

Questionnaire for the Draft Framework Guideline on Harmonised transmission tariff structures¹

Please provide the Agency with your full contact details, allowing us to revert to you with specific questions concerning your answers.

Name: Long LU

Position held: Deputy Managing Director

Phone number and e-mail: +33180210768 long.lu@afgaz.fr

Name and address of the company you represent:

Association Française du Gaz – AFG

8, rue de l’Hôtel de Ville, 92200 Neuilly-sur-Seine - France

Please indicate, if your company/organisation is:

- a. European association
- b. National association
- c. TSO
- d. Shipper or energy trading entity
- e. End-user
- f. Other (e.g. Power Exchanges, Storage Operator etc.), namely:.....

1 Further also referred to as “FG”. The resulting Network code on Harmonised transmission tariff structures is further also referred to as “NC”.

Please provide, if relevant, reasoned indication if you wish to consider (part of) your response as confidential².

When writing your responses could you include how your arguments contribute to the objectives set out in section 1.2 of the draft Framework Guideline. For definitions please consult section 1.3 of the draft FG.

1. General provisions. Scope, application, definitions and implementation (Chapter 1 of the draft Framework Guideline)

1.1. Please explain whether any of aspects of the application of the draft FG (NC) to existing contracts would cause disproportionate effects on gas business in relation to 3rd Package objectives?

Depending on the importance of changes in tariffs applied to interconnection points (IPs), the market can react by adapting the supply routes accordingly to take profit from new tariffs structure.

In this perspective, it is highly desirable to implement smoothly the new regime so as to allow market participants to adapt themselves progressively.

1.2. Please explain if any further definitions should be added for clarity of the FG (NC)?

² The Agency shall carefully consider all responses received (whether confidential or not) subject to the provision that anonymous responses or responses from respondents who do not want their identity to be made public will generally not be taken into consideration. The Agency will make public the number of responses received to formal consultations, the names of the respondents, and all non-confidential responses. Respondents may request that information or data in their responses is treated as confidential. The Agency will assess, in co-ordination with the respondents requesting confidentiality, which information or data shall not be made public and may request from the respondents an explanation of their confidentiality interests and a non-confidential version of their response for publication. The Agency will evaluate confidential responses as transparently as possible without undermining the respondents' confidentiality interests.

No remark.

- 1.3. Please suggest the top-5 *core indicators*³ for monitoring the future EU-wide implementation of the future tariff FG (NC)?** ACER and ENTSO-G both have legal obligations to monitor NC implementation (in accordance with Article 9 (1) and Article 8(8) of Regulation (EC) No 715/2009 respectively).

The relative size of the regulatory account in comparison to overall tariff revenues should be monitored carefully to avoid the possible important gap in revenue recovery. The monitoring of the booking rates by IP and auctioned products is also important to reveal the way supply routes or booking strategies react to the new tariffs system.

2. Cost allocation and determination of the reference price (Chapter 2 of the draft Framework Guideline)

2.1. Transparency provisions

- 2.1.1 Do you agree with the level of harmonization proposed for the transparency in relation to tariffication methodologies⁴?**

Yes, because this level of harmonisation is necessary as well.

- 2.1.2 Would you support additional requirement(s) to ensure “reasonable and sufficiently” detailed tariff information⁵? For example, one could consider including a provision**

³ An example of a *core indicator* could be e.g. the relative size of (positive or negative) Regulatory account in comparison to overall Tariff revenues, indicating under- or over recovery of the tariff regime in a specific entry- and exit zone.

⁴ Article 18(2) of Regulation 715/2009 states that: “In order to ensure transparent [...] tariffs [...], transmission system operators or relevant national authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure”. The proposed text in the draft FG seeks to ensure such reasonable and sufficient detailed information.

such as: “the transmission system operators or relevant national authorities shall provide additional information if a significant tariff fluctuation is expected on a specific or on all entry- and exit points”.

Yes, such additional requirement is helpful for shippers to anticipate on reserves prices.

