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Agency Report

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

NRA: Entidade Reguladora dos Serviços
Energéticos (ERSE)

TSO: Redes Energéticas Nacionais (REN)

13 December 2018

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1. ACER conclusion

- (1) ERSE proposes a reference price methodology ('RPM') which is based on a capacity weighed distance ('CWD') methodology to which a cost driver related to the costs of the network is added. An entry-exit split of 40/60 is applied. Resulting from this proposal, exits to LNG, to storage facilities and at the VIP with Spain are set to zero. The consultation document proposes the application of adjustments (equalisation of domestic exits; discounts to points from and to storage facilities; and rescaling), commodity charges set at exits, and no non-transmission charges are proposed.
- (2) The Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR') foresees a cost allocation assessment ('CAA') and a comparison of the proposed RPM with the CWD methodology. ERSE calculates the CAA¹ using two scenarios, one with no cross-system flows (the result is 0%), and one with cross-system flows (the result is 6.7%). Only the second option allows to assess cross-subsidisation resulting from the use of zero capacity tariffs, as it is the only one that assumes gas crossing the system. While the result of this scenario is within the 10% threshold laid out in Article 5 NC TAR, the Agency cannot rely on it, given the volatility that ERSE associates with the calculation. The role of cross-system use of the network is only marginal and changes in revenues from cross-system use translate into significant changes in the CAA result. The comparison with the CWD methodology shows that reference prices calculated with the proposed RPM are higher at domestic exits and lower at entries from LNG and the VIP. This is a result of the proposed entry-exit split.
- (3) Central to the analysis of the RPM is the justification provided by ERSE for the utilisation of incremental cost, as this cost driver leads to zero reference prices at specific exits. The Agency considers that the justification provided by ERSE is insufficient to support the use of zero reference prices, and that the resulting deviation from cost-reflectivity is therefore not justified.
- (4) The Agency, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR, concludes that:
 - The consultation document contains most of the information required in Article 26(1), with the exception of the estimated reference prices and the input values beyond the first tariff period.
 - The RPM is not compliant with the requirements set out in Article 7. In particular, it is not cost-reflective as a result of the zero tariffs resulting from the use of incremental cost drivers. Consequently, the methodology leads to undue cross-subsidisation and to a potential distortion of cross-border trade.
 - The use of commodity tariffs is not compliant with the requirements of the NC TAR as the methodology used is not transparent and the flow-based charge is not the same at all exits.
 - The compliance analysis pursuant to Articles 27(2)(b)(3) does not apply as no non-transmission services are proposed.
- (5) The Agency recommends ERSE to consider the following aspects to be included in the motivated decision referred to in Article 27(4) of the NC TAR:

¹ Throughout this document, 'CAA' is used to refer to the capacity cost allocation comparison index described in Article 5(3)(c) of the NC TAR.

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- Most importantly, reconsider the choice of the RPM, particularly the use of incremental cost drivers.
 - Consider simplifying the methodology with the aim of achieving greater ease of use, and of facilitating greater clarity on its objectives.
 - Reconsider the entry-exit split together with the application of a zero capacity tariff. Lowering the share of revenues allocated to entries could potentially lead to the subsidisation of cross-system flows.
 - Indicate the degree of volatility of the CAA calculation and the reliability of its result. This aspect should be used to assess the requirements of cost-reflectivity and cross-subsidisation.
 - Clarify the methodology used for setting the flow charge.
 - Publish the missing transparency requirements pursuant to Article 30(2) of the NC TAR.
- (6) Finally, the Agency concludes that ERSE introduces additional tariff schemes (referred to as ‘tariff options’) by applying adjustments to reference prices and to the flow-based charge. In the case of reference prices, ERSE proposes a discount based on the quantity of contracted capacity (the product is referred to as ‘short uses’). This type of adjustment is not foreseen in Article 6(4) of the NC TAR and it is therefore not compliant with the NC TAR. In the case of the flow-based charge, ERSE proposes adjustments that result in different charges being applied at exit points (the products are referred to as ‘short uses’ and ‘base tariffs’). This is not compliant with the requirement of setting the same flow-based charge at all exit points, pursuant to Article 4(3)(a)(ii) of the NC TAR.

2. Introduction

- (7) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a Network Code on Harmonised Transmission Tariff Structures for Gas ('NC TAR').
- (8) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems². This Report presents the analysis of the Agency for the transmission system of Portugal.
- (9) On 17 August 2018, the Agency received the consultation document submitted by the Entidade Reguladora dos Serviços Energéticos ('ERSE')³. The consultation was launched on 17 August 2018 and remained open until 17 October 2018. The Agency received the English translation on 7 September 2018. On 22 November 2018, the consultation responses and their summary were published. The Agency has taken these into consideration for this analysis. Within five months following the end of the final consultation, and pursuant to Article 27(4) of the NC TAR, ERSE shall take and publish a motivated decision on all the items set out in Article 26(1).
- (10) A number of bilateral exchanges to collect additional information took place between ERSE and the Agency. ERSE provided extensive clarifications in a timely manner following the requests of the Agency. The Agency appreciates the interactions with ERSE during this process, as it has supported the analysis.

Reading guide

- (11) Chapter 3 presents an analysis on completeness, namely whether all the information in Article 26(1) has been published. Chapter 4 focusses on compliance, namely whether the RPM complies with the requirements set out in Article 7 of the NC TAR, whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met, and whether the criteria for setting non-transmission tariffs as set out in Article 4(4) are met. Chapter 5 includes other comments. This document contains two annexes, respectively on the legal framework and a list of abbreviations.

