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Agency Report

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

NRA: Autoritatea Națională de
Reglementare în domeniul Energiei
TSO: Transgaz

12 November 2018

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1. ACER conclusion

- (1) Autoritatea Națională de Reglementare în domeniul Energiei ('ANRE') proposes a postage stamp methodology, a 50/50 entry/exit split and a 50% discount at entry points to and exit points from storages. Also, commodity charges and non-transmission charges are proposed. The consultation document is provided in both Romanian and English and clearly describe the proposal for the tariff structure.
- (2) While the proposed reference price methodology is clear, the reasoning for this methodology is not. If the decision as referred to in Article 27(4) of the NC TAR were not to provide a better reasoning, the Agency would not consider such a Decision as complying with the requirement to take a *motivated* decision.
- (3) After having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR, the Agency concludes, that:
 - The consultation contains the required information listed in Article 26(1), with the exception of some information on the non-transmission services and, most importantly, a complete assessment of the proposed reference price methodology ('RPM') in accordance with Article 7. The Agency considers the lack of such an assessment as amounting to non-compliance with the requirement in Article 26(1);
 - The proposed RPM makes the tariff structure easy to understand and the outcome of the cost allocation assessment does not show a level of cross-subsidisation that needs to be justified. However, the choice of the postage stamp methodology is not sufficiently motivated and therefore the Agency could not assess its compliance with the criteria specified in Article 7;
 - The proposal gradually to decrease the commodity charge to 15% of the allowed revenues to align it with the requirement in the NC TAR to use commodity charges 'as an exception' is sensible;
 - The criteria for setting non-transmission charges are met.
- (4) The Agency recommends that ANRE improve its reasoning in the final decision. In particular, a more elaborate assessment of the choice of the postage stamp methodology should be included, especially with respect to the following elements:
 - (1) the relevance of distance as a cost driver;
 - (2) the requirements listed in Article 7 of the NC TAR;
 - (3) the conclusions of the comparison with the capacity weighted distance ('CWD') methodology.ANRE could for instance take into account the characteristics of the Romanian network, such as the developments in the network due to Black Sea production, the development of interconnection capacities and the transit pipelines.
- (5) The Agency further recommends that, in the final decision. ANRE:
 - elaborate on the way the flows are determined when calculating the flow-based commodity charge;
 - indicate the manner in which the non-transmission services revenue is reconciled;
 - clarify the treatment of the transit pipelines.

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 for all entry-exit systems¹. This document presents the analysis of the consultation document for the National Transmission System ('NTS') in Romania².
- (8) On 27 April 2018, ANRE forwarded the consultation document to the Agency. The consultation was open from 1 May 2018 until 30 June 2018.
- (9) During a phone call on 31 May 2018, the Agency informed ANRE that important elements were missing in the consultation:
 - The Agency recommended ANRE to include the revenue of the non-transmission services in the allowed revenues, to evaluate if these services qualify as non-transmission services (pursuant to Article 4(1) of the NC TAR), to set the tariffs in line with the criteria in Article 4(4) of the code and to consult on these aspects.
 - The Agency also recommended that ANRE opened the consultation to include the indicative information set out in Article 30(2) of the NC TAR, most importantly the simplified tariff model.
- (10) On 9 July 2018, ANRE opened another consultation on non-transmission services and the information in Article 30(2), which ran until 14 September 2018. The Agency appreciates that ANRE reopened the consultation.
- (11) On 28 September 2018, the consultation responses³ and their summary were published. The Agency took note of these.

Reading guide

- (12) Chapter 3 presents an analysis on completeness, namely if all the information in Article 26(1) of the NC TAR 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) of the NC TAR are met and if the criteria for setting non-transmission tariffs as set out in Article 4(4) of the NC TAR are met. Chapter 5 includes other comments. This document contains two annexes, respectively the legal framework and a list of abbreviations.

¹ With the exception of Article 10(2)(b), when different RPMs may be applied by the TSOs within an entry-exit zone.

² Romania has a National Transmission System and a Transit system.

³ Only three parties replied to the first consultation (E.ON Engie Romania, E.ON Gaz Furnizare and ENGIE Romania). There were no responses to the second consultation.

