



European Union Agency for the Cooperation
of Energy Regulators

Agency Report

Analysis of the consultation document for
the non-transmission tariffs applicable for
the emergency supply service provided to
non-protected consumers in Denmark

NRA: Forsyningstilsynet
TSO: Energinet

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1. ACER conclusion

- (1) The Danish transmission system operator (TSO), Energinet, carried out a consultation between 4 July and 4 September 2022 specifically on the non-transmission tariff methodology to allocate the costs of filling the Danish storages. This service aims at meeting the requirements set under Article 6a of Regulation (EU) 2022/1032¹ to fill the national storages ahead of the 2022 winter. The consulted non-transmission tariffs are applied to allocate the costs of this filling requirement to non-protected consumers that would be supplied with such gas in the event of an emergency (here referred to as 'emergency supply service').
- (2) During the review of the TSO consultation, the national regulatory authority (NRA), Forsyningstilsynet, invited the Agency to provide its analysis ahead of 1 October 2022. The NRA communicated to the Agency that the proposed non-transmission tariffs would have to be approved by this date in order for the TSO to continue providing the service without interrupting the recovery of costs via tariffs. The previously applicable tariffs were due on this date, so a renewal of the tariffs was necessary.
- (3) The Agency provided a preliminary analysis to the NRA on 28 September 2022 ahead of the 4 November 2022 formal deadline. The Agency appreciates the NRA adapting its timeline with the aim of taking into account the preliminary views of the Agency. Both the TSO and the NRA have been supportive of the requests made by the Agency for analysing the proposed non-transmission tariffs. On 30 September 2022 the NRA published its final decision. The Agency now publishes this Report with the complete analysis of the proposed non-transmission tariffs in compliance with Article 27(2)(b)(3) of the Network Code on Harmonised Transmission Tariff Structures for Gas (NC TAR).
- (4) The approach adopted to fill Danish storages is based on the emergency supply service that was already in place in Denmark since 2013. The service is based on tenders carried out by the TSO for shippers to inject gas in storage plus keeping it stored during the winter. Under the contracts signed by shippers, the TSO has the option to buy the gas kept in storage should an emergency situation occur. The purchase price for this gas is set in the tenders as the highest day-ahead index set at either EEX, TTF or THE during the storage year extending between 1 May 2022 to 30 April 2023. This gas would be used by the TSO to supply non-protected consumers.
- (5) In the event of an emergency, the supply of gas to non-protected consumers depends on a number of factors, such as the nature and location of the interruption and the physical constraints applicable to gas flows. In addition, the Danish Energy Agency, part of the Ministry of Energy, Utility and Climate², is responsible for grouping non-protected consumers according to priority categories, that determine the order in which they would be supplied or interrupted based on the gas available and on the level of emergency. This information is confidential and is not available to the TSO nor the NRA. The requirement to keep this information confidential sets limitations to setting tariffs that are reflected in the proposed non-transmission tariffs, as described below.

¹ Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009.

² <https://ens.dk/en/about-us/about-danish-energy-agency>

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- (6) The non-transmission tariffs subject to consultation are intended to allocate the costs of the emergency supply service applicable to non-protected customers. Energinet proposes a two-tier tariff:
- First, an ex-ante postage stamp tariff applicable to all non-protected customers. This tariff allocates the costs associated with the tenders to inject gas in storage and to keep it during the winter. These costs include the costs of the option to purchase the stored gas from shippers, but does not cover the costs of actually purchasing this gas. The tariff component is applied to all users regardless of whether or not they will be supplied in the event of an emergency.
 - Second, an ex-post tariff is applied in the event of a disruption. It allocates the costs of purchasing from shippers the gas that was kept in storage. This second tariff component individually allocates the costs of the gas supplied to each non-protected customer. Should a non-protected consumer not be supplied, this second component would not be applicable.
- (7) The Agency acknowledges that the ex-ante tariff cannot be adapted to each non-protected customers on the basis of the priority groups to which they belong and which, to some extent, determine the probability of being supplied in the event of an emergency. This is due to the confidentiality requirement applicable to the establishment of priority groups. Considering this requirement, Energinet has opted for proposing a postage stamp tariff to all non-protected consumers.
- (8) In the event of an emergency, the ex-post tariff is used for a two-fold purpose. First, it is used to allocate the costs of the gas purchased from shippers. Second, it corrects the ex-ante tariff to reflect the supply priority assigned to each non-protected consumer. This correction can only take place in the event of an emergency, when the consumers are either supplied or interrupted, and the confidentiality requirement stops applying. The correction of the ex-ante tariff is only applicable for a period of one year prior to the emergency.
- (9) The Agency concludes, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR, that the proposed non-transmission tariffs are compliant with the principle of non-discrimination, objectivity and with the requirement to be charged to the beneficiaries. The Agency concludes that the compliance with the requirement on cost-reflectivity is achieved to the extent possible, considering the higher priority to maintain the confidentiality on the priority rules applicable to non-protected consumers. The Agency finds this approach compliant with the NC TAR.
- (10) In general, the Agency supports the allocation of costs associated with storage filling obligation to interconnection points (IPs) only in cases where the service benefits users of neighbouring networks and the extent to which they would be supplied during an emergency. In the specific case of Denmark, the emergency service is limited to customers of the Danish network, so no tariffs (connected to the storage filling requirements) are proposed at IPs. The Agency supports this approach.
- (11) The Agency has recommended to the NRA, when communicating its preliminary analysis, to provide a more detailed description of the emergency service to fill in storages and of the charges to allocate its costs. This is particularly relevant to describe how the two proposed non-transmission

