

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.

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Please indicate, if your company/organisation is:

a. European association

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

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

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? Please give reasons for your answer, including any quantitative evidence, tables and examples (if required, under confidentiality).

FG 1.4 requires that the Code shall be implemented within 12 months and shall apply to both new and existing contracts. Although there is reference to allowing counterparties to adapt their practices, it is not clear that a transition period is foreseen. This is a matter of concern since any important and rapid change in the tariffs of already booked capacities via existing contracts would cause disproportionate effects in relation particularly to the following objectives :

- facilitating efficient gas trade and competition,
- and the need to avoid cross-subsidies amongst network users.

If the tariffs of all Interconnection Points (IP) will dramatically change upwards or downwards depending on the IP, the market could move from one or some supply route(s) to other ones.

The following aspects of the application of the draft FG can lead to a strong and rapid change in tariffication modifying the national trade-off :

- the change to a distance related tariffication from an equalisation approach, or vice versa;
- changes to the split in revenue between entry and exit points;
- a change in the reconciliation process (commodity charge versus adjustment of the regulated price),
- an unjustified change of reserve price which could lead to massive under-recovery,
- an increase or decrease of an IP tariff due to the virtualisation of the IP,
- the forced bundling of booked capacity (the so-called sunset clause in the CAM NC) that could lead to the subscription of unwanted capacities at different prices.

Therefore, there should be a smooth transition by, for instance, applying the changes only for the next tarification period (for multi-years tariffs) and not when the network code on tariffs enters into force. If there is a severe adverse impact on shippers, another possibility might be to allow the possibility for shippers to terminate their capacity contracts.

Eurogas would not like to see tariffs become more complex, but at the same time as the FG recognizes difficult issues remain to be tackled. Eurogas is not against changes in the tarification but only asks for an assessment of any change prior to implementation and a transition period to have a smooth implementation.

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

No.

- 1.2. 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).

Indeed, the relative size of the regulatory account in comparison to overall tariff revenues should be the main indicator because under-recovery is our main fear (see answers to chapter 4).

Monitoring the booking rates by IP and by auctioned products (annual, quarterly, monthly, daily) before and after the tariff NC comes into force can also be interesting because it could reveal a change in supply routes and/or booking strategy (Long Term versus Short Term).

Stakeholders have to brainstorm on how these indicators could be built (which parameters to monitor, ...) and work should continue outside the Code. Eurogas would like to have indicators which should monitor the efficiency and the stability of tarification. Any distortion between supply routes or network users should also be periodically evaluated.

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.

In addition, the FG should give to network users the possibility to bring specific NRAs' decisions to the attention of ACER when they think these decisions are not consistent with the relevant provisions of the Gas Directive and Gas Regulation. Opinions developed by ACER - following a request from NRAs, the Commission or network users - would be another key indicator of the good functioning of the new regulatory framework.

ACER and ENTSOG should also monitor implementation of the transparency measures relating to the development of tariffs and methodologies. This should include an assessment of stakeholder satisfaction with the consultation processes run by TSOs and the NRAs.

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?

a. Yes, partly because more information may be needed (see our next answer).

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 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”.

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.

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”.

- a. Yes, such an additional requirement will be welcomed. Shippers would like to have access to TSOs' flow patterns, booking forecasts, cost and the model used to set the tariffs to be able to make their own assumptions on reserve prices evolutions.

Systematic translation in English of consultations and final documents setting methodologies to calculate tariffs is needed given the cross-border importance of this subject.

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?

- a. We do not fully understand the question. The level of harmonization, as stated in the FG, will not rule out the possibility of different tariff structures (e.g. short-haul tariffs) as long as there is a non-discriminatory treatment of network users.

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?

From a theoretical point of view a tariff based on distance could give in some cases a good economic signal (e.g. to build additional capacity the closest to the bulk of the consumption, i.e. at the cheapest cost).

But with entry-exit zones, defining an objective, stable cost driven methodology is extremely complex, and must take into account different countries situations (location of demand, importance of cross-border flows, geography of the country, amortization of the network...). Eurogas also asks what kind of simple methodology could be used. Could perhaps ACER provide some more information on the methodology ?

Moreover, nowadays, some national regulations have already been established with an equal tariff methodology. So getting out of a national consensus that may have taken years to be built may create lots of problems whereas a full cost reflectivity is probably unachievable.

That is why it will be difficult to move away from existing methodologies because any significant change has the potential to hamper efficient gas trade and competition or distort trade across transmission system borders. Indeed, if there are massive changes in the tariff of some IP, some supply routes may become more expensive than others. It will be very difficult to forecast the market evolution.