3. Completeness

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

- (13) 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.
- (14) Article 26(1) of the NC TAR requires that the consultation document be published in the English language, to the extent possible. The Agency confirms that the consultation document has been published in English⁴.
- (15) Most of the information in Article 26(1) of the NC TAR has been published, although it could be improved in some aspects (see Table 1). However, a complete assessment of the proposed reference price methodology ('RPM') in accordance with Article 7 of the NC TAR is missing. The Agency considers the lack of such an assessment as amounting to non-compliance with the requirement in Article 26(1). Therefore, the Agency recommends to improve the reasoning in the final decision, especially on the assessment of the requirements defined in Article 7 of the NC TAR. Furthermore, the Agency recommends to complete the information on the non-transmission services.

Table 1 Checklist information Article 26(1)

Article	Information	Published: Y/N/NA
26(1)(a)	the description of the proposed reference price methodology	Yes
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"> 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	Yes
26(1)(a)(v)	the assessment of the proposed reference price methodology in accordance with Article 7	No, the methodology is described, but not explicitly assessed against the criteria

⁴ Due to technical problems, the English version of the first consultation document was available slightly later than the Romanian version (i.e. on 2 May 2018).

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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"> 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: <ul style="list-style-type: none"> the non-transmission service tariff methodology therefor the share of the allowed or target revenue forecasted to be recovered from such tariffs the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3) the indicative non-transmission tariffs for non-transmission services provided to network users 	Partially, the items listed in the 2 ⁿ and 3 rd bullet points are missing ⁵
26(1)(d)	the indicative information set out in Article 30(2);	Yes, as part of the second consultation
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: <ul style="list-style-type: none"> 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. Compliance

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

- (16) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed RPM 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 be taken 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 The tariffs for the non-transmission service regarding the connection to natural gas transmission systems are not provided. The Agency also understands that this is not possible, since the tariff that is set will depend on the characteristics of the connection that is requested. Since the parameters used for calculating this charge are transparent, the Agency does not consider this information to be missing.

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- (17) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and cross border trade are closely related, the Agency concludes with an overall assessment. Special attention is paid to the allocation of revenues between domestic and transit routes.
- (18) **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.
- (19) The proposed postage stamp methodology makes it easy for users to understand and calculate tariffs compared to other methodologies. The Agency finds the simplified tariff model compliant with the requirements of Article 30(2)(b) of the NC TAR. The model allows to forecast tariffs up to and including the gas year 2024. The Agency considers that network users would be able to reproduce the calculation of reference prices and to forecast the reference prices. The Excel sheet that contains this information is provided in English. However transparency could be improved by also providing the other sheets in English.
- (20) **Article 7(b)** of the NC TAR requires that the RPM take into account the actual costs incurred for the provision of transmission services, considering the level of complexity of the transmission network.
- (21) ANRE proposes to use a postage stamp methodology, with a 50% discount for entry and exit points to and from storage facilities. While the consultation document remarks that cost-reflectivity is ensured 'by including in the revenues allowed to be recovered by transmission tariffs only the costs the TSO's incurred in relation with the provision of gas transmission services', the consultation document does not provide a reasoning as to why this methodology is proposed. Therefore, the Agency cannot conclude if the proposal is in line with the general principle of cost-reflectivity. The Agency recommends that ANRE, in the final decision on the RPM, include an assessment of how the complexity of the network and the comparison with the capacity weighted distance ('CWD') methodology are considered.
- (22) **Article 7(c)** of the NC TAR requires that the RPM ensure non-discrimination and prevent undue cross-subsidisation.
- (23) One instrument to evaluate the degree of cross-subsidisation is the cost allocation assessment ('CAA', Article 5 of the NC TAR). The result for the capacity cost allocation comparison index is 7.98%. The outcome of the commodity cost allocation comparison index is 0%⁶. These values do not exceed 10% and therefore do not require further justification.
- (24) With respect to the outcome of 0% for the commodity CAA, the Agency remarks that Article 5(1)(b) of the NC TAR gives two options to use as cost drivers for the commodity-based CAA: (i) the amount of gas flows or (ii) the amount of gas flows and distance. ANRE uses the first one, which results in an outcome of 0%. It would be useful to understand if distance is a cost-driver and, if so, to provide the outcome of the CAA using both the amount of gas flows and distance as cost-drivers.

