

ACM  
Muzenstraat 41  
2511 WB The Hague

27 March 2020

## **Subject: EFET<sup>1</sup> response to the GTS tariff proposal for 2021**

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EFET welcomes the opportunity to comment on the 2021 transmission tariff proposal submitted by GTS. We note that the proposed tariff level has increased once again and while we recognize that part of it can be attributed to lower capacity sales, we believe that some other aspects of the proposal cannot be duly justified. Below we highlight the points we have identified.

- 1) We would like to note that the assumed CPI of 2% appears to be unreasonably high, particularly given the current changes in the economic conditions. This assumption leads to a further increase in the TSO's expected allowed revenue.
- 2) Further, we've noticed that GTS intends to include the costs incurred in 2018 as a consequence of an imbalance caused by a party name Solstar. The dispute over the settlement has been taken to court ([link](#)), yet the relevant decision is still pending. In this context:
  - a. It is unclear to us what the GTS proposed costs exactly constitute, what is the status of the defendant company and whether GTS has exhausted all the possible means to recoup its funds.
  - b. We do not see why the grid users are to be held liable for costs incurred by GTS when performing its regular business activities, such as debt collection according to its policy.
  - c. More specifically, we question whether these potential default costs are attributable to the grid users in the tariffs:
    - i. Article 31.3 of the Network Code on Balancing (NC BAL) states that only costs associated to default can be attributed to the tariffs via the principle of the neutrality charges, provided that the TSO has taken the necessary

<sup>1</sup> The European Federation of Energy Traders (EFET) promotes competition, transparency and open access in the European energy sector. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and a competitive economy. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information: [www.efet.org](http://www.efet.org).

measures and has imposed relevant contractual requirements to mitigate the default risk.

- ii. We question whether GTS has depleted all its means (i) to prevent the party from increasing the imbalance over several days at the end of 2018 and (ii) to recoup the funds from the defaulting party. We find this particularly questionable since we have seen that GTS was able to keep another party from running up an imbalance only a couple of months later, as can be read in these court case proceedings.
- iii. The fact that the transportation code is currently being amended indicates that the necessary measures to prevent shippers from defaulting as prescribed in articles 31.3 and 31.1 of NC BAL weren't in place and thus the requirement for admitting default expenses in the tariffs is not met.

d. If these costs are eventually deemed admissible, we believe that:

(i) such approach is premature, since the court case is still ongoing and the TSO should exhaust all legal means available to collect the costs from the party in question.

(ii) these costs should be applied under the methodology relevant for neutrality charges, whereby article 30.2 mentions the cost shall be attributed "proportionately to the extent the network user makes use of the relevant entry or exit points concerned". Therefore, it is questionable if distribution of these costs would be allowed via the current reference price methodology (with an 40/60 split and 60% discount for storages).

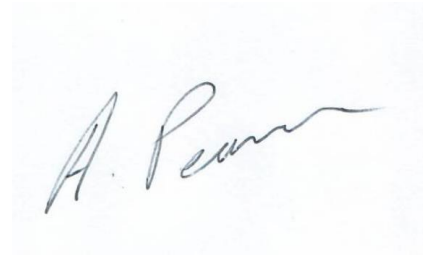
(iii) inclusion of the costs in question in the neutrality charge would affect cross-border trading and constitute undue cross-subsidization through moving part of the burden to the neighbouring countries along with the exported gas, while relating to the Dutch system exclusively. We note that in Italy a similar fraudulent situation took place in 2011-2012 and the Italian regulator decided to recover these costs through a variable component (so called CRVBL) at the domestic exit points in order to address this issue.

- 3) We noted that the Tariff Proposal 2021 envisages an average tariff increase of 6% compared to 2020. Such a substantial increase of tariffs justifies – in our view – a spread over multiple years on the basis of the Dutch Gas Act. In the Tariff Decision 2020 ACM decided to spread certain corrections over 2020 and 2021. It was stated that due to the incidental nature of the corrections it was not expected that the tariff increase would continue in 2021. Now, members of EFET are faced with another

changed x-factor decision resulting in a 45 mln € increase. Therefore, it would be prudent to spread correction amounts over multiple years where possible.

We trust you will find our feedback useful. We remain at your disposal should you wish to discuss the subject further.

Kind Regards,  
On behalf of EFET TF BeNeLux

A handwritten signature in black ink, appearing to read "A. Pearce". The signature is fluid and cursive, written on a light-colored background.

Andrew Pearce,  
Chairman of EFET TF BeNeLux

A handwritten signature in black ink, appearing to read "Doug Wood". The signature is fluid and cursive, written on a light-colored background.

Doug Wood  
Chair of Gas Committee, EFET