ACER

European Union Agency for the Cooperation of Energy Regulators

Agency Report

Analysis of the Consultation Document on the Gas Transmission Tariff Structure for France

NRA: Commission de Régulation de l'Énergie TSO: GRTgaz S.A. and Teréga S.A.

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Contents

1. ACER conclusion

(1)   The Commission de Régulation de l'Énergie (CRE) proposes to apply a reference price methodology (RPM) based on the cost drivers of capacity and distance supplemented with flow scenarios[1] and a unit cost equivalence applied to the cross-system and intra-system use of the network[2]. The methodology is applied to allocate the revenue associated with the main transmission network, while a second capacity weighted distance (CWD) methodology is used to allocate the revenue associated with the regional transmission network[3]. The revenue associated with regional networks is recovered using non-transmission charges. For the methodology applicable for the main transmission network, CRE maintains the same RPM changing only the proposed flow scenarios and a lower discount granted to connections with storage facilities. CRE proposes to apply 60% discounts to entry points from and exit points to storage facilities. An entry-exit split of 34/66% is applied as an input to the methodology. Tariffs are equalised based on the following groups of points: entry points from LNG facilities, entry interconnection points (IPs), entry points from underground storage facilities (UGS), domestic exit points and exit points to UGS. No commodity-based tariffs are proposed. The proposed tariffs are applicable for a period of four years from 1 April 2024 to 1 April 2028 and are only adapted to reflect annually the inflation and the reconciliation of the regulatory account.

(2)   The proposed flow scenarios are used to calculate the distance cost driver applicable to all points of the main transmission network based on several calculation steps. The Agency notes that the application of flow scenarios is an option foreseen by the Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (NC TAR) under Articles 3(20) and 8(1)(c). These articles do not provide rules for the application of this option[4]. The calculations to implement the proposed flow scenarios should be appreciated within the broader legal context and should be subject to the requirements applicable to the RPM, as laid out in Articles 26(1), 27(5) and 30(1)(a) of the NC TAR.

(3)   CRE proposes to calculate the distance cost driver based on the shortest distance between entry and exit points. This calculation approach differs from the standard CWD methodology as described in Article 8 of the NC TAR (when applied without flow scenarios) which is based on the average distance between network points. CRE argues that the proposed approach reflects better the network topology and its underlaying costs. While the Agency finds the explanation provided in the consultation document plausible, CRE does not demonstrate sufficiently the extent to which this approach reflects the use of the network according to likely supply and demand patterns, as

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[1] Flow scenarios as defined in Article 3(20) of Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (NC TAR).

[2] CRE proposes to use a result of 0% for the cost allocation assessment as a target condition for the proposed methodology.

[3] The costs of the transmission network are approximately EUR 1,000 million/year, while the costs of the regional network are approximately EUR 1,200 million/year.

[4] According to the Article 3(20) of the NC TAR, "*'flow scenario' means a combination of an entry point and an exit point which reflects the use of the transmission system according to likely supply and demand patterns and for which there is at least one pipeline route allowing to flow gas into the transmission network at that entry point and out of the transmission network at that exit point, irrespective of whether the capacity is contracted at that entry point and that exit point.*"

required by the definition of flow scenarios in Article 3(20) of the NC TAR, and as recommended by the ACER 2019 Report on the French tariff consultation[5].

(4)   CRE proposes to exclude 'non-economical' combination of points from the calculation of the shortest distance between entries and exits to reflect the fact that there are more competitive routes to transport gas to the same destination across the EU[6]. In addition, CRE proposes summer and winter scenarios to adapt the distance cost driver to reflect the seasonal use of underground gas storages which are assumed to supply only domestic consumers.

(5)   Based on these conditions, CRE uses an algorithm to calculate the distance cost driver for each point of the network assuming that each exit point is supplied by the closest entry point, as long as there is subscribed capacity available at each entry point.

(6)   Finally, tariffs applicable to entry points are calculated using the formulas of the CWD methodology as per Article 8 of the NC TAR using the distance drivers resulting from the above-mentioned flow scenarios. Tariffs applicable to exit points are calculated using a set of five equations and five unknowns that are based on the cost allocation assessment (CAA[7]) in Article 5 of the NC TAR. The calculation proposed by CRE establishes the same unit cost for tariffs applicable for the intra-system use of the network (i.e. domestic exit points) and the cross-system use of the network (i.e. IP exits).

(7)   The NC TAR foresees two instruments to assess the cost reflectivity of the proposed RPM: the CAA and the comparison with the CWD methodology. CRE proposes to use the former as a condition for the derivation of tariffs. At the same time, CRE does not assess the impact on tariffs that these conditions have. Regarding the latter of the two instruments, CRE provides a comparison with the CWD methodology as required by Article 26(1)(1)(vi). However, the Agency remarks that the assessment provided in the consultation document does not serve as a meaningful counterfactual to assess the main elements of the proposed RPM, which are the flow scenarios and the unit cost equivalence. This objective is laid out in Recital 3 of the NC TAR which should be read together with Article 26(1)(a) requiring a description of the proposed RPM. In its 2019 Report on the French tariff consultation, the Agency already referred to the need of providing such counterfactual to assess the proposed methodology[8].

(8)   Finally, CRE proposes, as provided in the French law[9], a storage compensation fee that is charged as a non-transmission charge. The compensation fee intends to allow storage operators to allocate

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[5] https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/Agency%20Report%20-%20analysis%20of%20the%20consultation%20document%20for%20France.pdf

[6] This is applicable to the Obergailbach entry point in connection to the Oltingue exit IP (to export gas to Switzerland and Italy), and the Virtualys entry point in connection to the Obergailbach exit IP (to export gas to Germany).

[7] Throughout this document, 'CAA' is used to refer to the capacity cost allocation comparison index described in Article 5(3)(c) of the NC TAR.

[8] See paragraphs 8 and 64 of the ACER 2019 Report on the French tariff consultation.

[9] Article L.452-1 du code de l'énergie

their capacities at their market value through auctions with a zero-reserve price. This fee is related to the costs of storage facilities that is partially recovered using TSO tariffs[10].

(9)　The Agency, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR, concludes that:

- The consultation document includes all the elements listed under Article 26(1) of the NC TAR, however the level of detail used in the description and the assessment of the RPM together with its parameters and assumptions, is not sufficient to fully assess the compliance with Article 7 of the NC TAR, this is particularly relevant for the proposed flow scenarios and the unit cost equivalence.
- The Agency concludes that the RPM is compliant with the requirement of transparency, understood as enabling network users to reproduce and forecast tariffs.
- Based on the information included in the consultation, the Agency cannot conclude that the proposed RPM is compliant with the requirements of cost reflectivity, prevention of undue cross-subsidisation and non-distortion of cross-border trade listed under Article 7 of the NC TAR.
- The Agency concludes that the RPM is compliant with the requirement of avoiding volume risk and of ensuring non-discrimination.
- The criteria for setting the commodity charge are not applicable.
- The criteria applicable for non-transmission services are met.

