ACER

European Union Agency for the Cooperation of Energy Regulators

Agency Report

Analysis of the Consultation Document on the Gas Transmission Tariff Structure for the Transit Gas Pipeline System (TGPS) within Poland owned by EuRoPol GAZ S.A. and operated by GAZ-SYSTEM S.A

NRA: Urząd Regulacji Energetyki (URE)
TSO: GAZ-SYSTEM S.A.

15 December 2023

Contents

1. ACER conclusion

(1) GAZ-SYSTEM, the Polish transmission system operator performing the duties of the transmission system operator on the Transit Gas Pipeline System[1] (TGPS), has carried out its third consultation on the reference price methodology (RPM) for the TGPS since the entry into force of the Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a Network Code on Harmonised Transmission Tariff Structures for Gas (NC TAR). GAZ-SYSTEM received no responses to this consultation.

(2) GAZ-SYSTEM proposes to apply a postage stamp methodology with a 50-50 entry-exit split. The proposed methodology shall apply to three interconnection points to the TGPS: the entry point from Germany (Mallnow IP) and the exit points to Poland (PWP IP) and to Germany (Mallnow IP). GAZ-SYSTEM proposes no commodity or non-transmission charges. The proposed RPM is expected to be applied for a period of two years, stating on 1 January 2025.

(3) The Agency notes that the proposed methodology differs from the capacity weighted distance (CWD) methodology that GAZ-SYSTEM proposed in the previous consultation for the period 2023-2024.

(4) The consultation document does not provide a cost allocation assessment (CAA[2]) as is foreseen in the NC TAR to analyse the potential cross-subsidisation between the intra-system and cross-system use of the network. In this specific situation, the Agency finds this justified since the TGPS can only be used to transport gas from Germany to the Polish national system, hence making a comparison of cross-system and intra-system use of the network is not relevant.

(5) Since a postage stamp methodology is proposed, a comparison with the CWD is required, based on Article 26(1)(a)(vi) of the NC TAR. The comparison is provided in the consultation document and does not question the choice of RPM as proposed by GAZ-SYSTEM.

(6) The Agency concludes, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR, that:

- the consultation document includes most of the information listed in Article 26(1) of the NC TAR.
- The proposed reference price methodology is compliant with the requirements of cost reflectivity, cross-subsidisation, non-discrimination, volume risk and cross-border trade. The proposed RPM is compliant with the requirement of transparency, understood as enabling the reproduction and forecast of tariffs. At the same time, the Agency notes that the consultation does not provide all inputs that are relevant for the derivation of the tariffs for 2026 and does not provide the estimated difference in the level of transmission tariffs for 2025 and 2026 as required by Article 26(1)(d) of the NC TAR, which limits the ability of network users to forecast the indicative tariffs for 2026.
- The compliance analysis pursuant to Articles 27(2)(b)(2-3) of the NC TAR does neither apply commodity charges nor non-transmission charges.

[1] The Polish segment of the Yamal pipeline.

[2] It refers to the cost allocation assessment index described in Article 5(3)(c) of the NC TAR.

(7) The Agency recommends that Urząd Regulacji Energetyki (URE) include the following information as part of the motivated decision pursuant to Article 27(4) of the NC TAR:

(8) First, publish the (indicative) values that are relevant for the derivation of the tariffs for 2026, as a requirement pursuant to Article 26(1)(d), namely to publish the "*estimated difference in the level of transmission tariffs for the same type of transmission service applicable for the tariff period for which the information is published and for each tariff period within the remainder of the regulatory period".* This facilitates network users to calculate at least an indicative tariff for the year 2026.

(9) Second, the Agency recommends that the capacity offered at the exit IP to Germany be priced according to its interruptible condition. Should the NRA not be able to establish the probability of interruption to calculate an ex-ante discount as established in Article 16(2) of the NC TAR, the NRA should apply an *ex-post* discount as laid out in Article 16(4) of the NC TAR.

