

**ENI'S RESPONSE TO ACER'S PUBLIC CONSULTATION ON DRAFT FRAMEWORK GUIDELINES
ON HARMONIZED TRANSMISSION TARIFF STRUCTURES**

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** **V**
- e. **End-user** **V**
- f. Other, namely: **producer** **V**

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).

An adequate transition period should be provided for by the tariff NC in order to let network users adapt to the new framework. In addition, the FG should envisage the possibility for shippers to terminate their capacity contracts when the adoption of the new tariff regime causes disproportionate effects.

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

No comments

1.2. Please suggest the top-5 core indicators 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).

In the NC elaboration process it will be necessary to develop a set of indicators able to measure the level of cross-subsidisation across network users determined by the new tariff framework. Furthermore, the FG should recognise also to network users the possibility to bring specific NRAs' decision to the attention of ACER when they think these decisions are not consistent with the relevant provisions of the Gas Directive and Gas Regulation. Opinions developed by ACER - following a request from NRAs, the European Commission or network users - would be a key indicator of the good functioning of the new regulatory framework.

ACER and ENTSOG should also monitor the implementation of the transparency measures. This should include an assessment of stakeholders' satisfaction with the consultation processes run by TSOs and NRAs.

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?

- a. ~~Yes, because...~~
- b. No. Additional transparency requirements should be included and harmonised at the EU level (see answer 2.1.2.).
- c. ~~No opinion, because.....~~

2.1.2 Would you support additional requirement(s) to ensure "reasonable and sufficiently" detailed tariff information? 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, in order to guarantee full transparency and allow shippers to have the necessary information on the tariff definition and evolution, as required by the Gas Regulation, TSOs should also publish the specific model used for tariff calculation (including reconciliation of under- and over-recovery). Also the proposed provision in case of significant expected tariff fluctuation would be needed.
- b. ~~No, because...;~~
- c. ~~No opinion, because.....~~

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, **eni** considers that in each entry-exit zone (also with different TSOs operating in the zone) only one methodology is to be applied to set tariffs. We also deem it is necessary to

ensure that if different TSOs operate at a specific entry point a single common price has to be set for the relevant capacity.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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, we agree with ACER's proposal to set reference prices based on major cost drivers and to allow deviation from this rule only if this does not lead to discrimination and it does not have detrimental effects on cross-border trade.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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, we agree with ACER's proposal to set reference prices based on major cost drivers and to allow deviation from this rule only if this does not lead to discrimination and it does not have detrimental effects on cross-border trade.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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, **eni** shares the rationale behind this cost allocation principle which aims at reducing the room for discrimination between domestic and cross-border network users. We would however suggest that the exact percentage is not fixed in the FG but discussed during the elaboration process of the Network Code. The proper definition of the percentage will reinforce the provision contained in the Network Code and avoid a wide-spread deviation from the general rule, which would occur only in a few specific circumstances in which the defined rule would excessively harm cost-reflectivity.

~~b. No, because...;~~

~~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, with reference to options indicated in 2.3.1-2.3.2-2.3.3.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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, we agree with ACER's proposal in light of the specific nature of storage facilities (i.e. shift consumption across periods rather than being a net source of demand or supply) and the contribution they provide to a given system in terms of efficient use of the network and level of investment.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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. We do not agree with the harmonization of the discount across all storage points in the EU, nor with the harmonization of the level of entry-exit tariffs for storage sites. The NC should however envisage a minimum level of harmonization across European countries by defining the general principles to be followed in the methodology for defining such "adequate discount".

~~c. No opinion, because....~~

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. See answer 2.4.2.

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.

See answer 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?

- a. ~~Yes, because...;~~
- b. No, in our view the main point to focus on is not the consistency of FG proposals but their ability to achieve the objective stated in the FG:

“The overall final aim of the Network Code on Tariffs is to lead to gas transmission tariff structures in Europe without discrimination between any type of network users and without any detrimental effects on cross-border trade” whilst ensuring TSOs recovery of revenues.

Multipliers lower than 1 for short-term capacity products would entail an undue discrimination and cross-subsidization across network users. This would be in contrast with the overall final aim of the NC and also with the objective pursued under the chapters on revenue recovery and payable price aiming at minimizing the gap between allowed and collected revenues. Furthermore, this approach could also eventually have detrimental effects on cross border trade by undermining investment in new pipelines (see answer 3.1.2).

