



**The European Federation of Energy Traders (EFET)<sup>1</sup>**  
**Reponse to ACER Public Consultation (PC\_2012\_G\_14)**  
**on Draft Framework Guidelines on Harmonised Transmission Tariff Structures**  
**for the European Gas Transmission Networks**  
**Public Consultation - Questionnaire**

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**Please indicate, if your company/organisation is:**

- a. European association

**Please provide, if relevant, reasoned indication if you wish to consider (part of) your response as confidential.**

Our response is not confidential and can be published in its entirety on ACER's website.

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<sup>1</sup> The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: [www.efet.org](http://www.efet.org).

**1. General provisions. Scope, application, definitions and implementation (Chapter 1 of the draft Framework Guideline)**

**1.1. Please explain whether any of aspects of the application of the draft FG (NC) to existing contracts would cause disproportionate effects on gas business in relation to 3<sup>rd</sup> Package objectives? Please explain if any further definitions should be added for clarity of the FG (NC)?**

The draft Framework Guidelines on Harmonised Transmission Tariff Structures for the European Gas Transmission Networks (Tariffs FG) state that the resulting Tariffs Network Code (NC) shall apply to existing contracts as well as new contracts, but it is unclear how this will be achieved. TSOs will clearly be required to implement the provisions of the NC in the charging arrangements of future transport contracts applicable to national entry/exit points and at cross-border interconnection points, to the extent relevant. However, where the transmission charging arrangements within existing transport contracts do not provide for a change (e.g. fixed entry capacity charges apply) or do not include aspects of charging arrangements introduced as a consequence of adopting the NC (e.g. commodity charges), it is not clear how the Network Code can apply to existing contracts until these contracts expire.

Applying the NC to existing arrangements (e.g. a change in the entry/exit split) will, to the extent that this is possible, inevitably result in winners and losers. Careful consideration needs to be given by the Agency for the Cooperation of Energy Regulators (ACER) and National Regulatory Authorities (NRAs) to the potential discriminatory and distortionary impact such charges could have on network users who entered into contractual arrangements in good faith based on transmission charging arrangements applicable before the implementation of the NC. Consideration should be given to allowing network users to relinquish capacity or terminate contracts where the impact of any change in charging arrangements is material and unduly discriminatory. Indeed, we understand that some capacity contracts in Germany already contain provisions which allow network users to terminate existing contracts in the event that prices change by more than a certain percentage.

**1.2. Please explain if any further definitions should be added for clarity of the FG (NC)?**

The definitions provided in the FG help to give clarity, but will take on greater significance in the NC, as the NC will be legally binding. We would expect the NC to provide a wider and more precise set of definitions than those included in the FG. However, at this stage we do not have a view on what these should be.

Whilst we do not think multipliers and seasonal factors are necessary (see our response to questions 4.2.2. and 4.2.5 below), if ACER do include these additional complexities, then consideration should be given to adding a definition of ‘multiplier’, in the same way as they have provided a definition of ‘seasonal factor’. This may help to clarify that the role of the multiplier seems to be to try and adjust short-term reserve prices to avoid potential under-recovery and/or to encourage cross-border trade. A formula showing how multipliers apply to short-term bundled capacity reserve prices (down to within day capacity) and how they work in tandem with seasonal factors would also be helpful, if they are to be applied.

**1.3. Please suggest the top-5 core indicators for monitoring the future EU-wide implementation of the future tariff FG (NC)?**

We do not have a top-5 of core indicators. NRAs should ensure that TSOs implement the NC within the timescales provided and take enforcement action against them if they fail to do so. NRAs should closely monitor the effect of changes to the tariff regime as part of their market monitoring role. In particular, NRAs should assess the extent to which the tariff regime is contributing (either favourably or adversely) to under/over recovery, increased liquidity, efficient investment, volatility of transmission and commodity prices and increased price correlation and convergence with adjacent market areas.

**2. Cost allocation and determination of the reference price (Chapter 2 of the draft Framework Guideline)**

**2.1. Transparency provisions**

**2.1.1 Do you agree with the level of harmonisation proposed for the transparency in relation to tariffication methodologies?**

Yes, we broadly agree. The FG make it clear that the methodology for determining reference prices and cost allocation, including any changes, will be consulted upon and made transparent to all network users. Whilst identifying a number of particular points on which TSOs should provide transparency, the FG should also include a general statement that all assumptions underpinning the methodologies and data used to calculate transmission charges, including cross-border charges, should be transparent to network users. We share ACER’s concern that it is currently impossible for network users to reasonably forecast future tariffs with any degree of accuracy in virtually all EU transmission systems. Only by providing full transparency of all cost/flow data, assumptions and price control information relevant to tariff setting in a timely manner can this situation be improved.

**2.1.2 Would you support additional requirement(s) to ensure “reasonable and sufficiently” detailed tariff information? For example, one could consider including a provision such as: “the transmission system operators or relevant national authorities shall provide additional information if a significant tariff fluctuation is expected on a specific or on all entry- and exit points”.**

Yes. For example, TSOs should be obliged to release the transportation model used to calculate transmission charges to network users. They should also publish information regularly on their progress towards recovering allowed revenue throughout the year and full supporting information to help explain any price changes.

We would also prefer to see greater harmonisation around the frequency and timing of tariff changes, at least at cross-border points, as this would provide clarity to the market about when transmission charges could be expected to change. However, we recognise that this may be impractical and disproportional at this stage. That being said, we think it is important for the NC to define at least a minimum period of notice TSOs are required to give before tariff changes take effect, e.g. 60 days. A recent example of the introduction of a significant new entry commodity charge in Italy at a two-day notice reinforces the importance of this principle.

TSOs should also be required to ensure all of the transparency requirements identified in the FG/NC are published in the official language of the Member State and in English.

**2.2 Cost allocation and reference price setting methodology, general questions.**

**2.2.1 Do you agree with proposed level of harmonization for the reference price setting methodology, aiming for same methodology for all types of network users per one entry-exit zone?**

Yes. We agree the same methodology, assumptions and tariff model should be used by TSOs to set both cross-border and national transmission tariffs within an entry-exit zone. To do otherwise risks cross-subsidy and discrimination.

Whilst we support harmonised tariff setting methodologies throughout Europe as a long-term goal, we do not think it is necessary or practical at this stage for the FG or NC to attempt this. However, we agree with ACER that a number of principles on how these methodologies should be applied should be set out in the FG. A Guideline of Good Practice would also be helpful.

