Agency for the Cooperation of Energy
Regulators (ACER)
Trg Republike 3
Ljubljana - Slovenia

BBL Company V.O.F.
P.O. Box 225
9700 AE Groningen
The Netherlands
Concourslaan 17
T +31 (0)50 521 35 41
F +31 (0)50 521 35 45
E management@bblcompany.com
Trade register Groningen 02085020
www.bblcompany.com

Date
5 November 2012

Telephone
+31(0)6 31 03 72 10

Our reference
BBL VOF 12.045

Your reference

Subject
Response to the questionnaire for the draft Framework Guideline on harmonised transmission tariff structures

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

Name: David Bakker
Position held: Regulatory Advisor
Phone number and e-mail: +31(0)6 31 03 72 10 / d.bakker@gasunie.nl
Company you represent: BBL Company V.O.F.

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. storage operator etc.), namely: an interconnector operator.**

BBL Company's response to the ACER questionnaire for the draft Framework Guideline on harmonised transmission tariff structures (FG on Tariffs).

BBL Company V.O.F. (BBLC) welcomes the opportunity to respond to the draft FG on Tariffs published on 4th September 2012. Instead of answering all questions posed in the questionnaire, BBLC has chosen to respond in general to the different chapters of the questionnaire.

Introduction

BBLC was established on 9 July 2004 to design, construct and operate an interconnector for the transportation of gas from Balgzand (in the Netherlands) to Bacton (in the UK). The BBL interconnector provides services to flow gas physically from the Netherlands to the UK and non physical interruptible reverse flow services from the UK to the Netherlands. For its original capacity BBLC has been granted an exemption based on Article 22 of Directive 2003/55/EC. Being an exempted project, Network Codes are legally not applicable to BBLC until expiry date of the exemption. However, being an interconnector operator BBLC acknowledges that changes to market arrangements of its adjacent TSOs might also affect BBLC. In general, BBLC would like to point out that, regardless the status of the legal applicability of Network Codes to BBLC, Network Codes are and most probably will continue to be written for meshed networks without taking into account the specific characteristics of interconnector operators. Consequently, Network Codes cannot be applied to interconnector operators in the same way they are applied to national TSOs.

Chapter 1- General provisions: Scope, application, definitions and implementation

The draft FG on Tariffs states that the Network Code (NC) on Tariffs shall be implemented within 12 months from its entry into force and shall apply to both new and existing contracts. BBLC believes that the application of the NC on Tariffs to existing contracts would lead to legal uncertainty. Potentially it leads to disputes or even cancellation of contracts, endangering the financeability of existing projects and investments and with possible significant negative consequences especially for projects with a non-captive demand base. Moreover, BBLC believes that the proposed implementation period of 12 months is too short and that the draft FG on Tariffs is missing an additional transitory period.

Furthermore, with regard to application and definitions BBLC recommends ACER to add a definition which ensures that exempted contracts are not undermined in any way by implementation of the NC on Tariffs until expiry date of the relevant exemption. In addition, a definition in which the specific characteristics of interconnectors are described is recommended.

Chapter 2 - Cost allocation and determination of the reference price

With regard to the proposed additional transparency requirements, BBLC is of the opinion that commercially sensitive information must be protected and that possible benefits of providing additional information should always outweigh additional costs.

BBLC disagrees with the proposed level of harmonization for the reference price setting methodology, aiming for the same methodology for all types of network users per one entry- and exit zone. BBLC is of the opinion that flexibility in methodology should be possible. With regard to the proposal of having a methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified, BBLC believes that all the cost drivers should be taken into account. Moreover, the draft FG on Tariffs states that the reference price should at least cover fixed costs. Therefore, it should be explicitly stated in the NC on Tariffs that forced implementation of zero reserve prices should not be possible.
It is stated in the draft FG on Tariffs that: '… the chosen charge for the recovery of costs that are driven mainly by the volume of flows shall be levied at a TSO level and shall not be applied to specific entry or exit points.' BBLC would like to understand how this would work for a unidirectional single pipeline and an interconnector operator in general.

