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European Union Agency for the Cooperation
of Energy Regulators

Agency Report

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

NRA: Magyar Energetikai és Közmű-
szabályozási Hivatal (MEKH)

TSO: FGSZ Földgázszállító Zártkörűen
Működő Részvénytársaság (FGSZ)

12 March 2021

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1. ACER conclusion

- (1) The Hungarian national regulatory authority ('NRA'), Magyar Energetikai és Közmű-szabályozási Hivatal ('MEKH'), proposes a postage stamp reference price methodology ('RPM'), with a 40-60 entry-exit split. MEKH proposes to apply a 90% discount at entry points from storage facilities and a 100% discount at exit points to storage facilities. A benchmarking adjustment is applied at the entry point from HR for the purpose of making the HR-HU-AT route competitive with the HR-SI-AT route for LNG to reach the AT hub. MEKH also proposes a commodity-based charge and four non-transmission services. The consulted RPM is proposed for the tariff period from 2021/2022 until 2024/2025.
- (2) The Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR') foresees a cost allocation assessment ('CAA'¹) to assess the impact of the RPM on cross-subsidisation. The results of the CAA provided in the consultation document are not valid. They include various numerical errors in the calculation and disputable assumptions on the allocation of storage points for cross-system purposes². The CAA results estimated by the Agency range between 14-24%, which is beyond the 10% threshold foreseen in the Article 5 of the NC TAR. Above this threshold, the NRA is required to provide a justification.
- (3) The NC TAR also foresees a comparison of the proposed RPM with the capacity weighted distance ('CWD') methodology. The Agency notes that the comparison provided by MEKH is based on the clustering of some IPs. While the NC TAR allows for the clustering of points when calculating the CWD methodology, the proposed calculation does not allow a point by point comparison of the tariffs derived using the CWD methodology and the proposed postage stamp methodology. At the same time, the Agency notes that the proposed postage stamp methodology reduces the tariff volatility resulting from changes in the supply routes to HU that the NRA expects in the coming years³.
- (4) The Agency, on the basis of the analysis of the consultation document, concludes pursuant to Article 27(2) of the NC TAR that:
 - Most of the information required by Article 26(1) of the NC TAR has been published, with the exception of a capacity forecast for the IPs with HR and RS, the details of the calculation applied for the rescaling adjustment and a non-clustered version of the CWD methodology to be compared with the proposed postage stamp methodology.
 - The Agency cannot conclude that the RPM is compliant with the requirements of cost-reflectivity, preventing undue cross-subsidisation, and non-distortion of cross-border trade as required by Article 7 of the NC TAR. This is a result of the proposed discounts to entry points

¹ Throughout this document, 'CAA' is used to refer to the capacity cost allocation comparison index described in Article 5(3)(c) of the NC TAR.

² The Agency notes the readiness of MEKH to revise the CAA calculations and provide a number of additional versions to assess the impact of discounts to entry points from and at exit points to storage facilities and the application of the benchmarking adjustment. The Agency received the CAA analyses at a late stage in the process and did not have sufficient time to validate the results in this Report.

³ Following exchanges with MEKH, the Agency understands that significant changes can take place in the supply routes to HU. Amongst them is a potential shift of imports from the UA entry point to the RS entry point which transports gas entering to the EU through the Turkish Stream pipeline.

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from and at exit points to storage facilities and the proposed benchmarking adjustment. The RPM complies with the requirement of ensuring non-discrimination and volume risk.

- The proposed commodity-based tariffs are compliant with all the requirements set in Article 4(3) of the NC TAR. The Agency, nevertheless, points out that the increase of 32.1% on the flow-based charge that will be applicable in the upcoming tariff period starting on October 2021 is not sufficiently justified.
- On the criteria for setting non-transmission charges, the Agency concludes that the odourisation service and the connection to the transmission system service are compliant with Article 4(4) of the NC TAR. The Agency could not assess the compliance of the tariffs for title transfer service and the data services. These tariffs are set based on expert advice and MEKH does not provide the criteria on which they are based. The services are neither part of the allowed revenue of the TSO. At the same time, MEKH points out that these two services represent a small fraction of the TSO's revenue.