We agree the NC should include a general premise that reference and regulated prices for entry and exit points should aim to recover fixed costs. We also agree that the NC should provide the option for TSOs to aim to recover costs that are driven mainly by the volume of flows (such as compressor cost) either via the sale of capacity services or via a specific commodity charge. However, in the case of interconnection points our preference would be for such costs to be recovered via capacity services. This would have the advantage of simplifying cross-border charging such that capacity charges become the sole basis of charging network users to flow gas hub-to-hub. It also avoids the possibility of any commodity charge specifically preventing flows of gas between hubs, which might otherwise have taken place.

To this extent, we think the FG should adopt this as the default rule at interconnection points. However, NRAs on either side of the border should still have the option of overriding this rule and applying a commodity charge separately, following consultation with stakeholders and notification to ACER.

### **2.3 Cost allocation and the Reference price setting methodology, detailed questions.**

#### **2.3.1 Do you agree with proposed option for setting reference prices for entry capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?**

Yes, setting reference and reserve prices for entry and exit capacity based on major cost drivers should ensure tariffs are cost reflective. However, the nature of entry-exit systems is such that distance will be difficult to calculate and will require TSOs to make assumptions about how gas may flow on their networks, which ultimately do not reflect reality. The Gas Regulation also states that network charges shall not be based on contract paths, which further complicates the use of distance as a major cost driver.

With this in mind, and because attributing historic investment costs to specific entry points is rarely straightforward, it seems pragmatic for now to allow TSOs/NRAs to adopt an equalisation approach to setting the regulated and reference prices at cross-border and national entry points, despite the potential for this to reduce cost reflectivity and locational signals, at least theoretically. Any TSO/NRA adopting an equalisation approach should, however, be required to demonstrate that this will not lead to undue discrimination or affect adversely cross-border trade. TSOs/NRAs should also strive to move away from an equalisation approach in favour of a methodology which is more cost reflective and which generates locational signals.

**2.3.2 Do you agree with proposed option for setting Reference prices for exit capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?**

Yes, for the reasons stated in 2.3.1 above. The same approach, whereby NRAs have the option to equalise regulated and reference prices at cross-border and national exit points should also apply, but the FG seems to allow this only with respect to national exit points.

**2.3.3. Do you agree with the cost allocation principle that revenue from entry points should equal 50% of revenue from all entry and exit points?**

As a broad principle this could be appropriate provided that the revenue from exit points also equalled 50% of the revenue from all entry and exit points (the FG is silent on exit cost allocation). Recognising the difficulty associated with implementing full cost reflectivity in an entry/exit system, such a principle will at least ensure non-discrimination between network users who principally rely on entry or exit capacity in conducting their business operations. Adopting a consistent approach across Europe to this aspect of tariff setting could help to ensure obvious cross-subsidies between national and cross-border points are avoided and help facilitate cross-border trading on a level playing field.

As the Brattle Report and Impact Assessment point out, considerable differences currently exist across Europe in the entry/exit cost recovery split. Clearly these will have been set subject to NRA oversight and approval, which means that they should have been required to demonstrate they are cost reflective and non-discriminatory. However, as tariff setting and methodologies are often opaque to stakeholders and not always consulted upon, it is hard for us to take a view on how robust the regulatory assessments of these differing entry/exit splits has been. The Brattle Report and the Impact Assessment refer to suspicions that entry/exit splits have been used to engineer cross subsidies between cross-border and domestic points. Harmonising around the broad principle of a 50%/50% entry/exit could help to removes such suspicions going forward.

That being said, we think it is appropriate to allow NRAs to deviate from the 50%/50% entry/exit principle when such an allocation would significantly and detrimentally affect the cost reflectiveness of resulting network tariffs. The checks and balances described in

the FG<sup>2</sup> associated with any such decision seem appropriate. Also, applying a 50%/50% entry/exit split to existing contracts whose tariffs were based on a different split could result in materially different tariffs applying to such contracts. This reinforces the need for full transparency and stakeholder consultation. This is also why consideration should be given to whether existing contract holders should be allowed to relinquish or terminate these contracts under certain circumstances (see our answer to question 1.1).

**2.3.4. Do you agree with application of the proposed options for setting reference prices to all entry and exit points (without any separate mechanism for the domestic points, whilst ensuring no discrimination between domestic and cross-border network usage)?**

Yes. Using the same methodology, forecasts and assumptions for setting the reference and reserve prices for all entry and exit points should minimise the risk of discrimination. In that regard, we note the important footnote 7 in the FG. The footnote states that application of the same methodology does not rule out the possibility of different, but still consistent, tariff structures for entry and exit points, as long as these are based on the same or consistent modelling assumptions. We think that this distinction should apply equally to classes of entry and exit points and between cross-border and national entry/exit points<sup>3</sup>, and we suggest that the proposition should be included as a statement in the FG, rather than as a footnote.

**2.4 Pricing of entry- and exit capacity on the transmission network to and from gas storage facilities (see also questions under ‘9’ Locational signals).**

**2.4.1. Do you agree with proposed option to base tariffs for entry and exit capacity on the transmission network to and from gas storage facilities at an adequate discount to other entry and exit points on the TSO?**

We agree that storage facilities should benefit from lower transmission tariffs if they create benefits to the system or if they can demonstrate that any transmission costs relating to

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<sup>2</sup> Demonstrating that it does not lead to discrimination between domestic and cross-border network users and has no detrimental effect on cross-border trade, consulting with adjacent NRAs and stakeholders and requiring an ACER opinion.

<sup>3</sup> For example, cross-border entry and exit points could be charged based solely on capacity (see our response to question 2.2.1), whereas national entry and exit points could include separate commodity charges to recover variable costs.

their use have already been paid by network users. Most storage facilities are national entry/exit points and do not determine directly cross-border flows. The flexibility they provide can contribute significantly to increasing the efficiency of gas flow between market areas. Other national entry points (such as indigenous production and LNG) and exit points (such as CCGT power stations and large industrial loads) can also fulfil this role. What differentiates storage in this respect is that gas entering or leaving a storage facility is at some time almost certain to have used TSO entry and exit points elsewhere.

We do not think that it is necessary or appropriate for the NC to suggest discounts for entry and exit points to and from gas storage facilities because the methodology used to calculate the tariffs itself should recognise the avoided cost of investment and lead to very low entry and exit tariffs for some storage facilities. Nor do we understand why ACER thinks that discounts should be restricted to storage facilities with third party access. Presumably if there are valid reasons for offering discounted transmission charges for storage facilities because of any operational and investment cost savings they may provide, this would apply regardless of whether they were subject to or exempted from third party access.