(10) Third, regarding the setting of the entry-exit split, the Agency recommends that the NRA justifies this parameter considering the impact on the tariff applicable to the exit point to Germany, where only interruptible capacity is offered.

(11) Finally, the Agency recommends the NRA to assess the costs and benefits of a possible merger of the TGPS and the Polish national transmission network with a view to possibly incorporating the TGPS into the Polish national transmission system allowing all import routes to Poland to compete on the basis of a single access tariff to the network.

2. Introduction

(12) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas (NC TAR).

(13) Article 27 of the NC TAR requires the Agency to analyse the consultation document on the reference price methodologies for all entry-exit systems.[3] This Report presents the analysis of the Agency for the Transit Gas Pipeline System (TGPS), the Polish segment of the Yamal pipeline, operated by GAZ-SYSTEM.

(14) On 6 September 2023, Urząd Regulacji Energetyki (URE), the Polish NRA, forwarded the consultation document to the Agency. The consultation was launched on 31 August 2023 by GAZ-SYSTEM and remained open until 31 October 2023. On 15 November 2023, GAZ-SYSTEM informed the Agency that no responses to the consultation were received. Within five months following the end of the final consultation, and pursuant to Article 27(4) of the NC TAR, URE shall take and publish a motivated decision on all the items set out in Article 26(1).

(15) GAZ-SYSTEM has already carried out two public consultations based on the NC TAR and URE published a decision in 2018 for the period 2021-2022 and a decision in 2022 for the period 2023-2024. In parallel with this consultation on the TGPS, GAZ-SYSTEM also carried out a public consultation on the RPM to be applied to the Polish national transmission system. This other consultation will be assessed in a separate report.[4].

(16) A number of bilateral exchanges to collect additional information took place between GAZ-SYSTEM and the Agency. GAZ-SYSTEM provided information in a timely and clear manner following the requests of the Agency.

Reading guide

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

3. Completeness

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

(18) Article 27(2)(a) of the NC TAR requires the Agency to analyse whether all the information referred to in Article 26(1) of the NC TAR has been published.

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

[4] 2023 Report on the Polish national transmission system, to be published on the ACER website

(19) Article 26(1) of the NC TAR requires that the consultation document should be published in the English language, to the extent possible. The Agency remarks that the consultation document has been published in English.

(20) Overall, most of the information in Article 26(1) of the NC TAR has been properly published. The Agency recommends that URE includes in the motivated decision the missing elements that are referred to in Table 1 below.

Table 1 Checklist information Article 26(1)

Article	Information	Published: Y/N/NA
26(1)(a)	the description of the proposed reference price methodology	Yes
26(1)(a)(i) **26(1)(a)(i)(1)** **26(1)(a)(i)(2)**	the indicative information set out in Article 30(1)(a), including: • the justification of the parameters used that are related to the technical characteristics of the system • the corresponding information on the respective values of such parameters and the assumptions applied	Yes
26(1)(a)(ii)	the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9	Yes
26(1)(a)(iii)	the indicative reference prices subject to consultation	Yes
26(1)(a)(iv)	the results, the components and the details of these components for the cost allocation assessments set out in Article 5	Not applicable, see Section 4.3
26(1)(a)(v)	the assessment of the proposed reference price methodology in accordance with Article 7	Yes
26(1)(a)(vi)	where the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8, its comparison against the latter accompanied by the information set out in point (iii)	Yes, see Section 4.4
26(1)(b)	the indicative information set out in Article 30(1)(b)(i), (iv), (v)	Yes
26(1)(c)(i) **26(1)(c)(i)(1)** **26(1)(c)(i)(2)** **26(1)(c)(i)(3)**	where commodity-based transmission tariffs referred to in Article 4(3) are proposed • the manner in which they are set • the share of the allowed or target revenue forecasted to be recovered from such tariffs • the indicative commodity-based transmission tariffs	Not applicable
26(1)(c)(ii) **26(1)(c)(ii(1)** **26(1)(c)(ii)(2)** **26(1)(c)(ii)(3)** **26(1)(c)(ii)(4)**	where non-transmission services provided to network users are proposed: • the non-transmission service tariff methodology therefor • the share of the allowed or target revenue forecasted to be recovered from such tariffs • the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3) • the indicative non-transmission tariffs for non-transmission services provided to network users	Not applicable

