ACER

European Union Agency for the Cooperation of Energy Regulators

Agency Report

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

NRA: Energie-Control Austria

TSO: Gas Connect Austria & Trans Austria Gasleitung

26 June 2024

Contents

1. ACER conclusion

(1) The Austrian National Regulatory Authority (NRA), E-Control, has carried out a consultation on the reference price methodology (RPM) for the Austrian transmission network[1]. The consultation remained open between 21 December 2023 and 21 February 2024 and the proposed reference price methodology is a capacity weighted distance methodology (CWD) based on a 50/50 entry-exit split (the methodology is referred to in this report as 'CWD 50/50'). In response to stakeholder comments to the consultation, E-Control published a revision of the proposed RPM which was available for stakeholders to provide comments between 5-25 April 2025. In this document, E-Control proposed to adjust the CWD 50/50 methodology introducing a 25/75 entry-exit split and a cap applicable to domestic exit points (the revised methodology is referred to in this report as 'CWD 25/75'). The Agency provides in this report its analysis of the consultation document based on the requirement under Article 27(2) of the Network Code on Harmonised Transmission Tariff Structures for Gas (NC TAR). This analysis focusses on the CWD 25/75 methodology, while taking into account the information provided in the consultation document related to the CWD 50/50 methodology.

(2) The methodology proposed by E-Control takes into account the changes in network utilisation patterns resulting from the 2022 energy crisis and the ongoing war in Ukraine. The previously high levels of contracted capacity for cross-system use have significantly decreased by approximately 43%, from 246 000 GWh/h in 2022, to a forecasted capacity of 139 000 GWh/h in 2024. Following these changes, the NRA proposes to move away from the currently applied methodology, a virtual point-based methodology[2], which was intended for a utilisation pattern where most flows entered the network at a specific IP (in the case of the Austrian network, this was the Baumgarten IP). The CWD methodology is considered in the NC TAR as reference methodology against which other methodologies should be compared.

(3) The NRA initially proposed in the consultation document between 21 December 2023 and 21 February 2024 the CWD 50/50 methodology, complemented by 100% discounts to entry points from storage facilities. The methodology results in increases in reference prices at domestic exit points (+163%), exit points to storage facilities (+463%) and at the entry IPs from Germany (+206%) and Italy (+454%). In addition, the cost allocation assessment (CAA[3]) calculated for this methodology results in 26%, which is above the 10% threshold established in Article 5(6) of the NC TAR.

[1] The NC TAR foresees a period of five months following the end of the final consultation for the NRA to take a motivated decision on all the items set out in Article 26(1) of the NC TAR. As part of this process, the Agency shall publish a Report on the compliance of the consulted reference price methodology which the NRA should take into account for its motivated decision. The Agency notes that, consequently, E-Control took its decision on the reference price methodology on 4 June 2025 (link), prior to the publication of this Report. As E-Control gave advance notification of this timeline, the Agency was able to provide preliminary input to E-Control for its motivated decision.

[2] See the ACER document for details on the distance to virtual point (variant B): *Tariff Methodologies: Examples Illustrating the document Public Consultation on Draft Framework Guidelines on rules regarding harmonised transmission tariff structures for gas* (link). Additionally, see the 2022 ACER report on the Austrian tariff consultation (link).

[3] 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.

(4) In response to the stakeholder responses, the NRA revised the proposed CWD 50/50 methodology. The resulting CWD 25/75 is based on an entry-exit split of 25/75 which shifts a greater share of revenue to exit points (75% instead of 50%) facilitating the import of gas to the Austrian network. E-Control additionally proposed to equalise reference prices at entry-points in addition to introducing a discount of 50% to exit points to storage facilities. These changes, proposed by the NRA, address the concerns expressed by stakeholders related to the high levels of reference prices at entry points.

(5) As a result of lower share of revenue allocated to entries, the share of revenue allocated to exits increases in the CWD25/75 methodology compared to the CWD 50/50 methodology. In order to mitigate the resulting increases in reference prices, E-Control proposes to apply a cap to domestic exit points and a 50% discount at exit points to storage facilities. This limits the share of revenue allocated to domestic exists and exit points to storage, while the increase at IP exits is not limited[4]. In the absence of the proposed cap to domestic exit points, the CAA for the CWD 25/75 methodology is 30%. The proposed cap allows to calculate reference prices using a 0% result for the CAA as an input condition to the methodology.

