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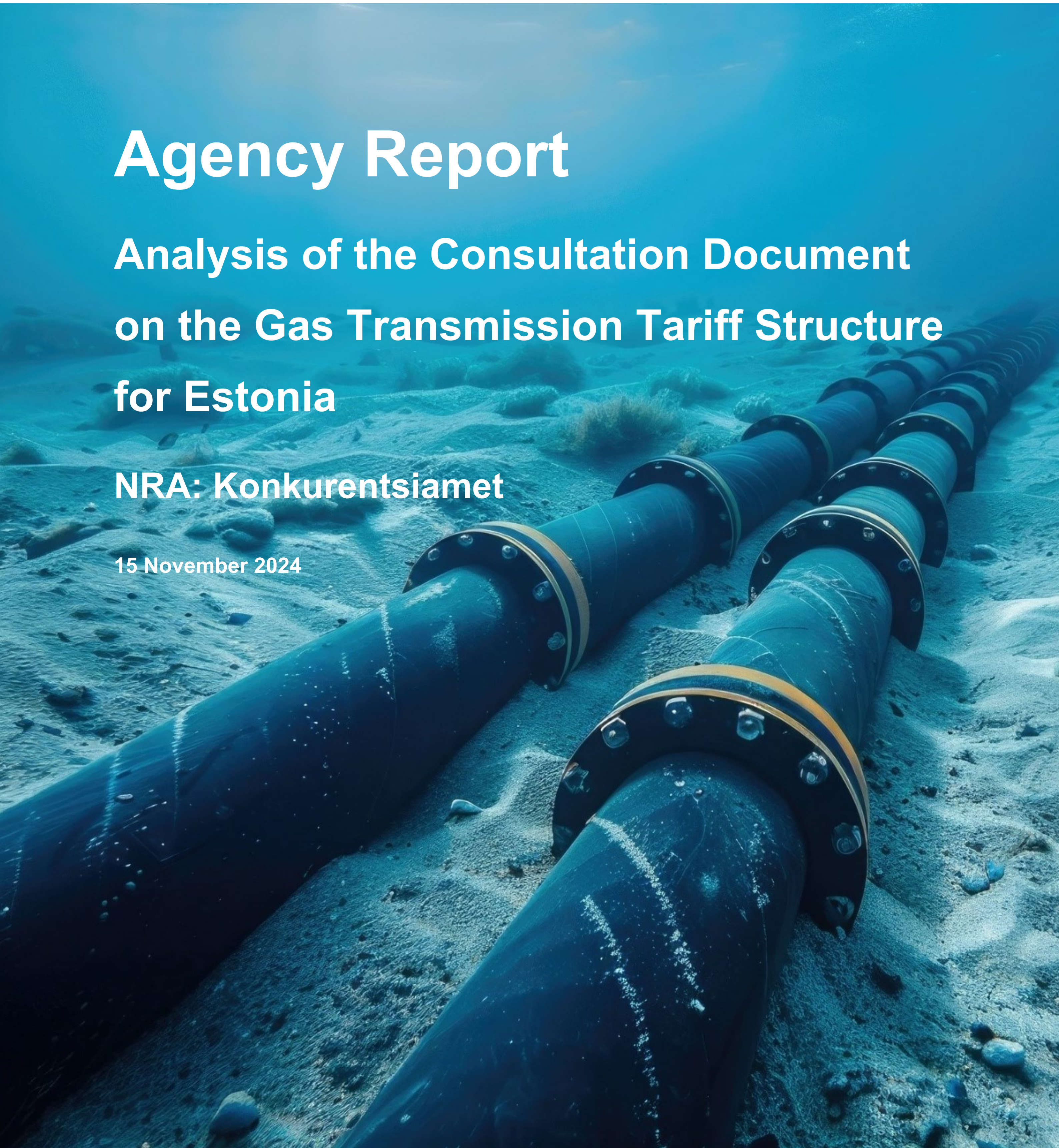

Agency Report

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

NRA: Konkurentsiamet

15 November 2024

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1. ACER conclusion

1 The Estonian National Regulatory Authority ('NRA'), Konkurentsiamet, in its 2024 public consultation proposes a postage stamp reference price methodology ('RPM'). The RPM is used to calculate the tariff applicable only to domestic exit points of the Estonian network and is estimated to recover 91% of the target revenue. The proposed RPM is complemented by an inter-transmission system operator compensation mechanism ('ITC') between Estonia, Finland, and Latvia, following a market merger process ('FINESTLAT'). The ITC is estimated to recover the remaining 9% of the target revenue[1]. The integration between the RPM and the ITC is defined in this report as the "tariff structure". This report focuses on the assessment of the RPM and additionally refers to the ITC when relevant. The regulatory period considered in the consultation document is 2025-2029 while the consulted tariff is set for the year 2025.