(10)　Overall, the Agency acknowledges the aim of the proposed methodology to achieve a high degree of cost reflectivity. At the same time, the Agency remarks that this objective results in a complex methodology that requires more transparency and better justifications to prove the compliance with the requirements laid out in Article 7 of the NC TAR. The Agency particularly refers to the need of providing additional justifications for the proposed flow scenarios and additional analysis on the proposed unit cost equalisation.

(11)　Based on this analysis and related the proposed flow scenarios, the Agency provides the following recommendations for CRE, when publishing its motivated decision pursuant to Article 27(4) of the NC TAR:

- Regarding the use of the shortest distance principle to calculate the distance cost driver, CRE should support with evidence, in its motivated decision, that gas flows to network exits are likely transported from the closest entry point of the network. This recommendation is based on the recommendation already made by the Agency in paragraph 7 of the 2019 Agency Report on the French tariff consultation[11] and it is further detailed in paragraph (45) of this Report.
- Regarding the non-economical combination of entry and exit points used in the calculation of the distance cost driver, CRE should demonstrate, in its motivated decision, that the application of non-economic combination of points is consistent with the possibility of sourcing gas to neighbouring markets from the French hub. This explanation shall show that the exclusion of specific combination of points is compatible with the approach to calculate the distance cost driver as the shortest distance between entry and exit points.

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[10] Storage compensation costs are approximately EUR 400 million / year for the 2020-2023 period.

[11] See paragraph 7, point 3 of the ACER 2019 Report on the French tariff consultation.

- Regarding the summer and winter scenarios that are part of the proposed flow scenarios, the Agency reiterates its recommendation from the ACER 2019 Report on the French tariff consultation[12] that CRE should, in its motivated decision, support with more evidence the exclusion of storage points from the calculation of cross-system flows.
- Regarding the algorithm used to calculate the distance cost driver, the Agency recommends CRE to better explain, in its motivated decision, the calculation steps and the outcome of the optimisation algorithm as referred to in paragraph (65).

(12) The Agency recommends that CRE further assesses, in its motivated decision, the impact of the proposed flow scenarios and unit cost equalisation on the distance cost driver and on tariffs, respectively. For this purpose, the Agency proposes that CRE provides a comparison of the proposed RPM with the CWD methodology that serves as a counterfactual for the proposed flow scenarios and the unit cost equivalence. This requires calculating two different versions of the CWD methodology as detailed in paragraphs (72), (73) and (78) of this Report. The Agency proposes that CRE calculate the CAA for each of these CWD methodologies. The Agency already invited CRE to provide a similar comparison in the 2019 Agency Report on the French tariff consultation[13], which CRE has not provided. The Agency proposes that CRE provides such information in its motivated decision and in future consultations as part of the justification of the proposed RPM .

(13) The Agency further recommends that CRE provides in its motivated decision a calculation of the unit cost equivalence that allows identifying the contracted capacity, the distance and the tariffs applicable at each entry and exit point[14], that are related to the cross-system and intra-system use of the network.

(14) Finally, the Agency refers to the following points for CRE to consider when publishing its motivated decision pursuant to Article 27(4) of the NC TAR:
- The Agency proposes that the discounts to entry points from and exit point to storage are made part of the simplified tariff model with a view to enabling transparency and allowing network users to adjust the level of the proposed discount and to understand the impact of this adjustment and the subsequent rescaling adjustment on tariffs.
- Regarding the proposed contracted capacity forecast, the Agency proposes that CRE publishes the differences between the forecasted contracted capacity and the actual contracted capacity before each tariff period. This is particularly relevant as the forecast is completed for a four-year period, instead of the more standard yearly period. The publication should inform stakeholders about the accuracy of the contracted capacity forecast without leading to the review of the RPM.

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[12] See paragraph 7, point 5, and paragraph 54 of the ACER 2019 Report on the French tariff consultation.

[13] See paragraph 8 and 64 of the ACER 2019 Report on the French tariff consultation.

[14] Where points are equalised or clustered, the aggregated values should be used.

2. Introduction

(16)   Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas (NC TAR).

(17)   Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems.[15] This Report presents the analysis of the Agency for the transmission system of France.

(18)   On 7 August 2023, the Commission de Régulation de l'Énergie (CRE) forwarded the consultation documents to the Agency. The consultation was launched on 26 July 2023 and remained open until 9 October 2023. On 9 Novembre 2023, CRE submitted a summary of the consultation responses to the Agency. CRE informed the Agency that the summary will be published together with the motivated decision. The Agency has taken these responses into consideration for this analysis. Within five months following the end of the final consultation, and pursuant to Article 27(4) of the NC TAR, CRE shall take and publish a motivated decision on all the items set out in Article 26(1) of the NC TAR. At the same time, the Agency notes that the deadline for the publication of the stakeholder responses and their summary is one month after the end of the consultation.

(19)   CRE already carried out one public consultation pursuant to Article 26(1) of the NC TAR, which have been followed by the respective motivated decision. The NRA decision was published in 2020 and is applicable for the period 1 April 2020 – 1 April 2024[16]. The current consultation document published by CRE takes into account some of the recommendations issued by the Agency in its 2019 Report on the Tariff Consultation for France.

(20)   The Agency thanks CRE for the availability to discuss the proposed RPM and for the information provided to the multiple requests made.

Reading guide

(21)   In Section 3, this document first presents an analysis on the completeness, namely if all the information in Article 26(1) has been published. Section 4 assesses the proposed reference price methodology. Section 5 focusses on the compliance, namely if the RPM complies with the requirements set out in Article 7 of the code, if the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met and if the criteria for setting non-transmission tariffs as set out in Article 4(4) are met. Section 6 includes other comments. This document contains two annexes, respectively the legal framework and a list of abbreviations.

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[15] With the exception of Article 10(2)(b), when different RPMs may be applied by the TSOs within an entry-exit zone.

[16] https://www.cre.fr/documents/Deliberations/Decision/tarif-d-utilisation-des-reseaux-de-transport-de-gaz-naturel-de-grtgaz-et-terega

3. Completeness

3.1 Has all the information referred to in Article 26(1) been published?

(22) Article 27(2)(a) of the NC TAR requires the Agency to analyse whether all the information referred to in Article 26(1) of the NC TAR has been published. The completeness of the final consultation is a necessary step to ensure the transparency of the calculation toward stakeholders. As laid out in Recital 2 of the NC TAR, "*these requirements should enable network users to understand better the tariffs set for both transmission services and non-transmission services, as well as how such tariffs have changed, are set and may change*".

(23) The Agency remarks that Article 26(1) of the NC TAR establishes transparency requirements applicable for the RPM, its calculation steps, and the parameters and assumptions that are used as an input, all of which should be motivated in the final decision. Article 27(4) of the NC TAR states that the NRA "*shall take and publish a motivated decision on all items set out in Article 26(1) of the NC TAR*". Article 30(1)(a) of the NC TAR requires the publication of the "*parameters used in the applied reference price methodology that are related to the technical characteristics of the transmission system*". Article 26(1)(a) of the NC TAR further requires a description of the RPM including:

- "*The justification of the parameters used that are related to the technical characteristics of the system*", as required by Article 26(1)(a)(i)(1).
- "*The corresponding information on the respective values of such parameters and the assumptions applied*", as required by Article 26(1)(a)(i)(2).