(6) The Agency remarks that the proposed cap is not appropriately justified. First, E-Control does not sufficiently examine whether the proposed RPM is appropriate for the network topology based on the network utilisation. This analysis is partially constrained due to recent and expected future flow changes in the Austrian network. Yet, in the absence of such analysis, the application of additional adjustments to the RPM cannot be adequately assessed. Second, the additional increase in reference prices at domestic exit points is caused by the change of the entry-exit split from 50-50 to 25-75. Third, the CAA is not used as an assessment tool, as foreseen by the legislation, but as a correction tool to modify the reference prices resulting from the RPM.

(7) The Agency acknowledges that both methodologies proposed by E-Control, the CWD 50/50 and the CWD 25/75 result in a CAA of 26% and 30% respectively and that Article 7 of the NC TAR requires that the RPM does not lead to undue cross-subsidisation. However, the objective of preventing undue cross-subsidisation should be attained based on the provisions foreseen in the NC TAR. The Agency cannot, therefore, conclude that the proposed cap to domestic exit points is compliant with the NC TAR.

(8) E-Control additionally proposes to apply discount of 10% to conditional capacity products (DZK, dynamically allocable capacity) compared to the corresponding FZK (firm, freely allocable capacity) at all entry and exit points.

(9) Finally, E-Control proposes to apply a flow-based charge to recover the costs driven by the quantity of gas flow and no non-transmission charges. The charge is set in such a way that it is the same at all entry points and the same at all exit points.

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

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[4] The missing revenue resulting from the caps is recovered by rescaling reference prices at cross-border entry and exit points.

- The consultation document is missing information that is required under Article 26(1), in particular, E-Control does not provide an analysis on the appropriateness of the proposed CWD methodologies for the Austrian network nor an assessment of the CAA results. Furthermore, E-Control does not provide a simplified model for the CWD 25/75 methodology.
- The CWD 25/75 methodology is compliant with the requirement on volume risk and non-discrimination. At the same time, the Agency cannot conclude that the CWD 25/75 methodology is compliant with the requirements on cost reflectivity, preventing cross-subsidisation and non-distortion of cross-border trade. On the requirement on transparency, understood as enabling network users to reproduce and forecast refence prices, E-Control does not provide a simplified model for the CWD 25/75. As a result, the methodology is not compliant with this requirement.
- The proposed commodity-based transmission tariffs are compliant with the requirements in Article 4(3) of the NC TAR.

(11) The Agency provides the following recommendations to E-Control when publishing its motivated decision pursuant to Article 27(4) of the NC TAR:

(12) First, review the choice and design of the RPM. For this purpose, the NRA should:

- Assess the network topology and network use, which should be feasible within a year of application of the proposed reference prices. For example, the NRA should assess the distance that flows travel when supplying the different points of the network.
- Consider other methodologies that better suit the characteristics and use of the network, by assessing cost drivers and other instruments such as, for example, the application of flow scenarios, building on the ACER remarks under paragraph (32).
- Assess and compare the CAA results for the methodologies that better suit the Austrian transmission network. The NRA should assess whether the high CAA results are indicative of cross-subsidisation between the intra-system and the cross-system use of the network together with the suitability of the proposed RPM and design for the Austrian network.

(13) Second, update the simplified tariff model to allow network users to accurately reproduce and forecast reference prices.

(14) Finally, E-Control communicated to the Agency the intent to apply the proposed CWD 25/75 methodology for a period of 1 year, between 1 January 2025 and 31 December 2025[5]. The currently applicable tariffs, based on the virtual point-based methodology, would remain applicable until 1 January 2025, in line with the start of the new tariff period from this date. The purpose of a shorter period for the application of the proposed RPM is to interpret and take account of the changes in network utilisation patterns after the end of the transit contract through Ukraine that is due on 31 December 2024. The Agency considers the proposed approach appropriate to further assess the RPM and, if necessary, to adapt to the changes impacting the EU market.

[5] See explanatory notes in the NRA motivated decision (link).

2. Introduction

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

(16) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems.[6] This Report presents the analysis of the Agency for the transmission system of Austria.

(17) On 22 December 2023, the NRA, forwarded the consultation documents to the Agency. The consultation was launched on 21 December 2023 and remained open until 21 February 2024. On 5 April 2024, E-Control published a summary of responses and included information on the intended adjustments to the consulted RPM. Stakeholders had the possibility to react and provide feedback on the intended adjustments between 5 and 25 April 2024. The Agency has taken these into considerations into account for this analysis.