2.2 Cost allocation and reference price setting methodology, general questions.

2.2.1 Do you agree with proposed level of harmonization for the reference price setting methodology, aiming for same methodology for all types of network users per one entry-exit zone?

No remark, we do not fully understand the scope of the question.

2.3 Cost allocation and the Reference price setting methodology, detailed questions.

2.3.1 Do you agree with proposed option for setting reference prices for entry capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?

Yes, the long term incremental cost and the distance represent indeed the major cost driver for entry capacity. However, as mentioned above, to prevent upheaval, it is desirable to implement the new tariff system step by step.

2.3.2 Do you agree with proposed option for setting Reference prices for exit capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?

⁵ Article 18(2) of Regulation 715/2009 states that: “In order to ensure transparent [...] tariffs [...], transmission system operators or relevant national authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure”.

Yes, same answer as above.

2.3.3. Do you agree with the cost allocation principle that revenue from entry points should equal 50% of revenue from all entry and exit points?

No, such a rule is not necessary cost-reflective. There is a need for detailed assessment taking into account in particular the situation of transit countries.

2.3.4. Do you agree with application of the proposed options for setting reference prices to all entry and exit points (without any separate mechanism for the domestic points, whilst ensuring no discrimination between domestic and cross-border network usage)?

No opinion.

2.4 Pricing of entry- and exit capacity on the transmission network to and from gas storage facilities (see also questions under '9' Locational signals).

2.4.1. Do you agree with proposed option to base tariffs for entry and exit capacity on the transmission network to and from gas storage facilities at an adequate discount to other entry and exit points on the TSO?

Yes, because entry tariffs is already included in gas from the storage. The term "discount" may give however the impression that gas from storage is favoured against other IP.

2.4.2. Do you agree with harmonization of such a discount across all storage points in the EU?

No, because such a "discount" must be cost-reflective

2.4.3. If you prefer harmonization for an 'adequate' discount, which level of such a discount applied to firm capacity level do you advocate?

Same answer as above.

2.4.4. What are your views on harmonization of tariff measures, leading to harmonization of transmission tariff levels across all storage points in the EU (instead of harmonizing a discount across all storage points in the EU)?

There is a need to take into account the principle of “discount” for transmission tariffs to and from storage. However, this should not lead to harmonising the tariff level itself. The NRAs are best placed to determine it in a cost-reflective way.

3. Revenue recovery (Chapter 3 of the draft Framework Guideline)

3.1. General – interdependency questions.

Introduction.

Revenue recovery (chapter 3), Reserve price for firm standard capacity products (chapter 4.1) and Payable price (chapter 7) cannot be considered separately. The main interaction is that a regime where auctions are used will have a greater level of uncertainty in revenues collected from auctions.

The use of specified in FG chapters 3, 4 and 7 policy options need to work together to meet the objectives of the FG whilst ensuring the TSO recovers their allowed revenues. There is a possibility that in practice there might be under- or over recoveries, especially as a consequence of policy options regarding short term reserve prices and payable price. Therefore there will need to be a Regulatory Account to ensure the TSOs recover their allowed revenues.

3.1.1. Do you agree that the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price are consistent together?

No, because lower reserve prices for short term products will lead to under revenue recovery for the TSO which will compensate the deficit by revenue from commodity charge paid by all network users including those who are buying long term products which are more expensive.

3.1.2. Are the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price properly addressing the ambition for the pricing of transmission capacity to strike the right balance between facilitating short-term gas trading on one hand and providing long-term signals for covering costs and promoting efficient investments on the other?

No, because lower reserve prices for short term products will not incentivise long term investments.

3.2 Regulatory account

3.2.1 Do you agree with the principle to set reference prices to minimise the difference between allowed and collected revenues?

Yes, the reserve prices should be revised periodically to minimise the difference between allowed and collected revenues.

3.2.2 Do you agree with proposed level of harmonization of using the regulatory account?

Yes.

