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## Agency Report

# Analysis of the Consultation Document on the Gas Transmission Tariff Structure for GAZ-SYSTEM S.A. SGT pipeline within Poland

NRA: Urząd Regulacji Energetyki (URE)  
TSO: GAZ-SYSTEM S.A.

13 December 2018

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## 1. ACER conclusion

- (1) The Transmission System Operator ('TSO') of the Polish national network, GAZ-SYSTEM, performing the duties of the operator on the Transit Gas Pipeline System - SGT pipeline (the Polish segment of the Yamal pipeline), proposes a capacity weighted distance (CWD) methodology, with no commodity charges and no non-transmission charges. The Agency appreciates that GAZ-SYSTEM conducts the consultation in English, since this provides transparency also to non-Polish stakeholders.
- (2) In addition to the CWD methodology, GAZ-SYSTEM proposes to apply several modifications which are not clearly described, nor justified. The Agency has not been able fully to assess these additional calculations and as a result their impact on reference prices is not entirely clear (nor their compliance with the NC TAR). These modifications include, *i*) the use of an entry-exit split that seems to be dependent on the amount of capacity booked at single points; *ii*) the use of factors to modify the costs allocated at the exit points; *iii*) the exclusion of the Mallnow IP<sup>1</sup> entry from the RPM, and the later equalisation together with the exit at the same point.
- (3) The Agency, after having completed the analysis of the consultation document pursuant to Article 27(2) of Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR'), concludes that:
  - The consultation document is not complete, as it is missing key aspects of the description of the RPM (see paragraph (5) below).
  - In the absence of a consistent evaluation of the proposed RPM, the Agency concludes that the consultation document is not compliant with the requirements laid out in Article 7 of the NC TAR. In particular:
    - .i. The proposed modifications make the role of the cost drivers (capacity and distance) unclear, thus limiting the capacity of the Agency to assess the cost-reflectivity of the RPM, the existence of cross-subsidisation and the distortion of cross-border trade.
    - .ii. Since there are no final customers connected to the SGT pipeline, it is not the case that significantly more gas is transported than used for consumption and volume risk is not an issue.
    - .iii. The possibility for network users to forecast the reference prices is hindered by the lack of transparency on the description of the proposed RPM, on the period for which the proposed methodology would apply and on the way in which the entry-exit split is set for the years after 2020.
  - The compliance analysis pursuant to Articles 27(2)(b)(2)-(3) of the NC TAR does not apply as neither commodity charges nor non-transmission charges are proposed.
- (4) The Agency recommends the National Regulatory Authority ('NRA'), in its final decision, to assess the compliance of the proposed modifications to the RPM with the NC TAR principles. Should these modifications turn out as not being compliant with the NC TAR, the Agency recommends the NRA to adopt a simpler and more transparent distance-based methodology to achieve the required tradeoffs between the principles set in Article 7 of the NC TAR and the desired policy objectives.

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<sup>1</sup> The Mallnow IP is situated in the Polish border with Germany.

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- (5) In addition, the Agency recommends the NRA to:
- Provide a detailed description of all the relevant steps of the methodology, and a comprehensive explanation of how the objectives of the methodology relate to the proposed modifications.
  - Provide a more detailed justification of the proposed RPM against the criteria defined in Article 7 of NC TAR, including an assessment of the consistency of the proposed modifications with the principles of cost-reflectivity and avoidance of undue cross-subsidisation.
  - Specify the criteria used for the determination of the entry-exit split.
  - Specify the time period for which the proposed RPM and parameters are set, or at least provide evidence on the conditions that would trigger a new consultation process.
  - Publish a simplified tariff model allowing network users to change capacity booking assumptions at single points, and to provide more clarity on the way in which the entry-exit split is set and affects reference prices.

