional information took place between BNetzA and the Agency. While BNetzA provided information in a timely and clear manner following the requests of the Agency, it did not provide sufficient evidence related to the complexity of the network in order for the Agency to be able to assess the appropriateness of the proposed RPM.

Reading guide

- (15) Chapter 3 presents the analysis on completeness, namely whether all the information referred to in Article 26(1) has been published. Chapter 4 focusses on compliance, namely whether the RPM complies with the requirements set out in Article 7 of the Code, whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met, and whether 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.

⁶ With the exception of Article 10(2)(b), when different RPMs may be applied by the TSOs within an entry-exit zone.

3. Completeness

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

- (16) 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.
- (17) Article 26(1) of the NC TAR requires that the consultation document be published in the English language, to the extent possible. The Agency remarks that the consultation document was published in English.
- (18) Overall, most of the information listed in Article 26(1) of the NC TAR has been properly published, with the exception of the indicative information set out in Article 30(2)(a)(i) and the justification of the parameters that are used as an input to the RPM that are related to the technical characteristics of the network, as required by Article 26(1)(a)(i).
- (19) The NC TAR requires that the consultation document explain the difference between the level of transmission tariffs applicable for the prevailing period (2019) and tariffs being consulted (2020). BNetzA provides both sets of tariffs but does not provide an explanation of why the levels are significantly different. The relevance of this information is explained in the section on cost-reflectivity.
- (20) Regarding the parameters used as an input to the RPM, the Agency notes that BNetzA does not provide a justification of the choice of using capacity as the single cost driver to the RPM. According to the Article 26(1)(a)(i), this information is required to be included as part of the consultation, and it is central to assess the compliance with Article 7, which requires that the RPM aim at taking into account the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network.

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: <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 	Partially. Insufficient justification of the parameters used as an input to the RPM. The Agency recommends BNetzA to publish a structural representation of the network.
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

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

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)	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 <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 	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: <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 	Partially. <i>i)</i> the manner in which the revenue is reconciled is not described; <i>ii)</i> details of the biogas charge are missing; <i>iii)</i> the scope of application of metering charges to all domestic exits is not clear.
26(1)(d)	the indicative information set out in Article 30(2);	Partially. Missing explanation of the difference in tariffs between 2019 and 2020. No information on the period for which the consulted RPM applies.
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: <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 	Not applicable

4. Compliance

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

- (21) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed reference price methodology complies with the requirements set out in Article 7 of the NC TAR. This Article

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

refers to Article 13 of Regulation (EC) 715/2009 and lists a number of requirements to take 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.

- (22) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and cross border trade are closely related⁷, the Agency concludes with an overall assessment. Special attention is paid to the allocation of revenues between domestic and transit routes.
- (23) The Agency remarks that the consultation document does not provide sufficient information to assess the appropriateness of the proposed postage stamp methodology for the German network. This is due to the fact that the consultation document does not provide a description of the complexity of the network, nor of the differences between the tariffs resulting from the proposed RPM and those prevailing in 2019. In the absence of this information, the Agency cannot complete the analysis on the compliance of the proposed RPM with the requirements in Article 7 of the NC TAR. For this reason, the analysis provided here refers to the elements that are included in the consultation document and explains the importance of the missing elements.

4.1.1 Transparency

- (24) 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.
- (25) The proposed RPM is a postage stamp methodology, which is easy to understand and to replicate. The information required for replicating the reference prices is publicly available in full. For this reason, the Agency considers that network users would be able to reproduce the calculation of the reference prices, as required by Article 7(a) of the NC TAR.
- (26) The Agency further considers that the simplified tariff model is complete and allows network users to forecast reference prices. The Agency considers it good practice that the model allows network users to adjust the assumptions on the annual development of the allowed revenues and forecasted contracted capacity from 2021 onwards to assess the effect on the reference prices. Following this, the Agency considers that network users would be able to compare the proposed reference prices with the reference prices of other tariff periods of the regulatory period, as required by Article 30(2)(b) of the NC TAR.
- (27) In addition to the reproducibility and forecasts of reference prices, BNetzA argues that the postage stamp methodology 'prevents the inappropriate, non-transparent allocation of costs within a complex methodology in a manner that is not easily apparent to market participants'⁸; the postage stamp methodology 'rules out (open or hidden) arbitrary cost allocations'⁹. This is because the postage stamp methodology uses, as input, contracted capacity and the target revenues at an

⁷ The principle of cost-reflectivity is related to the principles of cross-subsidisation and non-distortion of cross-border trade. Tariffs that are fully cost-reflective do not result in any form of cross-subsidisation (and hence they do not distort cross-border trade), as they charge users for the exact costs they cause to the system. Following this reasoning, tariffs that are less cost-reflective may result in cross-subsidisation between users.

⁸ See §93 of the consultation.

⁹ See §93 of the consultation.

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

aggregated level. These parameters can be easily accessed and understood by network users. In the proposed postage stamp methodology, the same tariff is calculated for all points. The Agency agrees with this reasoning on simplicity and values transparency on the derivation of reference prices resulting from the proposed RPM.