3. Completeness

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

- (12) Article 27(2)(a) of the NC TAR requires the Agency to analyse whether all the information items referred to in Article 26(1) of the NC TAR have been published.
- (13) Article 26(1) of the NC TAR requires that the consultation document is published in English, to the extent possible. The Agency confirms that the consultation document was published in English, although later than the Portuguese version of the document. The Agency also remarks that, unlike the consultation in the national language, the consultation in English did not last for two months.

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

³ The Portuguese Consultation Document is available at:
<http://www.erse.pt/pt/consultaspublicas/historico/Paginas/66%C2%AAConsultaP%C3%BAblica.aspx>
<http://www.erse.pt/pt/consultaspublicas/historico/Paginas/66%C2%AAConsultaP%C3%BAblica.aspx>

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- (14) Overall, the information in Article 26(1) of the NC TAR has been properly published, with a few exceptions noted 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: <ul style="list-style-type: none"> 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	yes
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
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 <ul style="list-style-type: none"> 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 	yes
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: <ul style="list-style-type: none"> the non-transmission service tariff methodology 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. Reference prices and input values for the rest of the regulatory period are not published.
26(1)(e) 26(1)(e)(i)	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:	not applicable

26(1)(e)(ii)	<ul style="list-style-type: none"> the proposed index; 	
26(1)(e)(iii)	<ul style="list-style-type: none"> the proposed calculation and how the revenue derived from the risk premium is used 	
26(1)(e)(iv)	<ul style="list-style-type: none"> 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 	

4. Compliance

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

- (15) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed RPM 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 be taken into account when setting the RPM.
- (16) Since the concepts of transparency, cost-reflectivity, non-discrimination, cross-subsidisation and non-distortion of cross-border trade are closely related⁴, the Agency concludes with an overall assessment. Special attention is given to the choice of cost drivers and to its impact on reference prices. The allocation of revenues to intra-system and cross-system routes is of limited relevance as the system is mainly used for the supply of domestic customers and bookings to the neighbouring Spanish system are limited.

4.1.1 Introduction

- (17) The Portuguese transmission network is a recent system (construction started in 1997) with a relatively simple supply structure based on two entry points, one from LNG and one VIP with Spain. The consultation document proposes an RPM which is based on a CWD methodology to which a network cost driver is added. This network cost driver, which is based on two cost factors of 0 and 0.0002 €/kWh/d*km, results in zero capacity tariffs at the exits to LNG, to storage and at the VIP.
- (18) The instrument used for setting zero capacity tariffs at selected points is related to the choice of cost drivers, which is based on an incremental cost logic. ERSE proposes to set tariffs on the basis of the incremental costs that the use of specific points causes to the system. In this manner, the points that ERSE identifies as not having any incremental costs (exits to LNG, storage and the VIP) are attributed a zero capacity tariff. In the view of ERSE, this approach leads to a more efficient use of the network (e.g. reducing congestion), and ultimately to lower investment costs. The Agency considers that if such objectives were attained, the use of incremental costs *could* be valid and the resulting cross-subsidies (as zero tariffs would not recover the associated costs) *could* be justified.

⁴ The principle of cost-reflectivity is related to the principles of cross-subsidisation and non-distortion of cross-border trade. Tariffs that are fully cost-reflective do not result in any form of cross-subsidisation (and hence they do not distort cross-border trade), as they charge users for the exact costs they cause to the system. Following this reasoning, tariffs that are less cost-reflective may result in cross-subsidisation between users.

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- (19) Out of the three exit points where ERSE proposes to set a zero tariff, the Agency considers that it is the VIP that has the greatest impact on this analysis. This is because the LNG exit is offered as an interruptible backhaul point, and the storage already benefits from a 95% discount that leads to a result similar to a zero tariff. The VIP is the only one of these three points that has costs associated to offering physical bidirectional capacity and does not already have a discount.
- (20) In the exchanges held with the Agency, ERSE argued that, compared to current levels, already at zero, a flow-based charge is added to all exit points, including the VIP exit. In ERSE's view, this makes the tariff at the VIP cost reflective⁵. In the Agency's view, the commodity charge only covers flow costs and does not recover the infrastructure costs (both CAPEX and OPEX)⁶.
- (21) In the following section, the Agency assesses whether the application of the proposed incremental cost logic, and ultimately of zero tariffs at specific points, has a valid justification, as required pursuant to Article 26(1)(a)(i) of the NC TAR.

4.1.1.1 Cost drivers

- (22) The proposed RPM is based on a CWD methodology to which ERSE adds an additional costs driver that is based on network costs⁷. This cost driver consists of two factors that are applied differently to the points of the network (as shown in Table 2 below):
- Costs related to domestic exits are allocated on the basis of unit costs that have a standard equal value for all points of 0.0002 €/kWh/d*km. This value is calculated as the CAPEX for the year 2016 divided by the peak capacity at exits and the network length in km calculated for the same year.
 - Costs related to entry-exit combinations⁸ between the storage, LNG and the VIP points are allocated on the basis of a zero value that ERSE justifies based on zero incremental costs associated to the exits to these points. The justification provided is different for each of the points.

Table 2: Cost drivers applied as part of the CWD calculation (Units: €/(kWh/day)*km).

		Exit points										
		Campo Maior	Valença do Minho	LNG terminal in Sines	Carricho	Lisboagás, Setgás, Carregado, Ribatejo	Portgás, Outeiro power plant	Lusitaniagás, Lares power plant, Figueira da Foz power plant	Tagusgás, Pego power plant	Sines refinery, Portucel	Sines refinery	Beiragás
Entry points	Campo Maior	0	0	0	0	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002
	Valença do Minho	0	0	0	0	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002
	LNG terminal in Sines	0	0	0	0	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002
	Carricho	0	0	0	0	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002

Source: Based on information provided by ERSE in the consultation document.

⁵ Telco held on 21 November 2018.

⁶ Article 4(3)(a)(i) of the NC TAR.

