

Endstand 02.11.2012

Questionnaire for the Draft Framework Guideline on Harmonised transmission tariff structures¹

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

Name: Dr. Michael Wunnerlich

Position held: Member of the Management Board, Director of the Representation to the European Union

Phone number and e-mail: +32 2 771 96 42; michael.wunnerlich@bdew.de

Name and address of the company you represent:

German Association of Energy and Water Industries (BDEW)

Avenue de Cortenbergh 52

1000 Brussels

Please indicate, if your company/organisation is:

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

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

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

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

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

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

Once the Network code is in effect it will cause relevant change in the tariffs and this will effect especially already booked capacities via existing contracts. Therefore a transition period needs to be in place as BDEW would like to maintain existing contracts.

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

² The Agency shall carefully consider all responses received (whether confidential or not) subject to the provision that anonymous responses or responses from respondents who do not want their identity to be made public will generally not be taken into consideration. The Agency will make public the number of responses received to formal consultations, the names of the respondents, and all non-confidential responses. Respondents may request that information or data in their responses is treated as confidential. The Agency will assess, in co-ordination with the respondents requesting confidentiality, which information or data shall not be made public and may request from the respondents an explanation of their confidentiality interests and a non-confidential version of their response for publication. The Agency will evaluate confidential responses as transparently as possible without undermining the respondents' confidentiality interests.

There is no need to add further definitions.

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

Generally, BEDW welcomes the idea to set criteria for monitoring as it is an important tool to ensure a correct and coherent implementation of the FG and the NC.

Nevertheless it would not be appropriate to establish the monitoring indicators in the FG or the NC itself. There should be some flexibility to adapt the indicators if this appears necessary. The FG and NC do not allow for easy adaptation. Therefore the indicators should be set outside these documents.

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

2.1. Transparency provisions

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

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

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

- a. Yes, because
- b. No, because.....;
- c. No opinion, because..... (see below)

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

In general, transparent information is essential for market functioning. However it should be carefully assessed which kind of information should not be published at all or only published with a time lag in order to avoid market abuse. Interactions with transparency guidelines are to be considered. Finally we want to note that TSOs already fulfil wide transparency requirements.

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

- a. Yes, because.....
- b. No, because.....⁶
- c. No opinion, because ... (see below)

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

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

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

As mentioned above, each transparency obligation should be carefully reasoned.

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

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

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

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

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

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

- a. Yes, because.....
- b. No, because ... (see below)
- c. No opinion, because.....

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

As distance is ambiguous in an entry-exit-system, usage of equal tariffs for groups of points should be possible with no justification. Such a system is easy to calculate and understand. Suspected cross-subsidisations cannot be avoided totally within an entry-exit-system even if the charged are based on potential cost driver.

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

- a. Yes, because.....
- b. No, because ... (see below)
- c. No opinion, because.....

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

The same reasons as stated in 2.3.1 apply here:

As distance is ambiguous in an entry-exit-system, usage of equal tariffs for groups of points should be possible with no justification. Such a system is easy to calculate and understand. Suspected cross-subsidisations cannot be avoided totally within an entry-exit-system even if the charged are based on potential cost driver.

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

- a. Yes, because.....
- b. No, because ... (see below)
- c. No opinion, because.....

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

In general, cost allocation is a national issue, and rules for cost allocation that are too restrictive reduce the flexibility for national policies to be implemented. Each system has been developed in a particular way and has often been shaped by national, non-economic, public policies, for example, in terms of sending locational signals that support

the priorities of the national system. The split of costs between entry and exit points should be based on the characteristics of the national system and while a 50:50 split may be appropriate in some systems it would not be appropriate for all systems.

Furthermore, within merged entry-exit-zones deviation from a certain split can be necessary and should be set with reference to the network. It can happen that TSOs lost more entry capacity than exit capacity or vice versa due to the merging of zones. A split referring to an entry-exit-system would need price arrangements between TSOs within the entry-exit-zone, which should be avoided.