4.1.1.1 Time period for which the RPM is set

- (28) At the same time, the Agency notes that the consultation document does not specify the time period over which the proposed RPM would apply, the only information in this regard being the starting date (1 January 2020), with no explicit reference made to an end date. It must be pointed out that the period cannot last more than five years, since, according to the provisions of Article 27(5) of the NC TAR, the consultation procedure should be repeated at least every five years.
- (29) In the view of the Agency, such uncertainty regarding the period for which the RPM will apply undermines the possibility for network users accurately to forecast reference prices in future years.
- (30) The Agency recommends BNetzA to specify, in its final decision, the time period for which the consulted RPM and parameters are set, or at least to indicate the conditions that would trigger a new consultation process.

4.1.1.2 Conclusion

- (31) The Agency considers that the proposed RPM is compliant with the requirement of ensuring that network users can reproduce the calculation of reference prices and produce an accurate forecast.

4.1.2 Cost-reflectivity

- (32) **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.
- (33) The Agency notes that the consultation document does not contain key information for the assessment of the RPM. This information includes:
- An assessment of the complexity of the network, including the unit cost differences related to infrastructure associated with the cross-system and intra-system use of the network;
 - An assessment on the extent to which the network can be considered meshed, in view of its internal physical constraints reflected by the extensive use of conditional products;
 - An explanation of the differences between current tariffs (2019) and tariffs resulting from the proposed RPM (2020) that would allow assessing the impact of these changes.
- (34) In the absence of this information, the Agency cannot conclude its analysis on the compliance of the proposed RPM with the requirement of cost-reflectivity. The following paragraphs, (35) to (63), provide a reasoning for this conclusion.

4.1.2.1 Choice of RPM

- (35) BNetzA proposes to apply a postage stamp methodology jointly for all TSOs within each of the two entry-exit zones in Germany. The joint application of the RPM implies a change from the current methodology, which is based on a separate application of the RPM to each TSO. Article 10 of the NC TAR sets the rules for the calculation of tariffs in entry-exit systems within a Member State,

where more than one TSO is active. The same RPM shall be applied jointly by all TSOs in an entry-exit system. As an exception, the NRA may decide that the same RPM is applied separately by each TSO. Moreover, in the case of a zone merger, which Germany plans to implement in 2021, a joint RPM applied for each the entry-exit zones, NCG and GASPOOL is a good way to prepare the process ahead.

- (36) While the Agency supports the joint application of the RPM per entry-exit zone, which may facilitate the future zone merger, the Agency notes that the choice of the postage stamp methodology is not properly justified by BNetzA. This simple methodology significantly changes the cost-allocation in Germany, and, in particular, impacts the cross-border points, as detailed later in this Report. The Agency recommends BNetzA to perform a better assessment, including against other jointly applied RPMs, such as a matrix methodology, and provide further evidence of the reasoning behind the proposed approach.
- (37) The input to the RPM are the target revenues and the non-adjusted forecasted contracted capacity¹⁰. BNetzA proposes not to apply an *ex-ante* entry-exit split. The allocation of revenues to entries and exits can be calculated based on the contracted capacity. Based on this calculation, the shares of revenues allocated to entries and exits are, respectively, 32% and 68% for NCG, and 38% and 62% for GASPOOL. As a result of the application of the RPM and post-adjustments, tariffs for each of the market zones are equal for all points, with the exception of points to and from storage and entry points for biogas and PtG.

4.1.2.2 Description of the network

- (38) BNetzA includes a short description of the network, based on the number of points and the kilometres of pipelines for each entry-exit zone to emphasise the complexity of the German transmission system:
- The NCG system is over 21,000 km long with 149 physical entry points and 77 bookable entry points, as well as 2,533 physical exit points and 873 bookable or orderable exit points. There are 6,418 branches and 1,152 pipeline loops¹¹.
 - The GASPOOL system is over 16,000 km long with 121 physical entry points and 79 bookable entry points, as well as 961 physical exit points and 360 bookable or orderable exit points. There are 1,197 branches and 146 pipeline loops.
- (39) In the view of the Agency, this network description is insufficient to understand the key aspects and to assess the appropriateness of the postage stamp methodology for the German network.
- (40) First, BNetzA argues that a postage stamp methodology is proposed on the basis of a meshed network¹². The Agency agrees with the reasoning according to which a postage stamp methodology

¹⁰ 'Non-adjusted contracted capacity' means that the capacity used as an input is not weighted to its economic value. For example, 100 kWh/h of storage capacity offered at a 75% discount, results in a non-adjusted value of 100 kWh/h and an adjusted value of 25 kWh/h. As a result of using non-adjusted capacity as an input to the RPM, reference prices do not lead to the full recovery of revenues. For this reason, BNetzA complements the use of non-adjusted contracted capacity with the rescaling of reference prices at all points. After the application of this adjustment, reference prices lead to the full recovery of revenues.

¹¹ Pipeline loops are small gas rings connecting several points together.

¹² See §88 of the consultation.