26(1)(d)	the indicative information set out in Article 30(2);	Partially, the contracted capacity forecast, the allowed revenue and the transmission tariffs for 2026 are not provided.
26(1)(e) **26(1)(e)(i)** **26(1)(e)(ii)** **26(1)(e)(iii)** **26(1)(e)(iv)**	where the fixed payable price approach referred to in Article 24(b) is considered to be offered under a price cap regime for existing capacity: • the proposed index; • the proposed calculation and how the revenue derived from the risk premium is used • at which interconnection point(s) and for which tariff period(s) such approach is proposed • the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 24 are proposed	Not applicable

4. Assessment of the proposed reference price methodology

(21) The following chapter assesses the proposed RPM, taking into account the input parameters of the methodology and the cost allocation assessment.

4.1 Description of the Transit Gas Pipeline System (TGPS)

(22) TGPS is the Polish section of the Yamal-Western Europe gas pipeline that crosses Poland from the border with Belarus (Kondratki IP) to the border with Germany (Mallnow IP). Historically, this pipeline served to transport gas from Belarus to Germany across Poland with some flows exiting at the exit point to Poland.

(23) TGPS is owned by Transit Gas Pipeline System EuroPol GAZ s.a. and is operated by GAZ-SYSTEM, the independent transmission system operator in Poland. The settlement between EuroPol GAZ and GAZ-SYSTEM takes place on the basis of an agreement entrusting the duties of a transmission system operator to GAZ-SYSTEM. During exchanges with the Agency, GAZ-SYSTEM explained that the agreement is similar to a lease contract, yet it cannot be shared publicly due to commercially sensitive information. The agreement was concluded by way of a decision of URE due to the lack of agreement between both parties.[5] The lease extends for the entirety of the

[5] Decision of the President of the Energy Regulatory Office on entrusting GAZ-SYSTEM with the duties of the operator on the Polish section of the TGPS. The agreement contains: the scope of assets covered by the entrustment, the area in which the operator's business activity is carried out, the methodology for determining the remuneration to which the pipeline owner is entitled for the assets used, parties' obligations with respect to

pipeline and not only for the segment extending from the German border to the Polish exit point. The allowed revenue foreseen for the TGPS in 2025 is the same as the allowed revenue in in 2024.

(24) The pipeline has a length of 683.90 km. Currently, the TGPS is mainly used for the transport of gas from Germany to the exit to the Polish national transmission system. The only entry point to the TGPS is Mallnow IP, the entry point from Germany. The transport of gas from Belarus to Germany via TGPS stopped at the end of 2022. Now, gas flows from Germany to Poland with the possibility of physical reverse flow in the opposite direction based on an interruptible capacity product. The system has two physical exits to the Polish network (Włocławek and Lwówek) that are clustered in one virtual interconnection point (PWP IP). TGPS has no entries from or exits to Polish domestic points. Additionally, the pipeline allows interruptible reverse flows back to the German network via the Mallnow IP. These flows are dependent on having gas been previously transported to the network.

4.2 Description of proposed RPM

(25) GAZ-SYSTEM proposes to apply a postage stamp methodology with a 50-50 entry-exit split.

(26) The proposed methodology shall apply to all three existing interconnection points to the TGPS. GAZ-SYSTEM explained that since gas no longer enters the TGPS from Belarus the Kondratki IP is removed from the list of applicable points.

(27) This proposed methodology differs from the CWD methodology that GAZ-SYSTEM proposed in the previous consultation for the period 2023-2024. Given the technical characteristics of the TGPS – the unidirectional nature and linearity of the pipeline, and the fact that the system only consists of one entry point and two exit points reduces the importance of the distance cost driver - GAZ-SYSTEM therefore considers the allocation of a postage stamp methodology justified.[6]

(28) The proposed methodology uses capacity as the sole cost driver. The consultation document provides the forecasted contracted capacities for all points and the indicative[7] allowed revenue for GAZ-SYSTEM for operating the TGPS. The (indicative) data is only available for 2025, but not for 2026.