- c. ~~No opinion, because.....~~

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. The current Draft FG are not striking a proper balance between facilitating short-term trading and provide long-term signals for covering costs and efficient investments. Precisely, the definition of lower reserve prices for short-term products would reduce the incentive to book long-term capacity thus undermining long-term signals and put at risk efficient long-term investments. Any incentive to short-term trade should be sustainable.

Therefore, it cannot be based on systematic “cross-subsidisation” at the expense of players booking long-term capacity which, in that case, would necessarily have to adapt their booking strategy.

~~c. No opinion, because.....~~

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, in general terms, we agree with this principle. However, if – contrary to our view (see answer 4.2.2) - reserve prices for short term products are set at a discount with respect to the yearly reference price, the application of this principle should not imply a higher value of the reference price and therefore of the annual reserve price.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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

a. Yes, but partially. At this stage, we support the use of the regulatory account. However, the FG should leave open the possibility for the introduction of an ex-ante commodity charge to be fully assessed in the process of elaboration of the Tariff NC, also considering the outcome of discussions on other aspects of the tariff framework.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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, the NC should harmonise the timing of the regulatory account reconciliation. A default timing of once per year should be introduced as this would strike a right balance between tariff stability and cost recovery. However, the NC should recognise to NRAs the possibility to deviate from this rule if they duly justify their choice;

~~c. No opinion, because.....~~

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 believe that the option to use over-recovery from auction premiums to reduce congestion should be included in the FG. Nonetheless, **eni** has concerns that network users that contributed to solving congestion by creating over-recoveries through the auction premium do not benefit from the actual resolution of congestion in case of fixed nominal premiums. This issue is to be tackled when dealing with tariff implications of development of incremental capacity (see answers under 8).

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.....~~

Different typologies of under- and over-recoveries (which have different sources) will enter the regulatory account (e.g. over-recovery originated by auction premiums, revenues from congestion management mechanisms, offering of backhaul capacity, under-recoveries from low utilisation of the network or from sale of short-term capacity if its reserve price does not fully cover costs, etc).

In the process of elaboration of the NC each of these typologies should be identified. Moreover, the way they have to be reconciled should be defined taking into account their specific source and with the aim of minimising cross-subsidisation.

For example, suppose there are two interconnection points "A" and "B". "A" is congested and originates over-recovery. "B" is not congested and contracted with short-term products priced with a multiplier lower than 1 as currently proposed by the Draft FG. At IP "B" we have thus under-recoveries. If we do not consider the heterogeneity of these under- and over-recoveries these might be netted off in the regulatory account and network users in "A" will "automatically" cross-subsidise users in "B". If under- and over-recoveries are considered separately a different re-distribution of over-recoveries (e.g. to solve congestion) could be envisaged or, at least, the choice of cross-subsidising would be more transparent.

We are not asking at this stage for the introduction of many regulatory accounts, but we think the FG should recognise the heterogeneous nature of the under- and over-recoveries entering the regulatory account and ask ENTSOG to deal with it properly and discuss with stakeholders the most appropriate rules for reconciliation, (including the degree of aggregation of different under/over recovery typologies and the way each of these aggregated flows should be reconciled).

The FG should also keep at this stage all reconciliation options open. These options should include the commodity charge which seems appropriate for some of the under-recoveries entering the regulatory account.

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.

See answers 3.2.2. and 3.3.1

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....

As explained in answer 3.3.1 the FG should recognise the heterogeneous nature of the under- and over-recoveries entering the regulatory account. For each component of the regulatory account, in the NC elaboration process it should be discussed if and how each typology of entry/exit points should contribute to the reconciliation.

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....

As explained in answer 3.3.1 the FG should recognise the heterogeneous nature of the under- and over-recoveries entering the regulatory account. For each component of the regulatory account, in the NC elaboration process it should be discussed if and how each typology of entry/exit points should contribute to the reconciliation.

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

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, the coverage of the draft FG rules is sufficient.
- b. —No, because...;

~~c. No opinion, because.....~~

4.2. Reserve prices (firm)

4.2.1. Do you agree with proposed level of harmonization?

a. Yes.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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. Reserve prices for short-term products should be set higher than the yearly reference price because of three basic reasons.