2 This tariff structure has already been assessed in the 2019 Agency Report "Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia"[2]. The ITC has not changed since then, while other changes impacting the tariff structure have taken place:

- The prohibition to source gas from Russia from 1 January 2023[3]. This entails that gas can only flow to Estonia through Finland and Latvia, which are part of the FINESTLAT zone. By design, there are no tariffs at the interconnection points ('IPs') between the members of the market merger. As a result of the ban and the merged FINESTLAT zone, the RPM allows to recover revenues only from domestic points of the Estonian network.

- The NRA has changed the input parameter of the RPM to a capacity-based cost driver, following one of the Agency's recommendations[4].

3 The Agency, after having completed the analysis of the consultation document pursuant to Article 27(2) of the Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR') concludes that:

- The information referred to in Article 26(1) of the NC TAR has not been properly published;

- The capacity cost driver "maximum network usage capacity" presented in the consultation document is not clearly defined and thus it is unclear what this cost driver indicates in terms of network utilisation;

- There is insufficient clarity regarding how the parameters that are key in defining the revenues recovered from the ITC are estimated. There is a limited assessment of the effects of the ITC on the proposed postage stamp methodology which leads to uncertainty in the revenue to be recovered from the RPM;

- The decision to apply a price cap regime entails that there will be no revenue reconciliation, not allowing the correction of any divergence with respect to the forecasted parameters. Therefore,

[1] This split does not take into consideration the quota of ITC used to cover the variable costs. Including the compression costs the split would be 72% allocated to the RPM and 18% recovered from the ITC.

[2] Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

[3] Trade at the Varska and Narva interconnection points, connecting Estonia to Russia, has been prohibited under government regulation. The ban has also been applied in Finland, Latvia, and Lithuania under national laws.

[4] See paragraph (50) of Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

the correctness and precision of the estimations play a crucial role in ensuring cost reflectivity of the tariff structure proposed for the Estonian gas transmission system.

- Given the lack of accurate information, the Agency cannot conclude that the methodology used to calculate tariffs is compliant with the requirements related to cost-reflectivity, cross-subsidisation, cross-border trade, and volume risk;

- The Agency has not identified any evidence of discrimination in the application of the RPM;

4 The Agency recommends Konkurentsiamet, when publishing its motivated decision pursuant to Article 27(4) of the NC TAR, to:

- Improve the level of clarity of the published information and to include the missing elements required in Article 26(1) of the NC TAR;

- Include a detailed description of the "maximum network usage capacity" element explaining how this capacity driver relates to the network utilisation, together with the assumptions and the estimation methodology used as required in Article 26(1)(a)(i) of the NC TAR;

- Publish a simplified tariff model, with details regarding the interaction between the ITC and the RPM;

- Provide a more elaborate assessment of the RPM, that takes into consideration the effects of the ITC on the RPM, in accordance with the requirements listed in Article 7 of the NC TAR;

- Provide a detailed description of the methodology to compute the target revenue, defined through a methodology that fulfils the requirement of Article 13 of Regulation (EC) No 715/2009, namely that it reflects the actual costs incurred by the TSO, insofar as such costs correspond to those of an efficient and structurally comparable network operator.

5 The Agency invites the NRA to evaluate the effects of a possible change to a non-price cap regime and the application of revenue reconciliation principles as described in Chapter IV of the NC TAR.

6 Finally, the Agency reiterates its previous recommendation to the NRAs participating in the market integration process to jointly consult on the ITC with the aim of adopting a joint NRA decision taking into consideration the compliance requirement laid out in Article 10(3) of the NC TAR[5].