(18) The NC TAR foresees a period of five months following the end of the final consultation for the NRA to take a motivated decision on all the items set out in Article 26(1) of the NC TAR, to calculate the applicable tariffs and to publish these tariffs for the yearly capacity auction taking place in July according to the NC CAM.

(19) E-Control has already published the tariffs to be ready for the July 2023 auction, prior to the publication of this Report. For this reason, the Agency provided to E-Control preliminary input for its motivated decision.

Reading guide

(20) In chapter 3, this document first presents an analysis on the completeness, namely if all the information in Article 26(1) has been published. Chapter 4 assesses the proposed reference price methodology. Chapter 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. This document contains two annexes, respectively the legal framework and a list of abbreviations.

3. Completeness

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

(21) 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.

(22) Article 26(1) of the NC TAR requires that the consultation document should be published in the English language, to the extent possible. The Agency remarks that the consultation document has been published in English.

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

(23) Overall, E-Control has published most the information required by Article 26(1) of the NC TAR in relation of the CWD 50/50. However, the information provided in relation to the CWD 25/75 is limited and is missing several elements required by the NC TAR, as described in Table 1 below.

(24) The Agency recommends that E-Control include these elements as part of the motivated decision pursuant to Article 27(4) of the NC TAR.

Table 1: Checklist information Article 26(1) of the NC TAR.

Article	Information	Published: Y/N/NA
26(1)(a)	the description of the proposed reference price methodology	Partially. E-Control provides a limited assessment of the appropriateness of both, the CWD 50/50 and CWD 25/75 for the Austrian network. E-Control provides a limited justification for the application of the proposed cap to domestic exit points.
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 • the corresponding information on the respective values of such parameters and the assumptions applied	Yes
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	Partially. E-Control does not provide the CAA for the CWD 25/75.
26(1)(a)(v)	the assessment of the proposed reference price methodology in accordance with Article 7	Partially. E-Control does not provide this assessment for the CWD 25/75.
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
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	Not applicable

	• 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	
26(1)(d)	the indicative information set out in Article 30(2);	Partially. The simplified model does not allow reproducing the calculation of reference prices based on the CWD 25/75.
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

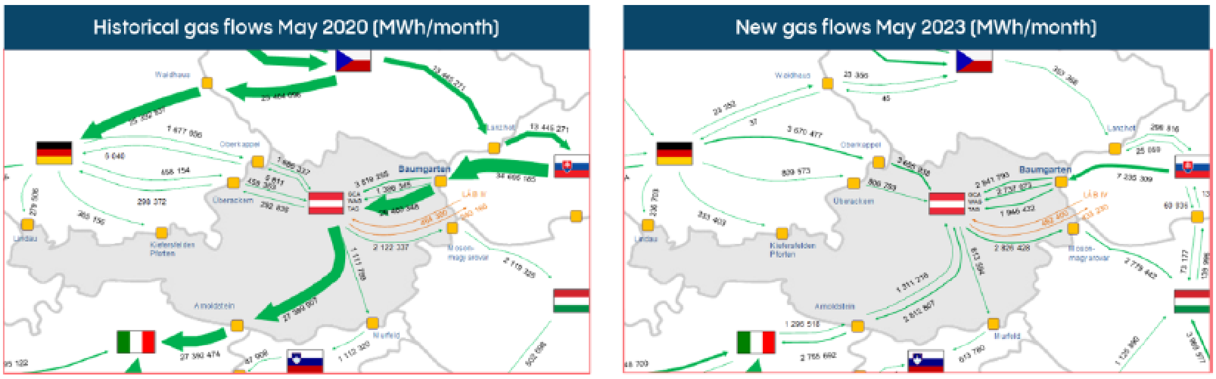
4. Assessment of the proposed reference price methodology

(25) The following chapter assesses the proposed RPM considering the input parameters of the methodology and the cost allocation assessment.

4.1 Changes in network utilisation patterns

(26) Several factors have impacted the utilisation of the Austrian transmission network since the last consultation on the RPM carried out by E-Control in 2020. First, following Russia's invasion of Ukraine, imports from Russia have significantly decreased. Second, the capacity booked under long-term contracts has significantly decreased. Figure *1* below graphically represents the changes in flows across the Austrian network depicting the decreases in the cross-system use of the network.