⁶ The calculations are performed using the 75%-25% capacity-commodity split that applies in the gas year '19-'20.

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- (25) In addition, the allocation of capacity/flows and points to cross-system and intra-system users (see Article 5(5) of the NC TAR) affects the outcome of the CAA. The Agency understands that for the CAAs, the National Transmission System flows are assigned to intra-system users and the transit flows on the Isaccea 1 - Negru Voda 1 pipeline and the flows on the interconnection point Csanadpalota in the Romanian-Hungary direction are assigned to cross-system users. This approach seems sensible, although it may be worthwhile to take a longer horizon by analysing what the effects would be if the planned investments in interconnection capacity were made and, thus there were more cross-border flows.
- (26) Finally, based on the information provided, the Agency was not able to assess if undue cross-subsidisation between different groups of users occurs. Better to identify the impact of the choices made, the Agency recommends that ANRE evaluate the results of the cost allocation assessment before and after the application of discounts.
- (27) Regarding non-discrimination, the Agency defines discrimination as applying different rules to comparable situations or the same rule to different situations, e.g. when network user A would be charged a different price than network user B while buying the same product, such as a one year firm capacity product at interconnection point X. From the information provided to the Agency, the proposed RPM complies with the principle of non-discrimination.
- (28) **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.
- (29) ANRE does not refer to Article 7(d) of the NC TAR. A significant part of the Romanian network is used to transport gas across the entry-exit system. Until recently, these 'transit' pipelines that transport gas from Ukraine to Bulgaria through Romania were under long-term contracts. As this situation is changing, the Agency recommends ANRE to evaluate if a risk arises that final customers in Romania would be facing increased tariffs due to an underutilisation of these pipelines, and if relevant, to monitor the capacity bookings on these transit pipelines.
- (30) **Article 7(e)** of the NC TAR requires that the RPM ensure that the resulting reference prices do not distort cross-border trade.
- (31) ANRE does not include an assessment of this criterion in the consultation document. The Agency considers a cost-reflective methodology a safeguard against reference prices that would distort cross-border trade. Therefore, the Agency refers to the comments made regarding Article 7(b).

Overall assessment

- (32) Overall, it is clear which methodology ANRE proposes, but no reasoning for this choice is provided. Although the choice for a postage stamp methodology may be appropriate (it is easy to understand and the CAA outcome does not show a high degree of cross-subsidisation), the evaluation of the criteria in Article 7 of the NC TAR and the conclusions ANRE has drawn from the comparison with the CWD methodology are not included in the consultation document. The Agency considers this as an issue of non-compliance and recommends that ANRE analyse these aspects and motivate its choice of RPM in its final decision.

- (33) ANRE could for instance take into account the characteristics of the Romanian network, such as the developments in the network due to Black Sea gas production, development of interconnection capacities and the transit pipelines. These changes may lead to a more meshed network, making it more difficult to take distance into account in the RPM. On the other hand, the degree of cross-subsidisation may increase. Also, it may be considered that ANRE and Transgaz have been working to catch up on the (delayed) implementation of European gas regulation, leading to many changes for market participants already. In this light, simplicity of the tariff methodology may be given more weight.

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

- (34) 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.
- (35) Commodity-based transmission tariffs can be used as an exception. The NC TAR allows for two types of commodity-based transmission tariffs: a flow-based charge and a complementary revenue charge. ANRE proposes to apply a flow-based charge.
- (36) The commodity charge should be levied for the purpose of covering the costs mainly driven by the quantity of gas flows (Article 4(3)(a)(i) of the NC TAR). To comply with this criterion, ANRE proposes to bring the share of the commodity charges in line with the share of the variable cost (in the total cost), which the Agency understands from discussions with ANRE to be about 15%. At the moment of the consultation, the share of the commodity charge was 35%. ANRE intends to decrease this share by 5 percentage points per year⁷. The Agency considers this gradual decrease sensible and the final share of 15% appropriate.
- (37) Regarding the second criterion set in Article 4(3)(a) of the NC TAR, it is clear that the tariff is charged only at exit points and it is the same at all exit points. The Agency recommends to elaborate in the final decision on the way the ‘flows’ are determined. From the information provided by ANRE, the Agency understands that the actual flow data from the most recent year is used as a basis for the forecast. Adjustments to this value are made when additional information (e.g. on new clients) is available.