[5] See paragraph (33) of Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

2. Introduction

7 Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas. Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems[6]. This Report presents the analysis of the Agency for the transmission system of Estonia.

8 On 14 of August, the NRA forwarded the consultation documents to the Agency. The consultation was launched on 18 July 2024 and remained open until 18 September 2024. The Agency remarks that the English version of the consultation has been shared with the Agency one month after the start of the public consultation and that it has not been published by the NRA during the public consultation period[7]. On 31 October 2024, the consultation responses and their English summary were published[8]. Within five months following the end of the final consultation, and pursuant to Article 27(4) of the NC TAR, Konkurentsiamet shall take and publish a motivated decision on all the items set out in Article 26(1).

Reading guide:

9 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 Estonia. Chapter 5 focuses on compliance, namely if the RPM complies with the requirements set out in Article 7 of the code. This document contains three annexes: respectively the description of the ITC, the legal framework and a list of abbreviations.

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

[7] The English version has been published, following the request made by the Agency to the NRA, one month after the closing of the public consultation.

[8] The English version of the consultation responses has been published, following the request made by the Agency to the NRA, more than one month after the closing of the public consultation.

3. Completeness

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

10 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.

11 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 English version of the consultation document, shared with the Agency by the NRA, has not been published as part of the consultation documents during the public consultation period.

12 The consultation does not include the following elements required in Article 26(1):

- A description of all the relevant information and justification regarding the input parameters of the RPM, including the parameters that are key in defining the revenues recovered from the ITC, as required in Article 26(1)(a) of the NC TAR;
- An assessment of the proposed RPM, that takes into consideration the effects of the ITC on the RPM, in accordance with the requirements listed in Article 7 of the NC TAR;
- The differences between the estimated level of the transmission tariff for the same type of transmission service applicable for the prevailing tariff period and for each tariff period within the regulatory period as required by Articles 26(1)(d) and 30(2)(a) of the NC TAR;
- A simplified tariff model as required by Article 30(2)(b) of the NC TAR.

13 Overall, the information referred to in Article 26(1) of the NC TAR has not been properly published. The Agency recommends that the NRA improve the level of clarity of the published information. The Agency recommends that the NRA includes in the motivated decision the missing elements.

Table 1: Checklist information Article 26(1)

Article	Information	Published: Y/N/NA
26(1)(a)	the description of the proposed reference price methodology	Partially
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	Partially
26(1)(a)(ii)	the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9	Not applicable
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

26(1)(a)(v)	the assessment of the proposed reference price methodology in accordance with Article 7	Partially
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)	Not applicable
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);	No

4. Assessment of the proposed tariff structure

14 The tariff structure proposed by the NRA in his 2024 public consultation is based on a postage stamp RPM, applied only to the domestic exit points of the Estonian network, that is complemented by the ITC between Estonia, Finland, and Latvia, following the market merger process ('FINESTLAT'). This tariff structure has already been assessed in the 2019 Agency Report "Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia"[9].

15 With respect to the previous consultation some important changes impacting the tariff structure have taken place:

- The prohibition to source gas from Russia from 1 January 2023[10]. This entails that gas can only flow to Estonia through Finland and Latvia, which are part of the FINESTLAT zone. By design, there are no tariffs at the IPs between the members of the market merger. As a result of the ban and the merged FINESTLAT zone, the RPM allows to recover revenues only from domestic points of the Estonian network.

- The NRA has changed the input parameter of the RPM to a capacity-based cost driver, following one of the Agency's recommendations[11].

Figure 1: Estonian gas transmission system - Source: ENTOSG Transparency Platform

[9] Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

[10] Trade at the Varska and Narva interconnection points, connecting Estonia to Russia, has been prohibited under government regulation. The ban has also been applied in Finland, Latvia, and Lithuania under national laws.

[11] See paragraph (50) of Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

4.1. Proposed tariff structure for Estonia

16 The proposed postage stamp RPM, applied to the Estonian network[12], is complemented by the ITC applicable to the FINESTLAT zone. This report focuses on assessing the RPM while referring to the ITC as part of the tariff structure when relevant.

