

## MINUTES

### Network Code on Harmonised Transmission Tariff Structures for Gas

### ENTSOG Stakeholder Joint Working Session 5

9 April 2014 from 10:00 – to 17:30

At Diamant Conference & Business Centre, Bd A. Reyerslaan 80

Company	Name	Company	Name
ENTSOG (chair)	Ann-Marie Colbert	EDF	Amroze Adjuward
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ENTSOG	Irina Oshchepkova	Edison SpA	Monica Immovilli
ENTSOG	Violeta Bescós Roy	EFET	Aygul Avtakhova
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ACER	Thomas Querrioux	Energie-Nederland	Hein-Bert Schurink
ACER	Lewis Hodgart	ENOI	Ilaria Conti
ACM	Kirsten Bouwens	ExxonMobil / OGP	Kees Bouwens
BP Gas Marketing	Andrew Pearce	FGSZ	Robert Feher
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CEFIC & IFIEC	Alexander Kronimus	Gastransport Nord	Jann Keller
CEFIC & IFIEC	Dirk Jan Meuzelaar	Gasunie Deutschland	Ksenia Berezina
Centrica Storage Ltd	Roddy Monroe	Gaz-System S.A.	Andrzej Robaszewski
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CREG	Tom Maes	Gaz-System S.A.	Renata Drzymala
DEPA	Theodoros Mantoukas	GDF SUEZ	Laurent Hamou
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GDF SUEZ Infrastructures	Sylvie Denoble-Mayer	RWE Supply & Trading	Stephen Rose
GIE	Philipp Daniel Palada	Sisman Energy Consultancy (on behalf of Gazprom M&T)	Nigel Sisman
GRTgaz	Fabrice Desjardin	Shell Energy Europe	Amrik Bal
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IFIEC Europe	Valentin Höhn	Storengy	Marta Kamola - Martines
Magyar Gáz Tranzit	Lajos Butosi	TAQA Energy	Robert Jan Maaskant
National Grid	Colin Hamilton	TIGF	Emmanuel Bouquillion
Net4Gas	Sebastian Borek Kubatzky	Vattenfall	Helga Norrby
ONTRAS	Niels Krap		

ENTSOG also provided a webcast facility for those unable to attend in person.

## 1. OPENING

### > Welcome / Introduction

Ms Ann-Marie Colbert welcomed the participants of SJWS 5.

### > Objectives

The objectives of SJWS 5 were indicated as follows: (i) to discuss Chapter IV of the Business Rules 'Revenue Reconciliation'; (ii) to get an update from ACER on the Justification Document; (iii) to provide an update on the TAR NC development process and to indicate the structure of the initial draft TAR NC; (iv) to get an overview of the stakeholders' positions at this stage in the process.

## 2. REVENUE RECONCILIATION – BUSINESS RULES

### 2.1. Presentation from ENTSOG

Ms Ann-Marie Colbert gave a presentation on Chapter IV of the Business Rules 'Revenue Reconciliation'. This Chapter takes account of the clarification given by ACER on a number of questions asked by ENTSOG at SJWS 3 and some information received by ENTSOG from ACER after that meeting. The Chapter is structured as follows: (1) 'general', part capturing the aims of revenue reconciliation, in particular that of minimising the gap between the allowed and the actually obtained revenue; (2) 'regulatory account', stressing the right to use only one regulatory account for reconciliation purposes and multiple sub-accounts for tracking the origins of the under-/over-recovery; (3) 'different charges', indicating that apart from

capacity charges, it is also possible to employ the non-capacity fuel-based charge to recover the costs driven by the actual flows and, specifically for non-IPs, the non-capacity charge to reconcile the revenue; (4) 'reconciliation', outlining that it is the task of the NRAs to determine how often and how fast the regulatory account is reconciled.

It was highlighted that the Business Rules are prepared on the basis of the TAR FG with the aim of making the rules clearer and are considered to be an interim step within the TAR NC development process.