## 2. Introduction

- (6) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas (NC TAR).
- (7) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems<sup>2</sup>. This Report presents the analysis of the Agency for the Transit Gas Pipeline System (hereinafter, SGT) operated by GAZ-SYSTEM in Poland<sup>3</sup>.
- (8) GAZ-SYSTEM forwarded the consultation documents to the Agency. The consultation was launched on 28 August 2018 and remained open until 31 October 2018. GAZ-SYSTEM did not receive any consultation responses. Within five months following the end of the final consultation, and pursuant to Article 27(4) of the NC TAR, the Energy Regulatory Office of Poland (Urząd Regulacji Energetyki, hereinafter URE) shall take and publish a motivated decision on all the items set out in Article 26(1).

### *Reading guide*

- (9) Chapter 3 presents an analysis on completeness, namely if all the information in Article 26(1) has been published. Chapter 4 focusses on compliance, namely if the RPM complies with the requirements set out in Article 7 of the NC TAR, 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. Chapter 5 includes other comments. This document contains two annexes, respectively on the legal framework and a list of abbreviations.

## 3. Completeness

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

- (10) 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.
- (11) 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 confirms that the consultation document was published in English.
- (12) The Agency finds that the information in Article 26(1) of the NC TAR has not been properly published, as noted in Table 1, with the observation formulated therein. The Agency recommends to improve the transparency when publishing the final decision, as it is a crucial step for reaching the objectives of the internal market and the implementation of the code.

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<sup>2</sup> With the exception of article 10(2)(b), when different RPMs may be applied by the TSOs within an entry-exit zone.

<sup>3</sup> The Agency notes that, within Poland, GAZ-SYSTEM also performs the duties of the operator on the Polish national network. GAZ-SYSTEM launched the corresponding consultation on 28th August 2018 and it remained open until 31st October 2018.

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Table 1 Checklist information Article 26(1)

Article	Information	Published: Y/N/NA
26(1)(a)	The description of the proposed reference price methodology	No The description does not contain all the relevant steps of the methodology
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: <ul style="list-style-type: none"> <li>the justification of the parameters used that are related to the technical characteristics of the system</li> <li>the corresponding information on the respective values of such parameters and the assumptions applied</li> </ul>	Yes
26(1)(a)(ii)	The value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9	Not applicable
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	Not applicable
26(1)(a)(v)	The assessment of the proposed reference price methodology in accordance with Article 7	Yes, although incomplete
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 <ul style="list-style-type: none"> <li>the manner in which they are set</li> <li>the share of the allowed or target revenue forecasted to be recovered from such tariffs</li> </ul> the indicative commodity-based transmission tariffs	Not applicable
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: <ul style="list-style-type: none"> <li>the non-transmission service tariff methodology therefor</li> <li>the share of the allowed or target revenue forecasted to be recovered from such tariffs</li> <li>the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3)</li> <li>the indicative non-transmission tariffs for non-transmission services provided to network users</li> </ul>	Not applicable

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<b>26(1)(d)</b>	The indicative information set out in Article 30(2)	No The tariff model does not allow to modify capacity assumptions at single points
<b>26(1)(e)</b> <b>26(1)(e)(i)</b> <b>26(1)(e)(ii)</b> <b>26(1)(e)(iii)</b> <b>26(1)(e)(iv)</b>	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: <ul style="list-style-type: none"> <li>• the proposed index</li> <li>• the proposed calculation and how the revenue derived from the risk premium is used</li> <li>• at which interconnection point(s) and for which tariff period(s) such approach is proposed</li> <li>• the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 24 are proposed</li> </ul>	Not applicable

## 4. Compliance

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

- (13) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the RPM complies with the requirements set out in Article 7 of the NC TAR. This article refers to Article 13 of Regulation (EC) No 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.
- (14) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and distortion of cross border trade are closely related<sup>4</sup>, the Agency concludes with an overall assessment.
- (15) For the purpose of the analysis, the Agency preliminarily notes that the SGT pipeline is of a linear nature, used mainly for transits across Poland, consisting of:
  - two entry points: Kondratki (from Belarus) and Mallnow (from Germany);
  - two exit points: PWP (to the GAZ-SYSTEM national transmission network within Poland, resulting from the aggregation of the two physical points of Włocławek and Lwówek) and Mallnow (to Germany).
- (16) For the purpose of tariff calculation, GAZ-SYSTEM assumes a gas flow scenario whereby the primary gas flow direction is from East (Kondratki) to West (PWP and Mallnow), thus considering the Mallnow point as exit-only. This is justified on the ground that reverse-flow services at Mallnow

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<sup>4</sup> The principle of cost-reflectivity is related to the principles of cross-subsidisation and non distortion of cross-border trade. Tariffs that are fully cost-reflective do not result in any form of cross-subsidisation (and hence they do not distort cross-border trade), as they charge users for the exact costs they cause to the system. Following this reasoning, tariffs that are less cost-reflective may result in cross-subsidisation between users.

