

Questionnaire for the Draft Framework Guideline on Harmonised transmission tariff structures¹

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

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Please indicate, if your company/organisation is:

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

Please provide, if relevant, reasoned indication if you wish to consider (part of) your response as confidential².

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

² The Agency shall carefully consider all responses received (whether confidential or not) subject to the provision that anonymous responses or responses from respondents who do not want their identity to be made public will generally not be taken into consideration. The Agency will make public the number of responses received to formal consultations, the names of the respondents, and all non-confidential responses.

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

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

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

Application of the draft FG could have a substantial impact, depending on how National Regulatory Authorities choose to implement the guidelines. It has the potential for long term contract holders to pick up a substantially larger proportion of a TSO's allowed revenue than may have been apparent when the contract was entered into.

The effect of this is that it will discourage parties from booking long term capacity if that is perceived to be carrying increased risk compared to short term contracts that can be achieved at substantial discount without materially increased risk of interruption. This in turn could have serious consequences for the future financability of gas transportation infrastructure, particularly in areas where there is risk of stranding.

We believe that ACER should not at this stage constrain too heavily the options available for revenue recovery, as different member states will face considerably different circumstances, it is not yet clear what will be the impact of CAM and CMP, and (as we stated in our initial response)

Respondents may request that information or data in their responses is treated as confidential. The Agency will assess, in co-ordination with the respondents requesting confidentiality, which information or data shall not be made public and may request from the respondents an explanation of their confidentiality interests and a non-confidential version of their response for publication. The Agency will evaluate confidential responses as transparently as possible without undermining the respondents' confidentiality interests.

what will be the impact of changes in gas flows, new transportation routes, and changing energy policy including decarbonisation.

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

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

The size of over- and under-recovery; the relative amount of capacity held under long and short term contracts; the extent to which TSO revenues are committed in future years (size of bookings, term of commitment).

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

2.1. Transparency provisions

2.1.1 Do you agree with the level of harmonization proposed for the transparency in relation to tariffication methodologies⁴?

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

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please specify if (and how) the proposed text in the draft FG should be further detailed and clarified.

a) Yes – we are pleased to note that ACER is proposing to require substantial transparency around the setting of allowed revenues in addition to how this is to be recovered through different services. We also appreciate the recognition that the approach should not discriminate between domestic and cross-border users, though we recognise potential areas of complexity as described in 2.2.1 below.

2.1.2 Would you support additional requirement(s) to ensure “reasonable and sufficiently” detailed tariff information⁵? For example, one could consider including a provision such as: “the transmission system operators or relevant national authorities shall provide additional information if a significant tariff fluctuation is expected on a specific or on all entry- and exit points”.

- a. Yes, such as.....;
- b. No, because.....;⁶
- c. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose alternative levels of harmonization or wording to that proposed?

a) Yes, in particular we would request information on future investments and derivation of the valuation of the Regulatory Asset Base, and justifications of any changes in use of rates of return and costs of capital. Where a revenue is also based on assumptions of throughput, the derivation of throughput assumptions should also be shown.

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

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

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

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose alternative levels of harmonization to that proposed?

- a) Yes, because there is an overriding obligation not to discriminate between users and between classes of users. However, this should not extend to situations where parties are paying different prices because they have locked into fixed price contracts at different times (as long as these allocations were freely competed).

An additional area of complexity is where investment has been made in a transit country to improve security of supply in a downstream market. Further consideration should be given to the ability to allow costs to be passed to the downstream market rather than borne by consumers in the transit country.

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

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose alternative measures or e.g. additional cost drivers' examples as to those proposed?

- a) Yes. As we said in our initial response, we would hope that TSOs would gravitate towards a common solution such as LRMC, however, this should not prevent

alternatives such as postage stamp in geographically small areas where the gain in simplicity outweighs any loss in cost reflectivity.