- 1) If short-term capacity reserve prices are set lower or equal to the yearly reference price, this would clearly entail a cross-subsidisation. Pipelines are dimensioned in order to cover peak demand and costs related to this service are recovered from network users. Network users who booked capacity on the basis of peak demand they satisfy make it possible (by paying tariffs) for that capacity to be in place and used when peak demand materialises. Network users booking short-term capacity priced lower or equal than the yearly reference price get the same ability to meet peak demand, but paying much less (on a yearly basis if multiplier=1) and therefore not covering costs necessary to offer this service. Arising under-recovery would be paid also by shippers with a flat booking profile, thus creating cross-subsidisation.
- 2) The policy choice of facilitating short-term trading might be brought as a justification for this cross-subsidisation (which is different from avoiding "*detrimental effects on cross-border trade*"). However, it should be recognised that this policy – besides being discriminatory - would also not be sustainable. Players would change their booking strategy by shifting from long to short term (also by terminating their existing capacity contracts, a possibility that should be recognised to shippers - see also answer 1.1) to avoid suffering discrimination and a competitive disadvantage. As a consequence, recovery of existing costs would be put at risk and investment in new infrastructure would be undermined only to give a "temporary" (and discriminatory) advantage to short-term capacity which, at the end, would have in any case to reflect the right amount of costs.
- 3) Finally, this policy choice would not be in line with the Gas Regulation, art.14(2) which states: "*Transport contracts signed with [...] a shorter duration than a standard annual transport contract shall not result in arbitrarily higher or lower tariffs that do not reflect the market value of the service...*".

It could be argued that if there is congestion, notwithstanding the value of the reserve price, the market would reveal the value of the product. However, if there is no congestion, the capacity product would be sold at the reserve price. This price, if lower or equal to the yearly reference price, will not reflect the market value, as shippers, by

buying short term capacity to cover peak demand, would avoid booking and paying capacity flat over the year.
~~c. No opinion, because....~~

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.
- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

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.

See answer 4.2.2.

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, **eni** agrees with the use of Seasonal Factors according to rules to be discussed in the NC elaboration process.
- ~~b. No, because...;~~
- ~~c. No, I don't know.~~

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, we agree with the proposed option of setting interruptible capacity reserve prices at a discount to firm capacity which should reflect the risk of interruption in a transparent way. This approach is consistent with the provision contained in the Gas Regulation stating that "*the price of interruptible capacity shall reflect the probability of interruption*" while pursuing the objectives of cost-reflectivity and minimization of cross-subsidisation. Alongside we support the yearly recalculation of the discount to properly reflect the risk of interruption.
- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

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. The discount should not be fixed but should depend on the specific risk of interruption to be recalculated once per year. The methodology to calculate the discount corresponding to a specific risk of interruption - so as to "adequately" reflect the risk of interruption - should be discussed in the NC elaboration process.

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.
- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

4.4. Reserve price (backhaul)

4.4.1. Do you agree with proposed level of harmonization?

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

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, we do not agree with the proposed option to set backhaul reserve prices as to reflect only marginal costs (=IT and administrative costs) because this would not be consistent with the NC objective of minimization of cross-subsidization among network users. Indeed, in that case, network users using forward flow capacity would cross-subsidise the backhaul flows by paying all other costs. As a way to incentivise its use, the reserve price of backhaul capacity should be set at a discount with respect to firm capacity. This discount should reflect (i) the risk of interruption and (ii) the fact that reverse flow do not originate fuel gas costs. The corresponding forward flow should instead benefit from actual savings in fuel gas costs. Finally, over-recoveries derived from the offer of backhaul capacity should be redistributed back to the reverse and forward flow capacity holders at the specific interconnection point (thus entailing a further "discount" for backhaul). This approach - to be detailed in the NC elaboration process - would minimise cross-subsidisation.
- ~~c. No opinion, because....~~

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.
- ~~b. No, because...;~~

~~c. No opinion, because.....~~

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....~~

At this stage, we do not envisage any different way to deal with this issue, but we also see that ACER's proposal could have very heavy implications on some network users. Therefore, we would suggest that this complex issue is further discussed with stakeholders before defining binding provisions.