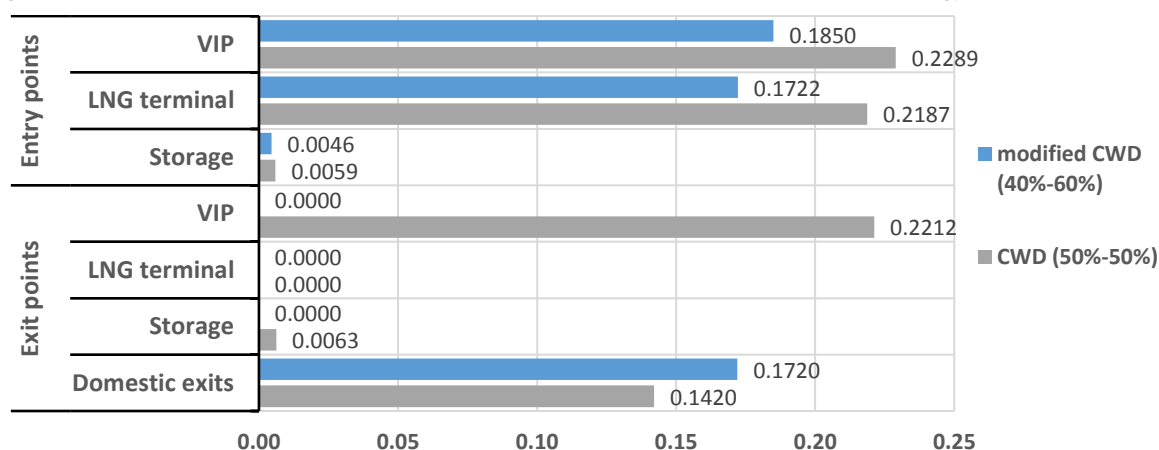
⁷ See p. 8 of the consultation document.

⁸ The network costs that are used as a cost driver are defined on the basis of pairs of points. Costs associated to the combinations between storage, LNG and the VIP points are set to zero. Costs associated to the combinations between the storage, LNG and VIP points, on the one side, and the domestic exits, on the other side, all have a value of 0.0002 €/kWh/d*km.

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- (23) This use of a twofold cost driver is intended, as ERSE explains in the consultation document, to differentiate points that have a zero incremental cost from points that have positive incremental costs. By adding a constant factor (0.0002 €/kWh/d*km) at domestic exit points and a zero factor at selected points (LNG, storage and the VIP), the proposed RPM allows setting a zero capacity tariff at the exits where the cost driver is determined as being zero. The 0.0002 factor is not intended to introduce any differentiation based on costs. In fact, it does not introduce any differentiation at all when compared with the CWD methodology. Should the 0.0002 factor be applied to all points, the result of the proposed methodology would be the same as the standard CWD methodology. This would also be the case if the 0.0002 factor were to be substituted by any other value. Its usefulness only appears when combined with the zero factor which decreases reference prices at specific points.
- (24) When looking at the tariffs resulting from the proposed RPM, it is clear that the zero cost driver impacts reference prices. This can be seen when comparing the proposed RPM (labelled as 'modified CWD methodology') with the CWD methodology. These changes are shown in Figure 1 below.
- The proposed RPM results in a zero reference price at the exits to storage, LNG and the VIP. This results from the application of the zero cost driver.
 - The proposed RPM results in higher tariffs at domestic exits (+17%) and lower tariffs at entries from LNG (-27%) and from the VIP to Spain (-24%) when compared to the standard CWD methodology. This represents a shift of costs from entries to domestic exits mainly caused by the application of a 40/60 entry exit split different to the 50/50 entry exit split applied in the standard CWD methodology.

Figure 1. Reference prices as calculated with the proposed RPM and the CWD methodology, €[(kWh/d)/year].



Source: Consultation document, page 17

- (25) Based on the consultation document, it is clear that the methodology proposed by ERSE is intended to set zero capacity tariffs at selected points. In order to understand whether such subsidisation is justified, the Agency looks in the remainder of the introduction at the justification provided by ERSE to set zero capacity tariffs at the exits to LNG, storage and at the VIP.

4.1.1.1 VIP

- (26) In the case of the VIP exit, ERSE argues that a zero tariff can promote economic efficiency “*allowing new investments to be postponed by contributing to a more efficient use of installed assets (for instance, by mitigating congestion problems at interconnection points)*”⁹. As understood by the Agency, a zero tariff in the PT->ES direction would incentivise the use of the point in the direction opposite to the dominant flows entering from Spain. A higher counter-flow would allow netting bookings in both directions to decrease the dominant physical flows. This netting effect would reduce congestion at the entry point. The Agency notes, following the argument laid out in the next paragraphs, that this justification is not consistent with the data available at the ENTSOG Transparency Platform (‘ENTSOG TP’).
- (27) First, the Agency notes that the consultation document refers to potential investment cost that could be necessary at the VIP, but it does not clarify what these investments are and what network conditions trigger them. Investment is usually triggered by congestion or high utilisation rates. However, neither of these conditions are clearly shown in the data available at the ENTOSG TP. Table 3 and Table 4 show that the average physical utilisation of the entry from Spain is 67% (2015), 69% (2016) and 57% (2017), and that the number of days in which (re)nominations are higher than technical capacity in 2016-2018 is zero. In the period 2015-18, there is no congestion resulting from bookings at the VIP (see Figure 2, Table 3 and Table 4 below). In the view of the Agency, these figures do not show congestion at the VIP, nor evidence for a need to expand the available capacity.
- (28) Second, the zero tariff that ERSE proposes to alleviate potential congestion does not seem to be the adequate instrument to address congestion. The data available at the ENTSOG TP shows that capacity bookings in the exit direction only occur at times of low utilisation in the dominant entry direction; they do not coincide with peak flows in the dominant direction (see Figure 2 and Table 5). In the Agency’s view, no correlation between exit and peak entry booking exists and thus this cannot justify using the former to decrease the latter¹⁰. A zero tariff at the VIP does not lead to avoiding potential investments triggered by peak utilisation in the entry direction. Bookings in the exit direction serve to reduce flows when the utilisation rate at the IP is at its lowest.