(5) The Agency recommends MEKH to consider the following aspects to be included in the motivated decision referred to in Article 27(4) of the NC TAR:

- Review the discounts applied to entry points from and at exit points to storage facilities to keep the CAA result within the prescribed 10% threshold. Should the result be above this threshold, MEKH should justify the applied discount to entry points from and at exit points to storage facilities and the resulting cross-subsidisation to other points of the network.
- Review the application of the benchmarking adjustment. The Agency notes that under the justification provided in the consultation document the proposed adjustment is not compliant with the NC TAR.
- Review the CAA calculation, including the manner in which entry points from and exit points to storage facilities are taken into account and assess the impact of the proposed benchmarking (if applied).
- Calculate the CWD methodology without the clustering of points (providing a capacity forecast for all IPs) and complete a comparison between the proposed postage stamp methodology and the CWD methodology that takes into account the changes expected in the supply pattern of the network. The same assumptions should be used when calculating the CAA for both the proposed postage stamp methodology and the CWD methodology.
- Provide clarity on the calculation of the rescaling factor.
- Provide a capacity forecast for the IPs with HR and RS.
- Assess the probability of interruption and the A factor for the reverse flow interruptible capacity product at the AT-HU IP. The Agency acknowledges that such assessment should be part of the consultation on discounts, multipliers and seasonal factors pursuant to Article 28 of the NC TAR.
- Provide additional clarity on the factors justifying an estimated 32.1% increase on the flow-based charge.
- Include the costs of the title transfer service and the data services in the allowed revenue of the TSO. Should the charges proposed for these services not cover underlying costs for the TSO, they should be returned to users by means of the regulatory account.
- Reconcile the non-transmission services as required by Article 17(3) of the NC TAR.
- Clarify how the title transfer service fee and the data services fee are calculated to comply with the cost reflectivity requirement laid out in Article 4(4) of the NC TAR.

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- (6) The Agency for the Cooperation of Energy Regulators ('the Agency') observes that MEKH conducts the consultation in English, providing transparency also to non-Hungarian stakeholders.
- (7) A number of bilateral exchanges to collect additional information took place between the Agency and MEKH. A more extensive version of several calculations, including the CAA and the CWD methodology, were provided by MEKH to the Agency. The Agency appreciates the readiness and the openness of the NRA during this process, as it supported the analysis.

2. Introduction

- (8) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas ('NC TAR').
- (9) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems⁴. This Report presents the analysis of the Agency for the transmission system of Hungary.
- (10) On 13 November 2020, MEKH, forwarded the consultation documents to the Agency. The consultation was launched on 15 November 2020 and remained open until 15 January 2021. On 12 February 2021, the consultation responses and their summary were published. The Agency has taken these into consideration for this analysis. Within five months following the end of the final consultation, and pursuant to Article 27(4) of the NC TAR, MEKH shall take and publish a motivated decision on all the items set out in Article 26(1).

Reading guide

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

3. Assessment of the proposed reference price methodology

3.1 Description of the proposed RPM

- (12) The NRA proposes a postage stamp reference price methodology ('RPM'), with a 40-60 entry-exit split. MEKH proposes to apply a 90% discount at entry points from storage facilities and a 100% discount at exit points to storage facilities.

3.2 Comparison with the CWD methodology

- (13) Article 26(1)(a)(vi) of the NC TAR prescribes a comparison between the proposed methodology and the CWD methodology. The Agency notes that the comparison between the tariffs at IPs derived using the proposed postage stamp methodology and the CWD methodology cannot be fully completed for the following reasons:
 - The CWD methodology performed by the NRA is based on the clustering of two sets of IPs: UA-RO-RS and AT-SK. The individual tariffs for these points are not provided in the consultation document and cannot be compared with the tariffs derived using the proposed postage stamp methodology. MEKH provided the Agency with a non-clustered version of the tariffs calculated

⁴ With the exception of Article 10(2)(b), when different RPMs may be applied by the TSOs within an entry-exit zone.