Therefore, if a change is demanded by the market, smooth transitions should be put in place. Otherwise, shippers may want to end their capacity contracts.

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?

The question should be analysed in more detail to distinguish :

- global allocation of costs between entries, exits towards other zones, and end-users exit,
- allocation of costs within exits towards other zones
- allocation of costs within exits towards end customers.

The first point is partially dealt with by question 2.3.3. The second point raises the same issues as in 2.3.1. For the third point, is the cost allocation between end-customers really in the scope of the FG? It is possible to have a harmonisation at the EU level for the ratio between entry and exit points or between domestic consumption and cross-border flows without having to deal with the cost allocation by end-customers, which arguably does not undermine gas trade or competition.

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?

Eurogas shares the rationale behind this rule which is to reduce room for possible discrimination between the domestic market and cross-border flows. However, the percentage of costs to be allocated at each specific entry/exit point should be better discussed in the network code elaboration process and supported by a more detailed assessment. It may then lead to different percentages depending on the use of the network (mainly for cross-border flows or mainly for supplying end-customers) but based on a harmonised, non-discriminatory and cost-reflective methodology.

By the way, Eurogas questions if there is not a methodology issue regarding the split between entry and exit points. It does not seem relevant if the aim is to apportion revenues between national end-customers and cross-border flows because Exit points include points out of the entry-exit system into another entry-exit system (used for cross-border flows).

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)?

a. No opinion, because we do not really understand the question.

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?

a. Yes, because otherwise there will be an unfair competition between national storage and gas coming from abroad : gas from the storage has indeed already paid entry tariffs and will pay exit tariffs. Moreover, gas storage is often a way to reduce the required size of entries within an entry-exit zone, and they are generally closer to the main centres of consumption. Therefore, transmission tariffs from and to storages are generally lower than tariffs related to other cross-border points “per se” and a FG should not refer to a “discount” which may give the impression it is a favour or a cross-subsidy towards storage entry/exit points. A cost-reflective methodology to calculate tariffs will ensure the avoidance of discrimination, without the need to set an arbitrary discount.

But, it has to be clarified to what extent the Code can regulate for storage entry/exit. Indeed, will the NC only deal with Interconnection points to be consistent with CAM and CMP or is it possible / suitable that the NC on tariffs goes beyond ? The same question applies to production entry points and to LNG terminal entry points which are other points with transmission tariffs. Furthermore, should there be a differentiated treatment by provision of the FG? Could ACER give a legal clarification on all those points ?

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

b. No, because it should 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?

f. Other suggestions : it should be cost-reflective.

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)?

Again, does the FG really apply on entry / exit points from storage or only to IP ? Nevertheless, as already stated, in the event storage entry/exit is in the scope of the FG, there should be a transmission tariff harmonisation in the EU for storage on the methodology, but not based on a “discount” compared to IP. It should be priced in a cost reflective way and left to local authorities since defined and final determination of the tariffs are for local purpose.

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?

a. Yes, these are consistent together but Eurogas does not agree on some principles. For instance, systematically lower reserve prices for short term products will lead to huge under-recovery for the TSO as in the GB system. In this case, the TSO gets its “missing” revenue from a commodity charge that changes each six months. There are also cross-

subsidies amongst network users since shippers who are buying long term products (which are more expensive) must also pay the commodity charge.

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?

- b. No, because systematically lower reserve prices for short term products will act as a disincentive to long term investments. Moreover, its efficiency to promote short term trade is not confirmed by facts : the TTF, the most liquid continental hub, with low spreads with neighbouring hubs, has one of the highest multipliers between short and long term tariffs (especially when taking into account seasonal factors). In addition, when under recovery due to discounted prices for short-term products leads to high commodity charges, these commodity charges can act as a barrier to short-term trade.

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?

- a. Yes, if the reserve price will be adjusted periodically to minimise the difference between allowed and collected revenues. Booked capacities during auctions at a reference price (with or without a premium in addition) will be paid at a reserve price set later. It seems the fairest solution compared to a commodity charge or to a change in the reserve price only for the following auctions / bookings.

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

- a. 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?

- a. Yes, because this balance is very important and it is in line with NRAs' responsibilities to ensure it is maintained. NRAs should consult the market.

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? Please give reasons for your answer, including any quantitative evidence, tables and examples.

Yes, Eurogas agrees with the proposal.