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

can be suitable to allocate revenues in meshed systems¹³. However, the description provided in the consultation document is not sufficient to assess the extent to which the German network is meshed. This is particularly relevant as regards to the internal physical constraints of the network reflected in the extensive use of conditional capacities. BNetzA does not address the use of conditional capacities in the German system. In particular, some transmission assets allow TSOs to offer point-to-point capacity, and only offer interruptible access to the rest of the entry-exit zone. Such a significant restriction in the use of the network weakens the claim that the network can be considered as meshed and the application of an RPM that does not introduce any type of differentiation between tariffs.

- (41) Second, BNetzA does not assess the unit cost characteristics of the network. In Germany, some TSOs' activity is mostly based on large pipelines that are mainly used to transport gas across borders and have been largely depreciated. Such TSOs usually have lower capacity unit costs¹⁴. This argument has been raised by stakeholders¹⁵ and a quantitative assessment has been presented to BNetzA. However, the consultation document does not address the cost differences between TSOs. When applying a postage stamp methodology, tariffs are averaged on the basis of the aggregated contracted capacity. An assessment of the costs associated to points of the network is relevant to analyse the cost-reflectivity of the proposed RPM. This is particularly relevant for understanding the effects of a postage stamp methodology on cross-system flows, and consequently on cross-border trade. In addition, this assessment should also take into account the offer of conditional capacities, as these products are associated to cross-border points.
- (42) In the absence of adequate information covering these aspects, the Agency cannot fully assess the appropriateness of the cost drivers and the choice and design of the RPM.

4.1.2.3 Comparison between tariffs for the current tariff period (2019) and tariffs resulting of the proposed methodology (2020)

- (43) As noted in Chapter 3 on the completeness of the consultation, BNetzA does not include in the consultation document an explanation of the changes in tariffs resulting from the proposed RPM¹⁶. The Agency notes that this comparison is particularly relevant because a significant amount of cross-border capacities will experience a significant tariff increase in 2020, while a majority of domestic delivery points will experience a decrease. BNetzA does not provide an explanation of this change in tariffs, as required by Article 30(2)(a)(i) of the NC TAR.
- (44) The Agency considers that the comparison between the current tariffs (2019) and the tariffs proposed for 2020 is a relevant instrument to assess the costs-reflectivity of the proposed RPM. While the tariffs for 2019 are based on a separate application of the RPM per TSO, they can still provide a relevant benchmark reflecting the specific unit costs and utilisation of points that are used

¹³ There could be cases of meshed networks where a postage stamp methodology would not be adequate. Nonetheless, a meshed network is a necessary condition to implement a postage stamp.

¹⁴ This can result from the larger diameter of pipelines used to cross the system (in combination with higher capacity bookings), and from the depreciated amounts of these pipelines.

¹⁵ See 'Gas Transmission Tariffs in BNetzA's Draft Determination "Regent"'. Frontier Economics, November 2018.

¹⁶ While BNetzA includes the tariffs applicable for 2019 and the proposed tariffs for 2020, tariffs for 2019 are not aggregated per groups of points (e.g. IP entries, IP exits, domestic exits). Such aggregation requires data on contracted capacity that is not included in the consultation document. In the absence of such calculation, a meaningful comparison between the tariffs for both tariff periods cannot be completed.

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

for transporting gas across Germany. The cross-system use of the German network often involves fixed flow patterns (e.g. when transporting gas from Netherlands to Italy through the TENP pipeline, or from the Czech Republic to France through the Megal pipeline). The tariffs for 2019 can provide an approximation of the costs of the TSOs connecting these points, and in this way, a benchmark allowing to assess the proposed postage stamp methodology.

- (45) The Agency recommends BNetzA to elaborate on this comparison in light of the characteristics of the network.

4.1.2.4 Cost allocation assessment

- (46) BNetzA provides a calculation for the CAA for the proposed postage stamp methodology which results in 2.62% for NCG and 1.03% for GASPOOL¹⁷.
- (47) In addition to these results, BNetzA proposes several scenarios to understand what effect storage has on potential cross-subsidisation between cross-system and intra-system flows. The calculation of the CAA as laid out in Article 5 of the NC TAR takes exit flows at IPs as a proxy to identify cross-system flows. This implies that capacity booked at storages is always booked for the purpose of intra-system use. However, this might not be the case in certain networks. There are two exceptions applicable for the German network where storage can be used for cross-system flows: first, in the case of storages connected to neighbouring MSs; second, in the case of cross-system users that contract storage when crossing the German network. In order to understand what the effect of storage being used for cross-system use in Germany could be, BNetzA proposes several scenarios, where cross-system flows are not only identified based on exit flows at IPs, but also on the basis of exit flows at storage points. BNetzA proposes several ratios to measure what the impact on the CAA would be if storage were to be used for cross-border purposes up to certain percentages (NCG: 0%, 20%, 50%, 100%; GASPOOL: 0%, 26.9%, 50%, 100%). These scenarios are summarised in Table 2 below.

Table 2: Scenarios for the costs allocation assessment for the NCG and GASPOOL market areas, and for the CWD methodology. Results provided by BNetzA.