We broadly agree with the proposal in the FG to apply the same objectives (section 1.2), cost allocation principles and methodologies (section 2), and revenue recovery principles (section 3) to both cross-border and national points. To the extent storage facilities, and any other facilities, are deserving of an 'adequate' discount for the benefit they provide to the transmission system, this can be assessed and should be provided for, subject to these objectives, principles and methodologies. To include specific reference in the NC to the possibility of 'adequate' discount for storage facilities risks providing favourable treatment to these facilities vis-à-vis other sources of supply/flexibility. It also risks extending the scope of the NC beyond what is necessary to avoid discrimination and to enhance cross-border trade.

#### **2.4.2. Do you agree with harmonisation of such a discount across all storage points in the EU?**

No. This could imply that all storage points are deserving of discounted transmission charges and it would clearly not be cost reflective. Whilst cost reflectivity is not an absolute objective, to harmonise a level of discount for storage facilities in the Network Code without providing for the possibility of transmission discounts for other sources of supply/flexibility would constitute undue discrimination.

**2.4.3. If you prefer harmonization for an ‘adequate’ discount, which level of such a discount applied to firm capacity level do you advocate?**

N/A

**2.4.4. What are your views on harmonization of tariff measures, leading to harmonization of transmission tariff levels across all storage points in the EU (instead of harmonizing a discount across all storage points in the EU)?**

Harmonisation of transmission tariff levels across all storage points in the EU is not a credible option and is unlikely to satisfy any of the multiple objectives and criteria referred to in section 1.

**3. Revenue recovery (Chapter 3 of the draft Framework Guideline)**

**3.1. General – interdependency questions.**

**3.1.1. Do you agree that the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price are consistent together?**

No. Whilst we recognise policy options on reserve prices for short-term products, revenue recovery and payable prices are inter-related, and we are not sure whether they are entirely consistent.

**3.1.2. Are the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price properly addressing the ambition for the pricing of transmission capacity to strike the right balance between facilitating short-term gas trading on one hand and providing long-term signals for covering costs and promoting efficient investments on the other?**

No. We believe the policy options ACER have chosen regarding reserve prices for short-term products, revenue recovery and payable prices are weighted too heavily in favour of TSOs’ concerns about under-recovery of allowed revenue. Also, the lack of harmonization

around multipliers for short-term capacity and the complexity of dealing with different arrangements at different interconnectors risks discouraging and distorting short-term cross-border trade. Seasonal factors, whilst they may be harmonised in the NC,<sup>4</sup> risk compounding these distortions.

In our response to the questions in sections 3, 4 and 7 of this consultation we have proposed alternative policy options for short-term reserve prices, revenue recovery and payable price that we believe are consistent with each other. In our opinion, these choices, combined with the restrictions that exist in the Network Code on Capacity Allocation Mechanisms (CAM NC) on when interruptible capacity can be offered, provide a better balance between facilitating short-term gas trading, providing long-term signals for promoting efficient investments, and minimising the risk of under-recovery than those proposed by ACER.

## **3.2 Regulatory account**

### **3.2.1 Do you agree with the principle to set reference prices to minimise the difference between allowed and collected revenues?**

Yes, provided a TSO's allowed revenue is based on its efficiently incurred costs this will lessen the possibility of under/over recoveries building up during the year.

Where a TSO is subject to a price cap regime and is exposed to volume risks at a particular interconnection point, we assume that any under/over recovery will continue to be met by the TSO and thus, will not be included in the regulatory account.

### **3.2.2 Do you agree with proposed level of harmonization of using the regulatory account?**

No. The FG state that each TSO shall have only one regulatory account and that all entry and exit points will contribute to its reconciliation through an adjustment of either the reserve price or the regulated price. This implies that any under-recovery of exit revenues, for example, will be reconciled equally between entry and exit users and vice versa. In our

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<sup>4</sup> The FG talk about the methodology for determining seasonal factors and the conditions under which they are applied being developed in the NC. It is not clear whether this will lead to harmonised seasonal factors across Europe or not.

Opinion, this would amount to undue cross-subsidisation and we think that as a minimum the regulatory account should be sub-divided into an entry and exit pot. Any under or over recovery in a year in each pot would typically be incorporated into future allowed entry or exit revenues for the following year. But we think NRAs should ultimately have discretion to move revenues from one pot to another, or to spread under or over recoveries over a number of years, following stakeholder consultation.

**3.2.3 Do you agree that NRAs should determine or approve how often and how fast the regulatory account has to be reconciled on a national level, whilst preserving balance between timely cost recovery and sudden adjustments to tariffs?**

Yes. Harmonising the frequency and manner in which the regulatory account is reconciled risks creating distortions, as the cause and magnitude of any under/over recoveries will depend on many different factors and may differ from year to year.

**3.2.4 What is your view on including the option to use the Regulatory Account (including the potential over-recoveries from auction premium) to contribute to solving congestion? How could this be done, especially in view of principles of non-discrimination and cost-reflectivity? Please give reasons for your answer, including any quantitative evidence, tables and examples.**

In principle we agree with the option of using over-recoveries from auction premium to contribute towards solving congestion. However, over-recoveries may not result solely from auction premiums. Where they do, if they are to be targeted back to the congested point from which they arose, the regulatory account would have to be sub-divided, which is not what is proposed.

In our response to the recent consultation of the Council of European Energy Regulators (CEER) on Incremental Capacity we expressed our support for integrating the process of incremental capacity allocation into the annual long-term bundled capacity auctions detailed in the CAM NC. TSOs would continue to calculate the reserve price based on the amount of technical capacity available. However, they would also calculate a series of bid price steps over and above the reserve price reflecting the investment cost of making incremental capacity available at that point. Network users would indicate their demand against these bid price steps and clearing prices would be set at the highest bid price step where demand is less than or equal to the incremental capacity being made available. An ex-ante defined economic test would then be applied and if the bids in the auction were sufficient to pass the test, TSOs would be required to allocate the incremental capacity from a specified date.

In our opinion, this represents a far more transparent and efficient way of relieving congestion than trying to apportion over-recoveries derived from auction premiums to a future market test at a congested point.

### **3.3. Reconciliation of Regulatory accounts.**

#### **3.3.1. Which option for the reconciliation of regulatory accounts do you prefer?**

We prefer the principle of a capacity only approach to reconciliation of the regulatory account, as described in Option 1, but we do not agree with redistributing under or over recoveries back to entry and exit users equally. As stated in our response to question 3.2.2. above, we think that as a minimum the regulatory account should be sub-divided into an entry and exit pot and that typically entry or exit under/over recoveries should be incorporated into future allowed entry or exit revenues for the following year. This minimises the risk of undue cross-subsidisation between network users who principally rely on entry or exit capacity in conducting their business operations.