(29) Like in the previous consultation, GAZ-SYSTEM proposes that the presented RPM will be valid for a period of two years, from 1 January 2025 till 1 January 2027.

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cooperation in the performance of the contract, and parties' liability in the event of non-performance or improper performance of the contract.

[6] In its report on the previous consultation, the Agency recommended that the NRA should revaluate whether the choice of the RPM could ease the identified problem of the then proposed CWD methodology, by assessing the performance of, for example, a postage stamp methodology as a tool to evenly allocate the uncertainty over the capacity forecast across points of the network.

[7] The allowed revenue, to be approved by URE, will be established based on a cost-plus methodology and shall constitute the sum of the forecasted operating costs of the TGPS (remuneration for both the TGPS Owner and operating costs of GAZ-SYSTEM) and the return on invested capital established as a percentage of the regulatory value of GAZ-SYSTEM assets involved in the transmission activity of the TGPS. The Information will be published by GAZ-SYSTEM before the tariff period (in accordance with article 30 TAR NC).

4.3 Cost allocation assessment

(30) Like in its previous consultations, GAZ-SYSTEM did not provide a cost allocation assessment (CAA, Article 5 of the NC TAR) for the proposed postage stamp RPM, based on the argument that all entry and exit points are interconnection points. GAZ-SYSTEM does not consider the PWP point an intra-system point since it connects two separate entry-exit systems, namely the TGPS and the Polish national transmission system.

(31) In its previous reports[8], the Agency recommended GAZ-SYSTEM to calculate the CAA considering the transport of gas to the exit point to Poland (PWP point) as intra-system use. Such interpretation would allow using the CAA to compare the two, then relevant, differentiated uses of the pipeline: the transport of gas from Belarus to Germany and the transport of gas from Germany to the exit point to the Polish national transmission system.

(32) As shown in paragraph (24), the conditions to design the tariff methodology for the TGPS have considerably changed compared to the situation presented in the previous consultation, since the transport of gas from Belarus to Germany via the TGPS is no longer present. Given that the TGPS is primarily used to transport gas from Germany to the Polish national system,[9] a comparison of differentiated uses to assess for potential cross-subsidisation or discrimination is no longer of relevance.

(33) The Agency considers it justified that in this specific situation no CAA is included in the consultation document.

4.4 Comparison with the CWD methodology

(34) GAZ-SYSTEM provides a comparison between the proposed postage stamp methodology and the standard CWD methodology as laid out in Article 8 of the NC TAR.

(35) The Agency remarks that the counterfactual CWD methodology provided by GAZ-SYSTEM for comparison assumes that gas exiting to Germany travels the same distance as the gas transported from Germany to Poland. The Agency notes that this assumption is not valid and is rather misleading as it assumes that the gas exiting to Germany enters the pipeline from the Polish national transmission system. This assumption is not correct since, in all cases, the gas exiting to Germany is the same gas that entered the pipeline from the German network.

(36) The Agency remarks that for any CWD calculation tariffs derived for the exit to Germany depend on the assumptions used for the distance cost driver. The gas exiting at this point, technically enters the pipeline also at this point, which results in a zero-distance travelled by the gas flows exiting to Germany. The CWD cannot be calculated for this point if the distance value is set to zero. As a

[8] The 2018 Report on the Tariff Consultation for the SGT pipeline within Poland (Agency Report - Analysis of the consultation document for Poland (SGT).pdf (europa.eu) and the 2021 Report on the Tariff Consultation for the SGT pipeline within Poland (Microsoft Word - PL_Yamal_Format analysis_final (europa.eu)).

[9] In addition, a reverse flow from Germany to Germany is possible. These flows are related to the gas transport to the Polish national transmission system since it concerns bookings by shippers revising their bookings to the Polish exit downwards. Only an interruptible capacity product is offered at the exit point to Germany.

result, the only way of calculating a tariff requires using an alternative value for the distance cost driver.