(24) The Agency acknowledges that CRE provides in the consultation document additional information that had not been included in the 2019 consultation. The Agency considers that the consultation document contains all the required elements listed under Article 26(1). At the same time, the level of detail used in the description and the assessment of the RPM is not sufficient to fully assess its compliance with Article 7 of the NC TAR. Table 1 below summarised the areas where additional information is required.

Table 1 Checklist information Article 26(1)

Article	Information	Published: Y/N/NA
26(1)(a)	the description of the proposed reference price methodology	Partially. Improved description but still lacking additional justifications for the flow scenarios. The CWD-comparison is provided in the consultation document, but it's use is limited to assess the proposed RPM, which is complex.
26(1)(a)(i) **26(1)(a)(i)(1)** **26(1)(a)(i)(2)**	the indicative information set out in Article 30(1)(a), including: • the justification of the parameters used that are related to the technical characteristics of the system	Partially. The flow scenarios are described, however the justification is not sufficiently detailed.

	• the corresponding information on the respective values of such parameters and the assumptions applied	
26(1)(a)(ii)	the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9	Yes
26(1)(a)(iii)	the indicative reference prices subject to consultation	Yes
26(1)(a)(iv)	the results, the components and the details of these components for the cost allocation assessments set out in Article 5	Yes. The Agency proposes CRE to provide a CAA calculations for the CWD methodology to assess the unit cost equivalence and the flow scenarios
26(1)(a)(v)	the assessment of the proposed reference price methodology in accordance with Article 7	Partially.
26(1)(a)(vi)	where the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8, its comparison against the latter accompanied by the information set out in point (iii)	Yes. The Agency proposes that CRE provide a more meaningful CWD comparison that serves as a counterfactual to assess the main elements of the proposed RPM (i.e. flow scenarios and unit cost equivalence)
26(1)(b)	the indicative information set out in Article 30(1)(b)(i), (iv), (v)	Yes
26(1)(c)(i) **26(1)(c)(i)(1)** **26(1)(c)(i)(2)** **26(1)(c)(i)(3)**	where commodity-based transmission tariffs referred to in Article 4(3) are proposed • the manner in which they are set • the share of the allowed or target revenue forecasted to be recovered from such tariffs • the indicative commodity-based transmission tariffs	Yes
26(1)(c)(ii) **26(1)(c)(ii)(1)** **26(1)(c)(ii)(2)** **26(1)(c)(ii)(3)** **26(1)(c)(ii)(4)**	where non-transmission services provided to network users are proposed: • the non-transmission service tariff methodology therefor • the share of the allowed or target revenue forecasted to be recovered from such tariffs • the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3) • the indicative non-transmission tariffs for non-transmission services provided to network users	Yes
26(1)(d)	the indicative information set out in Article 30(2);	Yes
26(1)(e) **26(1)(e)(i)** **26(1)(e)(ii)** **26(1)(e)(iii)** **26(1)(e)(iv)**	where the fixed payable price approach referred to in Article 24(b) is considered to be offered under a price cap regime for existing capacity: • the proposed index; • the proposed calculation and how the revenue derived from the risk premium is used • at which interconnection point(s) and for which tariff period(s) such approach is proposed • the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 24 are proposed	Not applicable.

4. Assessment of the proposed reference price methodology

(25) The section first presents the rationale of the RPM and the calculation steps. It continues by assessing the capacity and the distance cost driver, which is based on the proposed flow scenarios. It continues by discussing the proposed calculations for tariffs applicable to entry and exit points, the latter of which are based on the unit cost equalisation condition. Finally, the section discusses the comparison with the CWD and the CAA.

4.1 Rationale of the proposed RPM

(26) CRE proposes an RPM based on the cost drivers of capacity and distance, the latter calculated using flow scenarios, in addition to various calculation steps which are central to the methodology. This RPM is a complex methodology not resembling other methodologies examined as part of the implementation of the NC TAR.

(27) On page 76 of the consultation document CRE states that the main objectives of the proposed methodology are non-discrimination, cost reflectivity and tariff stability. In addition, CRE explained bilaterally to the Agency that the purpose of the methodology is to allocate costs based on the cost drivers of capacity and distance, as it occurs in the CWD methodology while reflecting a number of conditions that are not captured by the standard CWD methodology. These are:

- The assumption that intra-system flows generally travel a shorter distance than that resulting from the CWD methodology. CRE explained to the Agency that a CWD methodology with no flow scenarios would reflect a situation where all the consumption is located at the centre of the country, which does not reflect the consumption pattern and distribution of demand within the French network. CRE argued that a shorter distance for the distance cost driver is more cost reflective[17].
- The assumption that *some* cross-system flows (i.e. gas transported to exit IPs) do not enter the network at the entry point that is closest (as it is assumed for the rest of points).
- The seasonal utilisation of UGS, which are filled during the summer and used to supply domestic exit points during the winter.
- The condition whereby the unit costs associated with the cross-system and intra-system use of the network should be equal.

4.2 Calculation steps of the proposed RPM

(28) CRE maintains the same RPM from 2020, changing only the proposed flow scenarios and a lower discount granted to connections with storage facilities. As understood from the consultation document and from the clarifications provided by CRE, the proposed methodology is based on a number of calculation steps:

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[17] CRE explains in the consultation document that entry points across the French network are distributed evenly, and that gas transported to domestic exit points generally enter the network at the closest entry point. See page 80 of the consultation document.

(29)   First, CRE establishes the entry-split of 34-66%, which remains unchanged compared to the previous regulatory period.

(30)   Second, CRE calculates the distance cost driver that is applicable to all entry and exit points of the network. The distance cost driver is established based on a number of assumptions and calculation steps which CRE proposes as flow scenarios:
- As a general rule, the distance cost driver is calculated for each exit point as the distance to the closest entry point as long as there is subscribed capacity available at that entry point.
- In addition, CRE proposes two constraints applicable to the previous rule, whereby two combinations of points cannot be considered (see paragraph (51). As an outcome, the distance applicable for the Obergailbach and Oltingue exit points increases.
- Furthermore, CRE proposes to apply summer and winter scenarios to reflect the different role that UGS play throughout the year.
- Based on the conditions in the previous points, CRE uses an algorithm to pair exit points and entry points.

(31)   Third, CRE calculates the tariffs applicable to entry points using the CWD equations. The distance used for this calculation is based on the distance values derived in the previous paragraph. For this calculation, CRE proposes to equalise separately three different groups of points: entry IPs, entries from LNG and entry points from storage.

(32)   Fourth, CRE calculates the tariffs applicable to exit points. For this purpose, CRE proposes a different calculation, compared to the one applicable at entry points, which is based on the equalisation of the unit costs for cross-system and intra-system use. CRE bases this calculation on the equations of the CAA as per Article 5 NC TAR.

(33)   Fifth, domestic exit points are considered as an homogenous group of points. The tariff charges that are applied to the domestic exit points are equalised. This equalisation has no impact on the distribution of costs between transit and domestic customers, in line with the NC TAR.