Table 2 Criteria set in Article 4(3)(a)

Criteria	Y/N?
levied for the purpose of covering the costs mainly driven by the quantity of the gas flow	Yes, to cover the variable cost
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	Yes
expressed in monetary terms or in kind	Yes, in monetary terms

⁷ ANRE proposes that the commodity-based transmission tariffs will form 25% of the transmission services revenue in gas year '19-'20, 20% in gas year '20/'21 and 15% in gas year '21-'22.

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

- (38) 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) of the NC TAR are met.
- (39) In the first consultation document it is explained that non-transmission services, such as connection services and complementary transmission services, are offered, but that the costs of such services are not part of the setting of the allowed revenue.
- (40) During the phone call on 31 May 2018, the Agency pointed out to ANRE that this is not compliant with the NC TAR: these services should be part of the allowed revenue pursuant to Article 3(11) of the NC TAR and should be included in the consultation document and the final decision. In the second consultation document, ANRE included these two services and explained that the revenue from these services is part of the allowed revenues of the transmission system operator ('TSO').
- (41) ANRE explains that these services qualify as non-transmission services as defined in Article 4(1) of the NC TAR, because the costs for these services are not driven by capacity and distance and the costs of these services are not part of the regulatory asset base ('RAB'). The Agency finds this reasonable.
- (42) 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. The Agency follows the reasoning provided by ANRE and agrees that these criteria are met. The non-transmission tariffs will reflect only the actual costs of providing these services (cost-reflective) and the same methodology is applied to all users of these services (non-discriminatory and objective). The methodology is also made transparent. Finally, to avoid cross-subsidisation, only the users of these services are charged these tariffs.
- (43) Finally, Article 26(1)(c)(ii) of the NC TAR requires that, where non-transmission services are proposed, the consultation shall include the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3) of the NC TAR. As this has been omitted in the consultation document, the Agency recommends to include it in the final decision.

5. Other comments

- (44) The Agency recommends that the treatment of the 'transit' pipelines is clarified in the final decision, both in terms of tariffs and in terms of costs, more specifically:
- Regarding the tariffs, the Agency understands from ANRE that the RPM applies to all points in Romanian NTS. There are also three 'transit' pipelines from Isaccea to Negru Voda. Due to the expiry of existing contracts, pipeline 1 will be connected to the NTS during the period covered by the consultation (October 2019 – September 2024). Entry point Isaccea 1 and exit point Negru Voda 1 will be included in the RPM and the postage stamp will be applied. ANRE needs to clarify in the final decision how and when this will be done.
 - Regarding the costs, the Agency recommends ANRE to explain in the final decision how the costs related to the 'transit' pipelines are taken into account. The Agency understands from ANRE that the costs of the 'transit' pipelines will not enter the RAB and will not be allocated via

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the RPM. Only the connection of the transit pipeline with the NTS will be included. ANRE needs to explain who will pay for the assets that are not included in the RAB and why this is compliant with the NC TAR.

- (45) Finally, the reserve prices for non-yearly products are not stated in the foreseen unit (Articles 14(a) and 15(1) of the NC TAR). The reserve prices are calculated by multiplying the reference price by the multiplier and seasonal factor, but the division by 365 and the multiplication by the number of days is not part of the calculation. As the tariffs are expressed in Lei/MWh, this gives a correct result, but it makes it difficult to compare these reserve prices with the reserve prices in other Member States. Therefore, the Agency suggests to use a tariff in Lei/MWh for the commodity charge, but use a tariff expressed in Lei/MWh/h/day, Lei/MWh/h/month, Lei/MWh/h/quarter and Lei/MWh/h/year for the capacity charges.

Annex 1: Legal framework

(46) 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.*

(47) 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.
- (48) 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.

(49) 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.

(50) 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.

(51) 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
ANRE	Autoritatea Națională de Reglementare în domeniul Energiei
CAA	Cost Allocation Assessment
CWD	Capacity Weighted Distance
EC	European Commission
EU	European Union
NC TAR	Network code on harmonised transmission tariff structures for gas
NRA	National Regulatory Authority
NTS	National Transmission System
RAB	Regulated Asset Base
RPM	Reference Price Methodology
TSO	Transmission System Operator



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