## 2.2. Discussion

**Q:** Is it correct that a non-capacity fuel-based charge cannot be established upfront?

**A:** The non-capacity fuel-based charge can be established upfront. This is also taken into consideration if there is under-/over-recovery. It is our understanding that ring-fencing of this charge should be avoided.

**Q:** Is it possible to introduce other levies and charges apart from the ones mentioned?

**A:** These charges are an output of the application of the cost allocation methodology based on the transmission services revenue. The activities that are excluded from the definition of transmission services can be charged via other charges.

## 3. ACER JUSTIFICATION DOCUMENT

### 3.1. Presentation from ACER

Mr Lewis Hodgart and Mr Thomas Querrioux gave a presentation on the context of the Justification Document preparation and an overview of its content. It was highlighted that the TAR FG was accompanied by the Evaluation of Responses with an explanation of some of the decisions made in the TAR FG, and the Justification Document indicates further explanations of the key policy decisions. It was pointed out that the case studies contained in the Justification Document are only indicative and do not provide any details that are specific to the tariff levels.

ACER noted that ENTSOG should 'pick up and further develop' this document. ACER invited ENTSOG to use the Justification Document as a support for further decisions and choices that ENTSOG elects to make within the TAR NC. Also, ACER stressed that they do not have the power to collect data.

Although the title of the document is 'Justification Document', it is structured as foreseen by the EC Impact Assessment Guidelines: (1) problem identification; (2) overall and specific objectives; (3) policy options of how to solve the problem in relation to the identified objectives; (4) assessment of different policy options against each other. The Annex of the Justification Document covers the remaining issues that are not addressed in its main body. The specific objectives for the purpose of the TAR FG preparation included: (i) aligning and harmonising the interpretation of each cost allocation methodology; (ii) identification of the tool for and frequency of the revenue reconciliation; (iii) ascertaining the range for the reserve prices variation; (iv) choice of the approach to the payable price; (v) ensuring compatibility with the CAM NC. The debate was formed around three policy options: the

baseline approach (voluntary approach of the Member States), the semi-harmonisation approach (harmonisation around the principles and increased transparency) and the fully harmonised approach. Each option was assessed against the criteria of effectiveness, feasibility and acceptability. Further on, ACER gave a presentation on a number of topics, namely: cost allocation methodologies, revenue reconciliation mechanism, reserve prices, payable price and mitigating measures.

### 3.2. Discussion

**Q:** Does the EC and the Member States support the analysis made in the Justification Document?

**A:** There are no new proposals in the Justification Document since it underpins the TAR FG text. The support from the Member States is gained via the voting process for the FG. The EC then decides on whether to send the FG to ENTSOG for the purpose of the NC development. As for the TAR FG, the text was voted and forwarded to ENTSOG, and hence supported.

**Q:** What is the route for challenging the policy options set out in the TAR FG at this stage of the TAR NC development process?

**A:** Deviation from the TAR FG text is possible if there is evidence and justification provided in terms of facts and figures.

**Q:** If there are mitigating measures in place that lead to under-recovery, who will pay for it?

**A:** The TAR FG text on mitigating measures is trying to find the right solution to solve the unexpected impact of the provisions of the TAR NC itself. Some sort of protection is appropriate but ultimately leads to the socialisation of its effects. All the network users will pay a small percentage to accommodate the application of the mitigating measures.

**Q:** How did it happen that in Germany the tariffs increased by 30% recently?

**A:** It is a contract issue specific to Germany.

**Q:** There is evidence presented on pages 11-12 of the Justification Document for the predominant allocation of costs to exit points. Why is this not captured by the TAR FG?

**A:** The purpose of that example is to demonstrate the influence of the entry-exit split on the cost reflectivity. It is only the first stage of the problem identification. The 50/50 split is the solution of last resort. Other splits are encouraged if they better reach the objectives of the TAR FG.

**Q:** We are concerned by the floating tariffs and multipliers. The infrastructure industry is a long term capital investment industry and the options of the TAR FG do not take that into consideration and favour short term bookings instead. When developing the TAR NC, ENTSOG should take into account the concerns of the industry and the stakeholders about the floating tariffs. In some areas the TAR NC should not be too detailed but provide some flexibility.

