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Please indicate, if your company/organisation is:

~~**a. European association**~~
b. National association (electricity producers, energy traders and retailers in The Netherlands).
~~**c. TSO**~~
~~**d. Shipper or energy trading entity**~~
~~**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.

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

The following aspects of the application of the draft FG can lead to a strong and rapid change in tarification modifying the national trade-off:

- the application of distance related tarification instead of an equalisation approach;
- the application of the 50% / 50% revenues rules (50% from the entry points and 50% from the exit points);
- a change in the reconciliation process (commodity charge versus adjustment of the regulated price);
- a change of reserve price which leads to massive under-recovery;
- an increase or decrease of an IP tariff due to the virtualisation of the IP;
- the forced bundling of booked capacity (the so-called sunset clause in the CAM NC) that could lead to the subscription of unwanted capacities at different prices.

We do not understand how the FG can be applied to all existing contracts unless their terms provide for change, which some may not. Also, national and/or cross-border tariffs may have fixed levels or structures for a defined regulatory period extending well beyond the 1-year implementation envisaged. It is not clear how the FG policy options would impact these.

Applying new policy options to existing contracts, to the extent this is possible, could have distortionary effects and could retrospectively undermine the business strategy or commercial position of network users who in, good faith, acquired capacity under preceding tariff arrangements. ACER should consider this carefully and allow for the possibility within the FG of network users being able to relinquish existing capacity if they have been materially disadvantaged[1] by changes in the NC. With this in mind, we think the 12-month lead time for implementing the NC is overly ambitious. Therefore, we think, there should be a **smooth transition** by, for instance, applying the changes only for the next tarification period (for multi-years tariffs) and not when the network code on tariff enters into force. If there is a severe adverse impact on shippers, another possibility might be to have the ability for shippers to terminate their capacity contracts. Indeed, if the tariffs of all Interconnection Points (IP) dramatically change upwards or downwards depending of the IP, the market will move from one or some supply route(s) to other ones.

Therefore, a transitory phase should be implemented in the network code to allow market participants to adapt to the changes resulting from evolution in tariffs.

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

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[1] This would need to be subject to NRA assessment and approval.

1.3. Please suggest the top-5 *core indicators* for monitoring the future EU-wide implementation of the future tariff FG (NC)?

A possible top of core indicators are:

- the extent of transparency provided over tariff methodologies and assumptions;
- the ease with which network users are able to predict tariff evolution with a reasonable degree of accuracy;
- the extent of any under/over recoveries;
- the extent to which TSOs are incentivized to act efficiently and to solve congestion problems;
- the correlation and convergence of short, medium and long term gas prices between adjacent markets and the extent to which these reflect cross-border capacity reserve prices;
- the extent to which tariffs have been responsible for preventing incremental investment;
- the booking rates by IPs and by auctioned products (annual, quarterly, monthly, daily) before and after the tariff NC comes into force, can also be interesting because it could reveal a change in supply routes and/or booking strategy (Long Term versus Short Term).
- efficiency indicator, a stability indicator and a distortion indicator based on the cost of accessing a hub could be interesting. Stakeholders have to brainstorm how these indicators could be built (which parameters to monitor, ...).
- the official language of the Member State and in English.

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?

Yes, partly because more information may be needed (see our next answer).

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".

Yes, shippers would like to have access to the model used to set the tariffs, to be able to make their owns assumptions on reserve prices evolutions. Also shippers want to know TSO's flow patterns, booking forecasts, costs, etc. It is important to emphasise that the information currently shared by TSOs ('transparency requirements') is not sufficient in this respect.

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?

Using the same methodology and assumptions for all types of network users in an entry-exit zone avoids the likelihood of discrimination and cross subsidy.

We agree that the FG should not seek to adopt a single harmonised methodology to apply throughout Europe. Whilst this may be a long term aspiration and the ultimate consequence of greater competition and market integration, practically it is not achievable at this stage and would be unduly disproportional. Although we want to aim for a clearer correlation of short, medium and long term capacity tariffs between adjacent markets. I.e. prevent the situation that adjacent markets have a very different capacity tariff system.