	Percentage of forecasted contracted capacity at exits from storage assigned to cross-system flows	NCG	GASPOOL
Exit to storage intra-system	0%	2.62%	1.03%
Exit to storage pro-rata (based on contracted capacity at domestic points/IPs)	20% (NCG), 26,9% (GASPOOL)	5.38%	2.75%
Exit to storage 50/50%	50%	9.30%	5.67%
Exit to storage cross-system 100%	100%	15.33%	11.81%
CWD according to Art. 8 NC TAR	0%	25.79%	29.91%

Note: The table displays the scenarios calculated by BNetzA. For each of the scenarios, the table displays the amount of forecasted contracted capacity that was allocated as cross-system use. For each of the scenarios, the table displays the CAA result separately for each of the entry-exit zones.

- (48) The Agency considers that such a calculation is a best practice as it allows understanding the impact of storage on cross-subsidisation. The Agency notes that the result of the CAA index is only

¹⁷ BNetzA communicated to the Agency on a telco on 12 February 2019 that new data had lead to the recalculation of the CAA. The new results, which BNetzA will publish in the motivated decision, do not change the conclusions of this analysis.

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

above 10%, when the share of storage used for cross-system purpose is 100%. BNetzA considers the 100% scenario inappropriate, and considers as a more accurate approximation the scenario where the share of storage used for storage purposes replicates the share of forecasted capacity booked at exit points in the system (pro-rata scenario). In such scenario, the results of the CAA are 5.38% for NCG and 2.75% for GASPOOL. The Agency notes that these results remain within the 10% threshold and require no further justification.

- (49) At the same time, the Agency notes that the results of the CAA serves to assess the cross-subsidisation resulting from the application of the proposed RPM. However, it does not provide information on the appropriateness of the RPM and its cost drivers with regard to the characteristics of the German network. From this perspective, the validity of the CAA does not imply the compliance of the proposed RPM with the principle of cost reflectivity.

4.1.2.5 Comparison with the CWD methodology

- (50) The NC TAR requires to compare the proposed methodology with the CWD methodology as laid out in Article 5 of the NC TAR.
- (51) BNetzA provides a comparison of the tariffs derived using the CWD methodology and the postage stamp methodology. The application of the CWD methodology leads to overall higher tariffs at IPs (+52% at entries, -13% at exits) and lower tariffs at domestic points (-31%). This is summarised in Table 3 below.

Table 3: Price difference between the indicative reference price according to the postage stamp and according to the CWD methodology (after rescaling). Source: BNetzA consultation on Article 26.

	Type of point	Average tariffs using CWD reference price methodology	Price difference between the indicative reference price according to the postage stamp and with CWD (after rescaling)	
			NCG	GASPOOL
Entries	Cross-border IP	€6.39	52%	25%
	In-country IP	€7.13	69%	3%
	Domestic production facilities	€7.83	86%	21%
	Storage	€7.16	70%	2%
	Biogas input	€5.67	35%	24%
	Liquid natural gas	€0.00	0%	0%
Exits	Cross-border IP	€3.68	-13%	-7%
	In-country IP	€3.84	-9%	-5%
	Internal booking of a downstream DSO	€2.94	-30%	-28%
	Storage	€3.43	-19%	-30%
	End user connection	€2.92	-31%	-11%

- (52) The Agency notes that while this comparison shows an overall increase of tariffs at IPs compared to domestic exits, these results are not fully comparable, as they are not based on the same parameters and assumptions. The tariffs for the CWD methodology are calculated with a different entry-exit split and with a lower level of discounts to storage compared to those for the proposed postage stamp methodology. Should the same parameters and assumptions be used in the comparison, the Agency anticipates that the tariff increase at IPs could be even greater for the CWD methodology as a result of the higher discounts applied to storages. At the same time, the Agency notes that the comparison of the CAA results for the two methodologies is hampered by the fact

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

that the CAA for the CWD methodology is calculated only on the basis of capacity, and not of distance. A proper comparison would require that the CAA be calculated using the specific cost drivers applied for each of the methodologies.