(34)   Sixth, CRE proposes to apply a 60% discount to entry points from and exit points to storage facilities, in line with the NC TAR.

4.3 Forecast of the capacity cost driver

(35)   CRE proposes to use capacity as an input to the RPM. The forecasted contracted capacity is established for a period of four years during which the proposed tariffs are applicable. During this time, the capacity forecast is not recalculated on a yearly basis, and tariffs are only updated based on inflation and on the reconciliation of the regulatory account.

(36)   The Agency notes that the capacity cost driver affects tariffs at individual network points. In addition, this cost driver has a greater relevance than in other methodologies for the following reasons:
- First, the contracted capacity forecast impacts the distance cost driver assigned to each point on the network.

- Second, the contracted capacity forecast is an input to the unit cost equivalence which impacts the calculation of tariffs. CRE does not assess how the changes in the contracted capacity forecast can impact this condition and subsequently, how it can impact tariffs.

4.3.1.1   ACER assessment

(37)   The Agency notes that a change in the contracted capacities compared to the forecasted values would impact the cost reflectivity of tariffs. This is particularly relevant for the proposed methodology as tariffs are proposed for a period of four years. The Agency further notes that a relevant number of stakeholders provided comments on the contracted capacity forecast proposed by CRE (some state that the forecasted contracted capacity is overestimated, some point out it is underestimated).

(38)   The Agency therefore invites CRE to publish the differences between the contracted capacity forecast and the actual contracted capacity before each tariff period. The publication should inform stakeholders about the accuracy of the contracted capacity forecast without leading to the review of the RPM.

4.4 Calculation of the distance costs driver

(39)   This section assesses the steps proposed for the calculation of the distance cost driver based on the application of flow scenarios. The Agency notes, that the application of flow scenarios is an option foreseen pursuant to Articles 3(20) and 8(1)(c) of the NC TAR. The Agency further notes that multiple stakeholders support the use of flow scenarios, while some stakeholders express disagreement with the flow scenarios proposed by CRE.

4.4.1   Flow scenarios: exit points are supplied by the closest entry point.

(40)   To calculate the distance cost driver for each point of the network, CRE assumes that each exit point is supplied by the closest entry point, as long as there is subscribed capacity available at the relevant entry point. This approach to the application of the proposed flow scenarios is a key assumption of the methodology and differs from the standard CWD (calculated without flow scenarios). According to Article 8 of the NC TAR, the distance costs driver in the CWD methodology is calculated as the average distance between all points weighted to the capacity at each point.

(41)   This proposed approach is intended to reflect the distance that gas physically travels in the network (flow distance), instead of the distance associated with all the commercial combinations made possible from the application of an entry-exit model[18]. In the consultation document, CRE explains that "*the main network entry points are well distributed across the French territory and* […] *that domestic consumption is mainly located close to borders*"[19]. This distance is independent of the sourcing of gas supplies and the commercial arrangements between network users and is directly

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[18] Average distance between all points.

[19] The consultation document provides additional information on page 80 of the consultation document. CRE's methodology for calculating the reference prices is based on the observation that *"a large majority of TSOs' costs are fixed costs closely linked to the TSOs' investment strategy. This investment strategy is planned taking into account the network limits that must be lifted in order to guarantee the main flow scenarios and configurations"*. In addition, "*CRE therefore considers to adopt flow scenarios in which each national consumer is supplied by the nearest entry point as long as there is subscribed capacity available.*"

related to the hydraulic operation of the network. CRE bilaterally explained to the Agency that the flow distance provides a better approximation of the pipeline distance travelled by gas across the French network and, consequently, of the network costs associated with the use of capacity. Using the greater distance value resulting from the CWD methodology would result in overestimating the distance cost driver, as argued by CRE.

4.4.1.1   ACER assessment

(42)   The Agency considers that CRE provides a good description of the proposed approach to calculate the distance cost driver based on the shortest distance between entries and exits. As described in paragraph (41), CRE also explains why it assumes, as a general rule, that exit points are supplied from the closest entry point.

(43)   The Agency also notes that the distance travelled by gas transported across the network is a "*parameter used* [that is] *related to the technical characteristics of the system*" and therefore requires justification as per Article 26(1)(a)(i)(1) and Article 30(1)(a) of the NC TAR. The approach proposed by CRE differs from the standard CWD calculation when calculated without the application of flow scenarios.

(44)   The Agency notes that shippers can source gas from any entry point of the network, including those points that are located further away than the closest entry point to each exit point. Although this is acknowledged in the consultation document:[20], and regardless of the flexibility shippers have to contract capacity at any entry point of the network, CRE argues that network exits are still supplied from the closest entry point. The Agency notes that the consultation document does not provide supporting analytical evidence explaining the extent to which flows likely follow this pattern underpinning the proposed assumption. The Agency refers to its 2019 Report on the French tariff consultation where it remarked that "*while CRE presents a consistent argumentation on the choice of the flow scenarios, the reasoning remains conceptual and is not backed by actual data*".[21]

(45)   Based on the above, the Agency recommends, in line with its previous report[22], that CRE should support with evidence, in its motivated decision, that gas flows to network exits are likely transported from the closest entry point of the network. For this assessment, CRE should consider, amongst other factors, the potential congestion between the North and South parts of the network.

(46)   In the absence of such justification, the Agency cannot conclude that the proposed RPM is compliant with the requirement on cost reflectivity, preventing undue cross-subsidisation and non-distortion of cross-border trade.

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[20] Page 80 of the consultation document states that "*CRE considers that, from an economic point of view, there is no reason to favour one entry point over another to supply domestic customers*".

[21] See paragraph 46 of the ACER 2019 Report on the French tariff consultation.

[22] Paragraph 7 of the ACER 2019 Report on the French tariff consultation.

4.4.2   Flow scenarios: non-economical combination of points

(47)   CRE proposes to exclude 'non-economical' combinations of points from the calculation of the shortest distance between entries and exits. In the consultation document, CRE argues that some combination of points will not be used as they are not competitive for transporting gas to certain destination as more competitive routes across the EU exist. To establish the competitiveness of routes across the EU, CRE refers to the number of borders that the gas has to cross, which ultimately relates to the tariffs that users have to bear.

(48)   In the consultation document, CRE provides a detailed description of the combination of points that are considered non-economical, comparing the approach adopted for the currently applicable tariffs and the proposed approach for the upcoming tariffs.

(49)   It should be noted that the criteria used to establish these exceptions is based on a commercial (i.e. 'economic') logic (e.g. the costs of flowing gas across competing EU routes) and not on the physical route the gas travels between points. According to CRE the commercial logic has an impact on the physical distance the gas travels within the French network.

(50)   As a result of the exclusion of these 'non-economical' combinations of points, the relevant exit points are not linked with the entry point that is the closest but with the next closest entry point. This increases the distance cost driver associated to the relevant cross-border exit point, hence the tariff applicable to these points.

(51)   The proposed combination of points that are deemed not to be economically relevant are:
- The Obergailbach entry point (in connection to the Oltingue exit IP, to export gas to Italy),
- The Virtualys entry point (in connection to the Obergailbach exit IP, to export gas to Germany).