We agree that regulated/reference prices at entry and exit points should aim to recover at least fixed costs. We also agree that recovery of costs that are driven mainly by the volume of flows (such as compressor fuel) should be recovered either through capacity services or through a specific commodity charge. Clearly, recovering costs which are mainly driven by the volumes of flow through a commodity charge is the most cost reflective approach. However, allowing an element of regulatory discretion on this issue seems sensible and NRAs should also be allowed to adopt different approaches nationally compared to cross border.

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?

Yes, we agree the reference price for entry capacity should be based on the major cost drivers (cost based), but there could be more elements (than distance), which determine the cost.

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?

Yes, we agreed the reference price for exit capacity should be based on the major cost drivers (cost based), but there could be more elements (than distance), which determine the cost.

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?

At moment, the revenue split between entry- and exit-points in the Netherlands is 40% - 60%. Cost reflectivity and non-discrimination between cross-border flow and national consumption should be the main drivers of cost allocation principle between entry and exit points. Any change should be done after a detailed analysis. We are of the opinion that the FG should not set any rule on this point, but the NC should deal with it after a detailed analysis.

Any change in the revenue split can/will result in “winners and losers” and/or the need to renegotiate contracts. Energie-Nederland is of the opinion that any change in the revenue split should be a smooth as possible. See also our answer to question 1.1.

Where a network user’s competitive position is undermined by such a change, or it is materially disadvantaged, the FG should allow network users to apply to surrender existing capacity they hold.

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)?

The question is unclear. We assume that this does not mean that the same tariff structures need necessarily apply at entry and exit points (see also 2.2.1 above), just that the same methodology and consistent modelling assumptions must be used. Anyhow, we need to analyse first the impacts on the interconnection points before trying to implement the same mechanism for domestic points.

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?

No, in our opinion the NC should only deal with Interconnection Points (IP's) to be consistent with CAM and CMP. The draft FG seems to go beyond IP's and stated that it deals with all entry / exit points. We would like to have a legal clarification on this point, from ACER.

In case the FG deals also with non-IP's:

Yes. We would like to note, however, that the word "discount" as used in the draft Framework Guidelines should not imply a temporary or a one-off solution. Rather, it should be a regular approach ensuring that an appropriate tariff is established, reflecting the underlying economics as well as the benefits and the support function of storage. Consequently it is justified that the transmission-storage points have a lower tariff than other points due to the specific role that storage plays in the network. As referred in the ACER impact assessment (p 77), "gas storages have an effect on required network investments and therefore the costs of networks as storages lower the peak load that networks have to be able to deal with".

To ensure a harmonised regime that does not lead to difficulties in implementing a national and a European regime in each market, it would be helpful if certain guidelines are included in the FG that ensure all (national and European) capacity tariff mechanisms are efficient, transparent and

cost-reflective. Such guidelines could include the general European obligation for all NRAs to set (at a national level) capacity tariffs (entry/exit tariffs) that reflect the actual costs and use of storage facilities. Such guidelines will ensure aligned European measures that leave room for reflection of local situations.

We would like to note, however, that the word “discount” as used in the draft FG should not imply a temporary or a one-off solution. Rather, it should be a regular approach ensuring that an appropriate tariff is established, reflecting the underlying economics as well as the benefits and the support function of storage.

The amount of the discount has to be underpinned by the NRA. The NRA should also make clear why a storage should get a discount and other entry points don’t get the same discount (what is the difference between storage and LNG-entry point?).

We fail to understand why the FG make a distinction between exempted storage facilities in terms of whether an “adequate” discount can be applied, which seems perverse if this discount is supposed to be cost reflective.

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

There is a balance between cost-reflectiveness and competition between storages.

Theoretically, cost-reflectiveness means a different tariff per entry- or exitpoint, including storages. However, in practice this is impossible to calculate by ACER and/or NRAs. Storage facilities have different characteristics and purposes (e.g. seasonal, fast churn, system support) and so will provide different levels of benefit, if any, to the system. Requiring the NC to provide reasoning why storage facilities may be priced at an “adequate” discount along with a methodology for determining the cost-reflectiveness will be very difficult bearing in mind the different methodologies used to set tariff levels and regulatory regimes across Europe at this time.