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are minimal. The Mallnow entry is excluded from the RPM calculations, and GAZ-SYSTEM sets a tariff equal to the Mallnow exit point.

### 4.1.1 Transparency

- (17) **Article 7(a)** of the NC TAR requires that the RPM aim at enabling network users to reproduce the calculation of reference prices and their accurate forecast.
- (18) On the description of the RPM, the Agency finds that the consultation document lacks an accurate description of all the relevant modifications applied to the methodology. This is a critical aspect to ensure the transparency of the proposed RPM<sup>5</sup>. The ability of network users to reproduce the calculation of reference prices is also hindered by the lack of transparency on the period for which the proposed methodology would apply, and on the way in which the entry-exit split is set for the years after 2020.

#### 4.1.1.1 Description of the methodology

- (19) In the consultation document, GAZ-SYSTEM states that the chosen RPM is the CWD methodology, as detailed in Article 8 of NC TAR, the only difference being the adoption of a different entry-exit split (51.51/48.49 instead of 50/50). However, the Agency could check that the application of the CWD methodology as foreseen by the NC TAR, with a 51.51/48.49 split, leads to different reference prices compared to those published in the consultation document. The Agency concludes that GAZ-SYSTEM applies modifications to reference prices that are not described in the consultation document. The TSO only mentions the following general objectives:
- “Ensuring that the customers at both entry points (Entry Kondratki and Entry Mallnow) are treated equally, by making the reference prices at these points equal (the same reference price for entry to the SGT).
  - Ensuring that for each customer for a given kind of a service (product), the sum of charges for entry and exit for a unit of contracted capacity, converted into a unit of distance between the pair of points specified in the gas flow scenario used in the RPM, was the same”.
- (20) Following interactions with the TSO, a more detailed and comprehensive tariff model was provided to the Agency by GAZ-SYSTEM, detailing the steps of the calculation that are missing in the consultation document. In particular, the model shows that the weights for the exit points, calculated in point 5 of the consultation document, are corrected according to the following formula:

$$W'_{c,Ex} = W_{c,Ex} - (Cap_{Ex} / Cap_{\Sigma Ex} - W_{c,Ex}) \times R_{\Sigma En} / R_{\Sigma Ex}$$

where:

- $W'_{c,Ex}$  is the weight of the costs for the exit points (modified);
- $Cap_{Ex}$  is the contracted capacity at a given exit point (Exit PWP or Exit Mallnow);
- $Cap_{\Sigma Ex}$  is the contracted capacity at the exit points;
- Other symbols are according to NC TAR.

This leads to the following modified weights for the exit points: 0.031 for PWP; 0.969 for Mallnow.

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<sup>5</sup> The missing information was sent by the TSO to the Agency during interactions following the publication of the consultation document.

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- (21) The Agency notes that the proposed modifications do not relate to any of the adjustments foreseen in Article 6(4) of the NC TAR, hence raising questions about their compatibility with the NC TAR provisions.
- (22) The Agency considers the lack of a comprehensive description of the methodology to be a critical issue in terms of transparency, as it not only hinders the possibility for network users to replicate the calculation of reference prices, but also makes unclear the relationship between the objectives and the outcome of the proposed RPM.
- (23) The Agency also considers that, in case the proposed modifications to the CWD methodology result in tariffs that considerably deviate from the outcome of a “pure” CWD methodology, it should be questioned whether the proposed RPM could still be defined as a CWD methodology. The Agency recommends the NRA to provide, in its final decision, a detailed description of all the relevant steps of the methodology, and a comprehensive explanation of how the objectives relate to the proposed modifications. The NRA should ensure that each of these steps is compliant with the NC TAR. Should this not be possible, the Agency recommends the NRA to adopt a simpler and more transparent distance-based methodology to achieve the required tradeoffs between Article 7 of NC TAR principles and the desired national objectives.