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using the CWD methodology. The results show relevant differences in the entry points that are clustered. The Agency notes that these differences are significant and should be explained in the motivated decision.

- MEKH provides no forecasted capacities at the entry points from HR and RS. Instead, the NRA uses a proxy value of 1 kWh/h/y. This renders the tariffs derived using the CWD methodology less reliable when comparing them with the proposed postage stamp methodology. This is because the tariffs derived using the CWD methodology depend on the capacity forecast used.
- (14) In the absence of a CWD calculation allowing to perform a full comparison with the tariffs derived using the proposed postage stamp methodology, the Agency cannot properly assess the relevance of distance, as a cost driver. It is therefore not possible to conclude on the appropriateness of the proposed postage stamp methodology.
- (15) At the same time, and following exchanges with MEKH, the Agency understands that significant changes can take place in the supply routes to HU. Amongst them is a potential shift of imports from the UA entry point to the RS entry point which transports gas entering to the EU through the Turkish Stream pipeline. The Agency agrees that a postage stamp methodology can minimise tariff volatility resulting from uncertain and changing gas flows as the CWD methodology is sensible to capacity changes per network point.
- (16) The Agency recommends that MEKH, in its motivated decision:
- Calculate the CWD methodology without the clustering of points, providing a capacity forecast for each IP.
 - Complete a comparison between the proposed postage stamp methodology and the CWD methodology that takes into account the potential changes expected in the supply pattern of the network. MEKH should provide details on the potential tariff volatility resulting from network changes to illustrate how a postage stamp methodology is a preferable RPM under the changing circumstances. The comparison can make use of scenarios about future network changes⁵.
 - The same assumptions should be used when calculating the CAA for both the proposed postage stamp methodology and the CWD methodology, in particular regarding the allocation of storage to cross-system and intra-system use.

3.3 Benchmarking

- (17) The NRA proposes to benchmark the entry point from Croatia reasoning that flows from the Croatian LNG terminal can reach AT after crossing HU. According to the NRA, this route is in competition with the alternative route from HR, crossing SI and arriving also to AT.
- (18) The NRA proposes to decrease the HU entry tariff from HR so that the routes HR-HU-AT and HR-SI-AT result in the same transmission cost. The benchmarked tariff is consequently lowered from 862.32 HUF/kWh/h/y to 268.32 HUF/kWh/h/y.

⁵ The Agency points at the 2018 tariff consultation carried out in DK as a best practice as it compared the proposed postage stamp methodology with the CWD methodology over time to assess how changes in the network would be reflected in tariffs by each of the RPMs.

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- (19) The Agency makes several remarks regarding the benchmarking proposal:
- (20) First, MEKH provides no evidence of competition between the two proposed routes⁶. In addition, no firm capacity is offered at the AT-HU exit IP⁷. As a general rule, this aspect makes it difficult to apply a benchmarking adjustment. Shippers willing to export LNG to AT using the HU route might not have access to capacity when needed. MEKH provides no evidence showing that exit capacity at the exit to AT is used for LNG imports arriving to HU from HR.
- (21) Second, the proposed benchmarked point in the HU network is the entry point from HR. This implies that the benchmarked tariff is applicable to all bookings from HR to HU without discriminating the bookings that serve to supply the HU market and the bookings that could potentially serve to cross the HU network in order to reach the AT network. Should the LNG imports to HU be mainly used to supply the HU market, benchmarking the entry point from HR would result in undue cross-subsidisation. The benchmark proposed for the purpose of making the route to AT competitive with the alternative SI route would also serve to lower the transport costs for the LNG imported for HU end users.

⁶ The Agency observes that firm technical capacity is only available from AT to HU at the IP Mosonmagyaróvár. The possibility for a shipper to flow gas from HU to AT is limited to periods when a net volume of gas is transported in the opposite direction (i.e. from AT to HU). At best, this makes the HU gas transportation system highly impractical for shippers wanting to transport gas to the AT market. In fact, it seems that to transport gas from the Croatian Krk LNG regasification terminal to the Austrian market via Hungary, shippers would need to act in an economically inefficient way, as the below examples make explicit:

If acting in an economically efficient way, when the AT day ahead market is at a discount to the HU market, shippers flowing gas from AT to HU should sell the volumes (sourced at the Krk LNG terminal intended for AT via HU) in the HU wholesale market and close their position in the AT market by sourcing at the hub. This would mean that the shippers would not only maximize the profit on the commodity (i.e. selling in the premium market) but also that they would optimize their capacity exposure (i.e. avoid transportation capacity costs).