3.3. Reconciliation of Regulatory accounts.

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

a. There is a debate within Eurogas on the best solution for the reconciliation of the regulatory account. This debate arises also from the uncertainty around how the different options would work and on their effects. Option 2 in particular is unclear, being different from the system currently applied in GB, which foresees an ex-ante (and not ex-post) calculation of the commodity charge. Therefore a final view on this point would be developed during the process of network code elaboration. At this stage Eurogas has some preference for Option 1 because Eurogas considers that a commodity charge should be avoided as a mechanism to deal with over- and under-recovery since it would lead to a great risk of cross-subsidies. Option 1 seems to be the best solution to avoid discrimination and cross-subsidies between shippers. Indeed, with Option 1, there is no discrimination based on the time of booking capacity since the adjustment of the regulated price will apply when shippers will use their capacity (and not when they have booked their capacity like in the GB system) if section 7 applies.

Option 2 has been used in GB; the commodity charge creates cross-subsidies to the benefit of short term bookings. However, Eurogas recognises a commodity charge applies in some countries to recover TSOs' variable costs without a cross-subsidies issue arising since there is no massive under-recovery. That is our main concern : to avoid under-recovery. Eurogas is not in position to assess the capacity charge solution.

To summarise, Eurogas favours option 1 for regulatory account. This does not mean that a commodity charge cannot be applied for other purposes as long as a risk assessment has given shippers the assurance it will not lead to cross-subsidies.

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.

Eurogas does not favour such an approach. First, TSOs should provide accurate forecasts in term of capacity bookings and should have a view on booking strategy of shippers to try to minimise the regulatory account (e.g. short term bookings will lead to less booked capacity since shippers will be able to profile their needs). Secondly, having an ex-ante separate charge is just another means to recover revenues like the regulatory account. It will not minimise the cross-subsidies as accurate forecasts will do.

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)?

b. No, because the revenues from exit points towards end-customers should be quite stable. If the reserve price is based on the booking of a peak capacity (i.e. the capacity needed to supply the end-customer during a peak demand), the revenues based on capacity will not change whether this peak demand occurs or not. Since exit points towards end-customers should not create huge under or over recovery, the regulatory account should not be reconciled on those points but only on entry points and exit points towards adjacent 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.

b. No, see previous 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?

- b. No. Flow commitments (e.g. any services provided by shippers and paid for by the TSOs) should be also dealt with in this network code as they impact on TSO revenue and therefore the overall level of tariffs. For market based procedures, there should be some transparency requirement (on the assumptions used to define the level of flow commitments asked, on the market procedure itself, and on the prices and volumes resulting from the procedure).

The NRA should supervise more specific procedures (unavoidable if a single firm can provide the flow commitment because of a unique asset). In such cases, full transparency cannot be a general rule, as the asset concerned can be a long term contract covered by confidentiality clauses that must be respected.

Moreover, in some entry/exit systems it is more and more difficult to distinguish between firm and interruptible capacities because they are firm towards an exit point but interruptible towards the Virtual Trading Point.

4.2 Reserve prices (firm)

4.2.1 Do you agree with proposed level of harmonization?

- b. No, because we do not understand the proposed level of harmonization. In the first paragraph (4.1), the short term products prices should be “lower than or equal to” the annual price. In the third paragraph, it seems to be the other way : “multipliers higher than one, but not higher than 1.5, if significant under-recovery is to be expected”. If each NRA can decide as it wants even if justified (see below), it is not really harmonization.

Furthermore, one should not wait until significant under-recovery is expected to change the tariffs. By the way, what is meant by “significant”?

Since Eurogas favours a stable tariffication, “multipliers higher than one” should be the default rule instead of the “lower than or equal to”.

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?

- a. Yes, because this risk will become reality if there is a discount for short term products as it is currently in the GB system.(Cf. 3.1.2). Concerning the level of the maximum multiplier, it shall at least allow the implementation of the “revenue equivalence” principle, which can

result in multiplier higher than 1,5 in countries where the industry share of consumption is low against residential and gas for power sectors. The text should place an obligation on the NRA to remove discounts on short-term products where significant under-recovery is taking place.

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?

a. Yes, because this is consistent with CAM.

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?

Eurogas is not arguing it should in every case be higher but it should be the case for all points to respect at least the “revenue equivalence principle” or the “1/365 principle”, and should take into account existing situations.

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?

a. Yes, seasonal factors may have to be taken into consideration but within a clearly designed, limiting framework. The issue relates to the designs of current national systems. Analysis in determining the approach should look at the degree of elasticity of capacity demand and if seasonal factors would lead to cross-subsidies.

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?

b. Yes, because this is consistent with the Gas Regulation and it offers a cost-reflective approach which minimises cross-subsidisation.