From a storage competition point of view, harmonization is sensible if difference in transport costs cause an unlevel playing field between 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?

See 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)?

See 2.4.2

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

3.1. General – interdependency questions.

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?

Clearly ACER has considered the inter-relationship between short term reserve prices, under/over recovery and payable price. However, we do not agree on the principle: lower prices for short term products. In our opinion can lower reserve prices for short term products could lead to under-recovery for the TSO. Also there can be cross-subsidies amongst network users since shippers who have bought long term products for security reasons are paying more then shippers who did not bought capacity and are now able to buy cheaper short term products. Assuming that the total revenues for a TSO will be the same, then the shipper with a existing long term contract is paying for the system change / cheaper short term contract.

To ensure this situation is remedied, two options can be used / investigated:

Option 1. The reserve price for long and short term products is set (proportionally) equal.
This means a multiplier of 1 is used. This leaves room to set a seasonal factor (see our answers in chapter 4.) This ensures no incentives are placed on either long or short term products and the capacity bookings are likely to reflect the current commodity market behaviour, with a mix of

long, mid and short term bookings. Under the current investment regime in Europe, this option is preferred. However, it could lead to underutilisation of cross border capacity in case there is no congestion and there are price differences at bordering hubs. In this situation, the reserve price of the short term capacity acts as a barrier to arbitrage trading, as the price difference between the hubs has to be higher than the short term reserve price of the capacity to ensure trades are being concluded.

Option 2. The second option is aimed at solving this issue and optimising the efficient use of capacity, whilst ensuring investments are made when necessary. This can be done by decoupling investment triggers or requirements from long term capacity bookings, for instance by implementing a TSO model. This model allows (and obliges) TSOs to signal the need for investments on the basis of their knowledge and data following from capacity auctions (both long and short term), separate from the amount of capacity bookings in a specific year. If an investment is needed, based of actual and expected flows, TSOs will obtain approval from the NRA and realise the capacity. The NRA approval will ensure that the costs of the investment can be included in the asset base for cost recovery. Short term product auctions can then be allowed to truly reflect actual supply and demand relations. If price differences between hubs exist, the within day capacity tariff should be able to drop below the reserve price (but should still be reasonable and cost related). Besides more price convergence and increased hub liquidity, this has the benefit of generating (a small amount of) income, where before none would be realised.

Option 1 can be implemented quickly. Option 2 requires a significant change to the current incremental capacity regime. However, some members of our association are of the opinion that option 2 should be further analysed.

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?

No, because lower reserve prices for short term products will act as a disincentive to long term investments. Moreover, its efficiency to promote short term trade is not confirmed by facts: the TTF, the most liquid continental hub, with low spreads with neighbouring hubs, has one of the highest multipliers between short and long term tariffs (especially when taking into account seasonal factors).

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?

Yes. A regulatory account shall record the difference 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 is a sound regulatory principle.

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

Yes.

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?

Yes, because this balance is very important and it is in line with NRAs' responsibilities.

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?

In our opinion, the Regulatory Account should be to return over-recoveries from auction premium to the market (who paid too much). This return should be done as soon as possible (to maintain the relation to the users who paid to much). A special account for solving congestion could delay this return to the market. Solving congestion should be done through open seasons and incremental capacity signalling from a CAM NC ("Market-based investment procedures for gas infrastructure").

3.3. Reconciliation of Regulatory accounts.

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

Our preference would be for Option 1: reconciling the Regulatory Account through ex-post adjustments to future capacity reference/reserve prices. Reasons: 1) Commodity charges do not apply in the Netherlands currently, 2) Commodity charges should be avoided as a mechanism to deal with over- and under-recovery since it would lead to a great risk of cross-subsidies and 3) Commodity charges are more complex.
Indeed, with option 1, there is no discrimination based on the time you've booked your capacity since the adjustment of the regulated price will apply when shippers will use their capacity (and not when they have booked their capacity as it is the case in the GB system) if section 7 of the draft of framework guidelines applies. Option 2 has been experimented in GB (see 3.1.1) ; the commodity charge creates cross-subsidies to the benefit of short term bookings.

