

## ***Questionnaire for the Draft Framework Guideline on Harmonised transmission tariff structures<sup>1</sup>***

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 **X**
- 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 confidential<sup>2</sup>.

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

<sup>2</sup> 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

**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 3<sup>rd</sup> Package objectives?** Please give reasons for your answer, including any quantitative evidence, tables and examples (if required, under confidentiality).

The requirement of Code's implementation within 12 months and its application to both new and existing contracts (par.1.4) may cause disproportionate effects to existing contracts in relation to objectives like the efficient gas trade and the avoid of cross-subsidies between the users, even though there is provision allowing the counterparties to adapt their practices. As a result we see as necessary the clear provision of a transition period in order to ensure a smooth transfer to the new regime.

Furthermore, since the provisions of the CAM NC for bundled products apply to cross-border Interconnection Points (IPs) between two or more Member States (MS), the harmonisation of tariff structures apply to these points, as well. We would like to point out the case where the cross-border IPs are with non-MS. At these points the tariff harmonisation is not obligatory and consequently undue discrimination will be caused between users that import gas from the

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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. 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.

subject points and those that use IPs with harmonised tariff structures. The aforementioned situation contributes, obviously, to competition distortion and has detrimental effects on cross-border trade. We deem as necessary a clarification from ACER if the current draft code deals with IPs in consistency with CAM's provisions.

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

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

For the purposes of clarity, a definition of the Reserve Price should be added, focusing on the distinction between the Reserve Price during the allocation time and during the time of capacity use (the Reserve Price which was valid during the auction might need to be adjusted afterwards, according to the chosen policy option, in case of reconciling the Regulatory Account). The definition should also indicate that the Reserve Price refers to Price Step  $P_0$  of the auction. In addition, the definition of the Clearing Price should be included in the relevant section.

**1.3 Please suggest the top-5 *core indicators*<sup>3</sup> 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).

Apart from the Regulatory Account size which is one of the core indicators, a measure of the tariff stability should be added considering the necessity for stable reserve prices which will allow market players to effectively plan their business.

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<sup>3</sup> 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.

## **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 methodologies<sup>4</sup>?**

a. Yes, because the network code should apply binding rules enforcing the TSOs to provide sufficient information.

#### **2.1.2 Would you support additional requirement(s) to ensure “reasonable and sufficiently” detailed tariff information<sup>5</sup>? 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, we are in line with proposals from EFET which suggested that transparency should reach such a level enabling users to “reproduce the results”. Thus, TSOs should “publicly make available versions of transporting models” which will help users to estimate the tariff evolution. We propose that ACER should monitor and review if the transparency provisions given under FG are adequate to fulfill the above requirement or additional provisions should be added.

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<sup>4</sup> 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.

<sup>5</sup> 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”.

## **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. We understand that the draft FG provides for deviations from the reference price setting methodology as long as they do not lead to any discrimination between the users.

TSOs should be allowed to apply any reference price setting methodology which they consider fits better to the specificities of each NTS. As proposed, the same modelling methodology for the reference price setting should be applied for all entry and exits points of each NTS. Full harmonisation could be pursued at a later stage.

## **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 , generally, reference price setting for entry capacity should be cost reflective in order to avoid cross subsidies among users who reserve capacity and import gas from different entry points. All approaches based on cost drivers, e.g. infrastructure value of individual points or distance (preferably), should be available. On the contrary, the equalisation approach should be avoided or applied in exceptional cases because it introduces cross subsidies among entry points.

### **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?**

As proposed in the previous question.

**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 as presented in the example in Brattle report (page 15), cross subsidy may occur when the ratio cross border route costs /domestic route costs differ significantly from the ratio transit gas quantity /domestic quantity. In the said example the corresponding ratios are 10/5(i.e. 2/1) to 1/1. We understand that such case may occur when transit gas has to flow (travel) longer distance (taking into account distance as cost driver) compared to domestic gas or, assuming the same distance (for both routes), the transit route is more congested (if the LRMC methodology is applied). The opposite effect may occur when domestic gas has to flow longer distance compared to transit gas. It is proposed the allocation rule not to be harmonised but be decided regionally at the MS level in order to consider the local NTS specificities according to the above argument;
- c. No opinion, because

**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 there must a monitoring mechanism during the process of tariff approval. In this context, a simple comparison should be made:
- the ratio of the cost of cross border routes to the domestic routes on the one hand and
  - the ratio of the expected revenues from the cross border routes to the expected revenues from the domestic routes (according to the applied allocation methodology to the system points and the expected flows).