3.2.3 Do you agree that NRAs should determine or approve how often and how fast the regulatory account has to be reconciled on a national level, whilst preserving balance between timely cost recovery and sudden adjustments to tariffs?

Yes, this requirement is clearly under the NRA's responsibilities.

3.2.4 What is your view on including the option to use the Regulatory Account (including the potential over-recoveries from auction premium) to contribute to solving congestion? How could this be done, especially in view of principles of non-discrimination and cost-reflectivity?

Yes, over-recoveries could be used for that purpose.

3.3. Reconciliation of Regulatory accounts.

3.3.1. Which option for the reconciliation of regulatory accounts do you prefer?

Option 1 is the preferred one because a commodity charge should not be used to balance the revenue recovery to avoid the risk of cross-subsidies to the benefit of short term bookings.

3.3.2. In line with the interdependency discussion above in question 3.1, what are your views on recovering revenues by means of a separate charge set at the start of the gas year with the aim of minimising the amount that goes into the regulatory account? This charge could be based either on gas flows (commodity) or capacity bookings (capacity). Then the regulatory account would be reconciled through the reserve or reference price. See chapter 3 of the draft FG.

A separate charge does not help either to minimise the amount that goes to the regulatory account nor simplify the revenue recovery.

3.3.3. Do you agree with application of the option on reconciling regulatory account to all entry and exit points (both domestic and cross-border)?

Entry and Exit points should be considered differently since uncertainties are much less important for exit points towards end-customers than those affecting entry-points or exit points towards other balancing zones.

3.3.4. Do you agree that the regulatory account should be recovered by splitting the total under- or over- recovery across all entry and exit points in the same proportion as set out in the cost allocation methodology? For example if the cost allocation methodology is a 50:50 split then 50% of all under- or over- recovery will be from the entry points and 50% from the exit points.

No. See the above answer.

4. Reserve prices (Chapter 4 of the Framework Guideline)

NB: when answering, please specify if your answer differs for daily, monthly and/or quarterly products.

4.1 General.

4.1.1 Do you consider it sufficient to have rules on firm, interruptible and non-physical backhaul capacity products or are you aware of other capacity products that should be addressed in the FG?

Yes, however, it is more and more difficult in some systems to make the difference between firm and interruptible capacities. They can be firm up to an exit point, then interruptible up to the virtual trading point for instance.

4.2 Reserve prices (firm)

4.2.1 Do you agree with proposed level of harmonization?

No, to avoid cross-subsidies between short and long term bookings, multipliers higher than one should be the default rule. This is also necessary to incentivise long term investments.

4.2.2 Do you agree with proposed option for the Reserve price for short-term products including the possibility that the national regulatory authority may decide to allow for higher short-term prices that may apply (via multiplier higher than one, but not higher than 1.5) if there is risk of *significant* under-recovery of allowed revenues?

Yes. One should not underestimate the risk of significant under-recovery as it happens for the time being in the GB system.

4.2.3 Do you agree with application of the proposal on short-term Reserve prices to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?

Yes.

4.2.4. What criteria would you propose to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?

Seasonality of the systems could be a criteria to set the Reserve price for short-term products according to existing situations providing that the revenue equivalence principle be observed at least for all IP.

4.2.5. Would you agree with using Seasonality (or other criteria, which you may suggest) of the systems as criteria to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?

Yes, see the above answer.

4.3 Reserve prices (interruptible)

4.3.1 Do you agree with proposed option to set Interruptible Reserve prices at a discount to firm capacity where the discount is based on the likelihood of interruption, and to recalculate once a year?

Yes, because this is cost-reflective and consistent with the Gas regulation.

4.3.2 If you prefer a fixed discount, which level of such a discount applied to firm capacity level do you advocate?

The discount should reflect the risk of interruption and be set up at a level which provides sufficient incentive to shippers to subscribe it.

3 Do you agree with application of the proposed option to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?

Yes.

4.4. Reserve price (backhaul)

4.4.1 Do you agree with proposed level of harmonization?

Yes.