Figure 1: Changes in flow patterns in the Austrian transmission network (MWh/month)



4.2 Description of CWD 50/50 methodology

(27) E-Control proposes to move away from the currently applicable methodology, the distance to a virtual point, to a CWD methodology, in response to the changes in network utilisation in the Austrian network. The consultation document proposes a CWD methodology based on a 50/50 entry-exit split, discounts of 100% for entry points from storage and 0% discounts for exit points to storage. The Agency notes that the CWD methodology is considered in the NC TAR as reference methodology against which other methodologies should be compared.

(28) The consultation document additionally proposed discounts of 10% for conditional products (DZK, dynamically allocable capacity) compared to the corresponding FZK (firm, freely allocable capacity) products at all entry and exit points.

(29) E-Control proposes to equalise homogenous groups of points based on Article 6(4)(b) of the NC TAR. The grouping of points is summarised in Table *2* below:

Table 2: Homogenous groups exists and entries.

Homogeneous Group	Points
Exit SK	Exit Baumgarten Exit Storage MAB
	Exit Baumgarten Exit Storage MAB
Exit DE	Exit Oberkappel
	Exit Überackern
	Exit Storage Penta West
Exit Distribution Area	Auersthal
	Kirchberg
	Gr. Göttfritz
	Rainbach
	Bad Leonfelden
	Arnreith
	Baumgarten-PVS2
	Eggendorf
	Grafendorf
	St. Margarethen
	Weitendorf
	Sulmeck-Greith
Exit Distribution Area Carinthia	Ettendorf
	Waisenberg
	Ebenthal
	Finkenstein
Entry DE	Entry Oberkappel
	Entry Überackern

4.2.1 Resulting reference prices

(30) The proposed methodology leads to a significant increase in reference prices applicable to domestic exit points (+163%), exit points to storage facilities (+463%) and at the entry IPs from Germany (+206%) and Italy (+454%). This increase is the result of two main changes: first, the move away from the distance to a virtual point methodology; second, the change in the entry-exit split from 20.6/79.4 to 50/50 which allocates a greater share of the revenue to exit points. Table *3* below provides the tariff differences between the currently applicable tariffs and the reference prices resulting from the CWD 50/50.

Table 3: Comparison between the tariffs applicable for the current regulatory period (RP4) and the reference prices resulting from the CWD 50/50 and the CWD 25/75. Changes above 100% are marked in red.

	Type of point	Current regulatory period (RP4)	CWD 50/50 (EUR)	CWD 25/75, without cap (EUR)	CWD 25/75, with cap (EUR)	Difference RP4 and CWD 50/50 (%)	Difference CWD 50/50 and CWD 25/75 with cap (%)	Difference CWD 25/75 without cap and CWD 25/75 with cap (%)
Entries	Baumgarten IP (SK)	0.85	1.11	1.28	1.37	+31.1 %	23%	7%
	Oberkappel IP (DE)	0.97	2.97	1.28	1.37	+206.4%	-54%	7%
	Überackern IP (DE)	0.97	2.97	1.28	1.37	+206.4%	-54%	7%
	Arnoldstein IP (IT)	0.97	4.18	1.28	1.37	+320.2%	-67%	7%
	Distribution (domestic) area	0	0	0	0	-	-	-
	Storage	0	0	0	0	-	-	-
Exits	Baumgarten IP (SK)	1.23	1.25	2.00	2.15	+1.5%	72%	8%
	Oberkappel IP (DE)	3.26	2.48	4.01	4.31	-24.0%	74%	7%
	Überackern IP (DE)	3.26	2.48	4.01	4.31	-24.0%	74%	7%
	Arnoldstein IP (IT)	4.35	3.47	5.57	5.98	-20.0%	72%	7%
	Mosonmagyaróvár IP (HU)	1.23	1.25	2.00	2.14	+1.8%	71%	7%
	Murfeld IP (SI)	1.90	2.18	3.48	3.74	+14.6%	72%	7%
	Domestic exit (VG X	0.42	1.11	1.76	1.26	+163.2%	14%	-28%
	Domestic exit Carinthia	3.85	2.70	4.31	4.63	-30.0%	71%	7%
	Storage Penta West	0.44	2.48	2.00	2.15	+463.0%	-13%	8%
	Storage MAB	0.44	1.25	1.00	1.07	+184.3%	-14%	7%

4.2.2 Cost allocation assessment

(31) E-Control provides the result of the CAA calculation in the consultation document. The NRA calculates the CAA using capacity and distance as cost drivers, which are the same cost drivers of the CWD methodology. The result of the calculation is 25.7%. As the ratio for intra-system is higher than the ratio for cross-system, the result of the CAA is potentially indicative of a cross-subsidisation effect whereby intra-system partially subsidise the costs associated with the cross-system use of the network.