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?

We do not favour such an approach. First, TSO should provide accurate forecasts in term of capacity bookings and should have a view on booking strategy of shippers to try to minimise the regulatory account (e.g. short term bookings will lead to less booked capacity since shippers will be able to profile their needs). Secondly, having an ex-ante separate charge is just another mean to recover revenues like the regulatory account. It will not minimise the cross-subsidies as accurate forecasts will do.

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)?

No, the regulatory account should not be reconciled on exit points toward end-consumers, but only on entry points and exit points towards adjacent balancing zones.
The revenues from exit points towards end-customers should be quite stable (should not create huge under or over recovery), because the reserve price is based on the booking of a peak capacity (i.e. the capacity needed to supply the end-customer during a peak demand). Therefore, the revenues based on capacity will not change whether this peak demand occurs or not.

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.

No. see our answer to question 3.3.3. We think the regulatory account can be recovered by splitting the total under- or over- recovery to all the cross-border points, by the same split as they charged to market parties (see question 2.3.3.).

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?

Flow commitments (e.g. any services provided by shippers and paid for by the TSOs) should be also dealt with in this network code as they impact TSO revenue and therefore global level of tariffs.

In some entry/exit systems it is more and more difficult to distinguish between firm and interruptible capacities because they are firm towards an exit point but interruptible towards the Virtual Trading Point for instance.

4.2 Reserve prices (firm)

4.2.1 Do you agree with proposed level of harmonization?

We do not fully understand this question about the 'proposed level of harmonization', because the FG leaves much freedom to the NC and/or NRA's in setting multipliers and seasonal factors. As already said we disagree with the default rule "multipliers for short-term capacity are on average lower than, or equal to, one". We support a stable and predictable tariff system, which support security of supply (support long term contracts and gives the right signals for investments). In line with option 1 mentioned in article 3.1.1, Energie-Nederland suggests to analyse further these option whereby:

- a multiplier = 1. Meaning NO multiplier is applied and the reserve price for long and short term products is set -proportionally- equal. A possible exception could be within-day capacity (see also 4.2.2.).

- seasonal factors can be applied in order to: a) ensure that reserve prices rise and fall in line with the utilisation rate of the infrastructure and/or b) improve gas transmission system efficiency and cost reflectiveness.

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?

We do not understand what the relation is between under-recovery and multipliers. TSO's should be able the recover the allowed revenues. In answer 4.2.1. we stated already that we do not support the default rule "multipliers for short-term capacity are on average lower than, or equal to, one". Due to the complexity and problems described above we favour adopting a pragmatic approach, whereby reserve prices for short term products defined under the CAM Network Code are set pro-rata to the annual reference price, i.e. without any multiplier being applied.

This would be easy to apply and would, in our opinion, minimise the risk discrimination between network users booking short term capacity (of varying durations) and those booking annual capacity. It would also lessen the risk of material under-recoveries arising, particularly in the absence of congestion.

Network user's can increasingly be expected to profile their capacity bookings at interconnection points going forward. This capability may, in its own right, contribute to under recovery, as capacity is built to meet peak demand and TSOs allowed revenue has typically been set to be recovered based on annual capacity booking. To the extent under recoveries materialise, or the risk of under recovery is perceived to be high, it would still be possible to address these concerns via 2 options:

- Option a) Flat bundled capacity reserve price.
  This could be done by making assumptions about the magnitude and profile of bundled capacity bookings in advance, and setting a flat capacity reserve price to recover the amount of allowed revenue based on these assumptions. This avoids any potential distortions that

might arise from factoring these same profiled assumptions into the reserve prices of different short term products.

- Option b) Applying seasonal factors.
  Seasonal factor can be applied in order to ensure that reserve prices rise and fall in line with the utilisation rate of the infrastructure and/of improve gas transmission system efficiency and cost reflectiveness. We would prefer the use of seasonal factors instead of multipliers, similar to the concept of "revenue equivalence" proposed by ENTSOG in the CAM Network Code discussions. In our opinion seasonal factors are easier to harmonise on either side of the border. Seasonal factors can be determined in an objective and transparent manner. Still they have to be implemented within a clearly designed, limiting framework.