In the opposite case, when the HU day ahead market is at a discount to the AT market, shippers should export gas from HU to AT (irrespective of whether being sourced as LNG or not). At the same time, it would be inefficient to export gas from AT to HU. However, as the possibility to export gas from HU to AT is dependent on gas also being transported in the opposite direction. It follows that when it would be economically efficient to export gas from HU into AT, this would only be possible if shippers would use the AT into HU capacity in an economically inefficient way.

⁷ There are several projects that have proposed bidirectional capacity at the AT-HU IP, however, to the date there is no certainty that physical reverse flow capacity will be implemented at this IP.

The Agency became responsible for adopting a decision concerning the HUAT project proposal, which would have enabled physical reverse flow capacity at the AT-HU IP. MEKH rejected the project in its decision of 5 October 2018. The Agency consequently published its Decision in 2019 ([link](#)). Both MEKH and the FGSZ brought action against the Agency before the General Court of the EU seeking the annulment of the HUAT Decision (cases T-684/19 and T-704/19 respectively). At the time of writing this Report, both appeal proceedings were pending before the General Court of the European Union.

The ROHUAT project was included in the third list of PCIs adopted by the EC on 23 November 2017. However, no PCI project for the AT-HU IP was included in the fourth list of PCIs adopted on 31 October 2019.

Based on the information available to the Agency, a new incremental project has been proposed by the AT and HU TSOs at the AT-HU IP and will be considered for approval by both E-Control and MEKH.

Finally, MEKH communicated to the Agency that before initiating the tariff consultation, on October 1, 2020, the EC requested the review of the AT-HU IP exemption from the provisions of 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 on the obligation to develop a physical permanent bidirectional capacity. Discussions on the issue have recently began between E-Control and MEKH. The Agency points out that the outcome of this process may not necessarily lead to the offer of bidirectional firm capacity at the AT-HU IP.

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- (22) Third, MEKH does not provide any information on the tariffs that are used to calculate the benchmark. Given that there is no firm capacity at the exit to AT; it is not clear from the consultation document the tariffs and the capacity products on which MEKH bases its benchmark. The Agency notes that MEKH clarified in bilateral exchanges that the tariff considered at the exit to AT is an interruptible tariff that has the same value of the tariffs for firm capacity.
- (23) Fourth, MEKH does not provide a capacity forecast as an input to neither the proposed postage stamp methodology nor the CWD methodology. The use of a proxy value of 1 kWh/h/y is not consistent with the claim of benchmarked point being used as a competing route for LNG being transported across the HU network.
- (24) Fifth, by not including a capacity forecast for the entry point from HR, it is not possible to assess the impact of the proposed benchmark on cross-subsidisation using the CAA.
- (25) Following these remarks, the Agency considers that the proposed benchmark is not compliant with the NC TAR. The Agency refers to the recommendations made for the application of the benchmarking adjustment in the Agency's Report *The internal gas market in Europe: The role of transmission tariffs* ('TAR IMR')⁸. Should MEKH use benchmarking to set tariffs because of competition with another route, the Agency recommends that MEKH:
- Prove the existence of competition between the two proposed routes, clarifying how entries at the HR point are used to export LNG to AT. The transport of surplus gas from the HU hub to AT hub is not a sufficient proof of LNG being shipped across the HU network to the AT network regularly. Surplus gas at the HU network can arrive through any of the existing entries in the HU network and not necessarily from the HR entry point.
 - Justify the choice of network point to benchmark, being either the entry from HR or the exit to AT or both. In the view of the Agency, if there is to be a benchmarked point it should be one which is primarily used for the purpose of cross-system use with a competing route. Should the benchmarked point not be used primarily for such purpose, the application of such adjustment would result in undue cross-subsidisation.
 - Provide details of the calculation used to set the benchmarked tariff, including the tariffs and the capacity products compared for both routes. This analysis should include the conditions under which the relevant capacity products are available to the market, and how these support the case of LNG being exported crossing HU (see footnote 6).
 - Provide a capacity forecast that is an input to both the proposed postage stamp and the CWD methodologies.
 - Assess the impact of the benchmarked tariff on cross-subsidisation, taking into account for this purpose the result of the CAA.
 - Finally, the Agency recommends that MEKH assess the tariff applicable for the reverse flow interruptible capacity product at the AT-HU IP. According to Article 16 of the NC TAR, interruptible tariffs should reflect the probability of interruption. In addition, an A factor should be applied to reflect the economic value of the capacity product, as laid out in Article 16(2) of