(52)   At the same time, the Agency notes that CRE proposes to discontinue constraints applicable to exit IPs that were previously applied related to LNG entry points and the Virtualys IP as entry point to Italy via Oltingue.

4.4.2.1   ACER assessment

(53)   In its 2019 Report on the French tariff consultation, the Agency recommended that CRE demonstrates that the proposed combinations of entry and exit points and the distance assumptions applied by CRE to cross-system and intra-system users are clearly linked to the utilisation of the system.[23] In the case of the exclusion of 'non-economical' combination of points the Agency recommended that CRE provided *i)* "*an explanation of how the concepts of* 'use of the transmission system' *and of* 'relevant flow scenario' *have been applied*"; *ii)* a quantitative assessment supporting the proposed non-economical flow scenarios[24]; and *iii)* "*an assessment illustrating why the distance associated to domestic exits and IP exits that are in the vicinity of each other are significantly different.*"[25]

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[23] See paragraph 7 of the ACER 2019 Report on the French tariff consultation.

[24] Paragraph 7, point 2 of the ACER 2019 Report on the French tariff consultation.

[25] Paragraph 7, point 4 of the ACER 2019 Report on the French tariff consultation.

(54)   The consultation document provides a description explaining the competitiveness of routes across the EU supporting the claim that gas would not be transported across France to supply the relevant destinations[26]. At the same time, the Agency notes that not all gas transported within the EU results from transactions such as the ones discussed in the consultation document. Gas can be sold or purchased at the hub, in which case, its origin might not be clearly established.

(55)   While CRE explains the non-competitiveness of the French network when comparing certain routes across the EU, the consultation document does not assess whether the proposed 'non-economical' combination of points is consistent with the possibility of exports being sourced at the French hub. As a result, the Agency concludes that CRE does not demonstrate that the proposed combinations of 'non-economical' entry and exit points should be treated as an exception compared to the rest of the combinations of points of the network. In the absence of such justification, the need to apply these exceptions for the proposed 'non-economical' combination of entry and exit points cannot be fully validated.

(56)   Based on the above remarks, the Agency recommends that CRE should demonstrate, in its motivated decision, that the application of non-economic combination of points is consistent with the possibility of sourcing gas to neighbouring markets from the French hub. This explanation shall show that the exclusion of specific combination of points is compatible with the approach to calculate the distance cost driver as the shortest distance between entry and exit points.

(57)   In the absence of this justification, the Agency cannot conclude that the proposed RPM is compliant with the requirement of cost reflectivity.

4.4.3   Summer and winter scenarios

(58)   As in the previous consultation, CRE additionally proposes to adapt the calculation of the distance cost drivers for summer and winter scenarios. This allows to reflect the UGS utilisation pattern throughout the year, with storage injections during the summer and withdrawals to supply domestic consumers during the winter. During the summer months storage points function as any other domestic exit point, while during the winter months, storage points function as an entry point supplying domestic exit points. This increases the distance cost driver associated to the domestic exit points, consequently increasing the resulting tariff.

(59)   The Agency notes that this approach is consistent with the storage compensation, which is allocated to domestic consumers and is discussed in Section 5.3.2 of this report.

4.4.3.1   ACER assessment

(60)   The Agency notes that CRE proposes the same approach as in the previous consultation considering that all storage facilities are exclusively used in intra-system flow scenarios.

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[26] CRE bilaterally explained to the Agency that a gas trade from Germany to Italy would be 2 €/MWh more expensive if there would a detour through France (instead of flowing gas via Switzerland). As a result, market participant will not book capacity or flow gas from Germany to France with the final destination Italy.

(61)   The Agency remarks that the use of storage is available to both cross-system and intra-system users, on the basis of the same tariffs. While CRE provides a conceptual reasoning for its choice, which may represent the reality of how the storage is used, it does not present any actual data backing its point. Therefore, the Agency repeats the recommendation made in paragraph 54 of its 2019 Report on the French tariff consultation for CRE to provide evidence justifying the exclusion of storage points from the calculation of cross-system flows.

4.4.4   Algorithm linking exit points to the closest entry point(s)

(62)   Once the non-economical combinations of points have been established, and once the summer and winter scenarios conditions have been defined, the calculation sequence proposed by CRE requires pairing exit points and entry points to determine the distance cost driver. In the cases where all capacity at an entry point has already been assigned to other exit points, the second closest entry point is used to calculate the distance cost driver for a given exit to the extent it has contracted capacity. To make this calculation an algorithm is used that minimises the sum of the distance weighted to the capacity forecasted at network points.

(63)   CRE refers to the calculation[27] in the consultation document but does not provide the details of the algorithm. CRE explained to the Agency that IP exits require more often a second entry point compared to smaller domestic exit points, since these IP exits have larger capacity needs than domestic exit points [28].

4.4.4.1   ACER assessment algorithm

(64)   The Agency notes that the information provided on the algorithm in the consultation document is limited. The Agency appreciates that CRE shared a simplified version of the algorithm with the Agency to illustrate its rationale. CRE communicated to the Agency that the algorithm is intended to minimise the total distance assigned to all points of the network based on the conditions referred to in Sections 4.4.1, 4.4.2 and 4.4.3. This additional data has proven valuable to understand the proposed mechanism, on which some stakeholders have requested further clarity.

(65)   The Agency therefore recommends CRE to better explain, in its motivated decision, the calculation steps and the outcome of the optimisation algorithm. The explanation should clarify whether the minimisation of the distance cost driver, that the algorithm uses as a condition, is consistent with and translates closely the principle of supplying each exit point with the closest entry point with available capacity. The explanation could lead to a better understanding of why the algorithm establishes a second entry point for IP exits more often than for domestic exit points. It could further clarify why the proposed results assign the Dunkerque entry point to both the Oltingue and Pirineos exits, not being this entry point the closest to neither of these two exits.

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[27] Page 82 of the consultation document states: "*The assumptions proposed result in more than 600 relevant flow scenarios being defined (one for each exit point to the regional network). For each scenario, the distance is calculated as the shortest distance between the relevant entry point and the relevant exit point. The distances obtained vary from 1 km to 883 km and when averaged, the resulting distance applicable to domestic exit points is 249 km.*"

[28] It should be noted that the algorithm assigns a second entry point to two out of four exit IPs in each of the summer and the winter scenarios, and only to two domestic exits in the summer scenario (out of 642 points) and 11 domestic exits in the winter scenario (out of 642 points).

4.5 Tariffs applicable to entry points

(66)   Once the capacity and distance cost drivers have been calculated, CRE proposes to derive the tariffs for entry points. These tariffs are derived using a CWD calculation, while tariffs proposed for exit points are calculated using the CAA equations to apply a unit cost equivalence.

(67)   Additionally, CRE proposes to equalise entry points based on three groups of points: IP entries, entries from LNG and entries from storage facilities.