**A:** We cannot work with the political statements, we need the quantified evidence. If an alternative solution to the one set out in the TAR FG is necessary, it should be underpinned by evidence. Floating tariffs are currently applied in the vast majority of Member States. Deviation from the approach of floating tariffs is allowed for non-CAM points. We also ask

ENTSOG to provide quantitative analysis of the impact of the range of multipliers in combination with seasonal factors and other provisions of the FG.

**Q:** The TAR NC will impose fundamental changes to the existing capacity contracts. Is it possible that the TAR NC foresees the right for users to change the amount of capacity that they are entitled to book?

**A:** You are asking for a tool to solve a problem that has not been identified. In the Justification Document, we showed the local impact and, to the extent possible, the portfolio impact. We need quantified evidence for the problem you are raising.

**Q:** With floating tariffs and seasonal factors, is it necessary to have multipliers? It can be better to have seasonal factors and commodity charges.

**A:** Full commoditisation might represent some issues in terms of cross reflectivity. Multipliers and seasonal factors are not mandatory; their application is up to the NRA's decision.

**Q:** Several concerns with regard to the Justification Document: (1) the information on the level of transportation charges, including multipliers and seasonal factors, should be published in advance of the auction calendar; (2) transparency measures are presented as an alternative way to deal with harmonisation of cost allocation methodologies whereas they should be seen as complementary; (3) no actual analysis regarding the diverging multipliers and seasonal factors at IPs was done in terms of their compatibility with fixed/floating payable price; (4) there is no consideration of fixed tariffs when a premium is paid; (5) there is no consideration of time cross-subsidisation for the reconciliation of the regulatory account and there is no explanation of significant implications of changing the reconciliation period to the tariff setting period; (6) there is a lack of arguments for incentive approaches regarding pricing of the backhaul capacity.

**A:** (1) We favour maximum transparency and adequate notice period for all types of products; (2) cost allocation methodologies will not work without transparency, further work on inputs from ENTSOG is needed; (3) fixed/floating debate does not have a big influence on that but adds another level of complexity for the pricing of bundled products; (4) we did the generic evaluations of both 'fixed' and 'floating' options and captured the reasons for preferring the floating tariffs; (5) ENTSOG is tasked to ascertain the right timing of the tariff setting year; (6) full argumentation for the pricing of the backhaul capacity has been built into the Justification Document.

**Q:** Within the TAR NC development, the TAR FG will be followed as closely as possible but we have some reservations. We will provide data and arguments but we cannot accommodate all the expectations to provide further evidence as suggested in the Justification Document. The TAR FG is a non-binding document and we will allow ourselves to interpret it and to back up our positions with the justification.

**A:** The argumentation should be based against the one contained in the Justification Document and the reason for misalignment between the TAR FG and the TAR NC should be properly justified. The FG are non-binding in the sense that they are not EU law but the beginning of it. What is binding to your process is the opinion that we deliver on the NC once you submit it to us.

**A:** The Gas Regulation does say that there is an obligation for ACER to deliver the reasoned opinion but it does not say that this document is binding. After the reasoned opinion, ENTSOG has the possibility to make amendments to the NC and re-submit it to ACER. Even if the re-submitted NC does not take into account all the points raised in the reasoned opinion, ACER can still recommend it for the adoption as was the case in the BAL NC process.

**A:** None of ACER's recommendations in the gas sector have been negative because we thought that the misalignments could be explained and accommodated at a later stage. However, in the electricity sector the situation has been different and indicates that the bindingness of our reasoned opinion is a reality.

**Q:** What will happen in the countries that are currently applying the multipliers of higher than 1.5? The combination of seasonal factors and multipliers cannot solve the problem. The impact on the allowed revenues needs to be assessed.

**A:** There is a revenue reconciliation mechanism foreseen by the TAR FG. There will be no potential under-recovery but an impact on the reference price which is possible to assess on the basis of past bookings.