A possible exception to the above mentioned options is within-day capacity. Here, setting the reserve price a little lower (but still cost related) may be appropriate as it will minimise the risk of barriers to within day trading between adjacent market areas and facilitate the efficient use cross border flows for balancing purposes. As gas fired power stations are increasingly having to run more flexibly, due to greater renewables penetration of EU electricity markets, and as this trend is expected to accelerate in the coming years, we could support this approach. We do not think it would necessarily increase the risk of under recovery, as network users are unlikely to shift their capacity booking strategies entirely over to within day capacity just because the reserve price was low[2]. It also may generate more revenue for TSOs, as gas may flow which otherwise would not have.

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?

Yes, because this is consistent with CAM NC.

[2] The spread between the two markets areas will determine the extent to which network users are prepared to pay a premium above the reserve price.

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?

As stated in 4.2.2, we favour a pragmatic approach, whereby reserve prices for short term products defined under the CAM Network Code are set pro-rata to the annual reference price, i.e. without "multipliers" being applied. If necessary a seasonal factor can be used.

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?

We would prefer the use of that seasonal factors are used instead of multipliers, similar to the concept of "revenue equivalence" proposed by ENTSOG in the CAM Network Code discussions. In our opinion seasonal factors are easier to harmonise on either side of the border. Still they have to be implemented within a clearly designed, limiting framework.
Please see our response to 4.2.1. and 4.2.2.

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?

Yes. Setting interruptible prices based on the probability of interruption is required under the Gas Regulation.

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

The discount should not be fixed, but recalculated every year. The discount should reflect "adequately" the risk of interruption and the discount should be higher than the risk of interruption in order to have interruptible capacity competitive with firm capacity.

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?

Yes, because this in line with CAM NC. National entry and exit points should be out of scope of the FG.

4.4. Reserve price (backhaul)

4.4.1 Do you agree with proposed level of harmonization?

Yes, although we think backhaul capacity could be treated the same way as any other capacity products. See also 4.4.2.

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)?

Yes. Energie-Nederland is of the opinion that the backhaul prices should be low and lower than the interruptible capacity prices. As backhaul capacity invariably reduces the operating costs of the system (the reverse flow will only decrease the forward flow) it may be more deserving of a discount than some interruptible capacity products. So applying a reserve price based on the actual marginal costs (= IT and administrative costs), which should be very low, seems appropriate.

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?

Yes, see 4.3.3 above.

5. Virtual IPs

5.1 Do you support the proposed option for Reserve price in Virtual IPs as EU-wide standard?

We assume by virtual IPs is meant: "Where two or more entry or exit points connect the same two adjacent entry-exit systems, the TSOs shall offer the available capacity at one virtual interconnection point (CAM NC, Article 5.1(10))", meaning that IPs are connected to the same gas quality and the same balancing zone. If this is the case, then Energie-Nederland supports virtual IPs on the condition that virtual IPs will result in an increase in cross border capacity, else we do not support virtual IPs.

If virtual IPs are established, they need also to be included in the tariffs FG. Because, net users will face a change in the tariffs (some shippers will face an increase in their invoices, while some will have a decrease), we therefor propose a smooth transition. See also our answer 1.1.

Indeed, there remains a tariff issue if two different tariffs relating to two pipelines arriving at the same IP from the same side of the border are average. We'd rather like to maintain the system with two different tariffs.

6. Bundled capacity products

6.1 Reserve price (Bundled)

Energie-Nederland is still opposed to mandatory bundling, therefor we give answers to the questions in this paragraph as if they were meant as "***optional***" bundled products.

6.1.1 Do you agree with proposed level of harmonization?

Yes.

6.2. Do you support the proposed option for Reserve price (if unbundled) as the EU-wide standard?

The FG states, "the reserve price of the unbundled capacity shall equal the reserve price of either the entry or exit capacity from which the unbundled capacity originates". Energie-Nederland agrees on this principle, but considers that there is no reason why there would be a higher price for unbundled capacities than the reserve price of either the entry or exit capacity from which the unbundled capacity originates**.**

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?