8

https://acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/The%20internal%20gas%20market%20in%20Europe%20The%20role%20of%20transmission%20tariffs.pdf

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the NC TAR: The Agency acknowledges that such assessment should be part of the consultation on discounts, multipliers and seasonal factors pursuant to Article 28 of the NC TAR.

- (26) The Agency notes that HR LNG terminal is a PCI project that received EU funding⁹. It can potentially allow supplying LNG from the HR terminal to Central Europe, thus increasing competition in the markets, where the LNG is delivered. The Agency recommends MEKH to coordinate with the neighbouring NRAs on potential measures to enable such competition to take place. As an example, the Agency points out at the possibility of market mergers which could increase the penetration of LNG pursuant to the removal of IP tariffs.

3.4 Rescaling

- (27) The NRA proposes to apply rescaling to recover the missing revenue resulting from the proposed discounts to entry points from and at exit points to storage facilities.
- (28) The Agency notes that MEKH uses a proxy value for the forecasted capacity at the benchmarked entry point from HR. Should benchmarking be applied in the motivated decision, the Agency recommends that MEKH use a proper capacity forecast to determine the resulting missing revenue and rescale the tariffs accordingly.
- (29) Regarding the details of the calculation, the Agency notes that is not clear in the consultation document how the rescaling factor is calculated. The Agency recommends that this is clarified in the motivated decision.

3.5 Storage discounts and cost allocation assessment

- (30) The NC TAR requires that the RPM is assessed for cross-subsidisation according the cost allocation assessment as laid out in Article 5 of the NC TAR. In the consultation document, MEKH provides a CAA result of 14%. The Agency notes that:
- (31) First, the impact of the benchmarking adjustment is not reflected in the CAA as the point does not have an assigned capacity forecast.
- (32) Second, the calculations provided in the consultation document contain several numerical errors, which impact its robustness¹⁰. A calculation by the Agency suggests a CAA result above the 10% threshold laid out in Article 5(6) of the NC TAR, effectively ranging from 14% to 24% depending to the storage assumptions used and not factoring in the effects of the proposed benchmarking adjustment. The Agency notes that this result well-above the threshold is related to the rescaling adjustment following the application of the proposed discounts to entry points from and at exit points to storage facilities. A part of the missing revenue is allocated to cross-system users. Article 5(6) of the NC TAR states that the NRA should provide a justification if the CAA is above 10%.

⁹ <https://ec.europa.eu/inea/en/news-events/newsroom/first-croatian-lng-terminal-officially-inaugurated-krk-island>

¹⁰ See footnote 2.