6. Bundled capacity products

6.1. Reserve price (Bundled)

6.1.1. Do you agree with proposed level of harmonization?

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

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, **eni** agrees with the proposed option as it seems the most reasonable one.
- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

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.
- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

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, we support the proposed option that the reserve price for unbundled products is equal to the reserve price of the entry or exit capacity. **eni** does not support the

Unbundled Reserve price being higher since this would undermine cost-reflectivity and entail discrimination.

- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

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.
- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

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

- a. Yes, we agree with the proposed option to split revenues from the reserve price of bundled capacity products in proportion to the reserve prices between TSOs. Concerning the revenues deriving from auction premiums of bundled capacity products, we agree that an agreement on their split among TSOs should be found between NRAs. We also agree that the NC should define a "default rule" to be applied in case that an agreement is not reached. This default rule should not be set in the FG but discussed in the elaboration process of the NC as the 50/50 rule currently proposed does not seem to have a strong rationale (e.g. it does not take into account any cost-related and/or congestion-related element).
- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

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.
- ~~b. No, because...;~~
- ~~c. No opinion, because.....~~

7. Payable price

7.1.1. Do you agree with proposed level of harmonization?

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

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, we agree with the proposed option of setting the payable price equal to the current reserve price for the year in which capacity is used. This approach allows minimizing cross-subsidization among network users booking capacity at different points in time, while minimizing under- or over-recovery of allowed revenues by the TSO. However, we think that, even if premiums are fixed, they should not be applied anymore when congestion is solved (see answer 3.2.4).

~~b. No, because...;~~

~~c. I don't know....~~

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.

~~b. No, because...;~~

~~c. No opinion, because.....~~

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 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.

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.

See answer 8.3.

- 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.**

Harmonization of the specific parameters of the market test (e.g. rate of return recognized to TSOs, level of minimum cost coverage i.e. the “threshold” to pass the test) should not be pursued as these parameters will depend on the specific tariff system and, as for the threshold, on the non-commercial positive externalities of each specific project.

However, the principle of having a transparent market test to trigger development of incremental capacity and the way the market test works should be harmonized at the EU level. Setting the “threshold” by NRAs on a case-by-case basis would be a complex task which, however, may significantly improve transparency in regulatory decisions. To this purpose, stakeholders should be consulted and reasons behind the NRAs’ decision should be fully disclosed.

- 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).**

The building of incremental capacity originates costs. Decisions on how these costs should be managed have a material impact on how tariffs are set for existing and new capacity bookings. This issue is nowadays dealt with at national level and a certain degree of harmonisation at the EU level is needed. The NC on tariffs might be the right place to do it.

The key aspects to be clarified are:

- (i) in which cases socialisation of costs (and arising tariff implications) might be envisaged;
- (ii) how to allow benefits of economies of scale to be shared between new holders of incremental capacity and holders of existing capacity and
- (iii) if and how existing network users will benefit from reduction of congestion achieved after they booked capacity.

- 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.**

No comments

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

If the NC has to accommodate locational signals, it should be recognised that this approach would entail a deviation from a pure entry/exit tariff system. In order to avoid discrimination among different network users, it would be necessary to identify the different cases in which network users, due to the specific way they use the network, do not have to pay the cost of reaching the VTP from an entry point and of reaching an exit point from the VTP. We support the accommodation of locational signals if based on a detailed assessment of how to consistently apply this principle in order to minimise discrimination.

- 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.**

See answer 9.2.

- 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'¹.

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

¹ See summary under weblink: <http://www.eui.eu/Projects/THINK/Documents/Thinktopic/PB/PB201201.pdf>

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?

See answer 9.2.

9.4.2. How could this tariff structure be designed? Please propose wording for a policy option (if needed).

See answer 9.2.

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:

See answer 9.2.

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, entry points from LNG plants shall not be subject to a special tariff treatment. LNG terminals are mainly used for the purpose of importing natural gas. The introduction of a discount due to the flexibility they may provide would thus create discrimination between LNG and pipeline users, particularly considering that pipeline transmission, and also some typology of consumers, are a valuable source of flexibility in many European markets.

c. ~~No opinion, because....~~

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.

Where – following the merger of entry-exit zones - internal congestion is not completely solved and, consequently, TSOs offer “conditional capacity” (i.e. entry capacity not having freely access to the VTP), this kind of capacity should benefit from a discount which adequately reflects the limitations it suffers.

- 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)².**
- 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).**

² 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.