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tariffs are related to the tendering and the purchase of the emergency gas. In addition, it is also relevant when describing how the two proposed non-transmission tariffs are adapted to the priority categories defined for the supply of non-protected customers.

2. Introduction

- (12) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas (NC TAR).
- (13) Article 27 of the NC TAR requires the Agency to analyse the consultation documents for all entry-exit systems. This Report presents the analysis of the Agency for the application of a non-transmission tariff to allocate the cost of the Danish emergency supply service.
- (14) On 8 July 2022, the NRA, forwarded the consultation documents to the Agency. The consultation was launched on 4 July 2022 and remained open until 4 September. The Agency provided a preliminary analysis to the NRA on 28 September 2022 ahead of the 4 November 2022 formal deadline to publish this Report. The NRA published its final decision on 30 September 2022.

Reading guide

- (15) In Chapter 3, describes to emergency supply service and the proposed SoS tariffs. Chapter 4 focuses on the compliance of the proposed non-transmission tariff. This document contains two annexes, respectively the legal framework and a list of abbreviations.

3. Description of TSO SoS storage filling obligation and the proposed non-transmission tariffs

- (16) Regulation (EU) 2022/1032 sets national targets for filling Member States' storages ahead of the 2022-23 winter. The Danish Energy Agency does not foresee any new instruments to comply with this obligation. Instead, it will to use the emergency supply service already in place since 2013. The rules for filling storages and supplying protected and non-protected consumers are described in the Danish Emergency Plan of 10 March 2022³.
- (17) Article 6(b) of Regulation (EU) 2022/1032 lays out a non-exhaustive list of options for the mandatory filling of storages. In this context, the Danish Energy Agency (which is a different institution to the NRA), has opted for placing the responsibility to fill the storages on the TSO, Energinet, who will tender to shippers the obligation to keep gas in storage during the winter. In the event of an emergency the TSO has the option to purchase the gas kept in storage with the aim of directly supplying protected and/or non-protected consumers.
- (18) The compliance with the storage filling obligation results in additional costs incurred by the TSO resulting from the tendering of the storage obligations and, in the event of an emergency, from the purchase of gas. These costs are not foreseen under the approved allowed revenue of the TSO. Therefore, Energinet proposes to allocate these costs using non-transmission charges. The proposed tariffs are therefore subject to the NC TAR rules.

³ https://ens.dk/sites/ens.dk/files/Naturgas/hoering_af_noedplan_-_ikke-beskyttede_gaskunder.pdf

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- (19) In addition to the tendered gas, Energinet has emergency gas in storage that was injected at the time of the certification of the TSO. At present Energinet owns 1,700 GWh of emergency gas and has signed contracts via a tendering procedure for 1,500 GWh for filling storages during the winter. In the event of an emergency, both gas sources could be used to supply customers.
- (20) This section provides a description of the obligation set on the TSO to fill up storages and on the proposed tariffs to allocate the costs of such measures. Both instruments are linked and are analysed together. In addition, the section refers to the use of tendered gas or of Energinet's emergency gas, in the event of an emergency.