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

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

Please give reasons for your answer. Would you propose alternative measures or e.g. additional cost drivers' examples as to those proposed?

a) Yes. As above

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

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

Please give reasons your answer, including any quantitative evidence, tables and examples. Would you propose alternative levels of harmonization to that proposed? Please specifically consider how this affects cost-reflectivity and cross-subsidies between different types of network users, and quantify in which circumstances a deviation from such a '50%' rule would be necessary, and why.

a) Yes. In general we support a 50/50 entry/exit split as a basis for revenue recovery. However, we recognise that this is arbitrary. Where there has been investment in surplus capacity for security of supply reasons, and this is not recovered through auctions, one solution may be to recover costs directly from end-users through higher exit charges.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

a) Yes, some discount may be suitable because storage facilities are not imposing additional load on the system (depending on location) and help optimise gas flows. Discounts should be available to all storage sites, not dependent on whether they are RTPA, NTPA, excepted under de minimis rules, or exempted. However, where a storage site is in competition for capacity at an entry point (say an offshore storage site comes into the same entry point as a production field - e.g. Rough at Easington in UK or Norg at Groningen in NL – then it is difficult to justify different tariffs. One option may be to charge the same entry tariff, but to discount exit (i.e. for storage injection).

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

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

a) Yes because a common discount would ensure that storage facilities on either side of a border could compete on a level playing field, rather than seek preferential regulatory treatment on transportation tariffs.

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

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

Please give reasons for your answer, including how you would suggest to calculate the discount, including any quantitative evidence, tables and examples, e.g. based on current practice in EU known to you. Would you propose alternative measures as to those proposed?

f). As mentioned in 2.4.1 above a full discount could be applied to exit only.

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

Please reason your answer, including any quantitative evidence, tables and examples. Please consider question 2.4.2, where we also asked about your ideas on benchmarking of absolute entry-exit tariff levels for gas storage sites.

We do not believe this is a practical option. If we take two sites, where one is attached to an expensive system and one is attached to a cheap system, then presumably this would either require the expensive site to be subsidised to give it a lower tariff or the cheaper site would need to pay more than its share of network recovery costs, or both.

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

3.1. General – interdependency questions.

Introduction.

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

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

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

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

Please give a brief explanation for your answer, including the beneficial and detrimental interactions you see. Would you propose alternative combinations, and if so please reason why?

a) Yes we support the proposal that reference prices should be designed to minimise any over or under-recovery. The risks inherent in a flight from firm capacity could seriously undermine the ongoing fincability of TSOs. Alternative techniques to encourage capacity utilisation and price convergence should take precedence over use of a zero reserve price for short term capacity.

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

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

c. No opinion, because.....;

Please give a brief explanation for your answer, including the beneficial and detrimental interactions you see.

See 3.1.1

3.2 Regulatory account

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

a) Yes, though recognising need for stability in tariffs. A reference price that lurches between high and low from one year to the next is not helpful either. Some regulatory account to assist stability may be beneficial. This could perhaps be achieved by limiting the differential between one year's reference price and the next and putting any imbalance into a regulatory account.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

b) No because circumstances will differ for a number of reasons. The NRA must have a degree of discretion over how the regulatory account can be used.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

a) Yes. See 3.2.2.

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

In principle, this is a good idea, as TSOs should not be incentivised to create/maintain congestion as a means of raising revenue. However, a TSO should not be expected to build a 60 year pipeline on the basis of one year's congestion revenue. Other additional tests will therefore be necessary.

3.3. Reconciliation of Regulatory accounts.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

c) No opinion because both options are possible. We oppose however the use of commodity charges as the sole means of recovering the regulatory account, leading to unhelpful instability as has happened recently in UK.

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

It is not clear how such a charge would work. In any case, we would be concerned that there should be no excessive variation in tariffs from one year to the next.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

In your explanations please include any quantitative evidence, tables and examples, where appropriate. Would you propose alternative application as to that proposed? Please explain (if relevant) the alternative proposals and reasons why.

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

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

4.1 General.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

c) No opinion because further thought needs to be given to issues such as the difference between non-physical backhaul in a unidirectional pipeline and in a bidirectional pipeline.