Chapter 3 - Revenue recovery

BBLC agrees that tariff stability by preserving the balance between timely cost recovery and sudden adjustments to tariffs is important. BBLC is not convinced that the proposals on reserve prices for short term products, revenue recovery and payable prices are consistent with each other. BBLC believes that short term and long term needs are not appropriately balanced in these proposals. Setting discounted tariffs for short term capacity products and introducing a variable payable price and thereby uncertainty to the actual future price of capacity, incentives network users to book short term rather than long term capacity. Network users that require annual capacity should be incentivised to book annual capacity products. Having short term capacity multipliers of one or less than one creates the risk of a flight from long term capacity bookings to short term capacity bookings and the loss of long term signals. Applying such low multipliers for short term capacity will result in the risk of cross-subsidisation between network users with long term capacity bookings and those that primarily book short term capacity products.

Furthermore, BBLC believes that there should be effective mechanisms in place in case of under recovery in order to recover the allowed revenues. BBLC thinks the two proposed mechanisms in the draft FG on Tariffs will not be effective in case under recovery will occur in a competitive market (or single pipeline, like interconnectors) without captive demand. Increasing the capacity charge would only make an interconnector less attractive for network users and would result in a wider gap between allowed revenues and actual revenues (i.e. an increase of the under recovery). Therefore, BBLC advocates less prescriptive rules and recommends ACER to add to the FG on Tariffs the possibility for developing appropriate mechanisms.

In short, BBLC believes that the current proposals will lead to a distorted shift from long term to short term bookings resulting in under recovery. This is particularly likely to occur where capacity is not congested. The two mechanisms proposed in the draft FG on Tariffs which can be applied in case of under recovery may not be effective in case of competing interconnector operators without a captive demand base.

Chapter 4 – Reserve price

The price setting of non-physical backhaul products as currently described in the FG on Tariffs does not acknowledge that non-physical backhaul products can only be used in case of actual forward flow and it ignores the related underlying infrastructure to facilitate such non-physical backhaul products. Moreover, BBLC recommends ACER to delete such a price setting mechanism for non-physical backhaul products, since BBLC does not see the necessity of separately covering non-physical backhaul capacity products in the FG on Tariffs. It would be sufficient to have rules on firm and interruptible capacity products in the FG on Tariffs. When setting reserve prices for interruptible capacity products at a discount to firm capacity, the discount should be based on the likelihood of interruption so that the pricing reflects the value of the product.

Furthermore, BBLC is in favour of the possibility to apply seasonality multipliers. However, BBLC does not agree with the proposed range of the multiplier: from zero to 1.5. With regard to the under bound, BBLC would like to refer to the IIA and the Brattle Group report, in which is acknowledged that zero reserve prices are not appropriate for non-congested pipelines and low short term prices at non-congested points can have a negative impact on the stability of reference prices. With regard to the proposed upper bound, BBLC believes that multipliers above 1.5 should be possible. The pricing of daily capacity, for example, requires a higher multiplier and differs from the pricing of monthly capacity as this daily product is sold closer to the time of use. The daily product offers more flexibility to network users and therefore its pricing should reflect this value. Multipliers should be set to a level that encourages shippers to purchase the product that best meets their needs.

In general, under recovery is likely to occur at non-congested entry and exit points and for competing pipelines without a captive demand base. When under recovery is likely to occur, short term capacity products should be priced higher than the annual capacity product (and a multiplier larger than 1.5 should be possible). This will result in an appropriate incentive for network users who need long term capacity products to actually book such products and at the same time will contribute to the recovery of allowed revenues. Therefore, BBLC advocates that under certain circumstances it should be possible that, on average over the gas year, the daily, monthly and quarterly reserve prices are higher than the product of the annual reserve price and the ratio of their duration (in days) divided by 365.

<u>Other Chapters</u>

With regard to 'Chapter 6 – Bundled capacity products' BBLC agrees that the sum of reserve prices for unbundled capacity products is used as the reserve price for bundled products and that it should be priced at such a level that recovery of the allowed revenue is ensured.

As mentioned before, BBLC is not in favour of introducing a variable payable price as proposed in 'Chapter 7 – Payable price'. The proposal of setting the payable price equal to the current reserve price for the year in which the capacity is used plus any premium determined at the time of the auction, results in uncertainty for network users about the price that they will pay in long term auctions which could discourage the booking of long term capacity. A distorted shift from long term to short term bookings is undesirable. If, however, ACER decides to introduce variable payable prices it should ensure that such prices should not have a negative impact on prices under existing contracts.

BBLC does not think it is appropriate to cover issues related to incremental capacity in the FG on Tariffs, as suggested in 'Chapter 8 – Incremental capacity'.

Regarding 'Chapter 9 – Usage of locational signals' BBLC believes that matters like shorthaul tariffs are best determined by national regulators and should not be included in the FG on Tariffs.