3.1 SoS storage filling obligation

- (21) The mechanism used to fill-up storages is a service already provided by Energinet since 2013. This service is intended to keep gas in storage to cover the demand of gas customers in case of a declared SoS emergency. The service will be used to meet the requirements of Article 6a of Regulation (EU) 2022/1032. The service is carried out on a yearly basis from 1 October to 30 September.
- (22) The emergency supply service is based on a two-step mechanism.
- (23) In a first instance, Energinet concludes contracts with commercial customers to determine the volumes and the period during which contracted gas has to be stored. These filling requirement contracts are tendered⁴ to all market participants. Energinet pays shippers to keep gas in the storage facilities for a pre-defined period (November 2022 – March 2023), which will be made available to Energinet in the event of an emergency. The tenders are announced in the ENTSOG's Transparency Platform in a urgent market message (UMM) and are based on a pay-as-bid mechanism⁵. Bids to the tenders are usually based on the costs of storing gas, in addition to the value of keeping gas in storage during the winter. Typically this value is based on the summer-winter spread, however, in the current circumstances the existing volatility in the market could lead to a different valuation for the bids.
- (24) In the event of an extraordinary supply or demand situation declared by the Member State, the filling requirement contracts foresee the option for Energinet to purchase from shippers the tendered gas kept in storage. Shippers are compensated based on the highest day-ahead index set at either EEX, TTF or THE during the current storage period between 1 May 2022 to 30 April 2023.
- (25) The costs triggered by the tendered filling requirements is referred in this document as cost item #1. In a second instance, the cost triggered by the buy option at the time of an emergency is referred to in this document as cost item #2.

⁴ Tenders are announced in ENTSOG Transparency Platform in an UMM message 3 weeks prior to the Tender. The published information contains details about the deadline for bids and the amount of gas volumes Energinet expects to accept. The participants submit bids containing gas volumes and prices. When the tender is concluded the total amount and total price is published in an UMM message.

⁵ <https://en.energinet.dk/Gas/Gas-news/2022/09/13/Call-for-tender-FLR>

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- (26) The compensation paid to shippers generates additional costs that go beyond the tendering costs for shippers to keep gas in storage during the winter. Following the purchase of the gas, the TSO has the obligation to use this gas to supply protected and non-protected consumers.

3.1.1 Choice of gas source to supply customers in an emergency

- (27) Given that Energinet keeps emergency gas in storage, in the event of an emergency, Energinet could use either its own emergency gas or the contracted gas for filling requirements. Energinet bought its emergency gas at the time of certification. This gas is part of the TSO regulatory asset base and triggers yearly storage costs since it was first injected. Its use, in the event of an emergency, would be more economical than the gas tendered to shippers. At the same time, releasing this gas would require recuperating it after the 2022-23 winter at market prices.
- (28) In the event of Energinet using its own emergency gas, it would receive a compensation based on the prices referred to under paragraph (24) above. Given that this price would be above the price paid for the gas at the time of injection, the legislation foresees that the difference is returned to network users using the regulatory account. This point has been communicated to the Agency by the TSO without a reference to any supporting documents.
- (29) In the event of the TSO using the gas tendered to shippers, gas is purchased from shippers proportionally to the gas they have injected in storage. The purchase price is the same across all shippers.

3.1.2 Protected and non-protected consumers

- (30) The emergency supply service foresees 390 mDKK to tender gas in storage (cost item #1). 85% of this amount is used for gas to be stored for protected consumers (331.5 mDKK) while 15% is used for non-protected consumers (58.5 mDKK). The consultation launched by Energinet focuses on the tariff methodology applicable for non-protected consumers.
- (31) The two consumer groups are defined by the Danish Energy Agency and are supplied based on the following principles.
- Protected consumers are defined based on Regulation (EU) No 994/2010⁶ supplied up to 2.3 million Nm³/year. This analysis does not focus further on this group, as the methodology sets up the rules for tariffs applicable for non-protected consumers.

⁶ Regulation (EU) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC Text

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- Non-protected consumers are divided into various categories with a different probability for being interrupted⁷, an action which requires prior notification⁸. The distribution of available gas between the non-protected customers takes place according to a priority list which is determined by the Danish sectoral authorities⁹. The priority list divides the non-protected customers into socially critical consumption and socially non-critical consumption. The socially critical consumption has first priority. The list determines the degree of socially critical consumption of each non-protected customer. If gas volumes are available beyond the volumes needed to supply the socially critical consumption on the priority list, such gas volumes are offered to the socially non-critical consumption based on a pro rata basis¹⁰.
- (32) According to the TSO, the Danish Government considers the priority list applicable to non-protected consumers as confidential. The network users are individually aware of category under which they fall. Neither the TSO nor the NRA have access to this information and therefore cannot adapt tariffs specifically to this probability.