4.4.2 Do you agree with proposed option to set backhaul prices at a discount to firm capacity level so that Reserve prices reflect the level of actual marginal costs (= IT and administrative costs)?

Yes, because the reverse flow will only decrease the forward flow and provide savings only on variable transmission costs. Therefore, backhaul prices should be lower than interruptible capacity prices.

4.4.3 Do you agree with application of the proposed option on backhaul capacity pricing to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?

Yes.

5. Virtual IPs

Do you support the proposed option for Reserve price in Virtual IPs as EU-wide standard? Please reason your answer, including any quantitative evidence, tables and examples on balance between cost-reflectivity and cross border trade stimulation.

No, because some shippers will bear artificially an increase in their invoices whereas others will benefit a decrease.

6. Bundled capacity products

6.1 Reserve price (Bundled)

6.1.1 Do you agree with proposed level of harmonization?

Yes.

6.1.2. Do you agree with the proposed option that the sum of Reserve prices for unbundled capacity is used as bundled Reserve price?

Yes, because it is the practical way to do it without raising difficult national debates of different systems.

6.1.3 Do you agree with application of specified the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?

Yes, to be consistent with the draft NC on CAM which is applied only on IPs. However, its impacts on storage and LNG businesses should be assessed in designing a tariff.

6.2. Do you support the proposed option for Reserve price (if unbundled) as the EU-wide standard? Please give reasons for your answer, including any quantitative evidence, tables and examples on balance between cost-reflectivity and cross border trade stimulation. We encourage you to specify if you support the Unbundled Reserve price being higher to support bundling of products.

No, to be consistent with the FG which stating that “ the reserve price of the unbundled capacity shall equal the reserve price of either the entry or exit capacity from which the unbundled capacity originates”.

6.3 The Network Code on Tariffs shall specify that the revenues from Reserve price of bundled capacity products shall be attributed to the TSOs proportionally to the Reserve prices of their respective capacities in the Bundled Capacity. The revenues from the auction premium from bundled capacity above the Reserve price shall be split according to agreement between the relevant national regulatory authorities. Furthermore, the Network Code on Tariffs shall in the case that no agreement is concluded before the auction, specify that the revenues from the auction premium shall be split equally between the TSOs.

6.3.1 Do you agree with proposed level of harmonization in that approach above?

No, see the answer below.

6.3.2 Do you agree with proposed option for splitting auction revenues from bundled products to the relevant TSOs?

No, a unique option for splitting auction revenues is not cost-reflective especially if the auction takes place during a physical congestion. The split should be apportioned to the reserve prices.

6.3.3 Do you agree with application of the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?

Yes, it is consistent with the NC on CAM and is a practical way to do it.

7. Payable price

7.1.1 Do you agree with proposed level of harmonization?

Yes.

7.1.2 Do you agree with the proposed option to set payable price equal to the current Reserve price for year in which capacity is used plus any premium?

Yes, to avoid discriminatory between network users whatever their booking strategies – short or long term – all users should support tariff variations due to under or over-recovery of the TSO allowed revenue.

7.1.3 Do you agree with the application of specified options regarding payable price to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?

Yes for auctions apply only to those IPs.

8. Incremental capacity (no explicit chapter in draft FG, implications at least to chapters 2/3 foreseen).

In EC letter ACER is invited to consider in the Impact Assessment if tariffication principles should be developed in the Framework Guideline for Incremental Capacity.

Incremental capacity is defined as capacity that is provided (by investment) on top of capacity at an existing IP, after a 'market test' has been met. The market test sets out what the criteria are for

providing incremental capacity. The key issue from ‘incremental capacity’ for tariffication is that incremental capacity can expose consumers to costs incurred by TSOs which may be problematic if incremental capacity costs are not fully recovered by users triggering the capacity provision as a result of the market test.

Therefore it is very important how economic test(s) (principles) are constructed at country- or even broader EU level, to get a balance between timely increases in capacity, efficient increases in capacity and under-recovery of revenues.