- (53) The Agency notes that the comparison of tariffs provided by BNetzA and the assessment of the relevance of distance as a cost driver are insufficient to assess the cost-reflectivity of the postage stamp methodology. At the same time, BNetzA provides several arguments not related to cost reflectivity that support the choice of a postage stamp methodology over the CWD methodology. These arguments relate to transparency, tolerance to errors, cross-subsidisation and competition.
- (54) First, regarding transparency, BNetzA argues that the performance of the postage stamp methodology is better than that of the CWD methodology. This is because the CWD methodology requires extensive knowledge or internal information, part of which is confidential and is not available to the public¹⁸. This undermines the possibility of network users to reproduce and forecast tariffs accurately. The Agency agrees that the postage stamp methodology provides more transparency to stakeholders.
- (55) Second, regarding tolerance to errors, BNetzA argues that the changes in input variables (i.e. capacity and distance values) impact tariffs at specific points of the network. Given that errors are more difficult to identify, mistakes in the input to the CWD methodology calculation are more likely to go unnoticed while impacting tariffs at individual points of the network¹⁹. In the view of the Agency, this argument may be valid for large networks with many points, such as the German network. At the same time, the Agency finds that there are instruments such as the clustering of points that can minimise the exposure to errors in the CWD methodology.
- (56) Third, regarding cross-subsidisation, BNetzA argues that the result for the CAA calculation for the CWD methodology (25.7% for NCG, 29.91% for GASPOOL) is higher than the result for the postage stamp methodology and is above the 10% threshold indicated by Article 5 of the NC TAR. This can be taken as an indicator of the CWD methodology leading to more cross-subsidies between cross-system and intra-system users. While agreeing with this argument, the Agency notes that the comparison of the CAA results does not assess the appropriateness of the cost drivers of each of the methodologies for a given system. In addition, as noted above, the CAA for the CWD methodology is not calculated using the relevant cost drivers (capacity and distance). For this reason, this comparison is not conclusive to assess the cost-reflectivity of the proposed postage stamp methodology.
- (57) Finally, BNetzA argues that the CWD methodology does not allow a uniform tariff for accessing the virtual trading point ('VTP'). The postage stamp methodology would then be preferable for setting a level playing field. In the view of the Agency, differentiated tariffs are not necessarily worse when it comes to providing access to the VTP, as long as they are cost-reflective. However, if equal tariffs are an objective to attain, the Agency notes that this aim can be achieved by performing an

¹⁸ See §81 of the consultation.

¹⁹ See §25 of the consultation.

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

equalisation of reference prices at entry points to the network. The application of equalisation is compatible with a methodology resulting in differentiated tariffs, such as the CWD methodology.

- (58) Overall, the Agency considers that BNetzA provides valid arguments supporting the choice of a postage stamp methodology over a CWD methodology, namely greater transparency and tolerance to errors. However, the Agency remarks that these arguments are not related to cost-reflectivity. For this reason, the comparison performed by BNetzA does not provide sufficient evidence supporting the cost-reflectivity of the postage stamp methodology.
- (59) The Agency recommends BNetzA to provide a comparison with the CWD methodology including the following elements:
- A calculation of the CWD methodology based on the same parameters and assumptions as the proposed postage stamp methodology.
 - The calculation of the CAA for the CWD methodology based on the cost drivers of capacity and distance. While the Agency considers the calculation of the CAA for the CWD methodology a best practice, the calculation provided by BNetzA is inaccurate.
 - A justification of the choice to disregard distance as a cost driver based on an assessment of the complexity of the network.

4.1.2.6 Application of adjustments

- (60) BNetzA proposes to apply a 75% discount to entry points from and exit points to storage facilities. BNetzA also applies this discount to storage facilities connected to neighbouring entry-exit systems, unless the specific capacity booking allows for a transfer of gas to neighbouring entry-exit-system. This is consistent with Article 9(1) of the NC TAR that states that discounts shall be applied *'unless and to the extent a storage facility which is connected to more than one transmission or distribution network is used to compete with an IP'*.
- (61) To allow reference prices to recover the target revenues, BNetzA proposes to apply a rescaling factor of 1.08% (NCG) and 1.09% (GASPOOL) to all entries and exits. The Agency notes that the use of discounts to storage impacts cross-subsidisation between intra-system and cross-system users. This effect is captured in the CAA scenarios developed by BNetzA that are discussed above. Given the results of the CAA within the 10% threshold, the Agency considers that the adjustments applied to reference prices are compliant with the principle of cost-reflectivity.

4.1.2.7 Conditional capacities

- (62) BNetzA proposes conditional products to be offered in line with Article 4(2) of the NC TAR. The pricing of these products is set to a value between the value of firm capacity products and the value of interruptible capacity. The Agency notes that pursuant to Article 27(2) of the NC TAR, conditional products are not in the scope of this analysis.
- (63) At the same time, BNetzA states in the consultation document that the cost-reflectivity of tariffs can be improved outside the scope of the RPM, for example using multipliers and conditional products²⁰. The Agency agrees with this statement, however, the Agency remarks that the use of conditional

²⁰ See §92 of the consultation.

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

products does not exempt the RPM from being cost-reflective, as required by Article 7(b) of the NC TAR.