We are strongly opposed to under or over recoveries being recovered via an ex-ante commodity charge. This represents a possible distortion to cross-border flows and if applied equally to entry and exit points could constitute undue cross-subsidisation between entry and exit and between capacity and commodity. With regard to cross-border points, a fundamental principle of tariff setting should be that once the bundled reserve price is paid network users would be able to trade at the virtual trading point without payment of any additional fees<sup>5</sup>.

Option 2 refers to under or over recoveries being primarily allocated to entry and exit points as part of the reserve or regulated price, and secondarily through a separate commodity or capacity charge. The primary method of reconciliation, therefore, seems to be the same as Option 1. But it is not clear whether the secondary element would result in a separate capacity or commodity charge being set ex-ante (for the following year) or ex-post (as an adjustment for the year gone by).

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<sup>5</sup> A possible exception to this principle could be national commodity charges which are set to recover the operating costs of transporting gas within a national system, such as fuel gas, although these costs could be rolled into the price of capacity services (as envisaged under Option 1 for under/over recovery).

**3.3.2. In line with the interdependency discussion above in question 3.1, what are your views on recovering revenues by means of a separate charge set at the start of the gas year with the aim of minimising the amount that goes into the regulatory account?**

We are not sure whether this question relates to the separate charge as described in Option 2 of Section 3.2 of the FG, or to another charge of some form. As stated in our response to question 3.3.1 above, we do not support under or over recoveries being recovered via an ex-ante commodity charge. Nor do we support creating a separate ex-ante commodity charge to try and minimise the possibility of under/over recovery in the forthcoming year.

The FG propose that the determination of reference prices for interconnection points and regulated prices for other points should seek to minimise any gaps between the revenues TSOs are entitled to obtain and the revenues actually obtained. This should be the basis on which TSOs aim to minimise the amount of gas going into the regulatory account, not through a separate charge, which could be distortionary.

**3.3.3. Do you agree with application of the option on reconciling regulatory account to all entry and exit points (both domestic and cross-border)?**

We agree with reconciling regulatory accounts to both domestic and cross-border entry/exit points as this lessens the possibility of discrimination (assuming the prices of cross-border and domestic points are determined using the same assumptions and methodologies). However, we do not agree that there should be a single regulatory account where under/over recoveries from entry points (including cross-border entry points) are smeared equally between entry points and exit points (including cross-border entry points).

**3.3.4. Do you agree that the regulatory account should be recovered by splitting the total under- or over- recovery across all entry and exit points in the same proportion as set out in the cost allocation methodology? For example if the cost allocation methodology is a 50:50 split then 50% of all under- or over-recovery will be from the entry points and 50% from the exit points.**

No. Establishing a 50%/50% allowed revenue split between entry and exit is a pragmatic way of trying to avoid non-discrimination recognising the difficulty associated with implementing full cost reflectivity in an entry exit system. However, it should not be relied upon as the basis for redistributing under or over recoveries, as these can clearly be attributed to activities of entry or exit users and so smearing them equally would represent undue cross-subsidisation.

A 50%/50% split should not be hard-wired into tariff setting methodologies and we agree that where it would significantly and detrimentally affect the cost reflectiveness of resulting network tariffs, the NRAs should be allowed to deviate from this rule. The existence of significant under or over recoveries in entry or exit revenues may indicate that a deviation is necessary. However, once set, under and over recoveries should be smeared back to the entry or exit points from where they originated, not by the original ex ante split of revenues that was assumed.

#### **4. Reserve prices (Chapter 4 of the Framework Guideline)**

##### **4.1 General.**

##### **4.1.1 Do you consider it sufficient to have rules on firm, interruptible and non-physical backhaul capacity products or are you aware of other capacity products that should be addressed in the FG?**

No. We are not convinced of the need to have specific rules for reserve prices for non-physical backhaul capacity. We think this should be treated simply as interruptible capacity, with the same rules applicable. Non-physical backhaul capacity is by its nature interruptible and its probability of interruption is based on the same factors as those applying to interruptible capacity sold in the physical forward direction; namely unforeseen outages or congestion on the system and capacity renominations of other network users. Backhaul capacity is also not specifically referenced in the CAM Network Code, which simply draws a distinction between firm and interruptible capacity products.

##### **4.2 Reserve prices (firm)**

##### **4.2.1 Do you agree with proposed level of harmonization?**

No. In our view the FG seem to be proposing very little harmonisation around how short-term firm capacity reserve prices are set on either side of the border. Whilst on average over the year the reserve prices of short-term capacity products will be required to be less than or equal to the price set proportionately to the annual reference price<sup>6</sup>, and multipliers will typically be capped at 1.5, how NRAs apply these rules could differ on

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<sup>6</sup> We assume this obligation will apply on a product by product basis, e.g. daily, monthly, quarterly, rather than collectively across all short-term products.

either side of the border<sup>7</sup>. Also, where TSOs have an interconnection between more than one adjacent market area, the multipliers applied to short-term capacity products offered at the interconnection points<sup>8</sup> between one market area could differ from those applied between another market area, which could be discriminatory.

**4.2.2 Do you agree with proposed option for the Reserve price for short-term products including the possibility that the national regulatory authority may decide to allow for higher short-term prices that may apply (via multiplier higher than one, but not higher than 1.5) if there is risk of *significant* under-recovery of allowed revenues?**

No. We believe the proposals are overly complicated<sup>9</sup> and fail to provide a sufficient degree of harmonisation necessary to minimise the risk of distortions to cross-border trade. In our opinion, the rules for setting reserve prices for each of the short term firm capacity products should be harmonised across the EU. This will ensure short-term trading of gas between Member States is carried out on a consistent basis. Price differentials will still exist and will reflect supply and demand fundamentals. But these differentials will, at least, be based on consistent assumptions about how the price of transport capacity necessary to trade gas between markets is determined.

For efficient trade without market distortions it is important that the market is able to reveal the value of short-term capacity. The lower the reserve price, the more likely it is that this will happen. Having said that, we recognise that there is a trade-off between setting low reserve prices for short-term capacity and avoiding the possibility of significant under-recovery, particularly where interconnection points are not congested. For this reason, we think it would be pragmatic to apply harmonised short-term reserve prices for quarterly and monthly capacity products equivalent to the price set proportionately to the annual reference price.

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<sup>7</sup> Whilst the FG state that NRAs will consult with NRAs in adjacent Member States and that decisions NRAs take shall take account of ACER's opinion, this is not sufficient in our mind to ensure multipliers will be applied in a harmonised way on either side of the border for each of the short-term products.