We note that in CEER-roundtable 2012 discussions on Incremental capacity experts have noted that harmonization of the specific parameters in the market test might not be needed, but rather a consistent approach to the principle of having a market test to trigger Incremental capacity may be needed at the EU level⁶.

8.1. Please provide evidence of concrete problems with the current arrangements for incremental capacities, whereas these problems affect tariff structures in EU. Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

Economic test performed by the NRAs is a requisite to ensure the development of incremental capacities in a consistent way. However, long term commitments from shippers and regulators are necessary as well to back up long term investments. In any case, tariffs should reflect long term incremental costs.

8.2. Please therefore consider if harmonization, or partial harmonization of any parameters in the “market test” is appropriate within Tariffication principles at EU-level ?

⁶ Please consider the ongoing consultation on Incremental capacity issues by CEER, available via http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/OPEN%20PUBLIC%20CONSULTATIONS/Investment%20Procedures%20for%20Gas%20Infrastructure . Please also note that ACER will work with CEER during 2012 to further analyze the issues in this area.

The cost coverage should be set at a level which stimulates the capacity development in a consistent way to avoid stranded costs resulting from over and unused capacity.

8.3. Are there any other elements required in the Network Code on transmission tariff structures, to accommodate incremental capacity offer (e.g. influence on regulatory accounts, regulatory periods length, requirement for a fixed for period of years tariffs).

No suggestion.

9. Usage of locational signals (no explicit chapter in FG, implications at least to chapters 2/3/4 foreseen).

Locational signals are considered to contribute to shippers using the system in a way which minimises future costs. Locational signals can be defined as specific tariff measures for specific entry or exit points in the system.

In EC letter ACER is invited to consider in IA if locational signals should be developed in the Network Code on transmission tariff structures. For example to address decisions on locating gas-fired power plants and/or gas storages and/or LNG terminals.

9.1 Please provide evidence of concrete problems with the current arrangements for locational signals. Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

Locational signals are cost-reflective and contribute to optimise the whole cost of the gas system. However, such signals must be limited to some large and specific end-consumers or gas infrastructures. For storage or LNG, it is necessary to take due account of their respective contribution to the gas system in the whole.

9.2. Are there any other elements required in the Network Code on transmission tariff structures to accommodate locational signals?

No.

9.3. Please consider whether the chapter on 'Reference price' should have more options added in regard to use of locational signals. Please consider specifically how tariff structures can be used to signal investment for e.g. gas-fired power plants, storages, LNG terminals, etc.

Reference price should not deal with locational signals which are tools to optimise at the intra-zone area to prevent congestion or reinforcement.

9.4 Shorthaul as a form of 'locational signal' in e/e systems.

Recent THINK-study, commissioned by European Commission, recommended 'some harmonization in natural gas transmission tariffication to ensure that the breakdown of costs among grid users and among entry- and exit points respects the principle of cost-reflectiveness as much as possible. Adequate discounts on short-haul transports should be encouraged'⁷.

Entry-exit systems require users who want to take gas onto the system and deliver it to others in the system to buy entry capacity (to allow them to flow gas from the entry point to the virtual hub) and exit capacity (to allow them to flow gas from the virtual hub to the exit point). If users want to flow significant volumes of gas from an entry point to a nearby exit point they may consider building their own pipeline between the two points if that is cheaper for the user than paying for entry and exit capacity plus any additional revenue recovery charges (as their own pipeline would also be subject to less onerous tariff regulation in general). Building additional pipelines when there is capacity available on the system may not be the most efficient way to develop the network. Whilst it must be considered that permitting construction of such a pipeline might not be a realistic option in all EU Member-States. E.g. in GB a user could decide to locate a CCGT (= Combined Cycle Gas Turbine power plant) 1 km from a large entry point and decide to build their own pipeline from the large entry point to their CCGT. This is an example of how such a concern arises in practice, stemming mainly from inefficiency of constructing an additional pipeline.

9.4.1. Should the FG have a tariff structure in place to avoid the incentive for inefficient building of pipelines (to avoid the entry-exit system charges) described above?