4.6 Tariffs applicable to exit points based on the equal unit costs calculation condition for the cross-system and intra-system use on the network

(68)   For the derivation of tariffs applicable to exit points CRE proposes a different calculation based on the condition of establishing equal unit costs for the cross-system and intra-system use of the network (i.e. exit to IPs and exit to domestic exit points respectively). To implement this condition, CRE uses the CAA formulas laid out in Article 5 of the NC TAR which result in a matrix of five equations and five unknowns. CRE provides a detailed description of the calculation in the consultation document[29], including the formulas and the parameters used as part of the simplified tariff model.

(69)   The Agency notes that this calculation results in the modification of the proposed tariffs compared to the tariffs derived using a CWD methodology, which is applied at entry points. ACER notes that CRE does not assess the degree to which the unit cost equalisation impacts the resulting tariffs.

ACER assessment

(70)   The Agency notes that the consultation document includes additional information on the use of the equal unit costs calculation condition compared to the information provided in the 2019 consultation.

(71)   As already noted in the 2019 Report on the French tariff consultation, the use of equal unit costs to cross-system and intra-system flows is not prescribed by the NC TAR. The application of the proposed unit cost equalisation is subject to the same transparency requirements as the RPM and the parameters that are used an input to calculate tariffs.

(72)   Therefore, the Agency recommends that CRE assesses the impact of the proposed unit cost equalisation on the resulting tariffs. For this purpose, the Agency proposes that CRE provide a comparison between the proposed RPM, calculated using the proposed unit cost condition, and a CWD methodology, calculated without using the proposed unit cost condition.

(73)   The Agency notes that the comparison provided by CRE practically meets this objective, with the exception of the entry-exit split which is different in the proposed RPM and in the CWD methodology provided in the consultation document. This comparison should keep all elements of both methodologies equal except for the unit cost equalisation which would only be applied in the proposed methodology (and not in the CWD calculation). The comparison should show the differences in tariffs resulting from both methodologies at all points of the network. This proposal

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[29] Page 83 and 84 of the consultation document.

aims at meeting the objective laid out in Recital 3 of the NC TAR for the comparison with the CWD to *"[…] serve as a counterfactual for comparison with the proposed reference price methodology"*.

(74)   In addition, the Agency proposes that CRE calculate the CAA for the proposed CWD methodology. This will allow assessing the extent to which the proposed unit cost condition impacts tariffs applicable for the cross-system and intra-system use of the network[30].

(75)   Finally, the Agency recommends that CRE provide this information in its motivated decision and in future consultations as part of the justification of the proposed RPM.

4.7 Comparison with the CWD methodology

(76)   The consultation document includes a comparison of the proposed methodology with the CWD methodology, as required by Article 26(1)(a)(vi). However, the Agency finds that the comparison does not serve as a counterfactual to assess the main elements of the proposed RPM:
   - the proposed flow scenarios, which impacts the distance cost driver.
   - the proposed unit cost equivalence, which impacts the resulting tariffs at domestic exit points and IP exits. This point is discussed in Section 4.6 above.

(77)   In the 2019 Report on the French tariff consultation[31], the Agency already invited CRE to provide a CWD comparison that allowed assessing the proposed flow scenarios.

(78)   Based on the requirement to provide a comparison with the CWD methodology laid out in Article 26(1)(a)(vi) of the NC TAR, and based on the objective of this comparison of serving as a meaningful counterfactual for the proposed RPM, the Agency proposes that CRE provides a comparison with a CWD methodology calculated without the application of the proposed flow scenarios, while keeping all other parameters equal to the proposed methodology. The Agency further proposes to complement this CWD methodology with a CAA calculation.

(79)   The Agency notes that this CWD calculation is additional to the one proposed in Section 4.6 above intended to assess the proposed unit cost equivalence.

4.8 Cost allocation assessment

(80)   Article 5 of the NC TAR specifies that a cost allocation assessment (CAA) shall be performed to indicate the degree of cross-subsidisation between intra-system and cross-system network.

(81)   As explained in Section 4.6 above, CRE proposes to use the CAA as an input to the methodology, with a 0% target condition for deriving the tariffs for all exit points. The Agency refers to the

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[30] The Agency has recommended the calculation of the CAA for the CWD in two publications:
   - Consultation template intended to clarify the elements to be included in the final consultation, according to Article 26(5) of the NC TAR.
   - Report on the application of reference price methodologies in Member States published in 2020 pursuant to Article 36(5) of the NC TAR.

[31] See paragraph 65 "*in the spirit of the NC TAR, and in order to provide more insight into the effects of its choices, it would be most beneficial for providing transparency that CRE also performed a comparison between the proposed methodology and the CWD methodology applied in a standard way (i.e. without the use of flow scenarios), which would allow to assess the impact of the proposed flow scenarios*".

recommendation provided in paragraphs (72) and (73) to assess the impact of the unit cost condition on the derivation of tariffs.

(82)   In addition, the Agency recommends that CRE provides in its motivated decision a calculation of the unit cost equivalence that allows identifying the contracted capacity, the distance and the tariffs applicable at each entry and exit point[32], that are related to the cross-system and intra-system use of the network.

4.9 Discounts to LNG

(83)   In the 2019 consultation, CRE proposed to apply a 10% reduction to entry points from LNG. The Agency understands that this adjustment is no longer proposed in the 2023 consultation.

4.10   Discount to storage points and application of the rescaling adjustment

(84)   CRE proposes to apply a 60% discount to points from and to storage. The consultation document states that: "*the revenue shortfalls resulting from this discount, on the entry and exit respectively, are offset by an adjustment of the other entry terms on one side and exit terms on the other side*"[33].

(85)   Following the recommendation provided in the 2019 Report on the French tariff consultation[34] to provide further clarity on the recovery of the revenue shortfall associated to the application of discounts, the Agency proposes that the discounts to entry points from and exit point to storage are made part of the simplified tariff model with a view to enable transparency and allow network users to adjust the level of the proposed discount and to understand the impact of this adjustment, and the subsequent rescaling adjustment, on tariffs.

5.   Compliance

5.1 Does the RPM comply with the requirements set out in Article 7?

(86)   Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed reference price methodology complies with the requirements set out in Article 7 of the NC TAR. This article refers to Article 13 of Regulation (EC) 715/2009 and lists a number of requirements to take into account when setting the RPM. As these overlap, in the remainder of this Section, the Agency will take a closer look at the five elements listed in Article 7 of the NC TAR.

5.1.1   Transparency

(87)   **Article 7(a)** of the NC TAR requires that the RPM aims at ensuring that network users can reproduce the calculation of reference prices and their accurate forecast. The Agency finds the simplified tariff model, as required by Article 30(2)(b) of the NC TAR, useful.

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[32] Where points are equalised or clustered, the aggregated values should be used.

[33] Page 83 of the consultation document.

[34] See paragraph 67 of the ACER 2019 Report on the French tariff consultation.

(88)   The Agency considers that network users would be able to reproduce and forecast the calculation of reference prices. The Agency nevertheless points to a small limitation whereby network users cannot assess the impact of the capacity forecast on the calculation of the distance cost driver (see paragraph (36)). In addition, the Agency refers to the proposal in paragraph (85) to include the discounts to storage points as part of the simplified tariff model. This should provide additional transparency on the application of discounts and should enable network users understanding their impact of discounts on tariffs together with approach to rescaling tariffs.

