



**EFET Comments on  
Revised Draft Framework Guidelines  
on Rules Regarding Harmonised Transmission Tariff Structures for Gas**

The European Federation of Energy Traders (EFET)<sup>1</sup> welcomes the opportunity to provide further comments on the draft Framework Guidelines on Tariff Harmonisation. We are pleased that the Agency for the Cooperation of Energy Regulators (ACER) has taken account of some of the comments we made in our response to the recent consultation. ACER's thorough consideration of the complex issues involved, along with its openness and willingness to engage with stakeholders in order to better understand their views, is much appreciated.

Nevertheless, we continue to have a number of concerns about aspects of the revised draft Framework Guidelines. These are summarised below, by section heading. Our views are largely unchanged from those expressed in our response to the recent consultation, except where highlighted below. We would urge ACER to consider these latest thoughts in conjunction with our previous response, which for ease of reference we have included along with this response.

### **Section 2: Indicators**

We support the inclusion of the additional text on indicators. This will help the Agency in monitoring whether the goals of the Framework Guidelines are being achieved when the Tariffs Network Code is implemented.

Whilst the information described relates to data exchanged between ACER and ENTSOG, aspects of this will be equally relevant to shippers and so could equally form the basis of information released to shippers under Section 3 (Transparency). For example, the percentage changes in tariffs, the amounts of under/over recovery and the size of the regulatory account will be important information which helps shippers to estimate and understand tariff changes. In order for ENTSOG to be able to provide such information to ACER, individual TSOs must be bound by an obligation to provide such information to ENTSOG.

### **Section 3: Transparency**

We welcome the fact that the revised text now specifically recognises the objectives of shippers being able to:

- Make reasonable estimations of pricing calculations and tariff evolution,
- Understand the TSOs services rendered and the corresponding tariffs, and
- Understand how individual tariffs have been derived and why they may have changed.

We are also pleased to see that our suggestion of a minimum notice period for tariff changes has been adopted. We can accept 30 days as a minimum notice period<sup>2</sup> provided that the size of tariff changes is limited. If significant<sup>3</sup> tariff changes were allowed by the Framework Guidelines, then we would typically expect NRAs/TSOs to meet longer notice periods (say 60 or 90 days) and for that to be set out in the Framework Guidelines.

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<sup>1</sup> 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).

<sup>2</sup> Following final NRA approval of the tariff changes

<sup>3</sup> To the extent the concept of "significant" tariff changes or under/over recoveries are prescribed elsewhere in the Framework Guideline this concept could be applied here.

Clearly the information described in Section 3 will be necessary to ensure shippers are able to estimate pricing calculations and understand tariff changes and evolution. Publishing it in a standard format (as developed in the Network Code) is also a positive step. However, this information should not be seen as being exhaustive and to the extent other information is necessary to enable shippers to achieve the prescribed objectives, this too should be published.

All information should be published in the local language and in English, not just information regarding methodologies. Also, consistent with the wider obligations on TSO transparency in Regulations 715/2009 and 1227/11, relevant information, for example load flow commitments, should always be published on an individual TSO basis.

Finally, as regards incremental capacity, we agree that the Framework Guidelines should recognise the need for transparency around tariff levels, inputs and evolution. Shippers will ultimately be expected to make binding commitments on the basis of this information. However, the format of this information<sup>4</sup> and its interrelationship with an economic test will need to be finalised during forthcoming discussions on incremental capacity.

#### **Section 4: Cost Allocation**

ACER's proposal to move away from a 50%/50% default entry/exit split with NRA discretion to adopt a more cost reflective split where appropriate, in favour of widening the range of the entry split to 25%-50%<sup>5</sup> whilst removing the right of NRAs to deviate from this rule, is, in our opinion, a sensible and pragmatic step.

ACER appear to have taken due account of the potentially disruptive and distortionary impact a 50%/50% split could have on tariff levels, including those applying to existing capacity contracts. Based on the information presented at Consultation Workshop on the 23<sup>rd</sup> January, widening the range of the entry split should lessen the potential for disruption and distortion.<sup>6</sup> It will also allow NRAs more flexibility to address problems caused by stranded assets, for example through greater use of socialisation.

We also cautiously welcome ACER's new proposal to require TSOs to publish a comparative test for expected revenues to be recovered from domestic and cross-border network usage. Clearly this is designed to avoid cross-subsidies between these two categories of network usage, which anecdotal evidence suggests could be a significant problem in some parts of Europe, and is designed to supplement the entry/exit split. However, designing the comparative test may not be as straight forward as it first seems. Attributing costs and/or revenues to domestic and cross border network usage in meshed networks requires careful consideration. A consistent approach will be required by all TSOs/NRAs if the test is to have any real benefit. As for what is a reasonable margin of difference between the two ratios, we think that the example used by ACER of 5% may be too low bearing in mind the

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<sup>4</sup> Shippers need to receive sufficiently detailed information regarding TSOs investment to enable them to make a judgement about the efficiency of the investment and resulting tariffs.