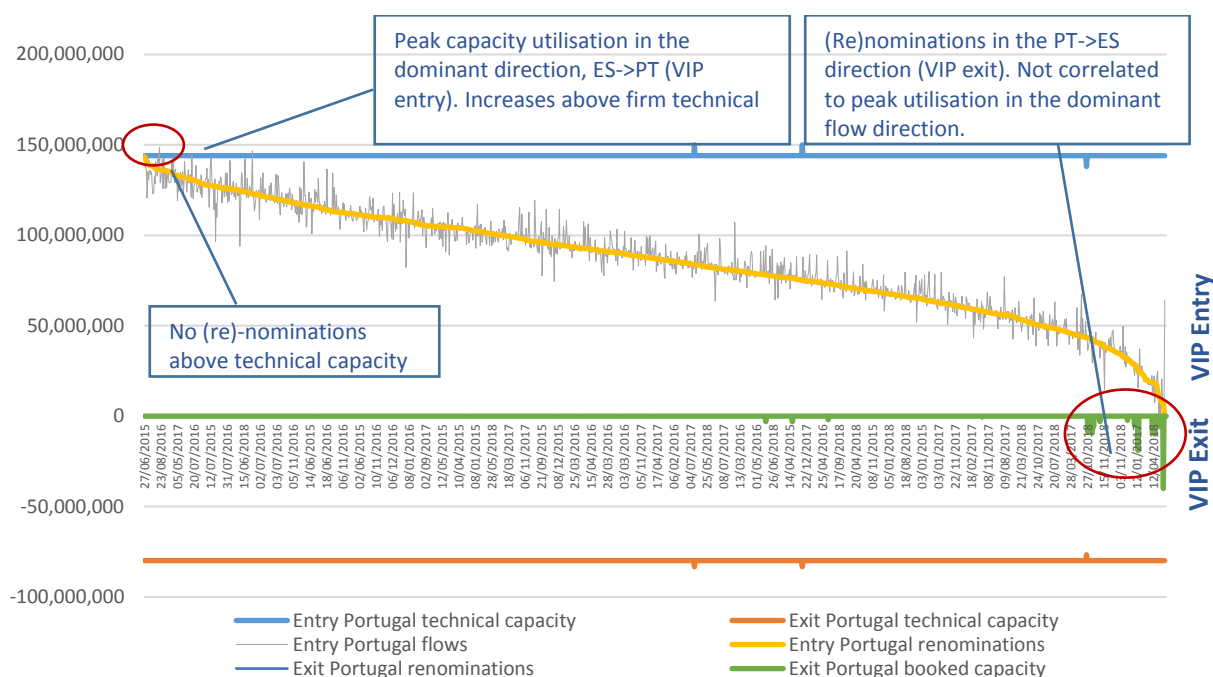
⁹ This argument is laid out by ERSE in the following parts of the consultation document.

- Zero costs drivers “*reflect the fact that for some network segments with permanent flows always in the same direction, the contracting of capacity in reverse flow does not represent an additional cost for the network*” (p. 9).
- “*The [proposed] methodology allows the identification of reverse flow scenarios, as these situations do not contribute to the need for network expansion investments, allowing new investments to be postponed by contributing to a more efficient use of installed assets (for instance, by mitigating congestion problems at interconnection points)*” (p. 16).
- “*Any contracting of capacity in the Portugal-Spain direction, as it is satisfied by reduction of the physical flow in the Spain-Portugal direction, does not give rise to capacity costs in the transmission network*” (page 12).
- “*In the CWD methodology [as opposed to the proposed methodology], the occurrence of reduced gas flows, even when they occur in reverse flow, is translated into the application of significant transmission tariffs, which does not promote an efficient use of the transmission network*” (p. 16).
- “[*The option of zero capacity tariffs] promotes economic efficiency in the transmission network, in as much as the contracting of capacity for these exits is carried out permanently against the gas flow, being satisfied through nominations that contribute to the reduction of the dominant flow in the Spain-Portugal direction and, consequently, dispensing with the need for new investments, a situation that justifies the adoption of zero exit prices*” (p. 18).

¹⁰ The Agency also notes that the proposed tariff at the VIP exit will increase compared to the current situation, as a flow-base charge will be levied at the VIP exit, the proposed tariffs will further decrease the efficacy of the zero reference tariffs.

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Figure 2: VIP Ibérico, REN: Technical capacity, renominations and flows (ordered by renominations) – MWh/day – 2016-2018. Source: ENTSOG Transparency Platform



Note I: The top half of the graph shows the load factor or the VIP in the entry direction. The points where physical flows are above firm technical capacity result from TSO compensation flows and not from commercial nominations.

Note II: The top half of the figure represents peak utilisation days at the entry. The days with a higher load factor are on the left part of the chart, while the days on the right have a lower utilisation factor. The bottom half of the chart represents exit bookings, which only occur in days where the flows in the entry direction are low. The graph also shows that bookings in the exit direction are marginal.

- (29) The Agency also points out that exit bookings are likely to result in physical flows in the exit direction. If exit bookings happen at times of low entry utilisation, exit bookings might exceed entry bookings. ERSE commented in a clarification to the Agency¹¹ that, should the flow direction change as a result of the use of zero capacity tariffs at the VIP exit, the RPM would have to be reconsidered. Based on the data from the ENTSOG TP, net physical flows in the PT->ES direction already have happened on 31 October 2018¹².