17 The regulatory period considered in the consultation document is 2025-2029 while the consulted tariff is set for the year 2025. The NRA clarified in bilateral interactions with the Agency, that tariffs are expected to remain constant during the whole regulatory period if no changes in the capacity cost driver input parameter take place or a revision of the target revenue is requested by the TSO.

4.1.1. Capacity cost driver

18 The postage stamp methodology requires estimating the capacity used as an input parameter to the RPM. The capacity cost driver mentioned in the consultation document is referred to as "maximum network usage capacity" and is without a clear definition of what this cost driver indicates in terms of network utilisation.

19 The NRA clarified in bilateral interactions with the Agency that this parameter represents the maximum amount of capacity that a domestic network user can use every day during a year, without making additional capacity bookings, and which has been contracted directly with the TSO.

20 The Agency recommends that the NRA incorporates in the motivated decision a detailed description of the "maximum network usage capacity" element explaining how this capacity driver relates to the network utilisation, together with the assumptions and the estimation methodology used as required in Article 26(1)(a)(i) of the NC TAR.

4.1.2. Target revenue

21 The total target revenue is based on the NRA decision valid for the period 2025-2029. The transmission revenue includes the following elements, as described in the consultation document: variable costs, operating costs, depreciation of fixed assets, and profits.

22 In the consultation document, the NRA provides an estimation of the target revenue collected from the application of the postage stamp RPM to the domestic exit points (91%) and the portion of target revenue that will be recovered at the entries and redistributed to the Estonian system through the ITC (9%)[13].

23 The Agency highlights that the proportion of target revenue allocated to the RPM is directly derived from the estimation of the revenue collected through the ITC. The revenues allocated to the domestic exit points are computed as the total target revenue minus the forecasted revenue collected from the ITC.

24 The Agency remarks that the estimation of the revenue collected from entry points of the FINESTLAT zone, its redistribution between the TSOs of the three members of the market merger and the

[12] Article 11 of the NC TAR allows Member States within the market merger to apply different RPMs to calculate tariffs separately.

[13] This split does not take into consideration the quota of ITC used to cover the variable costs. Including the compression costs the split would be 72% allocated to the RPM and 18% recovered from the ITC.

compression costs are an important parameter in the Estonian tariff structure[14], as this consequently impacts the costs that are allocated to domestic exit points through the RPM.

25 The Agency notes, from the information shared bilaterally by the NRA, that no methodology has been used to estimate the input parameters that are necessary to compute the estimated revenue collected from the ITC. This leads to questioning the robustness of the estimation of the revenue allocated to domestic exit points.

26 The Agency remarks, that in a system where the overall tariff structure is heavily reliant on the forecasts of the input parameters of both the RPM and the ITC, the correctness of the methodologies used to calculate these inputs, and the accuracy of the forecasts play a crucial role in ensuring the cost reflectivity of the tariff structure. Moreover, the decision to apply a price cap regime entails that there will be no revenue reconciliation, not allowing the correction of any divergence between the forecasted parameters and the actual revenue recovered.

27 As depicted in Table 2 below, the actual revenue recovered by the TSO has been consistently lower than the total target revenue, in the period 2020-2023. The NRA underlines that this difference qualifies as TSO-borne risk[15], under a price cap regime. The Agency, however, considers that consistently undershooting the targeted revenue, without hindering the TSO accounting stability, questions its efficient estimation in view of the principles laid down in Article 13 of Regulation (EC) No 715/2009, namely that it reflects the actual costs incurred by the TSO, insofar as such costs correspond to those of an efficient and structurally comparable network operator.

Table 2: Target revenue details - Source: NRA

Thousand €	2020	2021	2022	2023	2024	2025
Target revenue	23,226.61	23,226.61	23,226.61	23,226.61	30,800.86	30,800.86
Estimated revenue ITC	1,957.88	1,957.88	1,957.88	1,957.88	2,592.13	2,592.13
Estimated cross-system exit revenue	136.57	136.57	136.57	136.57	0.00	0.00
Estimated compression costs	1,821.08	1,821.08	1,821.08	1,821.08	3,113.59	3,113.59
Estimated revenue postage stamp	19,311.08	19,311.08	19,311.08	19,311.08	25,095.14	25,095.14
Actual revenue recovered	18,860.42	22,249.30	19,621.78	18,548.17		
Actual compresson cost	0*	1248.26*	3,391.94	1488.95**		
Actual revenue ITC	2,676.96	2,386.35	2,321.32	2,664.21		
Actual cross-system exit revenue	-48.98	196.75	201.02	0.00		
Actual revenue postage stamp***	16,232.44	18,417.94	13,707.50	14,395.01		