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- (33) Third, in the calculation provided by MEKH, a share of the forecasted capacity at entry points from and at exit points to storage facilities is regarded as cross-system use of the network. The Agency notes that the result of the CAA is heavily dependent on assumptions about whether storage is used for cross-system or intra-system purposes. In the calculations provided in the consultation document, and in the later calculations provided to the Agency by MEKH, transmission costs associated to the use of storages are partially allocated as cross-system use. This assumption implies that storages in HU are used by users crossing the network and not only by domestic users, which are bound by storage obligations. The outcome of such allocation is a lower value for the CAA. The Agency notes that MEKH provides no evidence of storages in the HU network being used for cross-system purposes.
- (34) The Agency notes that a concern about the potential impact of storage discounts on tariffs applicable at IPs is reflected in the stakeholder responses to the consultation (e.g. OMV).
- (35) Based on these remarks, the Agency recommends that MEKH:
- Review the result of the CAA by taking into account the above remarks in paragraphs (30) to (33).
 - Review the discount applied to entry points from and at exit points to storage facilities so that the CAA result is within the prescribed 10% threshold. Should the CAA result be above this threshold, MEKH should justify the level of discounts applied to entry points from and at exit points to storage facilities and the resulting cross-subsidisation.
 - When calculating the CAA, provide evidence of storage facilities being used for cross-system purpose. The NRA can calculate thresholds showing how the utilisation of storage for cross-system use impacts the CAA¹¹. However, these estimations should be backed by supportive evidence in the case that storage are considered as being used for cross-system purpose. In particular, MEKH should clarify in connection to which neighbouring markets are storage facilities used, the capacities that are used, and which capacity products at IPs enable such use. The Agency notes that firm capacity is not offered at all IPs. In the absence of such products, the use of HU storage by neighbouring markets could be restricted.
- (36) The Agency recommends that MEKH also make this information available to stakeholders as part of the next tariff consultation on the RPM should the same or similar level of discounts be proposed.

¹¹ The Agency considers the calculations carried out by BNetzA, in its consultation document, as a best practice and recommends MEKH to follow it, in this analysis. The Agency Reports on the DE tariff consultation can be found here:

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/Agency%20report%20-%202nd%20analysis%20of%20the%20consultation%20document%20for%20Germany.pdf

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/Agency%20report%20-%20analysis%20of%20the%20consultation%20document%20for%20Germany.pdf

4. Completeness

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

- (37) 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.
- (38) Article 26(1) of the NC TAR requires that the consultation document should be published in the English language, to the extent possible. The Agency remarks that the consultation document has been published in English.
- (39) Overall, most information mentioned in Article 26(1) of the NC TAR has been properly published. The Agency recommends MEKH to include in the motivated decision the following elements which have not been made part of the consultation to improve the transparency, as it is a crucial step for reaching the objectives of the internal market and the implementation of the code:
- A capacity forecast for the IPs with HR and RS;
 - The details of the calculation applied for the rescaling adjustment;
 - A non-clustered version of the CWD methodology.

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	Partial. Details for supporting the benchmark adjustment are not complete (i.e. forecasted capacities)
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	Yes
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)	Partial. Missing capacity forecast at the HR and RS IPs. Clustered results are a limitation for the comparison.
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 	Yes

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	<ul style="list-style-type: none"> the share of the allowed or target revenue forecasted to be recovered from such tariffs the indicative commodity-based transmission tariffs 	
<p>26(1)(c)(ii)</p> <p>26(1)(c)(ii)(1)</p> <p>26(1)(c)(ii)(2)</p> <p>26(1)(c)(ii)(3)</p> <p>26(1)(c)(ii)(4)</p>	<p>where non-transmission services provided to network users are proposed:</p> <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 	Yes
26(1)(d)	the indicative information set out in Article 30(2);	Yes
<p>26(1)(e)</p> <p>26(1)(e)(i)</p> <p>26(1)(e)(ii)</p> <p>26(1)(e)(iii)</p> <p>26(1)(e)(iv)</p>	<p>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:</p> <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 	n.a.

5. Compliance

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

- (40) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed reference price methodology complies with the requirements set out in Article 7 of the NC TAR. This article refers to Article 13 of Regulation (EC) 715/2009 and lists a number of requirements to take into account when setting the RPM. As the requirements 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.
- (41) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and cross border trade are closely related¹² the Agency concludes with an overall assessment. Special attention is paid to the allocation of revenues between domestic and transit routes.

5.1.1 Transparency

- (42) **Article 7(a)** of the NC TAR requires that the RPM aims at ensuring that network users can reproduce the calculation of reference prices and their accurate forecast. The Agency finds that the

¹² 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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simplified tariff model fulfils the requirements laid out in Article 30(2)(b) of the NC TAR. The Agency considers that network users would be able to reproduce the calculation of reference prices as well as to forecast them.