Table 3: VIP Ibérico, REN entry (2016-2018 up to 20.11.2018). Source: ENTSOG Transparency Platform

	Entry		Exit	
	Renominations/technical capacity	Flows/technical capacity	Renominations/technical capacity	Flows/technical capacity
2015	67 %	67.06 %	0 %	0.00 %
2016	69 %	69.12 %	0 %	0.83 %
2017	57 %	57.42 %	0 %	1.45 %
2018	44 %	44.71 %	0 %	0.67 %

Table 4: VIP Ibérico, REN entry (2016-2018 up to 20.11.2018). Source: ENTSOG Transparency Platform

Number of days (re)nominations higher or equal to 95% of technical capacity	28
Number of days flows higher than technical capacity (flows in excess of technical capacity are not the result of shippers nominations)	4
Number of days flows higher or equal to 95% of technical capacity	22

¹¹ Submitted to the Agency on 25 November 2019.

¹² The Agency notes that this event happened after the publication of the consultation, hence it should not have been taken into account.

Table 5: VIP Ibérico, REN exit (2016-2018 up to 20.11.2018). Source: ENTSOG Transparency Platform

Number of days (re)nominations higher than 0 (average commercial utilisation in the opposite direction on those days 26%)	16
Number of days flows higher than 0 (average commercial utilisation in the opposite direction on those days 60%). Most flows are not the result of shippers' nominations	117

4.1.1.2 LNG

- (30) The RPM also uses a zero cost driver for the LNG point. ERSE does not provide a justification of the zero cost driver applied at the LNG exit, apart from the general reasoning according to which tariffs at points used in a permanent reverse flow direction are set on the basis of a zero cost driver¹³.
- (31) The Agency notes that it is not clear why this point is included as part of the transmission network, as it is related to operations that take place at the level of the LNG terminal (i.e. LNG reloads). In the absence of such explanation, the Agency cannot assess whether there are potential investments that could be required at the LNG entry point, and whether the tariff at the LNG exit point could contribute to decreasing these investments.

4.1.1.3 Storage

- (32) The third type of points where ERSE applies a zero cost driver are entries to and exits to storage¹⁴. This results in zero reference prices at exits to storage points. ERSE argues that the exit to the storage facilities in the network do not have any incremental cost, as a potential expansion of the storage capacity would be based on the expansion of the compressors at the storage facilities and not on the side of the transmission network. Such expansion would not result in additional costs for the transmission network.
- (33) In the Agency's view, the transmission points related to exit to and entry from storage have the same incremental costs as the rest of points of the network allowing physical flows (for example domestic exits or the entry from LNG). Increases in utilisation of the network would eventually lead to an increase in the transmission infrastructure. In the case of storage, the Agency notes that the argument of reverse flows potentially alleviating the utilisation of the network does not apply. Following this reasoning, the Agency is of the view that the application of a zero cost driver to exit points to storage is not justified¹⁵.

4.1.1.4 Conclusion

- (34) In the Agency's view, the justification provided by ERSE for the use of incremental costs is insufficient, either as a result of being incomplete, not applicable, or inconsistent with the data on the ENTSOG TP:
- In the case of the VIP, the data shows that the point is not congested and that the proposed zero tariff does not serve to reduce congestion. For this reason, the cross-subsidisation resulting from the zero tariff is not justified.

¹³ See p. 9 of the consultation document.

¹⁴ See p. 12, 16 of the consultation document.

¹⁵ In addition, the Agency points out that the use of a zero cost driver at the storage exits is not justified. Following ERSE's reasoning, this cost driver is only justified at the exit to storage, but not at the entry from storage. ERSE applies a zero cost driver in both cases.

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- In the case of LNG, the consultation document does not explain how this point is related to the transmission network. For this reason, the Agency cannot assess the validity of applying incremental costs.
- In the case of storage, the Agency disagrees with the reasoning for the zero incremental costs logic provided by ERSE and understands that the incremental costs are similar to those of other points of the network (e.g. domestic exits or VIP entry). For this reason, the cross-subsidisation resulting from the zero tariff is not justified.

(35) In the following sections, the Agency presents the analysis of the compliance of the proposed RPM with the requirement laid out in Article 7 of the NC TAR, which take into consideration the invalid justification provided for the use of an incremental cost driver.

4.1.2 Transparency

(36) **Article 7(a)** of the NC TAR requires that the RPM aim at enabling network users to reproduce the calculation of reference prices and their accurate forecast. The Agency bases the compliance with this requirement on the publication of a simplified tariff model and on the comparison of tariffs for all the tariff periods of the regulatory period where the proposed tariffs will be applied. These are requirements of the NC TAR pursuant to Article 30(2).

(37) Following the analysis of the consultation document, the Agency notes that the following transparency requirements are missing:

- ERSE does not include, as part of the consultation document, an explanation of the differences in the level of transmission tariffs for the tariff period for which the information is published (2019) and for each tariff period within the remainder of the regulatory period (2020, 2021). This is a requirement of the NC TAR pursuant to Article 30(2)(a)(ii) and should be included by ERSE in the final decision.
- ERSE does not include, as part of the consultation document, the necessary information required by the simplified tariff model to enable network users to estimate the transmission tariffs for each tariff period within the remainder of the regulatory period. With the information provided, users can only calculate the tariffs for the first tariff period. Information required to calculate tariffs for the remaining tariff periods include all the input to the RPM as detailed in Article 30(1)(a), including forecasted capacity and allowed revenues. It is a requirement of the NC TAR pursuant to Article 30(2)(b) and Article 7(a) that the simplified tariff model includes the necessary input to provide an accurate forecast of tariffs. For this reason, this information should be included by ERSE in the final decision.