3.2 Cost allocation methodology

- (33) The methodology for non-protected consumers was consulted by Energinet between 14 October 2021 and 14 December 2022 but was not approved by the NRA in the final decision published on 12 May 2022¹¹.
- (34) Based on the current consultation document provided by Energinet, the initial methodology for non-transmission tariffs was not approved by the NRA on the basis of the following reasons¹²:
- First, the Danish Energy Agency revised the Emergency Plan on February 2022. The change could potentially affect the distribution of gas to non-protected customers in the event of an emergency, hence the NRA was prudent to review the tariff methodology after these changes.
 - Second, a postage stamp tariff component to allocate the tendering costs (cost item #1) was not deemed as fully complying with the requirement on cost reflectivity.

⁷ According to the Emergency Plan (p. 12). *Energinet's decision on possible interruption of customers must be based on the following considerations:*

- *Define whether it is a national Emergency or a Union or Regional Emergency;*
- *The expected duration of the crisis situation, as well as the likeliness of the situation to develop either in a positive or negative direction;*
- *The ability to supply both the Danish and the Swedish protected gas customers;*
- *The ability to also supply the non-protected gas customers in Denmark and Sweden;*
- *The options for reducing the consequences of potential interruptions, both the direct consequences for the affected gas customers, and also the indirect consequences for the society, and on the basis of overall considerations for the society;*

⁸ According to the Emergency Plan (p. 12), *in case it becomes necessary to interrupt supply to the non-protected customers, a 72 hours' notice will be given. The exact level of interruption will be communicated to each non-protected customer at the earliest possible time during the notice period.*

⁹ See p. 13 of the Emergency Plan

¹⁰ According to p. 13 of the Emergency Plan, *the pro rata distribution applies to the group of non-protected customers who are on the list containing -socially non-critical consumption.*

¹¹ [Delvis godkendelse af tarifmetode i det danske gastransmissionssystem \(forsyningstilsynet.dk\)](https://forsyningstilsynet.dk)

¹² See pages 3-4 of the consultation document

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- (35) Energinet consulted on a new methodology for non-protected consumers between 4 July and 4 September 2022. Energinet proposes an ex-ante tariff to allocate the costs resulting from the tendering and storage of gas during the winter (cost item #1). An ex-post correction is applied in the occasion of an emergency requiring the TSO to act in its supply role (cost item #2). This tariff is applied only to the customers that would be supplied during the emergency and aims at covering the costs of the gas that Energinet purchased from shippers to supply the relevant consumers.

3.2.1 Ex-ante tariff to allocate the tendering costs for keeping gas in storage (cost item #1)

- (36) The ex-ante non-transmission tariff is intended to allocate the cost item #1 referred above as the tender to keep gas in storage. This is done using a postage stamp non-transmission tariff applicable to all non-protected users, who are charged on the basis of the same tariff regardless of their different probability of interruption. The tariffs is charged to consumers for the option (and not the right) to be supplied in the event of an emergency.
- (37) The Agency notes that a postage stamp tariff does not reflect the risk of interruption based on the categories to which each non-protected customer belongs. At the same time, Energinet has explained to the Agency that there are multiple factors determining the probability of interruption during an emergency, including the location of a customer in the network and the flow dynamics that apply during an SoS event. This renders the tasks of designing a cost reflective tariffs extremely challenging.
- (38) The Agency considers that the proposed postage stamp tariff does not reflect the probability of being supplied according to the predefined priority categories applicable to non-protected consumers. This could potentially result in a cross-subsidisation effect as users contribute to recovering the costs of the service based on the same postage stamp tariff while having different probabilities for being supplied during an emergency. With the information provided in the consultation, the Agency cannot assess the relevance of this cross-subsidy and it acknowledges that the TSO may lack the capacity to correct it.
- (39) At the same time, the Agency notes that in the case of an SoS event, the ex-post component described below is aimed at correcting this distortion. The potential distortion of cost-reflectivity would, therefore, only apply if no emergency takes place.

3.2.2 Ex-post tariff for allocating the cost of purchasing emergency gas (cost item #2)

- (40) The ex-post non-transmission tariff is intended to allocate the costs item #2 resulting from an emergency event. The tariff allocates the costs of the stored gas that is purchased from shippers or of the emergency gas supplied directly by Energinet. The non-protected customers that are supplied are charged proportionally to the gas volumes supplied. The costs can only be calculated once the sell price is known, so the non-transmission tariffs can only be set ex-post.
- (41) Additionally, this ex-post adjustment is also intended to correct the ex-ante tariff in order to reflect the probability of interruption of each non-protected customer. This correction is applicable for the ex-ante tariff paid by non-protected consumers during a period of one year prior to the emergency situation. The Agency has understood from the NRA that this revision of the ex-ante tariff can only

be performed after an SoS event, as the probability of interruption of each non-protected consumer remains otherwise confidential.