NRA notes:
**The construction of the compressor stations was longer than planned. The stations were completed in the spring of 2021, and after the end of the test period, the stations were taken over from the constructor in September 2021.*
***The cost is lower because the Balticconnector undersea pipeline connection was closed in October 2023 due to pipeline damage.*
****The differences between actual and planned revenues for the years 2020 to 2023 were caused by the use of a cost driver derived from gas consumption. Since gas consumption decreased in the mentioned years, due to COVID 19 and the gas crisis, the cost driver and, consequently, the TSO's revenue decreased.*

[14] Please see Annex 1 for more details on the ITC agreement.

[15] During bilateral interaction between the Agency and the NRA.

4.2. Cost allocation assessment

28 The NRA does not provide the results of the cost allocation assessment (CAA) for the proposed RPM. The NRA explains in the consultation document that it is not possible to calculate the cross-system component of the formula since there is no cross-system network use.

29 The Agency considers that the CAA would not be a meaningful instrument to support the analysis due to the zero tariffs at IPs within the merged zone and the absence of any other systems connected to the Estonian network, following the ban on Russian gas flows.

4.3. Comparison with the CWD methodology

30 The NRA does not provide in the consultation document a comparison between the proposed postage stamp methodology and the standard Capacity Weighted Distance (‘CWD’) methodology as laid out in Article 8 of the NC TAR. This comparison would not add value given the specificity of the tariff structure, where the RPM is intended to set tariff only at domestic exit points due to the ITC agreement[16] and after the prohibition of sourcing gas from Russia described in paragraph (15).

[16] Please see Annex 1 for more details on the ITC agreement.

5. Compliance

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

31 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) No 715/2009 and lists a number of requirements to take into account when setting the RPM. As these overlap, in the remainder of this chapter, the Agency will take a closer look at the five elements listed in Article 7 of the NC TAR.

32 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.

33 The Agency remarks that all the elements of the tariff structure are closely linked, and that the ITC design has an overall impact on the compliance assessment of the RPM.

5.1.1. Transparency

34 **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. In the context of the Estonian consultation, the tariffs are determined by the market integration setting, the postage stamp methodology and the complementary ITC mechanism.

35 The lack of clarity in the consultation document regarding the interaction between the estimation of the revenue recovered from the ITC and the revenue allocated to the domestic points together with the unavailability of a clear simplified model as required by Article 30(2)(b) of the NC TAR limits the transparency of the RPM.

36 The Agency regrets that while it has received an English version of the consultation documents directly from the NRA, the document has not been shared with the public during the public consultation period as required by Article 26(1) of the NC TAR.[17]

37 The Agency concludes, as explained in paragraphs (18) and (25), that the lack of clarity in the estimation of the input parameters of the RPM, namely the capacity cost driver and target revenue, limits the transparency of the RPM.

38 The Agency recommends to the NRA in its final decision to:

- publish more accurate information on the estimation methodologies and assumptions of the forecasted input parameters of the RPM, including the parameters that are key in defining the revenues recovered from the ITC;
- publish a simplified tariff model with details regarding the interaction between the ITC and the RPM.

[17] The English version has been published following the request made by the Agency to the NRA one month after the closing of the public consultation.

5.1.2. Cost-reflectivity

39 **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.

40 The Agency acknowledges that due to the changes in the system reported in paragraph (15), some elements considered as non-compliant with the principle of cost reflectivity in the previous report are no longer applicable, in particular, the set-up of an entry tariff outside of the RPM for the exit points to Russia and the commodity based cost driver used in the previous consultation as input to the RPM[18].

41 The Agency concludes that the provision of partial information on the ITC revenue recovery estimation and the limited assessment of the effects of the ITC on the proposed postage stamp methodology explained in paragraph (25) lead to uncertainty on the revenue that is allocated to domestic exit points and the actual revenue recovered from the RPM.