(38) In addition to these points, the Agency remarks that the consultation document includes extensive information on the cost drivers used, the parameters of the RPM and the assumptions used. However, the complexity of the proposed RPM does not facilitate usability or ease of understanding. The proposed RPM is based on a CWD methodology, which is a standard and transparent methodology described in the NC TAR. The addition of an incremental cost driver adds a level of complexity to the RPM that is not always clearly described. At the same time, ERSE does not provide sufficient clarity on the exact objective this design is intended to achieve. The Agency recommends ERSE to reconsider this aspect in its final decision.

- (39) For this reasons, the Agency considers the consultation document to be not compliant with Article 7(a).

4.1.3 Cost-reflectivity

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

4.1.3.1 Reference prices

- (41) The proposed methodology is based on a CWD methodology, which uses capacity and distance as costs drivers in addition to the two incremental cost variables. The Agency understands that both capacity and distance are relevant cost drivers of the network.
- (42) The proposed methodology results in zero prices at the exits to LNG, storage and at the VIP. To assess the cost-reflectivity of these tariffs, the Agency looks at the costs associated to these points. In the case of the exit to storage and at the VIP, the points are physically bidirectional. This implies that there are costs associated to these points that are not recovered when using zero capacity tariffs. The Agency notes that these costs exist even if no physical flows are associated to the bookings. In the case of LNG, the Agency is not able to assess how this point is made part of the transmission network nor its associated costs. Based on the above, the Agency concludes that the use of zero tariffs is not cost reflective as they do not allow recovering the costs associated to these points.

4.1.3.2 Adjustments to the reference prices

- (43) The proposed RPM uses a series of assumptions and data related to the costs of the network that serve to provide locational and cost signals. However, ERSE also applies adjustments to reference prices that suppress or distort these signals. This is because these instruments (equalisation of domestic points, application discounts to storage, and implementation of a VIP –the latter not being an adjustment) average or decrease reference prices. In the Agency's view, the more tariffs are averaged as a result of these adjustments, the more a methodology comes to resemble a postage stamp. The Agency recommends ERSE to take the effect of these adjustments into account when assessing the choice of the RPM. In particular, the Agency recommends ERSE to consider simplifying the RPM in view of the effects of the proposed adjustments, which weaken the price signals provided by the underlying more complex methodology.
- (44) ERSE proposes an entry-exit split of 40/60 that is endogenous to the RPM calculation. The split is based on a transparent calculation that assigns costs to both entries and exits¹⁶. The Agency remarks that the choice of an entry-exit split should be considered together with the effect of a zero exit tariff at the VIP exit¹⁷.

¹⁶ See p. 11 of the consultation document.

¹⁷ In a simple system with little or no cross-border flows, lower tariffs at entries are compensated by higher tariffs at exits. This compensation is, however, not possible under the RPM proposed by ERSE as a result of the zero exit tariff set at the VIP. Lowering the entry-exit split to allocate less revenues to entries can potentially lead to cross-subsidisation. An extreme example facilitates understanding this argument. A split allocating all revenues to exits (and none to entries) would allow entering the network at the LNG point at zero costs (as a result of the entry/exit split), and exiting the network at the VIP exit at zero costs (as

4.1.3.3 Cost allocation assessment

- (45) The CAA allows a comparison of the cost reflectivity of tariffs for intra-system use and cross-system use. The instrument can, therefore, provide a measure of the cost reflectivity of the proposed tariffs, including a measure of the cross-subsidisation effect resulting from the use of a zero capacity tariff at the VIP. However, the Agency cannot conclude this assessment given the zero capacity forecast ERSE uses as an input for the CAA. The Agency remarks that that this value is inconsistent with the data in the ENTSOG TP (in Figure 2 above). In addition, the zero forecast is also inconsistent with the aim of the methodology of providing incentives for using the VIP exit. Should the incentive of a zero tariff be effective, the forecasted capacity at the point should be greater than zero.
- (46) In addition to the standard CAA calculation, ERSE also provides a calculation for an alternative scenario which does not use a zero capacity forecast. The value set by ERSE is based on the assumption that the VIP exit is used on a daily basis for 365 days. The CAA result is 6.7%. The Agency understands that the cross-subsidisation resulting from the actual use of the exit VIP could probably be lower as the point was used 16 days between 2016 and 2018, and not 365 days (as shown in Table 5 above). This result would imply that the cross-subsidisation effect of the zero tariff at the VIP exit would be small. At the same time, the Agency understand that this result should be interpreted with care. As ERSE puts it, the CAA result *"is very volatile for situations where the cross-system use has a residual character, as in the Portuguese case. A marginal change in revenues from cross-system use, while keeping cost drivers constant, translates into a significant change in the [CAA], which substantially influences the conclusion on the existence of cross-subsidisation"*¹⁸.
- (47) Based on the results of the CAA for both scenarios, the Agency understands that the cross-subsidisation resulting from the use of a zero exit tariff at the VIP could be small. Nevertheless, the Agency also points out that this conclusion is only based on results that, as ERSE points out, are volatile. For this reason, the Agency recommends ERSE to clarify the level of volatility of the CAA result and to assess whether the outcome of this calculation is a reliable indicator. This assessment should be used to evaluate the compliance of the RPM with the requirements of cost-reflectivity and cross-subsidisation.