<sup>8</sup> There also does not seem to be anything preventing multipliers for short-term capacity at different interconnectors between the same market area being different, although this may be considered unlikely.

<sup>9</sup> The slides presented by ACER at the Tariff Workshop held in Ljubljana on 18<sup>th</sup> September suggested that the reserve price for within-day capacity would vary dependent on the number of hours of the day remaining when offered. This would be very difficult to implement and hugely disproportional to any likely benefit that may arise.

As regards within-day capacity, we think this should have a zero reserve price<sup>10</sup> across the EU in order to ensure optimal responsiveness, balancing and efficient operation of adjacent markets. Whilst this might be said to increase the risk of under-recovery, we would not expect network users to rely on securing within-day capacity in an auction as the principal means of meeting their committed flow obligations. Instead, we see them using this product for optimising arbitrage opportunities and imbalances within day.

Finally, as regards day-ahead capacity, there is a range of emphasis among our Members. Some companies are primarily concerned that the reserve price must be at least similar to the equivalent long-term reserve price, so that there are no distorting incentives between long-term and short-term capacity booking. Other companies are primarily concerned that if there is a non-zero reserve price it must be low enough to ensure that the short-term market is able to operate efficiently.

Currently, most members agree that the reserve price should never be above the equivalent price set proportionately to the annual reference price. NRAs on either side of the border should collectively decide on a balanced solution to the reserve prices used in all auctions for day ahead capacity during the year, at all interconnection points between these market areas. In doing so they would be required to take account of the level of congestion, the effect of adopting congestion management principles, the risk of under and over recovery arising, the effect on liquidity and efficiency of cross-border trade and the magnitude of price spreads between market areas etc.

In the event NRAs are unable to decide what multiplier should apply, an ACER opinion on the multiplier shall be sought in accordance with the Agency Regulation.

#### **4.2.3 Do you agree with application of the proposal on short-term Reserve prices to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?**

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<sup>10</sup> If capacity reserve prices have been set with a view to contributing towards a TSO's variable cost (see our response to question 2.2.1 above) it may be appropriate to somehow apply this cost as a reserve price, or to charge for it separately. However, this risks adding significant complexity to the tariff regime and would be difficult to implement, and could be disproportional to any resulting cross-subsidy generated by not applying these measures.

Yes, as not all national entry and exit points will be subject to auctions. To the extent that they are, the reserve prices in these auctions may need to apply the same rules that are applicable at interconnection points to avoid any undue discrimination.

**4.2.4. What criteria would you propose to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?**

We do not support short-term products having multipliers higher than the price of annual products (see our response to question 4.2.2 above).

**4.2.5. Would you agree with using Seasonality (or other criteria, which you may suggest) of the systems as criteria to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?**

No. Whilst it might appear obvious that capacity has a greater benefit and higher value in one seasonal period compared to another (e.g. Q1 v Q3), TSOs should not pre-judge the market value. Existing capacity represents a sunk cost and there is no economic logic in assuming the unit cost of capacity should be greater because the capacity is being used more intensively. Such differences would be reflected in operational costs where appropriate. Seasonal factors risk creating foreseen and unforeseen market distortions and should be avoided. These distortions are likely to be amplified if combined with multipliers and could represent significant barriers to cross-border trade.

**4.3 Reserve prices (interruptible)**

**4.3.1 Do you agree with proposed option to set Interruptible Reserve prices at a discount to firm capacity where the discount is based on the likelihood of interruption, and to recalculate once a year?**

To the extent that this is a requirement under the Gas Regulation, yes. However, we think it is legitimate for the FG/NC to specify what the basis for determining such probability is, based on how interruptible capacity is allocated under the CAM Network Code.

The CAM Network Code includes two ways in which interruptible capacity can be allocated: by auction and by over-nomination against firm capacity. Interruptible capacity allocated by over-nomination only applies to within-day capacity if all firm capacity at that point is sold out. Interruptible capacity allocated by auction must, as a minimum, be

offered day-ahead when firm capacity at that point is sold out day-ahead. Any interruptible capacity offered shall not be detrimental to the amount of firm capacity on offer. If offered by auction for a duration greater than a day, it shall be offered after the firm auction held for the same duration.

Based on these conditions, three scenarios for acquiring interruptible capacity could arise. Firstly, TSOs could auction interruptible capacity products of annual, quarterly or monthly duration after the equivalent auctions for firm capacity (if any). This applies whether the firm capacity had sold out or not. Secondly, TSOs could auction interruptible capacity day-ahead, if, and only if, firm capacity had sold out after the day-ahead firm auctions (if any). Finally, network users would be entitled to over nominate against their firm capacity holdings within day if, and only if, firm capacity had sold out after the day ahead capacity auctions (if any) or after any firm capacity auctions held within day.

We consider it unlikely that TSOs will offer interruptible capacity on an annual, quarterly or monthly basis via auction, whilst firm capacity of equal duration is still available. This goes beyond their minimum requirement and risks potential under-recovery. However, to the extent that they do, the reserve price in such auctions should reflect the probability of interruption which, if firm capacity remains available, is likely to be low.

In all other cases interruptible capacity will only be made available once firm capacity has sold out. So releasing interruptible capacity will not make under-recovery of allowed revenue any more likely and will, if anything, contribute towards over-recovery. The probability of interruption will be determined by unforeseen outages or congestion on the system, and by the nominations and renominations of other users, all of which are inherently unpredictable. We, therefore, think it is appropriate for the reserve price of day-ahead interruptible capacity auctions to be set to zero and for any interruptible capacity acquired through over-nomination against firm capacity holdings within-day not to be chargeable.

#### **4.3.2 If you prefer a fixed discount, which level of such a discount applied to firm capacity level do you advocate?**

See our response to question 4.3.1. above.

#### **4.3.3 Do you agree with application of the proposed option to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?**

Yes, because the allocation of interruptible capacity at national entry and exit points will not necessarily have the same restrictions associated with it as those included in the CAM Network Code. Applying our preferred reserve price rules when different

restrictions apply to when interruptible capacity can be offered risks distortion and increasing the probability of under-recovery.

#### **4.4 Reserve price (backhaul)**

##### **4.4.1 Do you agree with proposed level of harmonization?**

No. Backhaul capacity should be viewed simply as an interruptible product and should be subject to the same reserve price rules as for interruptible products allocated in the physical forward direction (see our response to question 4.1.1).

##### **4.4.2 Do you agree with proposed option to set backhaul prices at a discount to firm capacity level so that Reserve prices reflect the level of actual marginal costs (= IT and administrative costs)?**

No. See our response to question 4.4.1 above.