4.1.2.8 Conclusion

- (64) While BNetzA provides valid reasons to support the choice of RPM, the compliance with the specific requirement of cost-reflectivity is not sufficiently assessed against the actual costs incurred in the provision of transmission services.
- (65) BNetzA argues that the postage stamp methodology is more transparent and has a greater tolerance to errors than the CWD methodology. While valid, these considerations do not relate to cost-reflectivity; they rather relate to the robustness of the methodology. In addition, BNetzA points to the fact that the CAA result of the postage stamp methodology is within the 10% threshold laid out in the NC TAR. The Agency notes, as explained above, that this result is relevant to assess the cross-subsidisation of the RPM, but that it does not allow assessing the appropriateness of the cost drivers.
- (66) The Agency notes that the assessment published by BNetzA does not provide sufficient evidence supporting the compliance of the proposed postage stamp with the principle of cost-reflectivity. Given that the postage stamp methodology results in a standard tariff, it cannot take into account the underlying cost characteristics of the system. The Agency has not been able fully to assess these differences based on the information available in the consultation document. In the absence of sufficient information on the network, the Agency is unable to assess the proposed RPM against the principle of cost-reflectivity.
- (67) Following this conclusion, the Agency recommends BNetzA to include the following aspects as part of the assessment on cost-reflectivity that, pursuant to Article 27(4) of the NC TAR, should be part of the motivated decision:
- An assessment of the complexity of the network, including the unit cost differences related to infrastructure associated with the cross-system and intra-system use of the network
 - An assessment on the extent to which the network can be considered as meshed, in view of its internal physical constraints reflected in the extensive use of conditional products.
 - An explanation of the differences between current tariffs (2019) and tariffs resulting from the proposed RPM (2020) that would allow to assess the importance of these changes
- (68) Once an appropriate assessment concerning network unit costs is performed, the choice of cost drivers could be reviewed to take into account in the RPM the actual costs and the complexity of the network, as required pursuant to Article 7(b) of NC TAR. Should the proposed postage stamp methodology prove not to be cost-reflective after carrying out this analysis, the Agency recommends BNetzA to properly review the advantages and disadvantages of various RPMs against the legal requirements, including the possibility to adopt a more cost reflective RPM that better reflects the underlying costs of the network (e.g. a matrix approach).

4.1.3 Cross-subsidisation and discrimination

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

- (70) The Agency has not identified discrimination resulting from the correct application of the NC TAR, nor from practices not compliant with the NC TAR. For this analysis, the Agency defines 'discrimination' as '*applying different rules to comparable situations or the same rule to different situations*'. The Agency concludes that 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.
- (71) Regarding cross-subsidisation, the Agency can only assess the information provided in the consultation document which, as stated above, is not complete in regards to several requirements of the NC TAR. In the absence of such information explaining how the RPM relates to the characteristics of the network, the Agency cannot conclude that the methodology is compliant with the requirement of avoiding cross-subsidisation. At the same time, the Agency notes that the comparison between tariffs for 2019 and the proposed tariffs for 2020 show that a significant amount of cross-border capacities will experience a very significant tariff increase in 2020, while the majority of domestic delivery points will experience a decrease. This effect is not explained by BNetzA and remains central for the assessment of the compliance of the proposed RPM with the principle of preventing cross-subsidisation.
- (72) Following this conclusion, the Agency notes that the CAA results provided in the consultation are within the 10% threshold defined in Article 5(6). The CAA is the main instrument for assessing cross-subsidisation between intra-system and cross-system flows. The results have been discussed in paragraphs (46) to (49) above and do not require further elaboration.

4.1.4 Volume risk

- (73) **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.
- (74) According to information provided by BNetzA²¹, approximately 45% of the flows entering the NCG/GASPOOL entry-exit systems cross the network.
- (75) In the consultation document, BNetzA discussed different options to address volume risk, some of which are outside the scope of the NC TAR (e.g. application of a price cap regime). While the options may be valid, the Agency underlines that these considerations are not preceded by an assessment of potential flow decreases that could occur in the German network. The Agency recommends BNetzA to include such assessment as part of the motivated decision.
- (76) The Agency considers the consultation compliant with the principle of avoiding volume risk.

4.1.5 Cross-border trade

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

²¹ Telco with BNetzA on 11 February 2019.

- (78) In the consultation document, BNetzA makes the requirement of not distorting cross-border trade subject to the cost-reflectivity of tariffs²². The Agency agrees with this reasoning. However, given the missing information in the consultation document, and its conclusion on cost-reflectivity, the Agency cannot conclude that the proposed methodology does not distort cross-border trade. At the same time, the Agency acknowledges that the proposed RPM results in tariff increases at IPs. Should such effect be the result of applying a non-cost-reflective methodology, the Agency considers that such tariffs would distort cross-border trade.

4.1.6 Conclusion

Following the analysis on the compliance with the principles laid out in Article 7 of the NC TAR, the Agency concludes that the proposed RPM is compliant with the principles of transparency, non-discrimination and avoidance of volume risk. At the same time, given the information provided in the consultation document, the Agency cannot assess whether the RPM is compliant with the principles of cost-reflectivity, avoiding cross-subsidisation and non-distortion of cross-border trade.

- (79) The inability to assess the choice of the RPM relates to the fact that the consultation document does not provide an adequate assessment on the characteristics of the network. The characteristics of the network are particularly important to assess the costs differences associated to points used for cross-system and intra-system purposes. The identification of the cost drivers and the design of the RPM should be based on this assessment. The Agency encourages BNetzA to carry out this work.

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

- (80) 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.
- (81) BNetzA proposes not to apply commodity-based transmission tariffs. The criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are therefore not applicable.

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

- (82) The non-transmission tariffs shall be cost-reflective, non-discriminatory, objective and transparent and shall be charged to the beneficiaries of the non-transmission service.

4.3.1 Market area conversion charge

- (83) BNetzA proposes a market area conversion charge ('MACL') to cover the costs network operators face when carrying out the necessary technical adjustments at connection points, customer facilities and consumer appliances related to the conversion of L-gas to H-gas. As BNetzA points out in the

²² See §115 of the consultation: 'Ultimately, [the non-distortion of cross-border trade] comes down to whether a cost reflective tariff is set at [IPs]'.