42 These elements together with the decision to implement a price cap regime, for which the NC TAR does not establish the reconciliation of revenue, do not allow to understand whether the TSO can mitigate the risk of a divergence from the revenue estimations. Moreover, it is not possible to assess whether the target revenue setting methodology follows the efficiency principle laid down in Article 13 of Regulation (EC) No 715/2009, namely that it reflects the actual costs incurred by the TSO, insofar as such costs correspond to those of an efficient and structurally comparable network operator.

43 Following these limitations and considering the transparency shortcomings expressed in paragraph (37) on the input parameter of the RPM the Agency cannot conclude that the proposed tariffs are compliant with the principle of cost-reflectivity.

44 The Agency recommends that the NRA provides, in the motivated decision, a detailed description of the methodology to compute the target revenue defined through a methodology that fulfils the requirement of Article 13 of Regulation (EC) No 715/2009.

45 The Agency invites the NRA to evaluate the effects of a possible change to a non-price cap regime and the application of revenue reconciliation principles as described in Chapter IV of the NC TAR.

5.1.3. Cross-subsidisation

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

47 Based on the argument provided by the Agency on cost-reflectivity in paragraph (43), the Agency cannot complete its assessment of the compliance of the proposed RPM with the principle of preventing undue cross-subsidisation.

48 Regarding the requirement of ensuring non-discrimination[19], the Agency has not identified any form of discrimination related to the proposed RPM. Due to the impossibility of booking capacity at the IP

[18] See paragraphs (50) and (53) of Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

[19] For this analysis, the Agency defines 'discrimination' as 'charging different prices to different network users for identical gas transmission service'.

connecting Estonia with Russia, the concern expressed in the Agency's previous report has been resolved.

5.1.4. Volume risk

49 **Article 7(d)** of the NC TAR requires that the RPM ensures that significant volume risk related particularly to transport across an entry-exit system is not assigned to final customers within that entry-exit system.

50 The Agency could not conclude on the compliance with the requirement related to volume risk since the NRA did not include in the consultation an assessment of the magnitude of cross-border flows and related volume risk.

5.1.5. Cross-border trade

51 **Article 7(e)** of the NC TAR requires that the RPM ensures that the resulting reference prices do not distort cross-border trade.

52 The Agency acknowledged that the FINESTLAT market integration should favour cross-border trade within the region. However, based on the argument provided by the Agency on cost-reflectivity in paragraph (43), the Agency cannot complete its assessment on the compliance of the proposed tariffs with the principle related to cross-border trade.

6. Annex 1: Description of the market integration FINESTLAT

53 The proposed tariff structure for Estonia is partly determined by the regional market integration process involving the Finnish, Estonian and Latvian gas transmission networks. The main elements of the agreement are described below:

- A common entry tariff of 142.77 €/MWh/d/y[20] set to all external entry IPs of the FINESTLAT market zone.
- Zero tariffs to the IPs within the FINESTLAT zone[21]. In the case of Estonia, this applies to the border with Finland and Latvia.
- An ITC mechanism applied to the revenue collected from entry points to the FINESTLAT market zone.

6.1.1. Inter-TSO compensation mechanism

54 The basic principles of the ITC mechanism have been applied from the launch of the FINESTLAT system on 1 January 2020 and include:

- The revenue recovered from the tariffs of all entry points of the FINESTLAT market zone is gathered in a single revenue pool;
- From the revenue pool every TSO receive compensation for the costs sustained related to compression activities used to flow gas within the FINESTLAT market zone;
- The remaining part of the revenue is redistributed to each of the three networks based on the share of natural gas delivered through the transmission network for domestic consumption in each Member State[22].

In the current context, where Russian gas imports to the Baltic Member States have halted, the ITC collects its revenues from the Latvian entry point from Lithuania (Kiemenai) and the entry point connected to the Inkoo LNG terminal in Finland. Therefore, there are no entry points in Estonia that collect revenues for the ITC mechanism.

[20] See paragraph (36) of Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

[21] See paragraph (45) of Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

[22] See paragraph (46) of Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Estonia 2019.

7. Annex 2: 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.

55 *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.

56 *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.

57 *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.

58 *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.

59 *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 non transmission 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.

8. Annex 3: 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
ITC	Inter-transmission system operator compensation mechanism