### 4.1.1.2 Entry-exit split

- (24) In the consultation document, GAZ-SYSTEM proposes a 51.51/48.49 entry-exit split, stating that this results from additional assumptions used for the cost allocation and aims at ensuring the fulfilment of the aforementioned principles (paragraph (19)).
- (25) The Agency observes that, in the proposed RPM, it is not clear whether the entry-exit split is an output or an input of the methodology, as it seems to be dependent on the amount of capacity booked at the different points.
- (26) Also, the Agency notes that the consultation document does not properly describe the way in which the split is derived, hence undermining the possibility for network users to predict the split in the future. The issue is particularly relevant as, in the simplified tariff model (see below), users are requested to input the value of the split to derive reference prices.
- (27) The Agency recommends the NRA to specify, in its final decision, the criteria used for the determination of the entry-exit split.

### 4.1.1.3 Time period for which criteria are set

- (28) The Agency notes that the consultation document does not specify the time period for which the proposed RPM and parameters would apply, the only information in this regard being the starting date (1 January 2020), with no explicit reference made to the end date. Implicitly, it must be noted that the period cannot last more than five years as, according to the provisions of Article 27(5) of NC TAR, the consultation procedure should be repeated at least every five years.

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- (29) The Agency considers that such uncertainty undermines the possibility for network users accurately to forecast reference prices in future years.
- (30) The Agency recommends the NRA to specify, in its final decision, the time period for which the current criteria are set, or at least to provide evidence on the conditions that would trigger a new consultation process.

### 4.1.1.4 Simplified tariff model

- (31) The Agency finds the simplified tariff model, as required by Article 30(2)(b) of the NC TAR, not useful because it does not allow users to input capacity booking assumptions at single points, but only on an aggregated level. Given that the outcome of the proposed CWD methodology is highly dependent on capacity booking assumptions at single points, the Agency considers that network users would not be able accurately to reproduce the calculation of reference prices.
- (32) Also, the Agency further considers that the possibility for network users to forecast the reference prices is hindered by the lack of transparency on the period for which the proposed methodology would apply, as well as a lack of transparency on how the entry-exit splits is set for the years after 2020.
- (33) The Agency recommends the NRA to publish a simplified tariff model, which would at least allow network users to change capacity booking assumptions at individual points, and to provide clarity on the way in which the entry-exit split is set and affects reference prices.

### 4.1.2 Cost-reflectivity

- (34) **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.

#### 4.1.2.1 The proposed RPM

- (35) In principle, the CWD methodology is well suited in systems where distance is a relevant cost driver, e.g. where prevailing physical or contractual paths can be identified, as is the case for the SGT pipeline. However, the Agency is not able to conclude on the degree of cost-reflectivity of the proposed RPM given the extent of the proposed modifications, also considering that details and justifications for such modifications have not been provided with a sufficient level of detail in the consultation document.
- (36) In particular, the Agency notes that the proposed modifications make the role of capacity and distance cost drivers unclear, hence affecting the assessment of cost-reflectivity of the proposed RPM.

#### 4.1.2.2 The use of a flow scenario and the Mallnow entry tariff

- (37) The Agency notes that, whenever a point is excluded from the RPM calculations following the use of a flow scenario, such a point does not have any tariff associated resulting from the application of the RPM. The Agency prefers the application of a tariff of a nearby homogenous point, as such

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option would, as a rule, better follow the cost reflectivity principle. However, in the given system, there is no homogenous (entry) point in the proximity of Mallnow entry. GAZ-SYSTEM opts for setting the same tariff as the Mallnow exit.