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

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

A consistent methodology for setting reference prices at entry and exit points is important. There are situations, however, where deviations are justifiable with respect to the objectives of the Gas Regulation, such as avoiding cross subsidies and cost reflectiveness.

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

- 2.4.1. Do you agree with proposed option to base tariffs for entry and exit capacity on the transmission network to and from gas storage facilities at an adequate discount to other entry and exit points on the TSO?**
- a. Yes, because ... (see below)
 - b. No, because.....
 - c. No opinion, because.....

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

BDEW agrees because gas withdrawn from storage facilities is already subject to tariffs at the entry (cross-border) points. Furthermore, storages are important facilities which can help to keep the transportation system in balance. Finally, storage facilities have a central role for security of gas supply in Europe.

However, it should be assessed whether details can be ruled on a national level in order to consider the different geographical location of storages, storage markets and products as well as the power of the TSOs to steer and control in- and outflows of storages.

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

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

- a. Yes, because.....
- b. No, because.....
- c. No opinion, because ... (see below/above)

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

Since each entry-exit-system and pricing system is different, we doubt that an efficient pricing of storage points can immediately be achieved by harmonized discount rates. It should be subject to further careful investigation to which extent a harmonization of discount rates can be practically achieved.

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

- a. 0, because....
- b. 0-30%, because.....;
- c. 30-50%, because.....

- d. 50-80%, because...
- e. 80-100%, because....
- f. No opinion or other suggestions, because ... (see below)

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

As stated in 2.4.2. each entry-exit-system and pricing system is different. Therefore, it is difficult to determine a common discount rate. But depending on the pricing structure in the respective entry-exit-system, entry-exit-tariffs at storage facilities should at least be comparable to other flexibility instruments in the market. Therefore, a useful option could be to have tariffs only for one direction of storage flows, e. g. only for exit (not entry) comparable to flexibility from interruptible supply contracts.

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.

The draft framework guidelines are subjected to transmission tariff structures; therefore, any consideration of transmission tariff levels seems to be going beyond the scope of the draft tariff FG, as this would inevitably require the harmonisation of methods to define underlying factors such as regulated revenue, accounting standards etc.

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 ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

It can be consistent, when rules on reserve prices for short term products, revenue recovery and the payable price have to be designed in a way that incentives exist for enabling short term trading and for keeping both sufficient infrastructure in the long term with revenue recovery as well as liquid markets which guarantee the efficient use of all gas commodities.

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

- a. Yes, because ...
- b. No, because.....
- c. No opinion, because ... (see below)

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

The way forward for day-ahead capacity needs to recognise the need to ensure that there is an open market process that will enable all market participants to access and place a value on capacity subject to reserve price parameters if appropriate. Imposing a day-ahead reserve price could be distortionary if the reserve price does not reflect market values. In such circumstances, capacity allocation may not be efficient and market participants may be unable to take advantage of market spreads and optimise their portfolios. Liquidity and efficiency of the market could be constrained.

On the other hand short term capacity multipliers of less than one incentivizes short term bookings and therefore creates the risk of losing long term signals and under-recovery. Experiences in Germany show that shipper tend to book short-term, especially in cases where no contractual congestion is expected. In such cases a minimum reserve price of Zero would lead to substantial under-recovery. To introduce an appropriate regulated reserve price is a sensible task.

3.2 Regulatory account

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

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

Yes, it is important to set reference prices which will be adjusted periodically to minimise the difference between allowed and collected revenues so that you reduce the likelihood of large over and under recoveries which create tariff volatility. Tariff stability is important to the market and tariffs should be set to minimise the need for ex-post adjustments.

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

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because....

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

A revenue cap is a regulatory tool ensuring that a TSO earns the amount of revenue that it is entitled to earn; generated over- and under- recovery of revenues are to be returned to customers in a timely manner via transmission tariffs.

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 ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

It is important to preserve the balance between timely cost recovery and sudden adjustments to tariff. Each network across the European Union (EU) is different and has different requirements that it must be considered in terms of the level and timing for servicing debt commitments.