**Q:** Several concerns were raised such as (1) the spread below transmission costs is surprising; (2) recent report on congestion showed that there are a lot of congested points in the EU and the work on multipliers should take that into account; (3) when indicating that the period of time for the application of mitigating measures is of two years, no figures were provided on the average length of capacity contracts.

**A:** (1) We looked at the situations when the transmission fees were limiting the transactions; (2) there is one provision that we are clarifying with ENTSOG regarding the behaviour to adopt when applying multipliers for congested points; (3) the demonstration of the problem on the individual portfolio is welcomed.

**Q:** Why would a unilateral change of the transmission contracts not be in conflict with the national contract law but giving the network users the possibility to terminate the contracts early would be?

**A:** The direct changes to the contractual provisions and the changes to the regulatory framework around those contracts should not be mixed up. Usually such contracts have the provisions that foresee the regulatory risk.

**Q:** In ACER's presentation on the payable price, it was shown that option 2 scored 5 against 4. What kind of options ACER was thinking about?

**A:** No specific options were considered. Option 2 was defined as 'harmonised parameters'. The impact of fixed/floating debate on the investment should be quantified.

**Q:** After this meeting, ENTSOG goes back behind closed doors to produce the initial draft TAR NC but we do not have a common understanding of the Business Rules. We can put forward evidence and coherent arguments for changing the choices made in the TAR FG text but how do we feed that into the process?

**A:** ENTSOG will deliver a presentation on the process after lunch. Stakeholders have been asked for their feedback throughout the process, both verbally at SJWSs and have also been invited to provide it in writing after the meetings. We have received some feedback from the prime movers. Any other feedback should be provided to ENTSOG as soon as possible

due to the short timeframe for ENTSOG to produce the initial draft TAR NC between the last SJWS and the start date of the 2-month consultation.

**Q:** A group of German TSOs sent a letter to ACER at the end of 2013 and received an answer half a year later. Annex N of the Justification Document represents the same content as that answer. We have not discussed the issue properly.

**A:** Since the discussion is still ongoing, the best way forward is to amend Annex N of the Justification Document. BNetzA can collect the information from German TSOs and send it to ACER.

**A:** There was a decision from BNetzA in 2008. The letter that we have from German TSOs represents the view of only half of them. There is also an official statement from the German Competition Authority. ACER asked DG COMP about this topic twice but it hasn't been told that it is an issue. We do not think that there is an EU-wide problem and believe that you can solve this problem at a national level.

**A:** As from 2008, the situation in the market has changed significantly. ACER did not consider the opinion of BNetzA.

**A:** If you think that the situation has changed then you are free to go back to BNetzA for a reassessment of your situation. The text that we came up with in the Justification Document was submitted to the voting. Now it means that BNetzA, as ACER Member, is supporting this text.

**A:** In the Justification Document, we should judge the policy options. It looks like this issue is under discussion in Germany. But it is also a problem for other countries where entry-exit zone mergers will happen in future. Another policy option should be tackled in Annex N as well.

**A:** If you think that there is a need for further work, there is a framework for that in terms of the further work of ENTSOG and the EC for which the additional input could be provided by German TSOs. We will not amend the already published Justification Document. What matters is the end product to be presented by the EC to the Impact Assessment Board together with the final NC.

**A:** The Impact Assessment which has to go the comitology process contains three parts, one from ACER, one from ENTSOG and one from the EC. ENTSOG will prepare an analysis of decisions explaining the choices made for the purpose of the NC. It will be a separate document rather than using the Justification Document as a starting point.

Also, the following comments were raised within the session:

- Many of the assessments made in the Justification Document are subjective, open to challenge and represent explicit assumptions. There is no assessment of the risk of moving from the status quo.
- The recent increase of tariff levels in Germany by 30% indicated that 25%, set as a threshold in the TAR FG, could be a natural consequence of the introduction of the new rules and changes in the booking behaviour.
- **The** tariff level increases in Germany raises some concerns. The TAR NC should introduce more efficiency which will lead to lower but not higher tariffs.
- The option of a 'fixed but indexed' price can address the concern that fixed prices do not reflect the inflation component.
- **IUK:** Cross-border mergers will happen, it is not just an issue for Germany.