5.1.2 Cost-reflectivity

- (43) **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. The Agency cannot conclude that the proposed RPM is compliant with the requirement of cost reflectivity.
- (44) First, the appropriateness of a postage stamp methodology is subject to a complete comparison with the CWD methodology as pointed out in Section 3.2 above. The comparison provided by MEKH allows only for a partial assessment.
- (45) Second, regarding the application of the benchmarking adjustment, the Agency concludes that, as laid out in Section 3.3, the proposed benchmark is not compliant with the NC TAR. The compliance of the proposed RPM with the requirement of cost reflectivity is subject to the recommendations provided in paragraph (25), in the event that the benchmarking adjustment is applied in the motivated decision.
- (46) Third, regarding the application of discounts to entry points from and at exit points to storage facilities, the Agency remarks that this adjustment leads to cross-subsidisation, as shown by the results of the CAA. Therefore, MEKH should adapt these discounts or justify the level of discounts applied to entry points from and at exit points to storage facilities.

5.1.3 Cross-subsidisation and discrimination

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

5.1.3.1 Cross-subsidisation

- (48) Following the conclusion on cost reflectivity, the Agency cannot conclude that the proposed RPM is compliant with the requirement on preventing undue cross-subsidisation.
- (49) The Agency points out that the results of the CAA are above the 10% threshold laid out in the Article 5 of the NC TAR. The impact of the RPM on cross-subsidisation is based on the application of discounts to entry points from and at exit points to storage facilities and the application of the benchmarking adjustment that is described in Section 3.3 above.

5.1.3.2 Discrimination

- (50) The Agency has not identified discrimination resulting from the correct application of the NC TAR, nor from practices not compliant with the NC TAR. For this analysis, the Agency defines 'discrimination' as 'applying different rules to comparable situations or the same rule to different

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situations'. The Agency highlights that the allocation of all transmission costs via a single RPM to all entry-exit points minimises the possibility of discrimination.

5.1.4 Volume risk

- (51) **Article 7(d)** of the NC TAR requires that the RPM ensures that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system.
- (52) The HU gas system does not transport significantly more gas than what is used for domestic consumption. The Agency, therefore, considers that Hungary does not face such volume risk and the consultation document is compliant with the requirement to sheltering captive customers from the risks related to large transit flows.

5.1.5 Cross-border trade

- (53) **Article 7(e)** of the NC TAR requires that the RPM ensures that the resulting reference prices do not distort cross-border trade.
- (54) Following the conclusion on cost reflectivity, the Agency cannot conclude that the proposed RPM is compliant with the cross-border trade requirement of the RPM. The application of discounts to entry points from and at exit points to storage facilities and the application of benchmarking both have an impact on the tariffs at the cross-border IPs. The compliance with the requirement of non-distorting cross-border trade relies on the compliance of these two adjustments as explained in paragraphs (45) and (46).

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

- (55) 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.
- (56) The use of commodity-based transmission tariffs is an exception. Only part of the transmission services revenue may be recovered by commodity-based transmission tariffs. The NRA proposes to apply commodity-based transmission tariffs. The commodity-based transmission tariffs form 13.84% of the transmission services revenue. The Agency does not consider this an excessive commodity charge.
- (57) The NC TAR allows for two types of commodity-based transmission tariffs: a flow-based charge and a complementary revenue charge. MEKH proposes to apply a flow based charge at all exit points.
- (58) The proposed flow-based charge meets all the criteria set in Article 4(3). MEKH clarifies in the consultation document that the costs categories covered by the flow-based charge are the consumption of procured gas, the consumption due to technical losses (settlement difference), the pressure regulation and the justified cost of carbon quotas.