4.2 Reserve prices (firm)

4.2.1 Do you agree with proposed level of harmonization?

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

a) and b) We do not agree that short term capacity should be priced at a discount to long term capacity. Long term capacity bookings reduce the financial risk to the TSO and should be discounted. To do the reverse will encourage short term bookings and ultimately the commoditisation of capacity. Concerns about hoarding should be addressed through CMP and improved secondary trading. We do agree that NRAs should be able to decide to allow multipliers greater than one and seasonal factors.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed? Please specifically consider the time aspects: how, when and for how long this would apply. Please specifically address if maximum multiplier “1.5” should be set lower or higher, and if in time an EU-wide evaluation, leading to reset possibility of such a maximum multiplier, should be explicitly introduced, or should such a reset possibility only apply to interconnection points where no premia to reserve prices are offered during the auctions. Would you consider that a ‘reset’ possibility for multiplier-levels should be specified at EU-wide level. Also please specify with examples, what in your view to be considered as such a *significant* under-recovery? Please consider also specifically why you believe that risk of significant under-recovery could not be mitigated through use of appropriate seasonal factors.

a) Yes, we agree that a multiplier for short term products should be permitted, because we see that the risk of a significant under-recovery to have a highly destabilising effect for TSOs and users who need to price any contract longer than a day. Such a multiplier should be at the discretion of the National Regulatory Authority in consultation with TSOs and network users. As we are moving into a period of greater uncertainty, we feel that the industry should not rule out use of additional tools that may help (in this case the co-existence of multipliers and seasonal factors). As experience develops, guidance notes for regulators may be a preferred means of creating convergence where appropriate.

We would regard any underrecovery that requires a tariff movement of more than 10% in a single year to be “significant”.

The “reset” option may be necessary as a last resort if there is a substantial opt-out of long term contracts, leaving a very small number of shippers responsible for carrying the entire risk of pipeline revenues.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

b) No because there should be broadly no undue discrimination between interconnection points at borders and intra-country interconnection points, and there is no reason why in-country entry and exit points would not be subject to the same problems. It should therefore be possible to set reserve prices at all points in the system (though it may not always be necessary to do so).

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please include in your answer your views on use of seasonal factors.

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

- a. Yes, because.....;
- b. No, because.....
- c. I don't know:

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

- a) Yes

4.3 Reserve prices (interruptible)

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

- d. Yes, because.....;
- e. No, because.....
- f. No opinion, because.....

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

d) Yes. Interruptible capacity should only be made available when firm capacity is sold out. Regulators should also be aware that an interruptible contract with virtually 0% possibility of interruption is worth less than a firm contract, as the shipper would not be able to warrant to counterparties that the transportation is firm, and in an emergency when both firm and interruptible contracts are interrupted, different contractual conditions are triggered for liability and compensation.

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

- a. 0, because....; whereas risk of interruption is.....;
- b. 0-30%, because.....; whereas risk of interruption is.....;
- c. 30-50%, because.....; whereas risk of interruption is.....;
- d. 50-80%, because...; whereas risk of interruption is.....;
- e. 80-100%, because....; whereas risk of interruption is.....;
- f.% (customized value, as above values are chosen arbitrary to allow for a global grouping of answers), because....; whereas risk of interruption is.....; and risk of interruption is calculated as follows:.....

Please give reasons for your answer, including how you would calculate the discount, risk of interruption and link the discount to risk of interruption, including any quantitative evidence, tables and examples. Would you propose alternative measures as to those proposed?

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

b) No, because interconnection and other points should be treated consistently. We also consider that placing additional restrictions or obligations at cross-border points may reduce the ability to create regional solutions.

4.4. Reserve price (backhaul)

4.4.1 Do you agree with proposed level of harmonization?

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed? Please also specifically address and propose mitigation of consequences of such a policy to existing forward flow shippers as well as positive contribution to potentially reduced need for additional capacity construction.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

5. Virtual IPs

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

c) No opinion because we are concerned that the risks of divorcing contractual frameworks from physical management of the network have not yet been fully thought through. Creation of virtual Interconnection Points will have profound implications on how systems are run, investments are decided and services are priced. These should be subject of further discussion before we lock into a narrow range of possible solutions.