No, see answers 6.3.2 and 6.3.3.

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

We agree that any revenue received from premiums above bundled capacity reserve prices should be split based on the agreement of NRAs either side of the border.

But, if NRAs cannot agree, possibly because different tariff setting methodologies or entry/exit splits apply, then ACER should mediate between these NRAs. Applying a default rule will not necessary give any result sooner, because a NRA can be of the opinion that a 50/50 is more favourable for a member state then another split.

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?

Yes.

7. Payable price

7.1.1 Do you agree with proposed level of harmonization?

Yes.

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?

Yes, because it seems to be the only non-discriminatory solution and avoids cross-subsidies amongst network users. Otherwise, booked capacity will have a fixed price whereas each year auctioned capacity reserve prices may change (as a result of the under/over recoveries). It is also fair that all the shippers, whatever their booking strategies are – short term or long term for instance-, will support tariff variations due to under- or over-recovery or changes in the allowed TSO-revenue.

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?

Yes. See also 6.1.3.

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 tarification 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 tarification 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[3].

8.1. Please provide evidence of concrete problems with the current arrangements for incremental capacities, whereas these problems affect tariff structures in EU.

As a trade association, this is not something we are able to provide specific details on. However, in general, lack of transparency and uncertainty about realisation date, tariffs and their structure is often cited as a problem in the Netherlands. In particular, TSOs investment costs may be insufficiently transparent for network users to gauge the extent to which they are efficient. Also, network users often have to commit to finance incremental investment without knowing the tariffs or tariff structures that will apply.

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?

The level of cost coverage which the subscriptions need to reach in order to trigger the investment decision, should be set to strike a balance between stimulating capacity development and avoiding stranded capacity and so socialization of costs.

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

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).

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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.

We do not have any evidence of "concrete" problems, but as locational signals can be cost reflective and minimise costs for the gas system, they perhaps do not minimise the cost of the power grid in case of the location of a gas-fired power plants. However, if one wants to keep an entry / exit system, such signals must be really limited (i.e. to some large and specific end-customers or gas infrastructures).

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

No.

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.

We do not think that the FG should include further options regarding locational signals. This topic seems to be out of the scope of the FG on tariffs.

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'[4].

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

[4] See summary under weblink: http://www.eui.eu/Projects/THINK/Documents/Thinktopic/PB/PB201201.pdf

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?

Although we agree with the idea to have tariff structures that avoids an incentive for inefficient building of pipelines, we do not think the FG should include these specific incentives, because we are of the opinion that national entry/exit points are not within the scope of this FG.

9.4.2. How could this tariff structure be designed?

See 9.4.1. above.

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:

Shorthaul tariffs, or discounts, are not universally applied across the EU. Where they are applied we think they exist only at national entry and exit points. We do not think it is appropriate to mention them in the FG, or to try and define and any principles or restrictions around their use.

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?

LNG facilities should be considered out of scope of the FG, as should storage facilities.

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.

The mergers of entry-exit zones can lead to a significant change on the competition landscape, since the TSOs lose in this case some marketable points and the corresponding costs have to be allocated to the remaining network points. It should be reminded that the impact of each forecasted merger should be carefully analysed to avoid any detrimental impact on existing net users. The current arrangements for mergers of entry-exit zones are related to particular circumstances. Therefor this question is difficult to comment.

Shippers have wondered, during the drafting of the CAM NC, what was the attended net benefit of this measure and how many IP are potentially subject to this measure? We had no answers until yet. Moreover, great care should be taken to ensure that zone mergers do not have a negative impact on

storage, in particular in terms of their accessibility. The experience gained so far shows that zone mergers may reveal internal bottlenecks, the consequence of which may lead to a degradation of the transmission service at IPs with storage. **This highlights the need for a proper cost-benefit analysis to be carried out before any zone merger, so as to assess the potential investments needed as well as the impact on adjacent infrastructures.**

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.

Unlike in the case of virtual interconnection points, we do not think the FG should attempt to harmonise steps to accommodate the effects of entry-exit zone mergers. We do not think this would be proportional at this stage.

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)[5].

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

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

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

We have no comments, at the moment.

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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