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 not be fixed but it should depend on the specific risk of interruption to be recalculated once per year. The methodology to calculate the discount corresponding to a

specific risk of interruption - so as to “adequately” reflect the risk of interruption - should be thoroughly discussed in the network code elaboration process as Eurogas does not think that “adequately” automatically means “proportionally”, especially when capacity gives access to a hub with limited liquidity.

4.3.3 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?

a. Yes, because it is necessary to be coherent with CAM.

4.4. Reserve price (backhaul)

4.4.1 Do you agree with proposed level of harmonization?

a. 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)?

Backhaul prices should be low since it is an interruptible and “non-physical” reverse flow/capacity ; the reverse flow will only decrease the forward flow, then allowing savings in the variable transmission cost. There are different shades of opinion within Eurogas to decide if the backhaul prices should also apportion a small part of fixed costs (to minimise cross-subsidisation among network users) or not (because then the forward capacity price should evolve adequately to reflect the change in the backhaul price).

Nevertheless, the backhaul prices should be low and lower than the 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?

a. 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.

b. No, because virtual IPs will not be put in place. First, shippers would like to know how many IPs are involved in the process. Secondly, provisions mentioned in 5.1.9. of the CAM NC have led Eurogas to think that virtual IP will never be established. Finally, a tariff issue remains if two different prices of two pipelines arriving at the same IP from the same side of the border are average. Some shippers will have an increase in their invoices some will have a decrease.

6. Bundled capacity products

6.1 Reserve price (Bundled)

6.1.1 Do you agree with proposed level of harmonization?

a. 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?

a. Yes, because it seems the only practical way to do it. Otherwise, as already expressed, it will reopen national debates on the setting of regulated prices. Furthermore, bilateral negotiations between adjacent TSOs' and NRAs may occur with a risk of cross-subsidisation from one Entry / Exit balancing zone towards the other.

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

a. Yes, because bundled products as set in the draft NC on CAM applies only at IPs. So, to be consistent with this code, the draft FG on tariffs should only deal with those IPs.

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.

b. No, because the FG states 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". Eurogas agrees on this principle but considers that there is no reason why there would be a higher price for unbundled capacities.

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?

a. Yes

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

b. Eurogas does not understand the rationale of a unique option for splitting auction revenues (i.e. 50%/50% by TSOs). The only reason seems that it will prevent price increase of the cheapest regulated price of one side of the IP. But it does not seem cost reflective especially if there is a rent due to a physical congestion during auctions. This rent should then be apportioned between the two balancing zones depending on the relevant investments to made by each TSO to remove the bottleneck.

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?

a. Yes, because see answer to 6.1.2.

7. Payable price

7.1.1 Do you agree with proposed level of harmonization?

a. 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?

a. Yes, because it seems to be the only non-discriminatory solution and avoids cross-subsidies amongst network users. Otherwise booked capacity will have a fixed price whereas each year auctioned capacity reserve prices may change. It is also fair that all the shippers, whatever their booking strategies are – short term or long term for instance- will support tariff variations due to under- or over-recovery or changes in the allowed TSO revenue.

We consider however that there should be an option for network users to book longer term capacity against a fixed tariff (i.e. a tariff that will not change afterwards because of dealing with under/over recovery or changes in the allowed TSO revenue). This fixed price should include a risk premium and will therefore be (a little) higher than the regular tariffs resulting

from auctions (i.e. reserve price + auction premium + risk premium). The costs and profits from under/over recovery or changes in the allowed TSO revenue will then be redistributed over the network users that did not pay for the risk premium. An alternative can be to put the risk for under/over recovery or changes in the allowed TSO revenue for the part of the TSO's capacity which is booked against a fixed price at the TSO, because the TSO receives a risk premium for this capacity.

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?

a. Yes, since auctions only apply to those points.

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.

Will the incremental capacity have the same reserve price as the existing one ?

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 ?

Please give reasons for your answer, including any quantitative evidence, tables and examples. Please e.g. specifically address if FG/NC should set minimum and maximum thresholds for such a “market test”, whilst NRAs would set actual thresholds at national level. Please also address how such thresholds for a “market test” should take account of positive externalities (such as Security of Supply), as well as of the risk 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.

See our public answer to the CEER’s consultation on incremental capacity which indicates that the level of cost coverage which the subscriptions need to reach in order to trigger the investment decision, should be set to strike a balance between stimulating capacity development and avoiding stranded capacity and so socialization of costs.

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).