#### 4. PROCESS UPDATE, NEXT STEPS, DRAFT TAR NC

Ms Ann-Marie Colbert provided an overview of public and bi-/tri-lateral meetings that ENTSOG had so far with stakeholders, prime movers, ACER and the EC. It was reminded that the schedule of the SJWS topics in the draft Project Plan was amended to take account of stakeholder feedback by including two additional topics (mitigating measures and storage). The idea behind the scheduling of the topics for SJWSs was to cover all the topics in the earlier meetings and to come back to them in the later meetings through the discussion of the respective set of Business Rules. Furthermore, ENTSOG presented an overview of what the structure for the initial draft TAR NC could be and a consideration of how the different chapters of the TAR FG fit together.

ENTSOG thanked the stakeholders for their participation. It was reiterated that any feedback from them is welcomed at any stage of the process. However, the sooner it is provided, the more time ENTSOG will have to consider it. The deadline for sending the feedback was set as the 23<sup>rd</sup> of April.

ENTSOG has started preparing the preliminary legal text and the Supporting Document for the initial draft TAR NC. The 2-month public consultation on the initial draft TAR NC is scheduled for the period from the 30<sup>th</sup> of May to the 30<sup>th</sup> of July. The Supporting Document will explain the decisions made in the TAR NC and will include the questions to be answered within the consultation process. The Consultation Workshop, being the next public stakeholder meeting, will take place on the 25<sup>th</sup> June. The aim of that workshop is to explain the rationale behind the legal text for the initial draft TAR NC.

#### 5. STAKEHOLDER VIEWS

##### 5.1. Stakeholder presentations

###### > EFET

Mr Colin Lyle provided a presentation on behalf of EFET. Some of the main points raised in the presentation were as follows:

- the TAR NC should be a European NC that is 'fit for purpose';
- the key benefits that the TAR NC is going to bring to the market is the improvements in transparency, predictability and timely delivery of information;
- an explanation of why the tariffs are as they are should be published along with the tariff levels themselves before their application;
- the tariff model with preloaded input data that is regularly updated is welcomed so that the network users are able to understand how the tariffs are derived;
- the postage stamp methodology should be the only counterfactual to be used;
- any additional tariffs and levies that are not captured by the TAR NC should be considered to be outlawed;
- the adequate notice period is welcomed and in case tariffs are not published by the end of January, the levels from the previous year should be applied for the duration of the current year;

- the ability to determine the auction strategy is more important than the harmonisation of the tariff setting year;
- entry and exit capacity for storage should be zero by default;
- day ahead interruptible capacity must have a zero reserve price;
- ex-post discounts for interruptible capacity should be outlawed;
- floating prices add to the uncertainty;
- multipliers and seasonal factors can hamper trade and create discrimination;
- the best way to achieve mitigation is by providing the network users with a one-off capacity reset option.

> **CEFIC & IFIEC**

Mr Dirk Jan Meuzelaar provided a presentation on behalf of CEFIC & IFIEC. Some of the main points raised in the presentation were as follows:

- the TAR NC should contribute to the internal market and lead to competitive prices;
- harmonised transmission tariff structures is a key success factor to increase cross-border trade;
- transparency and predictability of tariffs is necessary;
- the current economic test is detrimental to the new entrance to the market;
- storage should pay the normal entry and exit tariffs and to not transfer them to domestic exits;
- the TAR NC should not be too focussed on the short-term recovery of costs;
- cost allocation methodologies should be transparent and fair;
- the postage stamp methodology is preferred as the counterfactual.

> **SEC (on behalf of Gazprom M&T)**

Mr Nigel Sisman provided a presentation on behalf of Gazprom M&T. Some of the main points raised in the presentation were as follows:

- every time there is a change in tariff levels, there should be an indication of how it was done on the basis of input parameters which is not captured by the Business Rules;
- a network model with all the relevant input parameters is welcomed;
- cost allocation methodologies are open to interpretations;
- it is unclear what multipliers and seasonal factors are trying to achieve;
- the 'catch-up' effect of the under-recovered revenue should be taken into account;
- the consequences of having a 'single pot' are that any shortfalls at one point feed into the allowed revenue for the other points;
- the tariffs need to be known at least in advance of the annual capacity auction;
- the Justification Document is not convincing with regards to the choice between fixed/floating approaches;
- there is a third way to address the fixed/floating debate, namely 'floating but limited'/'fixed but indexed' (e.g. indexed to the RAB).