6. Bundled capacity products

6.1 Reserve price (Bundled)

6.1.1 Do you agree with proposed level of harmonization?

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

Would you propose alternative measures to those proposed?

6.3 The Network Code on Tariffs shall specify that the revenues from Reserve price of bundled capacity products shall be attributed to the TSOs proportionally to the Reserve prices of their respective capacities in the Bundled Capacity. The revenues from the auction premium from bundled capacity above the Reserve price shall be split according to agreement between the relevant national regulatory authorities. Furthermore, the Network Code on Tariffs shall in the

case that no agreement is concluded before the auction, specify that the revenues from the auction premium shall be split equally between the TSOs.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

7. Payable price

7.1.1 Do you agree with proposed level of harmonization?

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed, please also consider the link to question 3.1?

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

- a. Yes, because...
- b. No, because.....
- c. I don't know.

Please give reasons for your answer, including any quantitative evidence, tables and examples. Would you propose an alternative option to that proposed?

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

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

Please reason which Option you prefer, including any quantitative evidence, tables and examples. Would you propose alternative measures as to those proposed?

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

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

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

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

We note that in CEER-roundtable 2012 discussions on Incremental capacity experts have noted that harmonization of the specific parameters in the market test might not be needed, but rather a consistent approach to the principle of having a market test to trigger Incremental capacity may be needed at the EU level⁷.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please e.g. specifically address if FG/NC should set minimum and maximum thresholds for such a “market test”, whilst NRAs would set actual thresholds at national level. Please also address how such thresholds for a “market test” should take account of positive externalities (such as Security of Supply), as well as of the risk that incremental capacity can expose consumers to costs incurred by TSOs which may be problematic if incremental capacity costs are not fully recovered by users triggering the capacity provision as a result of the market test.

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples⁸.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a) Yes, because currently the only way for a long term shipper to protect against many of the tariffication risks is by building their own pipeline. However, we also make the point that attempting to prevent independent infrastructure investment (e.g. by imposing arduous conditions on exemptions) is not a substitute for improving regulated tariff structures. It may merely lead to underinvestment compared to European policy goals.

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

9.4.2. How could this tariff structure be designed?

Please propose wording for a policy option (if needed).

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please specifically address who should pay the difference between the shorthaul tariff and the overall tariffs.

This depends on local conditions, tariff structures, the likelihood of bypass. We do not believe that a hard and fast rule should be set for all circumstances.

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

LNG competes with the natural gas from other sources, like national production points or other entry points. It could therefore be argued that any discount on the entry and exit tariffs at points where CAP applies could produce a cross-subsidy, reducing cost reflectivity of system as a whole, and resulting in a discriminatory effect on the cross-border trade between LNG- and IP entry users. In addition, storage – contrary to LNG - is mostly considered as part of the system, as it uses gas, which has already ‘paid e/e

fees'. Namely, gas injected into underground storages have flowed across the system, which means it has been charged entry/exit fees, this is not the case for LNG which is stored after it has been unloaded from LNG-ship cargoes, before any entry fee on the transmission system is charged.

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

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

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

Please give reasons for your answer, including any quantitative evidence, tables and examples.
Please specifically address who should pay the difference between such a special tariff and the overall tariffs.

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

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

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

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

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

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

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

11. What additional tariff structure measures do you envisage could improve the network code? Please give reasons for your answer, including any quantitative evidence, tables and examples. Please also, if relevant, suggest and explain reasons why any of the proposed measures should rather have been left to voluntary exchange of best practices at national level (e.g. via Guidelines of Good Practice)¹⁰.

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

We would request that ACER, wherever possible, avoids 24 page questionnaires with 60 questions. In this questionnaire we have chosen to answer only a selection of questions where we believe that there has been a reasonable amount of discussion or experience. In other areas, respondents are being asked to choose between theoretical options where the context may differ substantially in different parts of the EU, and whose attractiveness may differ depending on how any resultant problems are addressed (e.g. subsequent recovery of under-recovered revenues). Under these circumstances it is both difficult and dangerous to lay down absolute rules. We believe strongly that a high amount of discretion should be retained at this stage, particularly until experience has been gained of CAM and CMP implementation.

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

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

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