Also, whilst backhaul capacity has the same probability of interruption as interruptible capacity in the forward physical direction, it is likely to reduce TSOs' costs of operation, reinforcing the argument for applying a zero reserve price. This operational benefit could be assumed to offset any IT and administrative costs the TSOs may incur in offering backhaul capacity.

##### **4.4.3 Do you agree with application of the proposed option on backhaul capacity pricing to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?**

Yes. The only other points where backhaul could conceivably be applied are at storage facilities. However, storage facilities will always have the capability to inject and withdraw gas. Therefore, firm and interruptible capacity should be offered as separate entry and exit capacity products, rather than as single bundled product with some sort of backhaul service in either direction.

#### **5. Virtual IPs**

**Do you support the proposed option for Reserve price in Virtual IPs as EU-wide standard? Please reason your answer, including any quantitative evidence, tables and examples on balance between cost-reflectivity and cross border trade stimulation.**

Whilst we recognise that the CAM Network Code does provide for adjacent TSOs to establish Virtual IPs subject to certain criteria<sup>11</sup> being met, we are unsure whether the NC needs to elaborate further on how individual cross-border entry and exit reserve prices will be converted into Virtual IP entry and exit reserve prices at this stage.

Establishing Virtual IPs between Member States will be complicated and dependant on the charging methodologies and infrastructure pertinent in those Member States. Some Virtual IPs might be beneficial, but we are not sure whether the NC will be able to effectively harmonise the details and principles of how Virtual IP charges will be set. These may only be understood in sufficient detail once the TSOs have demonstrated their ability to comply with the criteria Virtual IPs are required to meet. Also, the tariffs relating to any Virtual IP will be subject to the same objectives, cost allocation principles, methodologies and revenue recovery principles as the separate cross-border tariffs set prior to the Virtual IP being created, which may provide sufficient assurance that they will be determined objectively.

## **6. Bundled capacity products**

### **6.1 Reserve price (Bundled)**

#### **6.1.1 Do you agree with proposed level of harmonization?**

Yes. It is logical for the bundled reserve price to be determined by the sum of the respective entry and exit capacity reserve prices for each capacity product duration offered under the CAM Network Code. However, to the extent that ACER persists with the application of seasonal factors and multipliers, the FG should state clearly whether each of these factors shall be applied separately to the entry and exit capacity component, or to the aggregated bundled entry and exit capacity product.

It is also logical for unbundled entry or exit capacity arising from a mismatch of technical capacity to be offered at the component entry or exit capacity reserve price. We think this is what paragraph 3 of Section 6 of the FG is saying, but the drafting could be improved as it could imply unbundled exit capacity, for example, is offered at either the entry or exit capacity reserve price. This would be illogical.

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<sup>11</sup> The total Technical Capacity at Virtual IPs shall be equal to or higher than the sum of the Technical Capacities at each of the IPs contributing to the Virtual IP. The characteristics of the transmission systems involved shall allow the establishment of Virtual IP and they shall only be established, if they facilitate the economic and efficient use of the system.

**6.1.2. Do you agree with the proposed option that the sum of Reserve prices for unbundled capacity is used as bundled Reserve price?**

Yes. See our response to question 6.1.1 above.

**6.1.3 Do you agree with application of specified the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?**

Yes. With the exception of storage points, other points on the transmission system will be either distinct entry or exit points and so could not be bundled. Storage points could, in theory, be bundled into a single product allowing both entry and exit into the transmission system. But as their injection and withdrawal capabilities are rarely the same, it would be more efficient and cost reflective to treat them like any other national entry and exit point and allocate entry and exit capacity separately.

**6.2 Do you support the proposed option for Reserve price (if unbundled) as the EU-wide standard? We encourage you to specify if you support the Unbundled Reserve price being higher to support bundling of products.**

Yes, we support the proposed option, to the extent that we have understood the question and the drafting of paragraph 3 of Section 6 of the FG (see our response to question 6.1.1 above).

We do not support arbitrarily setting unbundled reserve prices either higher or lower than those for bundled products as this would not be cost reflective. Such measures could also be counterproductive as TSOs might have an incentive to allocate more capacity on whichever basis would provide them with increased revenues.

**6.3 The Network Code on Tariffs shall specify that the revenues from Reserve price of bundled capacity products shall be attributed to the TSOs proportionally to the Reserve prices of their respective capacities in the Bundled Capacity. The revenues from the auction premium from bundled capacity above the Reserve price shall be split according to agreement between the relevant national regulatory authorities. Furthermore, the Network Code on Tariffs shall in the case that no agreement is concluded before the auction, specify that the revenues from the auction premium shall be split equally between the TSOs.**

**6.3.1 Do you agree with proposed level of harmonization in that approach above?**

Yes. Assuming cross-border tariffs are being set broadly in accordance with consistent objectives it is logical, and non discriminatory, for the revenues from the reserve prices of bundled capacity products to be attributed to TSOs proportionally to the entry and exit reserve price components of the bundled capacity product.

It is also logical for the revenues from any bundled capacity auction premium above the reserve to be split proportionally to the entry and exit reserve price components of the bundled capacity product. However, recognising the fact that tariff setting methodologies will not be fully consistent across Europe and that seasonal factors and/or multipliers may be applied separately to the entry and exit components of the bundled capacity reserve price, we agree the FG should allow for some NRA discretion in this regard, with a default equal split applying if adjacent NRAs cannot reach agreement.

**6.3.2 Do you agree with proposed option for splitting auction revenues from bundled products to the relevant TSOs?**

Yes. See our response to question 6.3.1 above.

**6.3.3 Do you agree with application of the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?**

Yes. See our response to question 6.1.3.

**7. Payable price**

**7.1.1 Do you agree with proposed level of harmonization?**

Yes, we agree that there should be a harmonised basis for how the payable price of all bundled capacity allocated in the CAM Network Code auctions is determined. However, we do not agree with the policy option chosen (see our response to question 7.1.2 below).

**7.1.2 Do you agree with the proposed option to set payable price equal to the current Reserve price for year in which capacity is used plus any premium?**

No. We think it is important for network users to have a large degree of certainty about the prices they will pay for capacity secured in the auctions throughout the entire duration of their commitment. Ideally, we would like to see the clearing prices set in the

capacity auction to be fixed for the duration. Alternatively, they should be at least reasonably predictable.

Fixed prices will provide network users with certainty about the price they will pay for capacity going forward. This allows them to factor this into their commercial decisions about acquiring capacity in the short, medium and long term. Bearing in mind the uncertainty that already exists regarding medium and long-term commodity prices, compounding this uncertainty by allowing cleared capacity auction prices to vary over time will further discourage long-term booking and investment.