5.1.2   Cost-reflectivity

(89)   **Article 7(b)** of the NC TAR requires the RPM to take into account the actual costs incurred for the provision of transmission services, considering the level of complexity of the transmission network.

(90)   Following the conclusion in paragraphs (46), (57) and (61), the Agency cannot conclude that the proposed RPM is compliant with the requirement of cost-reflectivity.

5.1.3   Cross-subsidisation and non-discrimination

(91)   **Article 7(c)** of the NC TAR requires the RPM to ensure non-discrimination and prevent undue cross-subsidisation.

(92)   Following the conclusion on cost-reflectivity expressed in the section on cost-reflectivity, the Agency cannot conclude that the proposed RPM is compliant with the requirement of preventing undue cross-subsidisation.

(93)   Regarding the requirement of ensuring non-discrimination, the Agency has not identified any form of discrimination related to the proposed RPM. This analysis is based on the definition of 'discrimination' as 'charging different prices to different network users for the identical gas transmission service'.

5.1.4   Volume risk

(94)   **Article 7(d)** of the NC TAR requires that the RPM ensure that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system. In France it is not the case that significantly more gas is transported than used for consumption. There is therefore no significant volume risk in France and the proposed RPM can therefore be deemed as compliant with the requirement on volume risk.

5.1.5   Cross-border trade

(95)   **Article 7(e)** of the NC TAR requires that the RPM ensures that the resulting reference prices do not distort cross-border trade.

(96)   Following the conclusion on cost reflectivity and on cross-subsidisation, the Agency cannot conclude that the proposed RPM is compliant with the requirement of not-distorting cross-border trade.

5.2 Are the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) met?

(97)   Article 27(2)(b)(2) of the NC TAR requires the Agency to analyse whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met. The use of commodity-based transmission tariffs is an exception. Only part of the transmission services revenue may be recovered by commodity-based transmission tariffs. CRE proposes not to apply commodity-based transmission tariffs.

5.3 Are the criteria for setting non-transmission tariffs as set out in Article 4(4) met?

(98)   Article 27(2)(b)(3) of the NC TAR requires the Agency to analyse whether the criteria for setting non-transmission tariffs as set out in Article 4(4) are met. Like in the previous consultation CRE proposes to make use of non-transmission tariffs applicable for regional networks and for storage compensation.

5.3.1   Regional networks

(99)   In the consultation document, CRE distinguishes between two types of transmission assets: the main network and the regional network. CRE considers that the regional network is not an entry-exit system and justifies the allocation of the revenue associated to the regional network based on the aim of avoiding cross-subsidisation between the two networks.

(100)   The Agency repeats the conclusion provided in Section 4.3.1. of the ACER 2019 Report on the French tariff consultation. Overall, the Agency acknowledges that the proposed scheme technically meets the requirement to prevent cross-subsidisation between the intra-system and cross-system use of the network. The approach is consistent with the aim of allocating the costs of the transmission network in a cost-reflective manner. At the same time, the choice to consider regional networks as non-transmission services is not compliant with the NC TAR. According to Article 4(1)(a) of the NC TAR, a service should be considered as transmission when its costs are caused by the cost drivers of capacity and distance.

(101)   The Agency notes that the definition of 'transmission' provided in Directive 2009/73/EC distinguishes high-pressure 'transmission' pipelines from the part of 'high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply[35]. The latter falls under the definition of 'distribution' which refers to the 'transport of natural gas through local or regional pipeline networks with a view to its delivery to customers'[36]. Following this regulatory framework, the regional network should either be reclassified as distribution networks, or be considered as a transmission service, if the RPM can properly allocate the costs of the regional branches to the relevant network users. If CRE chooses

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[35] See Article 2(3) of the Directive 2009/73/EC

[36] See Article 2(5) of the Directive 2009/73/EC

to reclassify the use of the local network as a transmission service, the same RPM should apply to all part of the transmission network, pursuant to Article 6(3) of the NC TAR[37].

5.3.2   Storage compensation

(102)   The consultation document describes a storage compensation charge that is applied as a non-transmission tariff at domestic exit points. This compensation relates to revenue of the storage operators that is allocated as a transmission charge.

(103)   The Agency refers to the EC decision authorising the regulatory mechanism for the storage of natural gas in France[38].

6. Other comments

6.1 Tariffs applicable to the Alveringem IP exit to Belgium

(104)   Like in the previous consultation, CRE refers to the tariffs set at the Alveringem IP exit to Belgium in the consultation document. CRE explains that this IP was created within the framework of the commissioning of the Dunkerque LNG terminal in 2016 and enables non-odourised gas to be shipped from France to Belgium. According to CRE, the decision to invest and the calculation of the tariff at Alveringem IP were done according to principles in line with the provisions of the NC TAR relating to incremental capacity tariffs. The distance travelled by the gas is short and CRE argues that a distance-based pricing principle cannot be used as it would not cover the development costs of the infrastructure connecting France and Belgium. In addition, CRE argues that, as the exit capacity at the Virtualys VIP is no longer contracted from 2020, a 'Capacity times Distance'-model can no longer be applied.[39]

(105)   The Agency repeats the conclusion provided in Section 5.1 of the ACER 2019 Report on the French tariff consultation. The Agency has not assessed CRE's deliberation of 12 July 2011 and based on the information provided in the consultation document, it cannot conclude on the adequacy of the proposed tariffs with the conditions for pricing incremental capacity in Article 25 of the NC TAR. At the same time, the Agency remarks that it is a requirement of the NC TAR to apply the same RPM to all points of the network according to Article 6(3).

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[37] Article 2(1)(1) of Regulation (EC) No 715/2009 does not recognise any distinction between regional and national transmission, while only proposing a definition for '*transmission'*. However, Article 2(5) of Directive 2009/73/EC proposes the inclusion of regional networks in 'distribution' under the supervision of the Member State. It is not for the Agency to judge the alignment with these articles.

[38] See https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3281 and https://eur-lex.europa.eu/eli/dec/2022/444

[39] See page 83 of the consultation document.

Annex 1: Legal framework

Article 27 of the NC TAR reads:

1. Upon launching the final consultation pursuant to Article 26 prior to the decision referred to in Article 27(4), the national regulatory authority or the transmission system operator(s), as decided by the national regulatory authority, shall forward the consultation documents to the Agency.

2. The Agency shall analyse the following aspects of the consultation document:
(a) whether all the information referred to in Article 26(1) has been published;
(b) whether the elements consulted on in accordance with Article 26 comply with the following requirements:
> *(1) whether the proposed reference price methodology complies with the requirements set out in Article 7;*
> *(2) whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met;*
> *(3) whether the criteria for setting non-transmission tariffs as set out in Article 4(4) are met.*

3. Within two months following the end of the consultation referred to in paragraph 1, the Agency shall publish and send to the national regulatory authority or transmission system operator, depending on which entity published the consultation document, and the Commission the conclusion of its analysis in accordance with paragraph 2 in English.
The Agency shall preserve the confidentiality of any commercially sensitive information.