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.

It is difficult to assess the level of auction premiums. While there may be auction premiums at one interconnection point, there may be under recovery of allowed revenue at another point. This is of particular importance considering that the draft tariff FG states that all entry and exit points will contribute to the reconciliation of the regulatory account through adjustment of either the reserve or regulated price. It would not make sense, for example, to keep auction one-time-premiums at one IP for solving congestion, if one-time-under recovery at another point meant that reserve prices at all IPs would increase. The use of auction premiums to solve congestion should however be considered, if there are consistently over recovered regulated revenues at one interconnection point.

One has to differentiate between volatile auction premiums which only occur for one or several products and stable auction premiums which occur permanently. Especially in the first case, auction premiums should primarily be used to reduce under-recovery at other points.

3.3. Reconciliation of Regulatory accounts.

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

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

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

BDEW prefers option 1 because it is the least complex alternative. Reducing complexity should be an overarching objective.

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.

The principle when setting tariffs ex ante should be to minimize the likelihood of under and over recovery of revenue. As outlined below BDEW seeks clarification on how this separate charge might work and the conditions under which it would apply. The TSOs should provide forecasts for capacity bookings in the best of their belief to try to minimise the regulatory account.

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 ... (see below)

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

In some instances, it may be appropriate to apply the reconciliation of the regulatory account to all entry and exit points, e.g. in a revenue cap regime with captive demand.

There should be some flexibility for the TSO, with NRA approval, to choose where to apply under or over recovery of revenue. In a situation where a TSO is heavily dependent on revenues from cross border flows it would not be practical to simply increase the tariffs.

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 ... (see below)
- c. No opinion, because....

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

Transparent, cost-reflective tariffs are one of the most important and essential component in establishing successful regulated third party access within and between Member States. Facilitation of trade and competition can be enhanced when the underlying transmission tariffs are properly set up. Implementing rigid rules could have unintended consequences. Therefore, a fixed relation of revenues from entry points and from exit points should not be set up.

The split relationship of the under- or over- recovery across different points could be set by TSOs, with NRA approval, based on the characteristics of the system and the customer base. This would give flexibility for TSOs to manage the allocation of their costs to ensure effective recovery of allowed revenues. However, a well-balanced cost allocation between different market players should be guaranteed.

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

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

4.1 General

Today, gas is traded continuously with re-nomination rights. Discussions in some member states are trending towards restricting the re-nomination rights and/or using market coupling in order to efficiently use available capacity to achieve more liquidity and price convergence in the respective markets. This is why an integrated approach to CAM/CMP and tariffs is required to support this.

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

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

It is sufficient to have rules on just firm, interruptible and non-physical backhaul capacity products in the tariff framework guidelines. Tariffs for further capacity products should be derived from the 3 tariffs mentioned above respectively and specified on a national level.

4.2 Reserve prices (firm)

4.2.1 Do you agree with proposed level of harmonization?

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

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

[BDEW refers to the responses to question 4.2.3](#)

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

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

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

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

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

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because....

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

A suitable proposal for the pricing of short term capacity should apply where the CAM NC applies: only at interconnection points.

The determination of the annual reference price as a basis for the reserve price for all products and durations is a good basis.

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.

Short term capacity tariffs should take account of the need for system integrity, reflect the drivers of network costs and the possibility of balance capacity risk and manage cost

recovery. A key consideration when setting short term tariffs should be efficient use of the network, particularly incentivising use of the network during periods of lower usage such as during the summer months. In addition, short term tariffs should provide an incentive to book long term capacity where network users have a requirement for long term capacity. Overall short term tariffs should be set in such a way as to minimise cross subsidisation between different types of users, to minimise transmission tariff volatility and to provide stable revenue recovery.

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

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

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

4.3 Reserve prices (interruptible)

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

- d. Yes, because ... (see below)
- e. No, because.....
- f. No opinion, because.....

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

When setting interruptible reserve prices at a discount to firm capacity, the discount should be based on the likelihood of interruption so that the pricing reflects the value of the product.