(37) At the same time, the Agency also notes that the contracted capacity at the exit point to Germany might not be accurate enough. Given that the utilisation of the TGPS in the current configuration is a novelty, any forecast for this point will be subject to significant uncertainly.

(38) Therefore, the Agency considers that, even with a different assumption for the distance to the exit point to Germany than the one used by GAZ-SYSTEM, the CWD is not an appropriate RPM for the TGPS.

(39) The comparison of the proposed methodology with the CWD methodology does not question the proposed choice to apply a postage stamp RPM.

4.5 Interruptible discount applicable at the exit point to Germany

(40) The Agency remarks that capacity at the exit point to Germany can only be offered on the basis of an interruptible capacity product. The rules applicable for these products are laid out under Article 16 of the NC TAR. Should the NRA not be able to establish the probability of interruption to calculate an ex-ante discount as established in Article 16(2) of the NC TAR, the NRA should apply an *ex-post* discount as laid out in Article 16(4) of the NC TAR, "*whereby network users are compensated after the actual interruptions incurred. Such ex-post discount may only be used at interconnection points where there was no interruption of capacity due to physical congestion in the preceding gas year. The ex-post compensation paid for each day on which an interruption occurred shall be equal to three times the reserve price for daily standard capacity products for firm capacity*".

(41) As the interruptible tariff to exit the system will depend on the entry-exit split of the proposed postage stamp methodology, the Agency recommends that the NRA justify this parameter considering the impact on the tariff applicable to the exit point to Germany.

5. Compliance

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

(42) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed reference price methodology complies with the requirements set out in Article 7 of the NC TAR. This article refers to Article 13 of Regulation (EC) 715/2009 and lists a number of requirements to take into account when setting the RPM. As this overlaps, in the remainder of this chapter, the Agency will take a closer look at the five elements listed in Article 7 of the NC TAR.

(43) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and cross border trade are closely related the Agency concludes with an overall assessment. Special attention is paid to the allocation of revenues between domestic and transit routes.

5.1.1 Transparency

(44) **Article 7(a)** of the NC TAR requires that the RPM aims at ensuring that network users can reproduce the calculation of reference prices and their accurate forecast. The Agency finds the published simplified tariff model, as required by Article 30(2)(b) of the NC TAR appropriate to reproduce and forecast tariffs.

(45) At the same time, the Agency notes that Gaz-SYSTEM provides all inputs that are relevant for the derivation of the tariffs for 2025, but not beyond. The Agency considers that this limits the forecast of tariffs for the year 2026. In addition, GAZ-SYSTEM does not provide the estimated difference in the level of transmission tariffs for 2025 and 2026 as required by Article 26(1)(d) of the NC TAR the "*estimated difference in the level of transmission tariffs for the same type of transmission service applicable for the tariff period for which the information is published and for each tariff period within the remainder of the regulatory period".*

(46) The Agency recommends that the NRA publish the forecast for the contracted capacity forecast, the allowed revenue and the estimated tariffs for 2026. This is a requirement pursuant to Articles 26(1)(d) and 30(2)(a)(ii) of the NC TAR.

5.1.2 Cost-reflectivity

(47) **Article 7(b)** of the NC TAR requires the RPM to take into account the actual costs incurred for the provision of transmission services, considering the level of complexity of the transmission network.

(48) The Agency considers that the choice of the postage stamp methodology is appropriate for the technical characteristics and current use of the TGPS pipeline. The TGPS in Poland can be considered a linear pipeline with flows entering from Germany and exiting to Poland. The existence of one entry point, one exit point, and one additional exit point only used for interruptible reverse flows back to the German network removes the relevance of the distance cost driver.