(32) At the same time, the Agency notes that, based on the information provided in the consultation document, it is not possible to conclude whether the CAA result is indicative of undue cross-subsidisation. E-Control does not provide an assessment and a justification on this matter examining whether the proposed RPM is appropriate for the network topology based on the utilisation made by users. In addition, E-Control does not assess how the results of the CAA relate to the proposed CWD methodology.

4.3 Description of CWD 25/75 methodology

(33) Following the consultation on the CWD 50/50 methodology, stakeholders suggested E-Control to review the RPM in the middle of the regulatory period to assess the sustainability of the proposed increases in addition to any changes in cross-system flows.

(34) In response to this input, E-Control published a revised version of the CWD 50/50 taking into account the views provided by stakeholders. This additional document remained open for stakeholder comments between 5-25 April 2024. As E-Control states in the consultation document, the additional document published was intended to provide information on the planned adjustments and thus supplements the original consultation.

(35) As part of the additional information published, E-Control proposes to reduce the revenue allocated to entries from 50% to 25%. These values are closer to the currently applied entry-exit split for the regulatory period 2021-2024 (21/79), than those of the proposed CWD 50/50. The change results in a lower share of revenue allocated to entry points, which facilitates gas imports to the network.

(36) At the same time, this proposal results in a higher share of revenue allocated to exit points, which includes IP exits, exit points to storage facilities and domestic exit points. E-Control proposes to limit the resulting increase to domestic exit points by setting a cap to reference prices at these points. E-Control further proposes discounts of 50% to exit points to storage facilities to limit increases in reference prices at these points. Table 3 above provides the differences resulting from the CWD 25/75 based on the application of the proposed cap to domestic exit points.

4.3.1 Cost allocation assessment and cap to reference prices applicable to domestic exit points

(37) E-Control justifies the application of the proposed cap as a measure to minimize cross-subsidization between the intra-system and cross-system network use. E-Control provided to the Agency the result of the CAA, which is not included in the additional document shared with stakeholders. The CAA for the CWD 25/75 is 30%, and the application of the cap allows to calculate reference prices on the bases of a CAA of 0%.

(38) The Agency remarks that the proposed cap is not appropriately justified in the additional document published by E-Control.

(39) First, E-Control does not sufficiently examine whether the proposed RPM is appropriate for the network topology based on the utilisation of users. This analysis is partially constrained due to recent and expected future flow changes in the Austrian network. Yet, in the absence of such analysis, the application of additional adjustments to the RPM cannot be adequately assessed.

(40) Second, the increase in reference prices at domestic exit points is caused by the change of the entry-exit split from 50-50 to 25-75. The increases in domestic exit points could be avoided, for example, by maintaining the 50/50 entry-exit split. The need to apply a cap results from the change of entry-exit split to 25/75.

(41) Third, the CAA is not used as an assessment tool, as foreseen by the legislation, but as a correction tool to modify the reference prices resulting from the RPM. The CAA is not included as part of the adjustments under Article 6(4) of the NC TAR.

(42) The Agency acknowledges that both methodologies proposed by E-Control, the CWD 50/50 and the CWD 25/75 result in a CAA of 26% and 30% respectively and that Article 7 of the NC TAR requires that the RPM does not lead to undue cross-subsidisation. However, the objective of preventing undue cross-subsidisation should be attained based on the provisions foreseen in the NC TAR. The Agency cannot, therefore, conclude that the proposed cap to domestic exit points is compliant with the NC TAR.

(43) The Agency recommends that E-Control

- Assess the network topology and network use, which should be feasible within a year of application. For example, the NRA should assess the distance that flows travel when supplying the different points of the network.
- Consider other methodologies that better suit the characteristics and use of the network, by assessing cost drivers and other instruments such as, for example, the application of flow scenarios, building on the ACER remarks under paragraph.
- Assess and compare the CAA results for the methodologies that better suit the Austrian transmission network. The NRA should assess whether the high CAA results are indicative of cross-subsidisation between the intra-system and the cross-system use of the network together with the suitability of the proposed RPM and design for the Austrian network.

(44) E-Control communicated to the Agency the proposed tariffs will be applicable for a period of one year, between 1 January 2025 and 31 December 2025. A new consultation will follow in 2025 to establish the methodology applicable as of 1 January 2026. The Agency supports the proposed shorter application timeline.