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

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

Setting a fixed discount would seem to go against article 14 (1b) of Regulation (EC) No. 715/2009 which states that the price of interruptible capacity shall reflect the probability of interruption.

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

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

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

The pricing of interruptible capacity based on the likelihood of interruption should be applied to interconnection points.

4.4. Reserve price (backhaul)

4.4.1 Do you agree with proposed level of harmonization?

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

[Please see the responses to questions 4.2.2 and 4.2.3](#)

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

- a. Yes, because.....
- b. No, because..... (see below)
- c. No opinion, because.....

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

[Non-physical backhaul which is firm should be priced the same as comparable flow firm capacity and non-physical backhaul that is interruptible should be priced the same as comparable flow interruptible capacity.](#)

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

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

A suitable proposal, as outlined in the response under 4.4.2, for the pricing of non-physical backhaul should only apply to interconnection points.

Non-physical backhaul capacity should be treated no differently to interruptible capacity on an entry exit system i.e. the pricing of interruptible capacity is based on the likelihood of interruption.

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 ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

BDEW is in favour of EU-wide standards since they can help to stimulate cross border trade. However, it should be subject to further careful investigation to which extent a harmonization can be practically achieved since for developing an optimal mechanism at least the different regulatory regimes must be taken into account. The draft FG mandates that the Tariff NC elaborates a combination mechanism for the reserve price for VIPs.

6. Bundled capacity products

6.1 Reserve price (Bundled)

6.1.1 Do you agree with proposed level of harmonization?

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

Please see the responses to questions 6.1.2 and 6.1.3.

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

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

The sum of the reserve prices for unbundled entry and exit capacity at cross-border points should be used as the bundled reserve price. It is important that the individual reserve prices for cross-border entry and exit capacities are aggregated to calculate the bundled reserve price to ensure revenue recovery.

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

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because....

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

As the requirement for auctions and bundled products through the CAM NC is at interconnection points only, then the bundled reserve price should apply only at interconnection points.

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

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

Would you propose alternative measures to those proposed?

The reserve price for unbundled capacity at an interconnection point should reflect the reserve price of either the entry or exit capacity from which the unbundled capacity originates. Having different prices for bundled and unbundled capacity would seem discriminatory, particularly if the intention is to price one product at a higher level to make the other product more attractive.

6.3 The Network Code on Tariffs shall specify that the revenues from Reserve price of bundled capacity products shall be attributed to the TSOs proportionally to the Reserve prices of their respective capacities in the Bundled Capacity. The revenues from the auction premium from bundled capacity above the Reserve price shall be split according to agreement between the relevant national regulatory authorities. Furthermore, the Network Code on Tariffs shall in the case that no agreement is concluded before the auction, specify that the revenues from the auction premium shall be split equally between the TSOs.

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

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

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

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

- a. Yes, because ... (see below)
- b. No, because.....
- c. No opinion, because.....

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

BDEW believes that in the event that there is no agreement between NRAs before an auction about the splitting of any potential auction premium that the split of this revenue should be a 50:50-split of each TSO at an interconnection point. An equal split is a fair and practical approach and is currently in place in Germany.

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

- a. Yes, because ... (see below)
- b. No, because...
- c. No opinion, because.....

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

As the requirement for auctions and bundled products, through the CAM NC, is at interconnection points only then the default rule for the splitting of auction premia revenues should only apply at interconnection points.

7. Payable price

7.1.1 Do you agree with proposed level of harmonization?

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

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

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

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

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

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

- a. Yes, because ... (see below)
- b. No, because...
- c. No opinion, because.....

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

Yes, the application of any specified option with regards to payable price should only be at interconnection points as the payable price is a feature of auctions. The capacity allocation mechanism network code will be used to implement auctions but only at interconnection points.

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

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

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

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

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

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

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.

From BDEW point of view this FG and future NC on harmonized tariff structures is not the place to solve any issues related to incremental capacity processes. This topic is being studied by specific working groups, and due to the high level of interdependency with other issues than just tariffs (e.g. CAM, CMP, and security of supply) our opinion is that further discussion among market participants is much needed to clarify the topic at a high level before providing specific guidelines.