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

consultation document, these costs are not fully related to TSOs, but to distribution system operators ('DSO') and final customers²³. The MACL charge is set at all domestic points²⁴. The Agency understands that these costs are not driven by capacity and distance, but by connected customers' consumer appliances requiring conversion²⁵.

- (84) The Agency notes that the costs related to the MACL are not fully related to TSOs. According to Article 3(15) of the NC TAR, non-transmission services should be services provided by the TSO. For this reason, the costs associated to the MACL charge do not formally classify as a non-transmission services. Nevertheless, the Agency remarks that by allocating these costs as non-transmission services, the resulting tariffs are subject to the requirements for non-transmission services that BNetzA assesses in the consultation document. The Agency considers this approach beneficial as it provides more transparency to stakeholders. While the legal instrument is not fully consistent with the NC TAR, the Agency notes that the approach taken by BNetzA does not lead to economic damage. This is because the costs, which are related to the German network, are allocated to domestic points and not to IPs. In this manner, they are allocated to the beneficiaries of the service.
- (85) At the same time, the Agency acknowledges that after discussing with BNetzA²⁶ the reconciliation mechanism foreseen for non-transmission charges, it seems that over- and under- recoveries related to the MACL charge can be allocated to all users of the network. This can potentially result in cross-subsidisation where all users of the network (including IPs) bear the consequences of under- or over- recoveries related to the MACL charge. For this reason, the Agency recommends BNetzA to ensure that an appropriate design of the regulatory account prevents the under- and over- recoveries, associated to the MACL, being allocated to all users of the network (including IPs).

4.3.2 Biogas charge

- (86) BNetzA proposes the biogas charge to cover the costs associated to the injection of biogas to the German network. As BNetzA points out in the consultation document, these costs are not fully related to TSOs, but mostly to DSOs and biogas facilities²⁷. BNetzA sets the biogas charge at all domestic points, with the exception of exit points to and entry points from storage. The Agency understands that these costs are not driven by capacity and distance.
- (87) The Agency notes that the costs related to the biogas charge are not fully related to TSOs. According to Article 3(15) of the NC TAR, non-transmission services should be services provided by the TSO. For this reason, the costs associated to the biogas charge do not formally classify as a non-transmission services. Nevertheless, the Agency remarks that by allocating these costs as non-transmission services, the resulting tariffs are subject to the requirements for non-transmission services that BNetzA assesses in the consultation document. The Agency considers this approach

²³ See §154 of the consultation.

²⁴ See §156 of the consultation.

²⁵ See §154 of the consultation.

²⁶ Telco with BNetzA on 11 February 2019.

²⁷ See §160 of the consultation.

beneficial as it provides added transparency to stakeholders. While the legal mean is not fully consistent with the NC TAR, the Agency notes that the approach taken by BNetzA does not lead to economic damage. This is because the costs, which are related to the German network, are allocated to domestic points and not to IPs. In this manner they are allocated to the beneficiaries of the service.

- (88) In addition, the Agency notes that the description of the biogas charge in the consultation document is not clear about the costs it intends to recover. From a discussion with BNetzA²⁸, the Agency has understood that the biogas charge consists of a bundle covering: *i)* costs associated with the necessary infrastructure to provide biogas facilities with access to the transmission network; *ii)* a feed-in tariff of 0.007€/kWh to biogas suppliers. The Agency recommends BNetzA to clarify this in the motivated decision.
- (89) Finally, the Agency notes that the same concerns related to the reconciliation of the MACL charge (as described in paragraph (85) above) applies to the biogas charge.

4.3.1 Meter operation at exit points to end users

- (90) In the consultation, BNetzA proposes to allocate metering costs both as transmission and as non-transmission service.
- (91) Metering costs allocated as transmission revenues are assigned using the RPM. BNetzA clarified to the Agency²⁹ that these metering operations should not be targeted to specific beneficiaries, as they are related to metering stations from which all users benefit (e.g. metering at entry points of the network). These costs can therefore be allocated to all users of the network as a transmission service.
- (92) Non-transmission charges are used to allocate metering costs in the cases where the beneficiaries of the service can be identified (i.e. end-users connected to the transmission network). In such cases, BNetzA notes that the costs associated to metering depend on the ownership of the metering stations. In any event, the service classifies as non-transmission as it is not related to both capacity and distance:
- In cases where metering stations are owned by TSOs, costs are related to capacity but not to distance.
 - In the cases where TSOs do not own the metering stations, costs are related to the operational costs of this infrastructure, which are related neither to capacity nor to distance.
- (93) BNetzA clarifies in the consultation that the provision of metering services is not a natural monopoly but a competitive activity. Users can therefore opt for contracting providers different from TSOs or for operating the metering station themselves. For this reason, BNetzA does not regulate the tariffs applicable to metering as a non-transmission charge. TSOs are free to set the price in a competitive market environment. The Agency recommends BNetzA to clarify how the reconciliation of the

²⁸ Telco with BNetzA on 11 February 2019.