4.3.2 Equalisation

(45) As part of the additional information published, E-Control further proposes to equalise reference prices applicable to entry points with the aim of creating fair competition on the Austrian gas market and enabling the diversification of gas imports. The resulting reference price (1.24 €/kWh/h/a), approximates the currently applicable tariffs for Baumgarten (0.85 €/kWh/h/a), Oberkappel (0.97 €/kWh/h/a), Überackern (0.97 €/kWh/h/a) and Arnoldstein (0.97 €/kWh/h/a).

4.3.3 Discounts to exit point to and entry point from storage

(46) As part of the additional information published, E-Control proposes to extend the application of discounts to exit points to storage to 50%. The consultation document already proposed to apply a discount of 100% at entry points from storage facilities.

5. Compliance

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

(47) 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 chapter, the Agency will take a closer look at the five elements listed in Article 7 of the NC TAR.

5.1.1 Transparency

(48) **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, is useful to reproduce the

calculation of reference prices and to forecast the reference prices resulting from the CWD 50/50 methodology.

(49) At the same time, the Agency notes that E-Control does not provide a simplified model for the CWD 25/75 methodology. The information provided complementing the consultation document therefore does not comply with the requirement under Article 7(a) of the NC TAR.

5.1.2 Cost-reflectivity

(50) **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.

(51) The Agency notes that E-Control proposes a change of RPM in response to the change in network utilisation patterns. Instead of the distance to a virtual point methodology, E-Control proposes a CWD with two possible entry-exit splits. The Agency notes that in both cases, the CAA result is above the 10% threshold laid out in Article 5(6) of the NC TAR. At the same time E-Control does not provide a sufficient assessment of these results as detailed in paragraph (32) of this report. E-Control propose an adjustment on the reference prices resulting from the CWD 25/75 as means to reduce reference prices at domestic exit points, and in this way, the result of the CAA.

(52) In the absence of an appropriate analysis on the choice of RPM and given the result of the CAA, the Agency cannot conclude that the proposed RPM is compliant with the requirement on cost-reflectivity. The Agency also notes that the proposed cap to domestic exit points is not an instrument foreseen under the NC TAR.

5.1.3 Cross-subsidisation and non-discrimination

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

(54) Regarding the requirement of preventing undue cross-subsidisation, the Agency cannot conclude that the proposed RPM is compliant with the requirement of preventing undue cross-subsidisation. The Agency refers to the conclusion in the section above on cost-reflectivity.

(55) Regarding the requirement on ensuring non-discrimination, the Agency concludes that the proposed methodologies are compliant with the requirement on non-discrimination.

5.1.4 Volume risk

(56) **Article 7(d)** of the NC TAR requires that the RPM ensures that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system.

(57) The share of exit capacity at IPs compared to total exit capacity is 58.3%. E-Control communicated to the Agency the intent to consult again for the tariffs applicable from 1 January 2026. The Agency considers that such approach can allow reviewing the RPM with a view to ensuring that significant volume risk related to the transport of gas across the entry-exit system is not assigned to final

consumers within the Austrian network. This is particularly relevant to review any potential decrease in flows associated with the termination of the Ukraniain transit agreement by the end of 2024. The Agency considers that the shorter tariff period for which tariffs are proposed ensures that the proposed RPM is compliant with the requirement on volume risk.

5.1.5 Cross-border trade

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

(59) The compliance with the requirement on non-distortion of cross-border trade is based on the compliance with the requirement on cost-reflectivity. The Agency cannot conclude that the proposed RPM is compliant with the requirement on non-distortion of cross-border trade. The Agency refers to the conclusion in the section on above on cost-reflectivity.

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

(60) 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) of the NC TAR are met.

(61) E-Control proposes to apply a flow-based charge to allocate the costs mainly driven by the quantity of gas flow. The charge is set in such a way that it is the same at all entry points (0.11972 EUR/MWh) and the same at all exit points (0.13257 EUR/MWh). The charge is set to allocate 16.7% of the allowed revenue of the TSOs. Table *4* below summarises the compliance with the requirements under Article 4(3) of the NC TAR.

Table 4 Criteria Article 4(3a) of the NC TAR

Criteria	Y/N?
levied for the purpose of covering the costs mainly driven by the quantity of the gas flow	Yes
calculated on the basis of forecasted or historical flows, or both	Yes
set in such a way that it is the same at all entry points and the same at all exit points	Yes
expressed in monetary terms or in kind	Yes

Annex 1: Legal framework

(62) 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.

(63) 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.

(64) 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.

(65) 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.

(66) 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.

(67) 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