Yes.

9.4.2. How could this tariff structure be designed?

To avoid building pipelines in an inconsistent way, the tariff should be designed in close cooperation with the concerned NRA.

⁷ See summary under weblink: <http://www.eui.eu/Projects/THINK/Documents/Thinktopic/PB/PB201201.pdf>

9.4.3. Should there, in order to address risk of cross-subsidies and discrimination - be a limitation on the capacities that can be “shorthaul capacities”?

Each Entry/Exit system is different from the others. Therefore, it is meaningless to define a default option that would equally be applied to large zones.

9.5 Specific treatment of LNG (if any) considered, in view of considering specific storage treatment (see questions under 2.4).

LNG competes with the natural gas from other sources, like national production points or other entry points. It could therefore be argued that any discount on the entry and exit tariffs at points where CAP applies could produce a cross-subsidy, reducing cost reflectivity of system as a whole, and resulting in a discriminatory effect on the cross-border trade between LNG- and IP entry users. In addition, storage – contrary to LNG - is mostly considered as part of the system, as it uses gas, which has already ‘paid e/e fees’. Namely, gas injected into underground storages have flowed across the system, which means it has been charged entry/exit fees, this is not the case for LNG which is stored after it has been unloaded from LNG-ship cargoes, before any entry fee on the transmission system is charged.

On other hand, it could be argued that LNG and Storage are both valuable flexibility tools in some EU gas market systems (especially in systems where LNG is due to geology & geographical situation potentially the only source of flexible gas) for shippers that should be stimulated, and similar to storage special treatment could be envisaged (contrary to gas production entry points, which with very few exceptions in EU, deliver much less flexibility in comparison to LNG). It must be also considered that – with similar logic – special treatments might be required by any end-user with flexibility for the system (e.g. power plants). In any case, justification is sought, as any special treatment must be reasoned and justified for a category of e/e points, to ensure non-discrimination.

9.5.1. Do you think that tariffs for entry and exit capacity from the LNG terminal could incorporate a discount relative to other entry and exit tariffs on the TSO, similar to the proposed option for underground gas storage?

Yes, this option should be considered. An assessment should be performed to determine the potential benefits of the LNG terminal to the gas system.

10. Effects Entry-Exit Zone mergers & Virtual IPs (no explicit chapter in FG, implications at least to chapters 2/3 foreseen).

In the CAM network code (art 5.1(10)) Virtual Interconnection points are addressed (see draft FG, chapter 5).

In EC letter ACER is invited to consider in IA if the effects of entry-exit zone mergers should be developed in the Network Code on transmission tariff structures. This could address, for instance, the topics of tariff alignment and the disappearance of interconnection points, and the corresponding cross-border tariffs, due to the zone merger’.

Both topics affect the setting of reserve prices at IPs and, more importantly, underlying cost allocation within and between entry-exit zones; as well as revenue recovery consequences.

10.1. Please provide evidence of concrete problems with the current arrangements for mergers of entry-exit zones at national level. Any quantitative evidence, tables and examples (if necessary, subject to confidentiality) are welcomed.

The mergers of Entry/Exit zones lead to a huge change in the way costs are indeed allocated to the system users. As far as IPs are concerned, shippers will cope with the upside down changes in the prices of their booked capacity.

10.2. Please advise, if there are alternatives or additional requirements within Tarification setting harmonization steps, to accommodate ‘Effects Entry-Exit Zone mergers’ (once there). Please consider the Initial (draft) Impact assessment, when answering.

No comment.

What additional tariff structure measures do you envisage could improve the network code?

No opinion.

11. Please share below any further comments concerning the draft Framework Guideline.

12. Please comment on any factual incorrectness of the attached Initial (draft) Impact Assessment, if possible with specific page references, including quantitative evidence, tables and examples from your experience in the gas market(s) (if necessary, subject to confidentiality).

Thank you very much for your contribution, and do not hesitate to contact ACER staff if you have any questions regarding the questions.