> **GIE**

Mr Philipp Palada provided a presentation on behalf of GIE. Some of the main points raised in the presentation were as follows:

- non-physical backhaul capacity is by nature interruptible and from the shippers' perspective, the costs at a given point are to be allocated between the forward and the reverse shippers taking into consideration the risk of being interrupted;
- the right order of multipliers and seasonal factors is unclear;
- the fact that the revenue reconciliation is captured by the TAR FG is welcomed and the basic guidance regarding this at the EU level is an achievement;
- the rule of having one regulatory account might create problems, e.g. for transit capacities or in case of a change in flow patterns;
- floating tariffs might increase shippers' willingness to book and fixed tariffs might lead to cross-subsidies;
- discretion regarding payable price is needed when it comes to incremental and new capacity;
- costs of having storage in the system should be taken into consideration.

> **OGP**

Mr Kees Bouwens provided a presentation on behalf of OGP. Some of the main points raised in the presentation were as follows:

- the TAR NC should strike the right balance between annual and short term capacity products;
- the offer of short term capacity products is welcomed since it facilitates the cross-border trade, provides network users with a choice and increases network utilisation;
- the balance between annual and short term products depends on the competitiveness of these products;
- network users with a sustained demand should be incentivised to book annual products and even those with a profiled demand should be incentivised to book part of their demand on an annual basis;
- long term capacity bookings are needed to support incremental and new capacity;
- the TAR FG do not respect the existing contracts whereas the sanctity of contracts is an important element of designing the investment climate;
- floating tariffs create uncertainty regarding the long term bookings;
- tariffs should be known in advance of the auction;
- the annual reserve price could be based on peak demand;
- multipliers of short term products should be equal to at least one.

## 5.2. Discussion

**Q:** The ex-post discount can be designed in such a way that it may be more than the difference between the price of the originally bought product and the non-interrupted product. The details of the proposal for the ex-post discount are currently being worked on.

**A:** If the network users do not know in advance what the discount is, it is not acceptable.

**Q:** The capacity reset option – is it a right or an obligation?

**A:** The proposal is that there should be a right to reset the contract to counterbalance the obligation to pay a higher or unknown price in future.

**Q:** In the slides of SEC, it was shown that the projection of the RAB for the next 20 years should be published. Even TSOs are not able to estimate the evolution of the RAB for the next 20 years. In the floating tariff regime, it is the projection of bookings that matters for the price determination.

**A:** That is why the RAB can only be used as a very broad proxy for the direction of the prices.

Also, the following comments were raised within the session:

- From ONTRAS perspective, the increase of tariffs in Germany was not due to the allowed revenue but due to the change in booking behaviour.
- Storage is an important tool for security of supply. Transmission tariffs for storages should be zero by default.
- The benefits of storages are to be analysed at the national or regional level.
- The initial draft TAR NC will capture the transparency provisions associated with the situation of tariff level changes and the situation of a 4-year review of the cost allocation methodology.
- The polarised debate about fixed/floating is unhealthy. Better approaches to accommodate a broader range of circumstance should to be found.
- The TAR FG text was tailored so that the flexibility is provided to the NRAs to make the judgements depending on the national circumstances.

## 6. CONCLUSIONS

Ms Ann-Marie Colbert provided an overview of the issues raised at the meeting. It was reiterated that the stakeholder feedback is welcomed and that the initial draft TAR NC will consider the feedback received.

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Next TAR NC stakeholder meeting (Consultation Workshop): **25 June 2014**

ALL DOCUMENTS RELATING TO THIS MEETING CAN BE FOUND ON THE ENTSSOG WEBSITE AT  
<http://www.entsog.eu/events/tariff>