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

- (42) 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. *'The non-transmission tariffs shall be cost-reflective, non-discriminatory, objective and transparent and shall be charged to the beneficiaries of the non-transmission service with the aim of minimising cross-subsidisation between network users within or outside a Member State, or both.'*

4.1 Cost reflectivity

- (43) On the requirement of cost-reflectivity, the Agency acknowledges that users pay the same ex-ante tariff regardless of their probability of being supplied during an emergency. Tariffs cannot be adjusted to the probability of interruption as this information is confidential and is only available to the customers on an individual basis. At the same time, the Agency acknowledges that this probability is not the only factor affecting the probability of being supplied.
- (44) Energinet argues in the consultation document (p.12) that adapting the ex-ante to the real probability of interruption *'presupposes a static situation in which it is publicly known which enterprises are on the list, which volume of the enterprise's total consumption is prioritised, the internal order of priority between the enterprises and that the list will apply for an extended period of time. This is not the case. The list is not publicly known, it is subject to ongoing change and will, in any case, only come into play in an emergency supply situation where it will be based on the order of priority that is overall in the best interests of society at the time in question.* Energinet concludes that *it is not possible to obtain documentation ex-ante which is sufficiently adequate to form the basis of any differentiation between the non-protected customers'*. It considers that the proposed methodology is *'the most suitable and cost-reflective method that minimises cross-subsidisation to the greatest possible extent in a future scenario that cannot be predicted'*. The Agency considers Energinet's reasoning valid.
- (45) Regarding the compensation to be paid to shippers or to Energinet for the sourcing of gas in the event of an emergency, the Agency considers the approach proposed by Energinet as cost-reflective, as it is based on market prices. In the case of the gas being sourced by Energinet, the Agency considers that the TSO would not make any profit when supplying gas as the differences between Energinet's buy and sell prices are reconciled and returned to network users.

4.2 Non discrimination

- (46) The Agency considers the proposed non-transmission tariffs compliant with the requirement on non-discrimination. In the view of the Agency, there are two aspects of the SoS service that could incur discrimination: first, the identification of protected and non-protected consumers and second,

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the choice of supplying or interrupting some consumers and not others in the event of an emergency.

- (47) Regarding the first point, the criteria for identifying protected and non-protected consumers are set by the Danish Energy Agency. The compliance with Regulation (EU) No 994/2010 is not assessed in this report, which focusses rather on the compliance of the proposed tariffs for one of these two customer groups. The Agency concludes that the tariffs applicable to both of these groups, regardless of how network users are assigned to one or the other, are non-discriminatory. The same tariff principles apply to all network users that belong to each group.
- (48) Regarding the second point, that is, the consumers that will be ultimately supplied in the event of an emergency, the Agency notes that this decision has to be made by the TSO on the basis of multiple factors responding to a real emergency. These matters are, again, outside the scope of this analysis. The same tariff principles apply first, to the non-protected consumers that supplied, and second to the non-protected customers that are interrupted. Which customers would be finally interrupted in an emergency is beyond the scope of this Report.

4.3 Objectivity

- (49) The Agency considers that the service responds to a clear security of supply need as it is laid in Regulation (EU) 2022/1032. The service follows the guidance provided in Article 6a and 6b of Regulation (EU) 2022/1032. The Agency considers the need for this service as objective and justified.

4.4 Charged to the beneficiaries

- (50) Regarding the requirement to '*charge the proposed non-transmission tariffs to the beneficiaries of the non-transmission service with the aim of minimising cross-subsidisation between network users within or outside a Member State, or both*', the Agency splits the analysis in two parts. The consideration about possible cross-subsidisation between network users within a Member State is provided in section 5.1 above on cost reflectivity.
- (51) On the requirement of minimising cross-subsidisation between network users within and outside a Member State, the Agency considers that the proposed non-transmission tariffs are charged to the beneficiaries, namely to the users of the network who could be supplied in an emergency. These are the Danish and Swedish consumers to which the non-transmission tariffs are charged. The proposed tariffs are not set to cross-border IPs.
- (52) Overall, the Agency concludes that the proposed non-transmission tariffs achieve a reasonable degree of cost-reflectivity, are non-discriminatory, are objective and are charged to the beneficiaries.

Annex 1: Legal framework

(53) 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.*

(54) 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:

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- (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.
- (55) 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;

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(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.

(56) 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.

(57) 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;*

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(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.

(58) 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