- (38) The Agency considers that the choice of setting the entry tariff at the same level as the exit tariff at Mallnow is not compliant with the NC TAR. According to Article 4(19), the clustering of entry or exit points can be done following the criteria of homogenous groups of points or the criteria of points in the vicinity of each other. Neither of these options allow for entry points to be clustered with exit points, which is the option proposed by GAZ-SYSTEM. In addition the Agency notes that the resulting tariff applied by GAZ-SYSTEM is not cost reflective, as it replicates the tariff of the Mallnow exit, which is based on the cost of transporting gas from the Belarus border to Germany. The distance that gas entering at Mallnow would travel is shorter if it exits the system at the PWP exit (located in Poland). Should this tariff be used, the Agency notes that it could potentially result in an impediment of cross-border trade, particularly for gas entering at Mallnow (Germany) and exiting at PWP (Poland).

### 4.1.2.3 The CWD methodology comparison

- (39) The Agency considers that the comparison with the CWD methodology (i.e. as described in the NC TAR, with a 50/50 entry-exit split) is a relevant tool for the analysis of cost-reflectivity.
- (40) In this regards, the Agency notes that the exit tariff at the PWP point resulting from the proposed RPM (0.4597 PLN/MWh/day) is significantly lower than the charge resulting from the counterfactual methodology (0.9241 PLN/MWh/day), resulting in a potential degree of cross-subsidisation between users at the PWP point (mostly serving consumers within Poland, given that the PWP point connects the SGT to the Polish national system) and users at the Mallnow exit point (towards Germany).
- (41) The Agency also notes that the difference between tariffs from the proposed RPM and those from the comparison with the CWD methodology not only arises due to the adoption of a different entry-exit split (51.49/48.51 compared to 50/50), as stated in the consultation document; but also from additional modifications not described in the consultation document (see previous point (19)).

### 4.1.2.4 Conclusion

- (42) Even though the adoption of a CWD methodology is, in principle, justified in a system such as the SGT pipeline, where distance is a relevant cost driver, the Agency considers that the extent of the proposed modifications does not make it possible for the Agency to assess the overall degree of cost reflectivity of the proposed RPM, and in particular the way in which the capacity and distance cost drivers interact in the proposed RPM. Also, the equalisation of entry and exit tariffs to/from Mallnow is not duly justified in light of the NC TAR principles.
- (43) The Agency's concern, also based on the results of the comparison with the CWD methodology, is that the proposed modifications (in particular, the use of factors to change the costs allocated to the exit points, as part of the RPM calculation) lead to potential cross-subsidisation between users

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at the PWP point and users at Mallnow exit point, hence between the use of the pipeline for domestic over the use for cross-border purposes.

- (44) On the application of the RPM to the Mallnow entry, the Agency notes that the adjustments applied by GAZ-SYSTEM following the use of a flow scenario are not compliant with the NC TAR. The Agency recommends the NRA not to use a flow scenario at the Mallnow entry if the subsequent adjustments required to set a tariff at this point are not compatible with the NC TAR principles.
- (45) The Agency recommends the NRA to assess the compliance with the NC TAR of the proposed modifications to the RPM. The final decision should include a detailed justification of the proposed RPM against the criteria defined in Article 7 of NC TAR, including an assessment of the consistency of the proposed modifications with the principles of cost-reflectivity and avoidance of undue cross-subsidisation, and alongside with the principles reconsider the modifications provided in the CWD methodology. Should the compliance with the NC TAR not be clarified, the Agency recommends the NRA to adopt a simpler and more transparent distance-based methodology