If the ratios deviate significantly from each other, then a proper adjustment mechanism should be applied similar to the 50%-50% rule.

- 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).**

Clarification is needed on the applicability of the draft FG on entry/exit points of storage (we have thought they applied only to (V)IPs).

**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, transmission storage tariffs should be offered at a discount compared to other entry-exit point tariffs taking into account the fact that:
- generally, gas is charged for the transportation service at the NTS entry – exit points. Thus, offering the entry – exit storage tariffs without discount will result in charging a double fee for gas just because it went in and out of the storage facility,
  - transmission storage tariffs should reflect the value that storage offers to an NTS because it can cover gas demand in peak days, preventing from inefficient investment in networks (to satisfy peak day demand) and

We consider storage as the mechanism for shifting consumption from one period to another, contributing in this way in peak coverage when in high demand season. This value offered to the network should be recognised in tariff setting.

**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.

- b. No, because transportation tariffs among Member States vary. Thus, a fixed percentage discount could mean a competitive and cost efficient transmission storage tariff for one MS

and a non-competitive and cost inefficient transmission storage tariff for a second MS, where higher transmission tariffs apply.

An alternative option could be harmonisation of storage tariff measures (rather than tariffs themselves), leading to harmonisation of transmission storage tariff levels across all storage points in the EU (as examined by question 2.4.4). In this way, absolute measures (benchmarks) would be available to TSOs, in order to properly harmonise transmission storage tariff levels and promote fair competition among Storage Operators in neighbouring Member States.

**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?**

No opinion or other suggestions, because harmonization of transmission tariff levels across all storage points in the EU is preferred instead of the discount option.

**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)?**

We believe that harmonization is needed mainly on the tariffs’ methodology across EU.

The question was replied in 2.4.2.

**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?**

- b. No, because although the draft FG proposal for multipliers less than or equal to one<sup>6</sup> for the short term capacity reserve price facilitates short term trading, at the same time it increases the risk for under recovery. In addition, the potential of allowing multipliers higher than 1.5, if under recovery is expected, does not solve the problem, because the general principle itself (multipliers less than one) contains inherently the risk for under recovery.

Any under recovery may be reconciled through the regulatory account, but a systematic under recovery is in contradiction to the principle presented in the regulatory account section (3.1), according to which *“Tariffs... seek to minimise any gaps between the revenues which the TSO is entitled to obtain on the basis of the applied regulatory regime and the revenues actually obtained by the TSO”*. This under recovery will pass to (actually increase) the price of future capacity products. Thus, it will also have an impact on the payable price (by increasing it) and as a consequence future long term capacity users will subsidise the current short term capacity users.

To avoid that, it is proposed to apply the “equivalence principle”<sup>7</sup> to the less congested networks and let the market free to set the price in more liquid networks.

**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**

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<sup>6</sup> It is our understanding that the case described in the FG is Option 3 presented in the previous FG consultation (February 2012) which did not receive support from respondents.

<sup>7</sup> The “equivalence principle” received most of the support (55%) from the respondents in the previous FG consultation.

**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?**

b. No, because lower prices for short-term bookings underpins long-term investments. No, because as explained in the previous question on the one hand it transfers current under recovered costs to future capacity long term Users. On the other hand, it hinders long term investments by making users reluctant to make long term commitments and leading them to prefer short term capacity bookings instead, which incurs lower costs. It is proposed, that the general principle must be 'equivalence' to have the value of one in order to strike the right balance.

**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 in any other case reserve prices will not be cost reflective thus, not efficient. In addition, increased deviations will occur (under or over recovery) which will create cross subsidies between current capacity users and future capacity users.

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

- a. Yes, on the ground of the periodic adjustment of the reserve prices.

**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 it is within the NRAs' responsibilities to ensure stability of the market. We believe that any decision of the NRA will come after a relevant consultation with the market. In addition transferring this responsibility to NRAs instead of an EU wide harmonisation will allow considering local specificities, for example differing degrees of recovery in the previous years.