4. Within five months following the end of the final consultation, the national regulatory authority, acting in accordance with Article 41(6)(a) of Directive 2009/73/EC, shall take and publish a motivated decision on all items set out in Article 26(1). Upon publication, the national regulatory authority shall send to the Agency and the Commission its decision.

5. The procedure consisting of the final consultation on the reference price methodology in accordance with Article 26, the decision by the national regulatory authority in accordance with paragraph 4, the calculation of tariffs on the basis of this decision, and the publication of the tariffs in accordance with Chapter VIII may be initiated as from the entry into force of this Regulation and shall be concluded no later than 31 May 2019. The requirements set out in Chapters II, III and IV shall be taken into account in this procedure. The tariffs applicable for the prevailing tariff period at 31 May 2019 will be applicable until the end thereof. This procedure shall be repeated at least every five years starting from 31 May 2019.

Article 26(1) of the NC TAR reads:

1. One or more consultations shall be carried out by the national regulatory authority or the transmission system operator(s), as decided by the national regulatory authority. To the extent possible and in order to render more effective the consultation process, the consultation document should be published in the English language. The final consultation prior to the decision referred to in Article 27(4) shall comply with the requirements set out in this Article and Article 27, and shall include the following information:
(a) the description of the proposed reference price methodology as well as the following items:
> *(i) the indicative information set out in Article 30(1)(a), including:*

> *(1) the justification of the parameters used that are related to the technical characteristics of the system;*
>
> *(2) the corresponding information on the respective values of such parameters and the assumptions applied.*
>
> *(ii) the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9;*
>
> *(iii) the indicative reference prices subject to consultation;*
>
> *(iv) the results, the components and the details of these components for the cost allocation assessments set out in Article 5;*
>
> *(v) the assessment of the proposed reference price methodology in accordance with Article 7;*
>
> *(vi) where the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8, its comparison against the latter accompanied by the information set out in point (iii);*
>
> *(b) the indicative information set out in Article 30(1)(b)(i), (iv), (v);*
>
> *(c) the following information on transmission and non-transmission tariffs:*
>
> *(i) where commodity-based transmission tariffs referred to in Article 4(3) are proposed:*
>
> *(1) the manner in which they are set;*
>
> *(2) the share of the allowed or target revenue forecasted to be recovered from such tariffs;*
>
> *(3) the indicative commodity-based transmission tariffs;*
>
> *(ii) where non-transmission services provided to network users are proposed:*
>
> *(1) the non-transmission service tariff methodology therefor;*
>
> *(2) the share of the allowed or target revenue forecasted to be recovered from such tariffs;*
>
> *(3) the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3);*
>
> *(4) the indicative non-transmission tariffs for non-transmission services provided to network users;*
>
> *(d) the indicative information set out in Article 30(2);*
>
> *(e) where the fixed payable price approach referred to in Article 24(b) is considered to be offered under a price cap regime for existing capacity:*
>
> *(i) the proposed index;*
>
> *(ii) the proposed calculation and how the revenue derived from the risk premium is used;*
>
> *(iii) at which interconnection point(s) and for which tariff period(s) such approach is proposed;*
>
> *(iv) the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 24 are proposed.*

Article 7 of the NC TAR reads:

> *The reference price methodology shall comply with Article 13 of Regulation (EC) No 715/2009 and with the following requirements. It shall aim at:*
>
> *a) enabling network users to reproduce the calculation of reference prices and their accurate forecast;*
>
> *(b) taking into account the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network;*
>
> *(c) ensuring non-discrimination and prevent undue cross-subsidisation including by taking into account the cost allocation assessments set out in Article 5;*

(d) ensuring that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system;

(e) ensuring that the resulting reference prices do not distort cross-border trade.

Article 13 of Regulation (EC) No 715/2009 reads:

1. Tariffs, or the methodologies used to calculate them, applied by the transmission system operators and approved by the regulatory authorities pursuant to Article 41(6) of Directive 2009/73/EC, as well as tariffs published pursuant to Article 32(1) of that Directive, shall be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments, and, where appropriate, taking account of the benchmarking of tariffs by the regulatory authorities. Tariffs, or the methodologies used to calculate them, shall be applied in a nondiscriminatory manner.

Member States may decide that tariffs may also be determined through market-based arrangements, such as auctions, provided that such arrangements and the revenues arising therefrom are approved by the regulatory authority.

Tariffs, or the methodologies used to calculate them, shall facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.

Tariffs for network users shall be non-discriminatory and set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the national regulatory authorities. By 3 September 2011, the Member States shall ensure that, after a transitional period, network charges shall not be calculated on the basis of contract paths.

2. Tariffs for network access shall neither restrict market liquidity nor distort trade across borders of different transmission systems. Where differences in tariff structures or balancing mechanisms would hamper trade across transmission systems, and notwithstanding Article 41(6) of Directive 2009/73/EC, transmission system operators shall, in close cooperation with the relevant national authorities, actively pursue convergence of tariff structures and charging principles, including in relation to balancing.

Article 4(3) of the NC TAR reads:

3. The transmission services revenue shall be recovered by capacity-based transmission tariffs.

As an exception, subject to the approval of the national regulatory authority, a part of the transmission services revenue may be recovered only by the following commodity-based transmission tariffs which are set separately from each other:

(a) a flow-based charge, which shall comply with all of the following criteria:

    (i) levied for the purpose of covering the costs mainly driven by the quantity of the gas flow;

    (ii) calculated on the basis of forecasted or historical flows, or both, and set in such a way that it is the same at all entry points and the same at all exit points;

    (iii) expressed in monetary terms or in kind.

(b) a complementary revenue recovery charge, which shall comply with all of the following criteria:

    (i) levied for the purpose of managing revenue under- and over-recovery;

    (ii) calculated on the basis of forecasted or historical capacity allocations and flows, or both;

(iii) applied at points other than interconnection points;

(iv) applied after the national regulatory authority has made an assessment of its cost-reflectivity and its impact on cross-subsidisation between interconnection points and points other than interconnection points.

Article 4(4) of the NC TAR reads:

4. The non-transmission services revenue shall be recovered by non-transmission tariffs applicable for a given nontransmission service. Such tariffs shall be as follows:

(a) cost-reflective, non-discriminatory, objective and transparent;

(b) charged to the beneficiaries of a given non-transmission service with the aim of minimising cross-subsidisation between network users within or outside a Member State, or both.

Where according to the national regulatory authority a given non-transmission service benefits all network users, the costs for such service shall be recovered from all network users.

Annex 2: List of abbreviations

Acronym	Definition
ACER	Agency for the Cooperation of Energy Regulators
ENTSOG	European Network of Transmission System Operators for Gas
NRA	National Regulatory Authority
TSO	Transmission System Operator
EC	European Commission
EU	European Union
MS	Member State
NC TAR	Network code on harmonised transmission tariff structures for gas
IP	Interconnection Point
VIP	Virtual Interconnection Point
RPM	Reference Price Methodology
CWD	Capacity Weighted Distance
CAA	Cost Allocation Assessment
RAB	Regulated Asset Base
OPEX	Operational Expenditures
CAPEX	Capital Expenditures