In our opinion, the proposed policy option of fixing any auction premium above the reserve price, but allowing the reserve price to float will disproportionately add to the risks faced by network users and traders, discouraging medium/long-term capacity booking and hence, medium/long-term liquidity in commodity markets. The only incentive network users will have to book medium/long-term capacity under the proposed option is if they anticipate future congestion at a particular cross-border point. As flows will become increasingly driven by financial optimisation between market areas (hub-to-hub trading) as opposed to historic supply and demand patterns, congestion will become harder to predict. So, the incentives to bid for capacity in the medium/long term to hedge against the risk of congestion are questionable. However, the incentives on network users to hedge against the risk of overall tariff increases are more obvious as this provides network users with the certainty necessary to lock in the spread between two market areas. Also, once acquired, capacity will still be used even if the spread is less than the price paid for capacity<sup>12</sup>, provided the spread exceeds the marginal cost of flowing gas between the market areas.

With the introduction of new legally binding congestion management arrangements and the expectation that harmonised incremental capacity allocation procedures will follow shortly, any concerns ACER may have about fixed clearing prices encouraging network users<sup>13</sup> to bid for long-term capacity to try and foreclose the market are misplaced. However, if concerns persist about adopting payable prices which are fixed for duration,

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<sup>12</sup> Because the cost of the capacity purchased is a sunk cost.

<sup>13</sup> Particularly dominant incumbents.

we could support TSOs being allowed to pre-define the extent to which clearing prices are allowed to escalate<sup>14</sup> each year in the auction invitation letter.

**7.1.3 Do you agree with the application of specified options regarding payable price to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?**

Yes, the payable price is only directly relevant to capacity at points which are subject to auction. Whilst capacity at all interconnection points will become subject to auction, in accordance with the CAM Network Code, not all capacity at national entry and exit points will be. Those which are subject to auction may need to adapt the payable price used in these auctions going forward to reflect principle applied at cross-border points, in order to avoid any due discrimination. Those which aren't subject to auction will invariably only allocate capacity year by year at the relevant reserve price, but to the extent capacity can be booked for longer periods they too will need to consider aligning the payable price.

**8. Incremental capacity (no explicit chapter in draft FG, implications at least to chapters 2/3 foreseen).**

**8.1. Please provide evidence of concrete problems with the current arrangements for incremental capacities, whereas these problems affect tariff structures in EU.**

Lack of transparency regarding the investment costs associated with incremental capacity and the methodologies for setting tariffs hampers network users' preparedness to commit to booking incremental capacity in open seasons. As such, network users can draw little comfort about whether tariffs against which they make binding commitments are reasonable, or how they may evolve over the length of time for which they are making commitments.

**8.2. Please therefore consider if harmonization, or partial harmonization of any parameters in the "market test" is appropriate within Tariffication principles at EU-level?**

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<sup>14</sup> Clearing prices could either escalate each year by a pre-defined index, such as inflation. Alternatively, limits could be set on the extent to which the clearing prices is allowed to vary +/- each year, which would ensure that those network users who acquired medium/long term capacity would be required to make some contribution to overall under/over recoveries.

How the market test is designed and how it interacts with the CAM Network Code are subjects to further discussion as part of the future development of the Gas Target Model. We do not think the FG or NC need to specifically include parameters relating to the market test. However, policy options taken in the FG/NC will be relevant to how the market test is designed (see our response to question 8.3 below).

**8.3. Are there any other elements required in the Network Code on transmission tariff structures, to accommodate incremental capacity offer (e.g. influence on regulatory accounts, regulatory periods length, requirement for a fixed for period of years tariffs).**

Incremental capacity, whether allocated through integrated long-term auctions under the CAM Network Code or via an Open Season, must be offered at a price which reflects the efficient cost of any investment necessary for TSOs to make it available. Use of a long-run marginal cost methodology, where different bid price steps are calculated for incremental quantities of capacity, is perhaps the most cost reflective way of achieving this objective. It also has the advantage of generating locational signals. ACER should consider including this objective in the FG and developing a Guideline of Good Practice on how best to establish a tariff methodology to ensure it is achieved.

The function of a market test is to establish a level of commitment for network users to book the extra capacity being made available, so as to underpin a reasonable proportion of the TSO's cost of investment and to avoid asset stranding. Clearly, there are a number of ways this can be designed. However, the evolution of tariffs over the duration of the network user's commitment will influence the way in which the market test is designed. If tariffs are fixed for the duration of the network user's commitment, TSOs can easily equate this to a discounted revenue sum and compare this to the discounted cost of making the investment. Under this scenario a market test could be based on these revenues achieving a certain percentage of the TSOs costs. However, if tariffs are expected to float<sup>15</sup> for the duration of the network users commitment to allow for under/over recovery and changes in price control parameters, TSOs will be less certain about the amount of revenue they will receive to underpin their investment costs. The design of the market test under this scenario may differ and could be based on the percentage of capacity booked, for example, or may require a different level of user commitment.

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<sup>15</sup> Albeit any auction premium may be fixed.

**9. Usage of locational signals (no explicit chapter in FG, implications at least to chapters 2/3/4 foreseen).**

**9.1 Please provide evidence of concrete problems with the current arrangements for locational signals.**

We do not have any evidence of problems with the current arrangements for locational signals, or lack of such signals. Logically, however, we suspect that physical congestion would be likely to be reduced if more TSOs adopted cost and tariff setting methodologies that take account of the main cost drivers, although there is no way of proving this.

**9.2. Are there any other elements required in the Network Code on transmission tariff structures to accommodate locational signals?**

No. As the Impact Assessment points out, locational signals will a priori automatically result from a cost-allocation methodology which takes into account the main cost drivers (such as distance). One such methodology is the long run marginal cost methodology used in Great Britain (GB) to determine entry and exit capacity reference prices. Such methodology, at least in theory, incentivises network users to flow gas in an optimally efficient manner, for example by producing low exit reference prices where exit points are located close to entry points and vice versa.