**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.**

We understand that “contribute to solving congestion” may mean deescalating payable prices for short term capacity products for use during periods of the year when demand is high. Alternatively, it may mean deescalating payable prices for capacity products offered to congested routes throughout the year. This could be possibly done by readjusting multipliers to lower values. However, such a policy would distort the market and create cross subsidies between either users who supply peak gas in high demand periods compared to users with flat load profile throughout the year or between users transferring gas through congested routes compared to users transferring gas through non congested routes. In addition, such a policy would prevent creation of locational signals for future network expansion. Furthermore, it would make the application of LRMC methodology, which is based on the principle of increasing reserve prices in order to reflect system congestion, inefficient. It is proposed that all system users receive the benefit of any over-recovery in an equitable manner, irrespective of congestion.

**3.3. Reconciliation of Regulatory accounts.**

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

We favour a solution whereby under- or over-recovery is allocated to all entry and exit points following a method replicating the method of main charging for capacity and commodity. In this manner, allocation of under- or over-recovery avoids distortion, cross-subsidy, over-simplification. Should the commodity charge ever be eliminated, so would the commodity part of the reconciliation fund. In all cases,

**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.**

We are broadly in favour of the idea of establishing a mechanism to help minimise amounts going into the regulatory account, in an effort to minimise cross-subsidies between current and future users of the system. Ex-ante forecasting by a team of TSO and users, regular monitoring and an ex-post clearance could even eliminate the amounts carried forward. The whole affair should be overseen by the local NRA.

**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, we support application in line with brattle's proposal for reconciliation from all entry and exit points (broad reconciliation), since it is fair and cost reflective, all users will equitably bear the cost.
- b. ... Even though, according to Brattle report, there do not seem to be any major conceptual issues with developing guidelines that specify that cost over- or under-recovery should be recovered in a uniform way from all entry and exit points, differences in cost recovery policy could distort cross-border trade and the cost of harmonisation do not seem to be particularly large.

**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 such a splitting fosters trust and transparency.

**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 but we also believe that the draft code should deal with flow commitments of the users as they also affect the revenues of the TSOs.

## 4.2 Reserve prices (firm)

### 4.2.1 Do you agree with proposed level of harmonization?

- a. Yes, because, harmonising short term reserve prices by adopting binding rules will offer TSOs options to apply a policy that will consider the specificities of their networks following the binding rules at the same time. On the contrary, a full harmonisation (at the policy level) of applying, for example, multipliers lower than one to short term capacity products (option 3 of the previous consultation for short term products) could be appropriate for some networks but could impose high risks of under recovery for others.

The above is similar to the argument presented at “The Impact Initial Assessment” document (p56) where in congested markets when “auctions are used seasonal adjustments occur naturally” in comparison to non-congested markets where this effect will not occur.

### 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?

- b. No, because we are in line with the majority of respondents in the previous consultation who supported the ‘equivalence principle’ (option 4 of the previous consultation for short term products) instead of setting multipliers less or equal to one, for all the reasons mentioned in the “evaluation of responses” document published by ACER. We agree that the FG should promote short term trade, but supporting short term trade by discounting transportation costs is neither efficient nor fair. Thus, when applying discounted short term capacity prices (lower than the actual costs), the short term gas transportation costs are actually subsidised by long term capacity users. In order for short term price arbitrage which is based on market spread to be efficient, it must be at least greater to the pro-rated price of long term capacity (assuming a multiplier of 1). Consequently, we propose that FG shall set out that multipliers observe the ‘equivalence principle’.

It must also be considered that establishing a lower cost short term capacity policy would turn users to short term capacity bookings. This would lead to inefficient creation of locational signals for network investments because fewer shippers would be willing to commit to long term capacity auctions. In addition, it could cause a spiral effect when by applying multipliers lower than one, shippers would prefer short capacity booking and an under recovery would occur, then the TSO would upscale capacity prices and then more shippers would turn to short term capacity bookings exacerbating the problem of under recovery.

Concerning the maximum value of the multiplier, we deem 1.5 not adequate and we propose a ceiling of around 2.5 (local NRA/TSOs could implement lower than that but no higher than that). Furthermore, we suggest defining a 'significant' under recovery level, that where the gap between expected and actually obtained revenues as a percentage of the actual revenues is more than say half of the expected gross margin of the TSO or a similar metric. After applying the above proposals (i.e. the maximum multiplier level and the definition of under recovery), it is proposed to initiate a re-evaluation process at a later consultation, when further feedback will have been received from TSOs.

In order to assess if significant under-recovery could be mitigated through use of appropriate seasonal factors, a consistent methodology to calculate and apply seasonal factors should be proposed (as a next step) in order to be evaluated in conjunction with the proposed rules on multipliers.