5.1.3 Cross-subsidisation and discrimination

(49) **Article 7(c)** of the NC TAR requires the RPM to ensure non-discrimination and prevent undue cross-subsidisation. One instrument to evaluate this is the CAA. As noted in paragraph (33), in the specific case of the TGPS there is no benefit in calculating the CAA. Since the TGPS can only be used to transport gas from Germany to the Polish national system and all users of this pipeline have to pay the same entry and the same exit, the Agency concludes that the proposed tariffs do not lead to undue cross-subsidisation. The Agency further concludes that the proposed RPM is compliant with the requirement of ensuring non-discrimination.

5.1.4 Volume risk

(50) **Article 7(d)** of the NC TAR requires that the RPM ensures that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system. The TGPS does not connect final customers, hence the Agency considers that the RPM fulfils this requirement.

(51) During exchanges with GAZ-SYSTEM and based on information in the consultation document, the Agency noted that due to a lower level of capacity bookings, the tariffs of the TGPS are resulting in higher tariff levels. The level of capacity bookings was reduced significantly at the end of 2022. As illustrated by the data in the simplified tariff model, a further reduction of capacity bookings is foreseen for 2025. The level of forecasted capacity bookings for 2025 decreases with about 45% compared to 2024 (entry Mallnow decreases from 2,136,968 kWh/h to 1,161,968 kWh/h and exit to PWP from 2,120,937 kWh/h to 1,145,937 kWh/h, exit to Mallnow remains the same). Based on the proposed methodology, the tariffs for 2025 will increase by 84% for the entry point for Germany and by 77% for the exit points.

(52) Like in its previous report,[10] the Agency notes that in the absence of a sufficient level of capacity bookings, the tariffs of the TGPS can potentially increase beyond levels that are affordable for the potential users of the pipeline. The Agency recommends URE to assess the impact of potentially decreasing capacity bookings on network tariffs. In this regard, URE should also provide clarity on the reconciliation principles to be applied to potential under-recoveries in relation to the requirements laid out in Article 17 and Article 19(2) of the NC TAR applicable to the regulatory account.

5.1.5 Cross-border trade

(53) **Article 7(e)** of the NC TAR requires that the RPM ensures that the resulting reference prices do not distort cross-border trade. Based on the conclusion provided on the requirement on cost-reflective in paragraph (48) the Agency considers the proposed methodology compliant with the requirement of not distorting cross-border trade.

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

(54) GAZ-SYSTEM does neither propose commodity-based transmission tariffs, nor non-transmission tariffs.

5.3 Other comments

(55) The Agency concludes this report with a remark on the configuration of the Polish network, which is divided into two entry-exit systems: the Polish national transmission system and the TGPS pipeline. As a result of this, the supply of gas to the Polish market via the TGPS pipeline is more expensive than through the other entries into the Polish national transmission system. The difference is determined by additional tariffs that result from the use of the TGPS pipeline.

- Gas coming into the Polish national transmission system from any other route than the TGPS pipeline, faces a uniform entry tariff following the proposal of a postage stamp methodology for this system (0.6921 PLN/MWh/h[11]).

[10] Paragraph 57 of the ACER 2021 Report on the Tariff Consultation for the SGT pipeline within Poland.

[11] Tariff level proposed in the tariff consultation on the RPM to be applied to the Polish national transmission system for the period 2025 and 2026.

- Gas entering the Polish national transmission system via the TGPS pipeline faces additionally, an entry tariff into the TGPS pipeline at the German border of 0.9510 PLN/MWh/h, and an exit tariff from the TGPS pipeline to Poland 0.8725 PLN/MWh/h. This adds up to 1.8235 PLN/MWh/day and represents a 163% increase compared to the entry tariff charged when entering directly into the Polish national transmission system.

(56) Since currently the TGPS is only used to flow gas from Germany to the Polish national transmission system, the Agency recommends URE to assess the costs and benefits of a merger of the two entry-exit systems. The NRA should complete this with a view to possibly incorporating the TGPS into the Polish national transmission system allowing all import routes to Poland to compete on the basis of a single access tariff to the network. In addition, the NRA should assess whether the merger

- Would leads to higher levels of capacity bookings (see paragraph (51)) contributing to a more efficient use of the network.
- Would result in significant costs related to transports across an entry-exit system being assigned to final customers, as referred to in Article 7(d) of the NC TAR.