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.

[Please see the response to question 8.1.](#)

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

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

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

Please see the response to question 8.1. As stated in this response, incremental capacity issues have significant interactions with other issues that go beyond the scope of tariffs and therefore further work needs to be done on all the interdependent aspects of a market test for incremental 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.

Locational signal will result from a cost-allocation methodology, which takes into account the main cost drivers (such as a distance).

Member state governments and NRAs shall have to apply additional specific measures which can encourage/discourage the usage of the network at particular locations (e.g., gas storages and LNG terminals). It is important that national characteristics are taken into consideration.

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

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

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

Regarding our response to question 9.1. BDEW believes that locational signals will result from the cost-allocation methodology.

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

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

BDEW does not believe that more options are needed.

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

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

Entry-exit systems require users who want to take gas onto the system and deliver it to others in the system to buy entry capacity (to allow them to flow gas from the entry point to the virtual hub) and exit capacity (to allow them to flow gas from the virtual hub to the exit point). If users want to flow significant volumes of gas from an entry point to a nearby exit point they may consider building their own pipeline between the two points if that is cheaper for the user than paying for entry and exit capacity plus any additional revenue recovery charges (as their own pipeline would also be subject to less onerous tariff regulation in general). Building additional pipelines when there is capacity available on the system may not be the most efficient way to develop the network. Whilst it must be considered

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

that permitting construction of such a pipeline might not be a realistic option in all EU Member-States. E.g. in GB a user could decide to locate a CCGT (= Combined Cycle Gas Turbine power plant) 1 km from a large entry point and decide to build their own pipeline from the large entry point to their CCGT. This is an example of how such a concern arises in practice, stemming mainly from inefficiency of constructing an additional pipeline.

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

- a. Yes, because.....
- b. No, because ... (see below).
- c. No opinion, because.....

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

BDEW suggests keeping this aspect out of the FG and addressing it in the context of incremental capacity.

Given that short haul is a specific/exceptional measure to encourage usage of the network at that particular location, its continued use should be determined by NRAs, taking due account of specific circumstances in local markets.

9.4.2. How could this tariff structure be designed?

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

As stated in our response to question 9.4.1 BDEW is in favour that this matter should be best determined by NRAs.

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

- a. Maximum 50 km (only distances of maximum 50 km can be considered as shorthaul capacities)

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

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

At least, a harmonized criterion should be retained in each entry-exit zone to prevent discrimination. The criteria should be left at the national level.

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 ... (see below)
- b. No, because....
- c. No opinion, because....

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

Compare remarks at 2.4.1:

BDEW agrees because gas from storage facilities is already subject to tariffs. Furthermore, storages are essential facilities which help to keep the system in balance.

Detailed design also for storage and/or LNG needs to be specified.

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.

Entry-exit zone mergers are possible as long as TSOs have the facility to recover allowed revenue from other points. Where revenue recovery is not possible, such as in a price cap regimes or where there is no captive market then problems can ensue.

Experience in Germany has shown that mergers of entry-exit zones are possible without arranged prices and Inter-TSO-compensation. However the fundamental requirement for this is the facilitation of possible deviations from a specific entry-exit split and also that different price determination methodologies are possible within a merged entry-exit zone. Lost revenues of former IPs have to be re-allocated to still existing entry and exit points in a way most suitable for the networks.

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.

In a merger of entry-exit zones, TSO will seek compensation for the loss of revenue due to the elimination of entry and exit points on the border between the zones. Recovering lost revenue by increasing prices at other points should be possible where the price mechanism in the affected zones is under a revenue cap regime or a rate of return regime.

11. What additional tariff structure measures do you envisage could improve the network code?

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please also, if relevant, suggest and explain reasons why any of the proposed measures should rather have been left to voluntary exchange of best practices at national level (e.g. via Guidelines of Good Practice)¹⁰.

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

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

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