4.1.4 Cross-subsidisation and discrimination

- (48) **Article 7(c)** of the NC TAR requires that the RPM ensure non-discrimination and prevent undue cross-subsidisation.
- (49) The Agency has not identified discrimination resulting from the correct application of the NC TAR, nor from practices not allowed by the NC TAR. For this analysis, the Agency defines 'discrimination' as *'applying different rules to comparable situations or the same rule to different situations'*. The allocation of all transmission costs via a single RPM to all entry-exit points minimises the possibility of forms of discrimination not allowed by the NC TAR. However, following the conclusion on cost reflectivity, the Agency concludes that the use of zero capacity tariffs results in undue cross-

a result of the zero tariff at the VIP). This would mean that flows could cross the network at no costs. The Agency notes that the entry-exit split proposed by ERSE is not a 0/100 split but a 40/60 split, so this effect might not be necessarily realised. Nevertheless, the Agency recommends to assess the choice of the entry-exit split together with the application of zero capacity tariffs as specific combinations of these two parameters can result in cross-subsidisation

¹⁸ See p. 37 of the consultation document.

subsidisation. This effect is not justified in view of the objectives for using incremental costs that ERSE discusses in the consultation document.

- (50) In addition, the Agency points out that the use of discounts at entry points from and exit points to storage leads to cross-subsidisation. The Agency understands that this effect is not a case of undue cross-subsidisation. Nevertheless, the Agency recommends ERSE explicitly to refer to this effect in the final decision.

4.1.5 Volume risk

- (51) **Article 7(d)** of the NC TAR requires that the RPM ensure that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system.
- (52) The consultation document does not report that significantly more gas is transported to other systems than used for consumption. Given that gas volumes exiting to Spain are marginal, the Agency considers the proposed RPM compliant with the requirement of sheltering captive customers from the risks related to large transit flows.

4.1.6 Cross-border trade

- (53) **Article 7(e)** of the NC TAR requires that the RPM ensure that the resulting reference prices do not distort cross-border trade. The analysis of the Agency focusses on two aspects, *i)* the exit tariff at the VIP, and *ii)* the entry tariffs to LNG and the VIP.
- (54) On the zero tariff assigned to the VIP exit, the Agency remarks that tariff is not cost reflective: users of the point are not charged for the costs associated with the point (with the exception of the flow-based charge), and the rest of users of the system are bearing the costs. In the Agency's view, such a tariff can distort cross-border trade as it is not cost reflective. At the same time, the Agency acknowledges that gas flows exiting the VIP are small.
- (55) On the entry tariffs to LNG and the VIP, the Agency notes that the proposed entry-exit split reduces both the LNG and the VIP entry tariffs¹⁹. The Agency recommends ERSE to assess the impact of this reduction on competition between supply sources, and to assess whether the entry-exit split can potentially distort cross-border trade.

4.1.7 Conclusion

- (56) The consultation document proposes a methodology based on a CWD methodology to which an incremental cost driver is added. The result of this additional cost driver is zero reference prices at the exits to LNG, storage and the VIP. Following the analysis of the requirements laid out in Article 7 of the NC TAR, the Agency concludes that zero tariffs are not cost reflective for storage and the VIP, while the Agency could not assess the cost-reflectivity of tariffs for the LNG exit as insufficient information is provided on this point. In the case of the VIP, this also implies that zero tariffs result in undue cross-subsidisation and can distort cross-border trade.

¹⁹ See paragraph (24) and (44) above.

- (57) The Agency has also reviewed the justification for the use of incremental costs. The Agency finds that the reasons provided for using incremental cost drivers are insufficient, and that their use is therefore not justified. Following this conclusion, the methodology is not compliant with Article 7 of the NC TAR in terms of cost reflectivity, undue cross-subsidies and impact on cross-border trade. Should ERSE decide to use incremental costs, it should provide a valid justification for all tariffs resulting from incremental costs in view of the resulting cross-subsidisation and the deviation from cost reflectivity.
- (58) On the choice of the RPM, the Agency recommends ERSE to:
- Revise and make explicit the objectives of the methodology, and show how these are consistent with the data available (e.g. in the ENTSOG TP). Transparency should be taken into account when using incremental costs, as the proposed RPM does not allow sufficient clarity on the goals and impact of the use of incremental cost drivers.
 - Align the RPM, and the choice of cost drivers, to the objectives of the methodology.
 - Show the level of volatility of the CAA result and assess whether the outcome of this calculation is a reliable indicator. This input should be used to assess the requirements of cost-reflectivity and cross-subsidisation.

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

- (59) Article 27(2)(b)(2) of the NC TAR requires the Agency to analyse whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met.
- (60) The use of commodity-based transmission tariffs is an exception. ERSE proposes to apply commodity-based transmission tariffs. The commodity-based transmission tariffs contribute 1.4% of the transmission services revenue. The Agency considers this as consistent with the requirements of the NC TAR.
- (61) The NC TAR allows for two types of commodity-based transmission tariffs: a flow-based charge and a complementary revenue charge. ERSE proposes to apply a flow-based charge. The proposed flow-based charge does not however meet the criteria set in Article 4(3) of the NC TAR, which are summarised in Table 6 below. In fact, following the analysis of the consultation document, the Agency concludes that the flow charge is not the same at all exit points, as required by Article 4(3)(a)(2) of the NC TAR. The consultation document foresees the application of optional tariffs for short term uses, which includes a flow charge different from the one applied to the rest of exits. The Agency recommends ERSE to revise the application of the flow charge to be compliant with Article 4(3) of the NC TAR.