**9.3. Please consider whether the chapter on ‘Reference price’ should have more options added in regard to use of locational signals. Please consider specifically how tariff structures can be used to signal investment for e.g. gas-fired power plants, storages, LNG terminals, etc.**

Having decided against the need for full harmonisation of cost allocation and reference price setting methodologies across Europe, we do not think that it is necessary for ACER to add further options or proposals regarding locational signals in the FG. Member States who use long-run marginal cost methodologies for tariff setting will better incentivise users to flow gas optimally. Equally, tariffs may incentivise new gas-fired power plants, storage facilities and LNG terminals to locate at a point which supports efficient flow on the system.<sup>16</sup> However,

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<sup>16</sup> Clearly there will be limits on the extent to which this is possible as many other economic, technical and geographic factors influence where such facilities are sited.

tariffs in themselves should not be used to signal or incentivise investment in such infrastructures.<sup>17</sup>

#### **9.4 Shorthaul as a form of ‘locational signal’ in e/e systems.**

##### **9.4.1. Should the FG have a tariff structure in place to avoid the incentive for inefficient building of pipelines (to avoid the entry-exit system charges) described above?**

No. Amongst the many objectives and criteria in Section 1 of the FG which tariffs and/or tariff methodologies are expected to meet is one of providing incentives for efficient new investment. Rather than trying and pre-defining a specific harmonised tariff structure which attempts to achieve this rather nebulous objective, the FG and NC should simply include this as a stated tariff setting objective.

##### **9.4.2. How could this tariff structure be designed?**

We do not know.

##### **9.4.3. Should there, in order to address risk of cross-subsidies and discrimination - be a limitation on the capacities that can be “shorthaul capacities”? Based on expert advice on current EU-practices, following options are proposed:**

To the extent TSOs consider shorthaul tariffs to be appropriate in their national systems, they should be entitled to introduce them subject to their meeting the criteria defined in the FG and NC, which will apply to all entry and exit points. We do not think shorthaul tariffs should necessarily apply or be relevant to cross-border points and so, we are not convinced that shorthaul needs to be specifically provided for in the FG or NC.

#### **9.5 Specific treatment of LNG (if any) considered, in view of considering specific storage treatment (see questions under 2.4).**

We do not think any specific treatment or discount for LNG terminals should be included in the FG or NC (also see our response to question 2.4 above).

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<sup>17</sup> Investment in incremental transmission capacity, including at cross-border points, could be undertaken through an auction process, whereby TSO create incremental bid steps reflecting the marginal cost of incremental capacity against which network users can signal their demand. This process, with an accompanying pre-defined economic market test, has been used successfully in GB to provide incremental entry capacity to connect a number of new storage and LNG facilities. Also, the possibility of integrating such a process into the annual long term bundled capacity auction defined in the CAM Network code is currently under consideration. We very much welcome this discussion and support such an approach in principle.

**9.5.1. Do you think that tariffs for entry and exit capacity from the LNG terminal could incorporate a discount relative to other entry and exit tariffs on the TSO, similar to the proposed option for underground gas storage?**

No. See our response to question 9.5 above.

**10. Effects Entry-Exit Zone mergers & Virtual IPs (no explicit chapter in FG, implications at least to chapters 2/3 foreseen).**

**10.1. Please provide evidence of concrete problems with the current arrangements for mergers of entry-exit zones at national level.**

Mergers of entry-exit zones, on the face of it, will help to promote greater competition and liquidity. They were subject to considerable discussion during the development of the Gas Target Model. Any future mergers being considered should be taken forward separately, as standalone projects, with the full engagement of stakeholders. In our opinion, the role of the Framework Guidelines and Network Codes envisaged in the Regulation should not be to attempt to pre-empt or resolve the many potential issues and principles that will inevitably arise when merging entry-exit zones. Rather, their role should be to provide a sufficient level of harmonisation necessary across Europe for mergers to become more achievable. To this extent, we do not think that it is necessary or appropriate for the NC to specify the details and principles of how an inter-TSO compensation scheme may work in the event of future entry-exit zone mergers, for example, although clearly this will need to be agreed between the respective TSOs and NRAs before a merger could take place.

Whilst we welcome the benefits mergers of entry-exit zones can have on competition and liquidity, for example in Germany, they are not necessarily without costs or complications. The myriad of different firm, conditional and interruptible capacity products that have been created in Germany and the quality conversion costs imposed, are testament to the fact that merging entry-exit zones is not straightforward when underlying congestion still exists within and between these zones.

**10.2. Please advise, if there are alternatives or additional requirements within Tariffication setting harmonization steps, to accommodate 'Effects Entry-Exit Zone mergers' (once there). Please consider the Initial (draft) Impact assessment, when answering.**

We agree with ACER's decision not to include any harmonisation steps to accommodate the effects of entry-exit zone mergers in the FG.

**11. What additional tariff structure measures do you envisage could improve the network code?**

We think that the FG should rationalise the various objectives listed in Section 1.2<sup>18</sup> and distinguish between those which are considered to be primary objectives and those which are secondary objectives. In our opinion, the primary objectives of transmission tariffs should be to avoid both undue discrimination between network users and any detrimental effect on efficient trade.

The FG should also provide for the NC to include harmonised rules about how the payable price for bundled capacity shall be invoiced and in which currency (where currency differences exist on either side of the border). Ideally, this should take the form of one harmonised rule<sup>19</sup>, but as a minimum the FG should require the NC to provide for bundled capacity (in either direction of flow) to be invoice by a single TSO in accordance within a pre-agreed invoicing timetable laid out in the NC.

Finally, where entry and exit capacity is bundled at cross-border points and reserve prices are applied to bundled capacity products of different duration, it is essential that the entry and exit capacity making up the bundle provide network users with the same basic contractual rights. If firm or interruptible capacity on one side of the border has conditions attached to its use (for example, firm capacity may be conditionally dependent on temperature, quality, prevailing flows at other points or into a system as a whole) this undermines the basis for offering bundled capacity and for pricing it in a consistent manner across interconnection points.

**12. Please share below any further comments concerning the draft Framework Guideline.**

**Please comment on any factual incorrectness of the attached Initial (draft) Impact Assessment, if possible with specific page references.**

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<sup>18</sup> Invariably there will be conflicts between tariff objectives. The more objectives there are and without a hierarchy of objectives, the more confusion there will be and the greater the likelihood that tariffs will be designed to achieve specific purposes, which may not be efficient from a cross-border perspective. Some of the objectives could be said to partially overlap (e.g. taking into account the need for system integrity and its improvement and providing incentives for efficient investment; facilitating efficient competition and non-discrimination). Also, some of the objectives are unclear, e.g. maintain or create interoperability of transmission networks (we suspect this is referring to tariffs for gas quality conversion, in which case a specific principle on this point may be more appropriate).

<sup>19</sup> We suggest bundled capacity charges should be calculated in Euros or the local currency of the entry point and invoiced by the TSO providing the entry element of the bundled capacity product, monthly in arrears.



We are not aware of any obvious factual incorrectness, although as a trade association our analysis of the issues covered cannot be expected to be as detailed or comprehensive as that included in the Brattle Report, on which the Impact Assessment is predominantly based.