²⁹ Telco with BNetzA on 11 February 2019.

services is carried out, as it is not described in the consultation. Such explanation is central to understanding the cost-reflectivity of this non-transmission service.

- (94) The Agency concludes that in the absence of the information on the reconciliation of the service, it cannot determine that the tariff for the service is cost-reflective.
- (95) In addition, the Agency recommends BNetzA to assess whether the criterion of allocating the costs of the metering service at domestic exit points as a non-transmission service is applied systematically at all domestic exit points of the network. Should different criteria be used, the approach could lead to a discriminatory treatment of intra-system users. For example, if some metering cost were allocated as a non-transmission service, whereas others were allocated as a transmission service, then the costs of some the users would be allocated using the RPM, whereas the costs of other users would be targeted only to the beneficiaries of the service.

4.3.2 Alternative nomination procedure

- (96) BNetzA proposes a non-transmission charge to cover the costs of a service providing an alternative nomination procedure to users not willing to submit nominations by themselves. TSOs provide a service to complete the nomination procedure for network users. As BNetzA points out in the consultation, the costs associated to these services are not related to capacity and distance, so they classify as non-transmission service.
- (97) Based on the information provided in the consultation, the Agency considers that the alternative nomination procedure charge complies with the requirements of cost-reflectivity, non-discrimination, objectivity and transparency. In addition, they are charged to the beneficiaries of the service.

5. Other comments

5.1 Biogas and power-to-gas reference prices

- (98) The Agency notes that BNetzA proposes not to charge entry tariffs for the input of biogas and PtG. BNetzA argues that these sources reduce the cost of the network³⁰ and that there are long-term benefits for the network³¹. While the Agency understands these arguments, the NC TAR requires that the same RPM be applied to all entry and exit points in a given entry-exit system (Article 6(3) of the NC TAR) and does not allow for any adjustments other than those listed in Article 6(4) of the NC TAR. The Agency invites BNetzA to consider alternative mechanisms of supporting such inputs which bring broader system benefits. In addition, the Agency recommends BNetzA to monitor the

³⁰ From paragraph 96 of the consultation document: *'The decentralised domestic injection of a natural gas equivalent reduces the strain on the network as the corresponding volumes no longer have to be imported from foreign sources. The input takes place closer to the consumption location, thus reducing transport requirements. This results in a reduction of costs that can be directly allocated to the corresponding entry points.'*

³¹ From paragraph 101 of the consultation document: *'The input of biogas, on the other hand, serves the aim of increasing the use of climate-neutral resources and is thus intended to generate its network-benefiting effect over the long term. PtG facilities are likewise intended to benefit the network on a lasting basis and provide for a coupling of the electricity and gas sectors in order to enable surplus electricity to be stored; such surpluses occur increasingly frequently as generation from renewable sources rises.'*

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

impact of these costs over tariffs at IPs. In the consultation, BNetzA notes that these costs currently represent 0.01% (NCG) and 0.09% (GASPOOL) of the total revenues for each of the entry-exit system. The Agency considers these sums as negligible.

5.2 Regional networks as part of 'transmission'

- (99) The Agency notes that the definition of 'transmission' provided in the Directive 2009/73/EC distinguishes high-pressure 'transmission' pipelines from *the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply*³². The latter fall under the definition of 'distribution' which refers to *the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers*³³. The application of the same RPM to TSOs containing both, transmission and regional networks, can lead to a cross-subsidisation effect. In particular, it is possible that the costs of the distribution pipelines are passed to users of IPs or vice versa. This can potentially impact the cost reflectivity of the RPM and ultimately result in a distortion of cross border trade.
- (100) The Agency notes that, with the information provided in the consultation document, it cannot assess whether the TSO networks allocated using the proposed postage stamp methodology fall exclusively under the definition of transmission.

³² See Article 2(3) of the Directive 2009/73/EC.

³³ See Article 2(5) of the Directive 2009/73/EC.

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:

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

- (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;*

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

(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 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.

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;*

ACER ANALYSIS OF THE CONSULTATION DOCUMENT ON THE GAS TRANSMISSION TARIFF STRUCTURE FOR GERMANY

(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
CAA	Cost Allocation Assessment
CAPEX	Capital Expenditures
CWD	Capacity Weighted Distance
DSO	Distribution system operator
EC	European Commission
ENTSOG	European Network of Transmission System Operators for Gas
EU	European Union
IP	Interconnection Point
MACL	4.3.1.1 Market area conversion charge
MS	Member State
NC TAR	Network code on harmonised transmission tariff structures for gas
NCG	NetConnect Germany
NRA	National Regulatory Authority
OPEX	Operational Expenditures
PtG	Power-to-Gas
RAB	Regulated Asset Base
RPM	Reference Price Methodology
TSO	Transmission System Operator
VIP	Virtual Interconnection Point



Publishing date: 15/02/2019

Document title: Agency Report - Analysis of the Consultation Document for Germany

We appreciate your feedback



Please click on the icon to take a 5' online survey and provide your feedback about this document

Share this document