Table 6: Criteria set in Article 4(3a) of the NC TAR

Criteria	Y/N?
levied for the purpose of covering the costs mainly driven by the quantity of the gas flow	Requires further clarification
calculated on the basis of forecasted or historical flows, or both	Requires further clarification
set in such a way that it is the same at all entry points and the same at all exit points	No
expressed in monetary terms or in kind	Yes

- (62) In addition, the Agency points out that it is not clear from the consultation document what costs the flow-based charge is intended to cover. ERSE proposes to “*determine the flow-based charge from the OPEX costs in relation to the gas leaving the national transmission network, determining a marginal cost for the flow-based charge*”²⁰. The marginal costs used as a proxy for the flow costs are also “*subject to the application of the multiplicative scaling for the purposes of recovering the allowed revenues of the transmission system operator*”²¹. The Agency notes the following points:
- First, according to Article 4(3)(a)(i) of the NC TAR, the flow based charge should be ‘levied for the purpose of covering the costs mainly driven by the quantity of gas flows’. It is not clear whether this purpose is met in ERSE’s proposal. The Agency recommends ERSE to clarify if the proposed methodology complies with the requirements in the NC TAR.
 - Second, the methodology proposed by ERSE is based on marginal cost. ERSE first identifies the marginal costs associated with the cost of flowing gas and then rescales these costs together with capacity tariffs. The Agency remarks that:
 - .i. According to Article 4(3)(a)(ii) of the NC TAR, the flow-based charge should be calculated on the basis of forecasted or historical flows. The Agency recommends ERSE to clarify whether the proposed approach meets this requirement.
 - .ii. The proposed approach contradicts the application of rescaling as described in the NC TAR. Article 6(4)(c) of the NC TAR states that rescaling is applied to reference prices, which according to Article 3(1) of the NC TAR are the price of a capacity product (and not commodity). The Agency recommends ERSE to align the calculation of the flow-based charge to the TAR NC requirements.
- (63) The commodity cost allocation comparison index calculated by ERSE is 0%. These values do not exceed 10% and therefore do not require further justification. The Agency remarks that Article 5(1)(b) of the NC TAR gives two options to use as cost drivers for the commodity-based CAA: (i) the amount of gas flows or (ii) the amount of gas flows and distance. ERSE uses the first one, which results in an outcome of 0%. It would be useful to understand if distance is a cost-driver and, if so, to provide the outcome of the CAA using both cost-drivers, gas flows and distance.

4.3 Are the criteria for setting non-transmission tariffs as set out in Article 4(4) met?

- (64) ERSE proposes not to apply non-transmission tariffs. The criteria for setting non-transmission tariffs as set out in Article 4(4) of the NC TAR are therefore not applicable.

²⁰ See p. 21 of the consultation document.

²¹ See p. 21 of the consultation document.

5. Other comments

5.1.1 Tariff options for distribution and for customers connected to high pressure

- (65) The consultation document introduces the ‘tariff options’ for distribution and for customers connected to high pressure pipelines. The Agency notes that the following elements are not compliant with the NC TAR. ERSE should revise these tariffs in view of the relevant NC TAR requirements.
- (66) ERSE proposes to apply a differentiation of the flow-based charge based on the contracted quantities. This approach is not compliant with Article 4(3)(a)(ii) of the NC TAR, which requires that the flow-based charge is ‘*set in such way that is the same at all entry points and the same at all exit points*’. The flow-based charge proposed by ERSE is 0.000019 €/kWh and it is the same at all exits with the exception of distribution and high pressure exits where ‘tariff options’ are allowed.
- Tariff options for ‘short uses’ include a premium on the flow-based charge that results in a flow charge of 0.0012€/kWh ($\geq 10.000.000$ m³/year) and 0.0017€/kWh ($< 10.000.000$ m³/year).
 - Tariffs options for the ‘base tariff’ (distribution networks and customers connected to high pressure) include a premium for users contracting $< 10.000.000$ m³/year which result in a flow based charge of 0.00049€/kWh.
- (67) ERSE proposes to apply a tariff at domestic exits of 0.1420€/kWh/d/year. According to Article 6(2) and 6(3) of the NC TAR, the RPM shall provide a reference price and this shall be applied to all entry and exit points. Given that ERSE proposes to equalise tariffs at exits, the reference price at all domestic exits should be the same. In the consultation, ERSE proposes to apply a different tariff to some users connected to the high pressure grid.
- Tariff options for ‘short uses’ include discounts applied to reference prices that results in reference prices of 0.0047€/kWh/year instead of 0.014€/kWh/year
- (68) The Agency understands that the ‘tariff options’ proposed by ERSE serve to decrease the capacity component for some users, while at the same time the commodity component is increased. This implies that neither reference prices, nor the flow-based charges are applied consistently with the rest of points of the network. It also implies that the commodity component that these users pay is higher compared to other users of the network. Neither of these outcomes is compliant with the NC TAR following Articles 6(3), 6(4) and 4(3)(a)(ii). At the same time, the Agency acknowledges that ERSE proposes this formula to provide flexibility to certain industries that otherwise would not be competitive.
- (69) In addition, ERSE states that ‘*the tariff option for “short uses” has the characteristics of an interruptible product, since the delivery of natural gas under this tariff option is dependent on the absence of congestion in the national transmission network*²². However, this product is not considered under Section 7.3 of the consultation document, which deals with discounts. The Agency recommends ERSE to clarify whether the interruptibility of these products is compliant with the NC TAR.

²² Page 22 of the Consultation Document.

5.1.2 Autonomous gas units

- (70) The consultation document refers to installations supplied by autonomous gas units (UAG as referred to in the consultation document). ERSE has clarified to the Agency²³ that these points are supplied by LNG trucks. No capacity tariff is set for these points and billing is based only on the commodity component. The Agency requests ERSE to clarify whether the billing at these points includes any costs that are allocated using the RPM.

²³ Clarification provided by ERSE on 25 October 2018.

Annex 1: Legal framework

(2) 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.*

(3) 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.*
- (4) 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.

(5) 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.

(6) 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.

(7) 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

ACER, the Agency	Agency for the Cooperation of Energy Regulators
CAA	Cost Allocation Assessment
CWD	Capacity Weighted Distance
ENTSOG	European Network of Transmission System Operators for Gas
EU	European Union
IP	Interconnection Point
NC TAR	Network code on harmonised transmission tariff structures for gas
NRA	National Regulatory Authority
RPM	Reference Price Methodology
TSO	Transmission System Operator
UAG	Autonomous gas units



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