Annex 1: Legal framework

Article 27 of the NC TAR reads:

1. Upon launching the final consultation pursuant to Article 26 prior to the decision referred to in Article 27(4), the national regulatory authority or the transmission system operator(s), as decided by the national regulatory authority, shall forward the consultation documents to the Agency.

2. The Agency shall analyse the following aspects of the consultation document:
(a) whether all the information referred to in Article 26(1) has been published;
(b) whether the elements consulted on in accordance with Article 26 comply with the following requirements:
(1) whether the proposed reference price methodology complies with the requirements set out in Article 7;
(2) whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met;
(3) whether the criteria for setting non-transmission tariffs as set out in Article 4(4) are met.

3. Within two months following the end of the consultation referred to in paragraph 1, the Agency shall publish and send to the national regulatory authority or transmission system operator, depending on which entity published the consultation document, and the Commission the conclusion of its analysis in accordance with paragraph 2 in English.
The Agency shall preserve the confidentiality of any commercially sensitive information.

4. Within five months following the end of the final consultation, the national regulatory authority, acting in accordance with Article 41(6)(a) of Directive 2009/73/EC, shall take and publish a motivated decision on all items set out in Article 26(1). Upon publication, the national regulatory authority shall send to the Agency and the Commission its decision.

5. The procedure consisting of the final consultation on the reference price methodology in accordance with Article 26, the decision by the national regulatory authority in accordance with paragraph 4, the calculation of tariffs on the basis of this decision, and the publication of the tariffs in accordance with Chapter VIII may be initiated as from the entry into force of this Regulation and shall be concluded no later than 31 May 2019. The requirements set out in Chapters II, III and IV shall be taken into account in this procedure. The tariffs applicable for the prevailing tariff period at 31 May 2019 will be applicable until the end thereof. This procedure shall be repeated at least every five years starting from 31 May 2019.

Article 26(1) of the NC TAR reads:

1. One or more consultations shall be carried out by the national regulatory authority or the transmission system operator(s), as decided by the national regulatory authority. To the extent possible and in order to render more effective the consultation process, the consultation document should be published in the English language. The final consultation prior to the decision referred to in Article 27(4) shall comply with the requirements set out in this Article and Article 27, and shall include the following information:
(a) the description of the proposed reference price methodology as well as the following items:
(i) the indicative information set out in Article 30(1)(a), including:

(1) the justification of the parameters used that are related to the technical characteristics of the system;

(2) the corresponding information on the respective values of such parameters and the assumptions applied.

(ii) the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9;

(iii) the indicative reference prices subject to consultation;

(iv) the results, the components and the details of these components for the cost allocation assessments set out in Article 5;

(v) the assessment of the proposed reference price methodology in accordance with Article 7;

(vi) where the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8, its comparison against the latter accompanied by the information set out in point (iii);

(b) the indicative information set out in Article 30(1)(b)(i), (iv), (v);

(c) the following information on transmission and non-transmission tariffs:

(i) where commodity-based transmission tariffs referred to in Article 4(3) are proposed:

(1) the manner in which they are set;

(2) the share of the allowed or target revenue forecasted to be recovered from such tariffs;

(3) the indicative commodity-based transmission tariffs;

(ii) where non-transmission services provided to network users are proposed:

(1) the non-transmission service tariff methodology therefor;

(2) the share of the allowed or target revenue forecasted to be recovered from such tariffs;

(3) the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3);

(4) the indicative non-transmission tariffs for non-transmission services provided to network users;

(d) the indicative information set out in Article 30(2);

(e) where the fixed payable price approach referred to in Article 24(b) is considered to be offered under a price cap regime for existing capacity:

(i) the proposed index;

(ii) the proposed calculation and how the revenue derived from the risk premium is used;

(iii) at which interconnection point(s) and for which tariff period(s) such approach is proposed;

(iv) the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 24 are proposed.