We support a zero reserved price for intra-day products. Any positive reserve price would give excessive value to products which have obviously fallen off users' preference scale. Zero start gives an incentive to fill up a day, thus providing more revenue to the TSO, albeit small. Should a user be desperate for intra-day capacity (e.g. a peak power producer), he would probably be able to afford a high price thus securing capacity against less keen competitors. We consider a zero fixed price too restrictive.

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.

**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 it is consistent with CAM's provisions.

**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?**

There should be applied a premium to balance between short term and long term capacity cost regardless the fulfilment of any criteria, because of the following argument: Two users have the same capacity requirements, the first one reserves long term capacity based on its peak day demand and the second one makes short term bookings profiled according to his daily requirements. Assuming that short term capacity price equals to the pro-rated long term price, we conclude that the first user will have higher costs compared to the second one. This will turn users to short term capacity bookings and have all the effects described in the previous questions (e.g. under recovery risk, inefficient locational signals for network expansion). For this reason we propose to offer short term capacity products with a small premium on top to keep the balance between short and long cap products. Possible interactions with seasonal factors may be evaluated when a consistent proposal for seasonal factors will be in place at a later stage of this consultation process, as previously explained.

**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, seasonality should be taken into account; however as proposed previously a methodology to estimate seasonal factors should be introduced in order consultation participants to assess it together with multiplier approach.

### **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?**

a. Yes, because it is cost-reflective. We also agree with the principle that the TSO bears the risk to determine the risk of interruption and thus define the discount. It must also be pointed out that the discount calculation process should be transparent thus the TSO should be required to make available all data and models applied to evaluate the discount.

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

We believe that the discount should not be fixed but depend on the interruption risks. More elaboration is needed on the exact meaning of “adequately”.

We consent that the discount should be proportional to the risk of interruption and be multiplied by an adjustment factor which will scale down in order for its actual cost to approach the level of the operating (administrative) costs incurred. The latter implies that since interruptible capacity is offered on top of already sold firm capacity, the cost of network use is covered by the firm capacity sale, thus should only cover operating costs.

However, we have limited experience on the interruptible capacity product since it is not yet applied in Greece; consequently, we refrain from proposing actual discount figures.

#### **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 it is consistent with CAM’s provisions.

### **4.4. Reserve price (backhaul)**

#### **4.4.1 Do you agree with proposed level of harmonization?**

a. Yes, because inappropriate pricing of backhauls could distort flows in neighbouring networks as it can inhibit trades that could occur in the presence of appropriate backhaul pricing.



**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)?**

We believe that the discount of backhaul prices should not only reflect the actual marginal costs but also the risk of interruptions and the savings in variable costs of the firm (forward) capacity.

**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 this is consistent with the CAM NC.

**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, we support this option because it will accommodate and make easier cross border trade. We also agree that the VIP reserve price should be a combination of reserve prices set for each individual point. Actually, a simplistic approach could be the sum of costs allocated at every point (consisting the VIP) divided by the expected capacity reservations in aggregate. It should be noted that because there is not prior experience, a pilot project should be initiated in order to identify problems that cannot be assessed at this early stage.

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

**6. Bundled capacity products**

**6.1 Reserve price (Bundled)**

**6.1.1 Do you agree with proposed level of harmonization?**

- a. Yes, because the rules stipulated in the FGs seem fair. Improvements will be needed later, when experience will have accrued. Adequate adjustment time should be given, especially where long term contracts are still in force.

**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 it makes sense for the bundled price to equal the sum of the unbundled products' prices. The purpose of the above proposal, to facilitate gas trading, simplifying the process of transporting gas from hub to hub, is fulfilled without introducing discriminations between users who use the bundled service and those who book unbundled capacity in anticipation of booking its pair when it becomes available or in anticipation of border based supply contracts instead of hub-based supply contracts (where such duality exists).

**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 bundled products are applied at IPs according to the CAM provisions.

**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. Initially, it must be pointed out that we do not support the mandatory bundling of capacities. Both options, to trade either at IPs or at hubs, should be available to users of an IP, at least as long as existing long term contracts are in force there. We also support the proposal of setting the price of the capacity offered on only one side of the IP be equal to "the reserve price of either the entry or exit capacity from which the unbundled capacity originates". Otherwise, there will be a discrimination between users who prefer to trade gas at cross border points and those who prefer trading at hubs.