The building of incremental capacity involves costs. Decisions on how these costs should be managed have a material impact on how tariffs are set for existing and new capacity bookings. This

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.

subject needs to be dealt with and the NC on tariffs might be the right place to do it. The key aspects to be clarified are (i) in which cases socialisation of costs might be envisaged and (ii) how to let the benefit of economy of scale to be shared between new holders of the incremental capacity and holders of the existing capacity.

Please give reasons for your answer, including any quantitative evidence, tables and examples⁷.

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 minimise costs for the gas system (but perhaps not for the power grid in case of the location of a gas-fired power plants). However, if one wants to keep an Entry / Exit system, such signals must be really limited to some large and specific end-customers or gas infrastructures.

7 Please specify per below option, if your answer differs, if the approach to Incremental capacity identification (and, where applicable, allocation) would be based on 1 of the following options:

- Open Seasons (according to 2007 GGPOS),
- Coordinated Open Seasons (in light of the experience gained in the years since 2007)
- Identification via TYNDP, GRIPs and/or national TYNDPs,
- Regular integrated capacity auction for incremental and existing capacity,
- Incremental capacity auction if demand is identified in a regular process, and
- One time integrated auctions.
-

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.

Eurogas does not think than the chapter on “Reference price” should deal with locational signals which are tools to avoid intra-zone reinforcement of the network or to prevent intra-zone bottleneck formation. This topic seems to be out of the scope of the FG on tariffs.

A new end-customer will have to ask the TSO for a connection to the network. The TSO will be able to explain the needed investments and the exit tariff calculation based on the distance to the main pipelines of its network . The impact on the balancing zone of the additional supply flow (creation of internal bottleneck or not, ...) should also be studied.

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 tarification 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’⁸.

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.

⁸ See summary under weblink: <http://www.eui.eu/Projects/THINK/Documents/Thinktopic/PB/PB201201.pdf>

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?

a. Yes, of course.

9.4.2. How could this tariff structure be designed?

Please propose wording for a policy option (if needed).

As already stated, it is an intra-balancing zone issue and it should not affect the cross-border capacity (except if incremental capacity is needed). Furthermore, it should have no effect on the IP capacity prices since the shorthaul will only apply to nearby end-customers exit tariffs.

A possible exception to that is wheeling or flexible services : e.g., when two entries are very close, the entry reservation on one IP could give access to another one, all the more so when the two entries are physically directly connected by a dedicated pipe. Similarly, when an entry and an exit are very close, some TSOs propose special tariffs for these specific roads. It is a breach to a pure entry-exit system justified by the argument above : a small exempted pipe becomes perhaps then more interesting than the full regular tariff, while it would be source of inefficiency if the existing network can support these flows. It has also sense in term of cost reflectiveness. Indeed, these shorthaul tariffs may be a good balance between cost reflectiveness (that is linked to paths) and neutrality and flexibility of entry-exit systems.

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”? Based on expert advice on current EU-practices, following options are proposed:

At least, a harmonized criteria should be retained in each entry-exit zone to prevent discrimination. The criteria should be left at the national level.

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?

Eurogas thinks that this discussion might be out of the scope of the FG on tariffs. We are waiting for further explanations from ACER on the scope of the FG (storage, LNG terminal, production points, ...) - see our answer to 2.4.1. Regarding the NC drafting process, we should focus on IPs and internal market achievement and not on supply points towards Europe.

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 current arrangements for mergers of entry-exit zones are related to particular circumstances. It is difficult to comment.

Regarding virtual IPs, there will be a huge price problem because some shippers will have an increase in the price of their booked capacity due to the following principle “the reserve price for virtual interconnection points shall be established based on the combination of the reserve prices for the individual entry or exit points”.

It is the same legal issue as for the sunset clause ; a shipper will face a dramatic change in his contract, this time, on the price of its booked capacity because the former price will be averaged with a or other IPs.

Shippers have questioned during the drafting of the CAM NC, what was the intended benefit of this measure and how many IPs are potentially subject to this measure? We have no answers until now.

- 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.**

- 11. What additional tariff structure measures do you envisage could improve the network code?** Please give reasons for your answer, including any quantitative evidence, tables and examples. Please also, if relevant, suggest and explain reasons why any of the proposed measures should

rather have been left to voluntary exchange of best practices at national level (e.g. via Guidelines of Good Practice)⁹.

- 12. Please share below any further comments concerning the draft Framework Guideline.**
- 13. 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.

⁹ Please e.g. specifically consider if the FG/NC should include an EU-wide provision providing for “incentives” for implementation of CMP measures, and or additional EU-wide provisions ensuring that transmission system operators do not experience detrimental effects as consequence of the roll-out of EU-wide implementation of the auctions under CAM NC and/or other NC.