### 4.1.3 Cross-subsidisation

- (46) **Article 7(c)** of the NC TAR requires the RPM to ensure non-discrimination and prevent undue cross-subsidisation.
- (47) Concerning non-discrimination, the Agency has not identified discrimination resulting from the correct application of the NC TAR, nor from practices not allowed by the NC TAR. For this analysis, the Agency defines 'discrimination' as 'charging different prices to different network users for the identical gas transmission service'. The allocation of all transmission costs via a single RPM to all entry-exit points minimises the possibility of forms of discrimination not allowed by the NC TAR.
- (48) On cross-subsidisation, one instrument to evaluate this is the cost allocation assessment (CAA, Article 5 of the NC TAR). The results of the CAA were not provided in the consultation document, because all the points are for cross-system network use (meaning the transport of gas within an entry-exit system to customers connected to another entry-exit system), according to the definition in Article 3(9) of the NC TAR. In particular:
- the Mallnow exit point connects to the Gaspool entry-exit system in Germany;
  - the PWP exit point connects to the GAZ-SYSTEM entry-exit system within Poland.
- (49) The Agency believes that, even though cross-subsidisation between cross-system network use and intra-system network use is not a concern, a degree of cross-subsidisation between different network users (domestic vs transit) might arise, given that Mallnow is a cross-border point, while PWP is an intra-country IP. The Agency considers that the assessment of undue cross-subsidisation is closely related to the assessment of cost-reflectivity, on which the Agency already concluded (see, in particular, paragraph (43)).

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### 4.1.4 Volume risk

- (50) **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.
- (51) There are no final customers connected to the SGT pipeline, hence the Agency considers the RPM compliant in this respect.

### 4.1.5 Cross-border trade

- (52) **Article 7(e)** of the NC TAR requires that the RPM ensures that the resulting reference prices do not distort cross-border trade. The TSO provides a justification based on the fact that the RPM, including the use of the same reference prices at both the Kondratki entry point and the Mallnow entry/exit point, has been used for calculation tariffs since 2014, therefore it does not introduce any significant changes.
- (53) The Agency sees some merits in continuing the methodology already applied. However, in the Agency's view, such a decision does not avoid, as such, the distortion of cross-border trade, given that the principle is interpreted by the Agency as keeping tariffs at cost-reflective levels and avoiding undue cross-subsidies between cross-border and domestic users, on which the Agency already expressed concerns (see previous paragraphs (43) and (49)).

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

- (54) 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.
- (55) GAZ-SYSTEM proposes not to apply commodity-based transmission tariffs.

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

- (56) 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.
- (57) In the consultation document, it is proposed not to make use of non-transmission tariffs.

## 5. Other comments

- (58) The Agency concludes this report with a remark on the configuration of the Polish network, which is divided into two entry-exit systems: the Polish national network and the SGT pipeline. As a result of this, the supply of gas to the Polish market via the SGT pipeline is more expensive than through the other entries into the Polish national network. The difference is determined by the two additional tariffs that result from the use of the SGT pipeline:
- Gas coming into the Polish national network faces a uniform entry tariff following the proposal of a postage stamp methodology for this system (3.517 PLN/MWh/h).

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- Gas entering the Polish national system via the SGT pipeline faces an entry tariff into the SGT pipeline at the Belarus border (1.3885 PLN/MWh/h), and an exit tariff from the SGT pipeline to Poland (0.4597 PLN/MWh/h). This adds up to 1.8482 PLN/MWh/day, to which the entry tariff to the Polish national system has to be added. The surcharge for supplying the Polish market via the SGT pipeline represents a 52% increase compared to the standard entry fee charged when entering directly into the Polish national network.
- (59) The Agency recommends the NRA to assess the costs and benefits of a merger of the two entry-exit systems.

## 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:*

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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.*

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.*

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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 non discriminatory 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.*

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*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 non-transmission 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
<b>ACER</b>	Agency for the Cooperation of Energy Regulators
<b>ENTSOG</b>	European Network of Transmission System Operators for Gas
<b>NRA</b>	National Regulatory Authority
<b>TSO</b>	Transmission System Operator
<b>EC</b>	European Commission
<b>EU</b>	European Union
<b>MS</b>	Member State
<b>NC TAR</b>	Network code on harmonised transmission tariff structures for gas
<b>IP</b>	Interconnection Point
<b>VIP</b>	Virtual Interconnection Point
<b>RPM</b>	Reference Price Methodology
<b>CWD</b>	Capacity Weighted Distance
<b>CAA</b>	Cost Allocation Assessment
<b>RAB</b>	Regulated Asset Base
<b>OPEX</b>	Operational Expenditures
<b>CAPEX</b>	Capital Expenditures
<b>SGT</b>	Transit Gas Pipeline System
<b>URE</b>	Urząd Regulacji Energetyki (Polish NRA)



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