Article 7 of the NC TAR reads:

The reference price methodology shall comply with Article 13 of Regulation (EC) No 715/2009 and with the following requirements. It shall aim at:

a) enabling network users to reproduce the calculation of reference prices and their accurate forecast;

(b) taking into account the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network;

(c) ensuring non-discrimination and prevent undue cross-subsidisation including by taking into account the cost allocation assessments set out in Article 5;

(d) ensuring that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system;
(e) ensuring that the resulting reference prices do not distort cross-border trade.

Article 13 of Regulation (EC) No 715/2009 reads:

1. Tariffs, or the methodologies used to calculate them, applied by the transmission system operators and approved by the regulatory authorities pursuant to Article 41(6) of Directive 2009/73/EC, as well as tariffs published pursuant to Article 32(1) of that Directive, shall be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments, and, where appropriate, taking account of the benchmarking of tariffs by the regulatory authorities. Tariffs, or the methodologies used to calculate them, shall be applied in a nondiscriminatory manner.
Member States may decide that tariffs may also be determined through market-based arrangements, such as auctions, provided that such arrangements and the revenues arising therefrom are approved by the regulatory authority.
Tariffs, or the methodologies used to calculate them, shall facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.
Tariffs for network users shall be non-discriminatory and set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the national regulatory authorities. By 3 September 2011, the Member States shall ensure that, after a transitional period, network charges shall not be calculated on the basis of contract paths.

2. Tariffs for network access shall neither restrict market liquidity nor distort trade across borders of different transmission systems. Where differences in tariff structures or balancing mechanisms would hamper trade across transmission systems, and notwithstanding Article 41(6) of Directive 2009/73/EC, transmission system operators shall, in close cooperation with the relevant national authorities, actively pursue convergence of tariff structures and charging principles, including in relation to balancing.

Article 4(3) of the NC TAR reads:

3. The transmission services revenue shall be recovered by capacity-based transmission tariffs.
As an exception, subject to the approval of the national regulatory authority, a part of the transmission services revenue may be recovered only by the following commodity-based transmission tariffs which are set separately from each other:
(a) a flow-based charge, which shall comply with all of the following criteria:
(i) levied for the purpose of covering the costs mainly driven by the quantity of the gas flow;
(ii) calculated on the basis of forecasted or historical flows, or both, and set in such a way that it is the same at all entry points and the same at all exit points;
(iii) expressed in monetary terms or in kind.
(b) a complementary revenue recovery charge, which shall comply with all of the following criteria:
(i) levied for the purpose of managing revenue under- and over-recovery;
(ii) calculated on the basis of forecasted or historical capacity allocations and flows, or both;

(iii) applied at points other than interconnection points;

(iv) applied after the national regulatory authority has made an assessment of its cost-reflectivity and its impact on cross-subsidisation between interconnection points and points other than interconnection points.

Article 4(4) of the NC TAR reads:

4. The non-transmission services revenue shall be recovered by non-transmission tariffs applicable for a given nontransmission service. Such tariffs shall be as follows:

(a) cost-reflective, non-discriminatory, objective and transparent;

(b) charged to the beneficiaries of a given non-transmission service with the aim of minimising cross-subsidisation between network users within or outside a Member State, or both.

Where according to the national regulatory authority a given non-transmission service benefits all network users, the costs for such service shall be recovered from all network users.

Annex 2: List of abbreviations

Acronym	Definition
ACER	Agency for the Cooperation of Energy Regulators
ENTSOG	European Network of Transmission System Operators for Gas
NRA	National Regulatory Authority
TSO	Transmission System Operator
EC	European Commission
EU	European Union
MS	Member State
NC TAR	Network code on harmonised transmission tariff structures for gas
IP	Interconnection Point
VIP	Virtual Interconnection Point
RPM	Reference Price Methodology
CWD	Capacity Weighted Distance
CAA	Cost Allocation Assessment
RAB	Regulated Asset Base
OPEX	Operational Expenditures
CAPEX	Capital Expenditures