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- (59) At the same time, the Agency notes that, according to the consultation, the flow based charge is estimated to increase 32.1% with respect to the current tariff period. The proposed flow-based charge would be applicable as of October 2021. It is not clear to the Agency, from the information provided by MEKH, how the increase in the flow-based charge is justified. The Agency recommends that MEKH clarify how the year-on-year changes in the different cost categories lead to an increase of 32.1% in the proposed flow-based charge. Article 4(a)(ii) of the NC TAR requires that the charge is levied for the purpose of covering the costs mainly driven by the quantity of the gas flows. The Agency recommends that MEKH explain how the changes in the cost drivers are passed through to the flow-based charge. The same criteria should be applied to increases and decreases in the costs drivers determining the costs of flowing gas.
- (60) The summary of the Agency's view on the commodity-based transmission tariffs is provided in table 2 below.

Table 2 Criteria Article 4(3a) of the NC TAR

Criteria	Y/N?
levied for the purpose of covering the costs mainly driven by the quantity of the gas flow	Yes
calculated on the basis of forecasted or historical flows, or both	Unclear
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

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

- (61) 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.
- (62) In the consultation document MEKH proposed to use of non-transmission tariffs. The following services are recovered via non-transmission tariffs:
- Odourisation;
 - Title transfer;
 - Data services exceeding basic data provided as part of the core services;
 - Connection to the transmission system.
- (63) These services qualify as non-transmission services: the costs for these services are not driven by capacity and distance.
- (64) The non-transmission services revenue is based on the revenue for the odourisation service, whereas the transmission services revenue equals 67,777m HUF (approximately 193,650,000 EUR¹³). The remaining three non-transmission¹³ services are not part of the allowed revenue of the TSO.

¹³ Conversion rate applied: 1 Hungarian Forint equals 0.0028 Euro.

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- (65) 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.
- (66) Regarding the odourisation service, the applicable fee is only paid by the shippers who use the service. The rest of the gas flows are not odourised. The NRA sets the allowed revenue related to both the CAPEX and OPEX of the service. The odourisation fee is calculated by dividing the allowed revenue for odourisation services used by the volume of the odorizing substance used. The total allowed revenue for the service is 930m HUF (approximately 2,660,000 EUR). The Agency concludes that this fee is compliant with the NC TAR.
- (67) The title transfer service is charged when a user transfers its ownership right of a given amount of natural gas at a physical or virtual point of the system to another user. MEKH determines the value of the title transfer service based on a benchmark that is established based on expert estimate. Given that MEKH does not provide the methodology for setting this fee, the Agency could not conclude that it is compliant with the NC TAR. At the same time the Agency notes that the sum recovered with this fee together with the data services in 2018 is 316.9m HUF (approximately 905,000 EUR). The Agency has understood from MEKH that this service is not part of the allowed revenue of the TSO. According to Article 3(15), non-transmission service revenue is the part of the allowed revenue which is recovered by non-transmission services. The Agency therefore recommends that MEKH include the costs associated with the title transfer service, as part of the TSO allowed revenue. The Agency notes that, should these fees not cover underlying costs for the TSO, they should be returned to users by means of the regulatory account.
- (68) The data services fee is charged for the provision of data services to users. The same considerations made in the previous paragraph regarding to the title transfer service apply to the data services fee.
- (69) The connection charge to the transmission system is charged for a connection to the transmission system or for requesting surplus capacity exceeding the capacity already bought. In the consultation document, MEKH provides the principles that apply to calculate the charge. The total costs for the service depend on the actual costs incurred when fulfilling the connection requests. The service is charged ex-post, so it is not included as part of the allowed revenue of the TSO. The Agency concludes that this fee is compliant with the NC TAR.
- (70) Regarding the reconciliation of non-transmission services, MEKH points out that none are reconciled. The Agency remarks that Article 17 of the NC TAR requires them to be reconciled if the TSO is not regulated under a price cap regime. The Agency remarks that the odourisation service should therefore be reconciled. The title service and the data services should be reconciled in case that there are costs associated to the service. The Agency provides its recommendations on the reconciliation of non-transmission services in the TAR IMR¹⁴.

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https://acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/The%20internal%20gas%20market%20in%20Europe_The%20role%20of%20transmission%20tariffs.pdf

Annex 1: Legal framework

(71) 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.*

(72) 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.
- (73) 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.

(74) 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.

(75) 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.

(76) 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



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