**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 there must be rules regulating the revenue split between TSOs for bundled capacity products. Thus we agree with the pro-rata split from reserve price revenues and with letting TSOs free to decide how to split revenues from premiums. But we do not agree with equal split of premiums rule if no agreement of TSOs take place for reasons explained in the next question;

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

- a. Yes, because:

-concerning revenues from the reserve prices, the pro-rata proposal is fair since these would be the revenues for each TSO, from the reserve price, if the auction took place separately at each side (entry and exit of the IP).

-concerning revenues stemming from premiums, we agree with proposal of letting TSOs free to decide.

-but we do not agree with provision of equal splitting of revenues in case no agreement is reached. That is because, assume (a) a set of users intending to participate in an annual auction to bid for entry and exit capacity for the same time period in the future, (b) the auction was to take place at each side (entry and exit of the IP) separately and (c) premiums at each step price level be the same for each side. Assuming that users would structure their bidding their strategy sensibly, they would bid for the same volume of capacity at the same step price level at each side (for example, for step price P3 for exit capacity they would bid for X units of capacity, and for the same X units they would bid for step price P3 for entry capacity). Thus, the argument concludes that each TSO at each side would have same revenues from the auction premiums. However, if the condition (c) above didn't apply, that is step prices at each IP side differed in premium for whatever reason, we propose that relevant NRAs should invite TSOs to support their arguments for an uneven split and only after having failed to convince the NRA, should the equal split rule be applied.

**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 this is consistent with CAM NC.

**7. Payable price**

**7.1.1 Do you agree with proposed level of harmonization?**

- a. Yes, because harmonisation (at the level proposed) will create a uniform rule of how the value of payable price will fluctuate until the time it will take its final value which the user will pay. Such a uniform arrangement will help shippers to effectively schedule their gas transportation and ultimately plan their business;

**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 it is cost reflective for each user to pay the actual reserve price, as determined at the time of use rather than the time of auction. Additionally, it is clearer and simpler for the premium to remain fixed (instead of being eg indexed to inflation or otherwise modulated) in order for each user to enjoy some stability of expense.

**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 auctions are applied to these points.

**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 level<sup>8</sup>.

**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.

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<sup>8</sup> 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](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.

We agree broadly with conclusions in the Brattle report: "... we do not recommend a binding harmonised market test, but rather the development of guidelines for good practice on market tests for new capacity. NRAs and TSOs would then adopt these on a voluntary basis." We add: NRAs and TSOs would then adopt these on a voluntary basis for a length of adjustment time (i.e. 5 years) and on a mandatory basis later on.

**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).**

Please give reasons for your answer, including any quantitative evidence, tables and examples<sup>9</sup>.

**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.

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9 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.

**9.2. 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.

**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.

It is our understanding that location of new gas-fired power stations, LNG terminals and underground storages is far wider an issue than could possibly be determined within the present FG and ensuing NC. For example, power stations have to consider cooling water availability and stability of power network, LNG terminals are governed by strict safety considerations, port suitability and proximity to network needs, whilst underground storage is almost solely decided on grounds of available suitable geological formations. We, therefore, believe that the reference price plays a small part in deciding the location of such investments. We opt against much detail in the reference price chapter on locational signals to aid such location decisions, at this stage. We prefer that such considerations come as later refinements.

**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 tariffication 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'<sup>10</sup>.

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

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<sup>10</sup> See summary under weblink: <http://www.eui.eu/Projects/THINK/Documents/Thinktopic/PB/PB201201.pdf>

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 it seems reasonable to avoid duplication of investment. However, it is suggested that there is no reason for TSOs to lower tariffs in order to lure custom in shorthaul. If it is actually cheaper to build and operate an independent pipeline to serve a new consumer, so should it be. Additionally, strategic advantage of having one's own supply pipeline should not be underestimated but rather incorporated in scoring the usefulness of such a pipeline for a consumer (as long as no public money is asked for it). We propose that rules be set to ensure that cost-type arguments for / against shorthaul investment vs. tariff discounts be scrutinised by, say, the competent NRA.

**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.

**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?**

- b. No, because LNG is not at all the same case as storage. LNG in the terminal tanks has not entered the transmission system and consequently has not been burdened with entry and exit charges. LNG has already undergone liquefaction and will be subjected to regasification before entering the transmission system and the associated costs need to be reflected in LNG’s commercial price against the commercial price of pipeline gas. When regasified, LNG should be treated exactly as any other pipeline gas, namely be charged according to general 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)<sup>11</sup>.

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

**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.**

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<sup>11</sup> 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.