<sup>5</sup> Even 20% - 50% may be appropriate

<sup>6</sup> We expect the accompanying Impact Assessment to elaborate on this further. Early visibility of the Impact Assessment would help stakeholders to provide more informed views on this policy option.

complexity and very different characteristics of TSOs systems. A 10% difference<sup>7</sup> may be more appropriate.

As regards storage facilities, we agree that gas flowing into and out of storage facilities should, in most cases, already have been subject to an entry or exit capacity charge<sup>8</sup>, albeit one not necessarily paid by the storage user itself<sup>9</sup>. This should be appropriately reflected in each of the different national tariff methodologies used to set storage transmission tariffs charge. However, we are not convinced it is appropriate, or practical, to adopt a “one-size-fits-all” approach. To ensure a reasonable degree of cost reflectivity and avoid cross-subsidisation, consideration must be given to the actual costs that injecting/withdrawing gas into/from storage facilities impose on the system, which may vary greatly in different entry/exit systems. Therefore, we do not support a methodology regarding capacity and/or commodity base charges being developed within the Network Code. Nor do we support the alternative form of wording proposed.

### **Section 5: Revenue Recovery**

We welcome the fact that the Framework Guidelines now recognise that, at least at interconnection points, under/over recovery of entry/exit capacity revenues will be addressed through adjustments to future capacity charges, not through a separate commodity charge. This is consistent with our view that once the bundled reserve price is paid shippers should be able to trade at the virtual point without any additional fees<sup>10</sup>.

However, we are surprised that ACER continues to propose that TSOs should have a single regulatory account for all revenue under/over recovery. The fact that the Framework Guidelines suggest that NRAs might use alternative methodologies to reconcile the regulatory account for domestic points compared to that used at interconnection points, suggests ACER envisage some degree of sub-division within the regulatory account. A single regulatory account could institutionalise a level of cross-subsidy between entry and exit users and between domestic and cross-border network users, which seems inconsistent with the core regulatory functions of ensuring tariffs are cost reflective and non-discriminatory. We think that the regulatory account should be sufficiently sub-divided so as to allow for the possibility of targeting under or over recoveries back to the users whose activities were responsible for generating them.

### **Section 6: Reserve Prices**

Of all the sections of the Framework Guidelines, the section on reserve prices is the one about which we continue to have by far the most concerns. ACER have not gone

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<sup>7</sup> Using 10% as a level above which price changes, cost/revenue disparities and under/over recoveries are regarded as significant is something we could notionally support at this stage.

<sup>8</sup> All gas in storage, will have entered into the network at an entry point (typically paying an entry capacity fee) and will ultimately exit the network through an IP, distribution network or consumption exit point (typically paying an exit capacity fee). To the extent that short term day-ahead or within day entry/exit capacity multipliers at IPs or national entry points are zero, this may not actually be the case, although proving it is virtually impossible in an entry/exit system with multiple users.

<sup>9</sup> For example, if a shipper buys gas for injection, or sells gas withdrawn at the virtual trading point

<sup>10</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.

far enough in addressing the concerns we expressed previously about complexity and the possible systemic distortion to cross-border trade arising from multipliers and seasonal factors operating in tandem.

Clearly the risk of under/over recovery is an important concern and we agree that the determination of the reference prices for interconnection points and the regulated prices for other points should seek to minimise any gaps between the revenues which the TSO is entitled to obtain and the revenues actually obtained. However, under/over recovery can only be measured ex-post. As such, there is a significant risk that by continuing to give NRAs significant discretion to set multipliers for short term entry/exit reserve prices ex-ante, in anticipation of under/over recovery occurring, there will be no opportunities for the market to signal what value it attributes to short term bundled capacity. This will perpetuate barriers to efficient hub-to-hub trading.

The Framework Guidelines, by proposing floating reserve prices as the basis for the prices paid in past and future bundled long term and short term capacity auctions, have already established a mechanism for managing under/over recoveries ex-post. With this in mind, it seems disproportionate to allow NRAs to set ex-ante multipliers for short term capacity greater than one and to then potentially compound any distortion by introducing seasonal factors (which could exceed the 1.5 cap imposed on multipliers).

We accept that ACER have gone some way towards trying to restrict the extent to which multipliers and seasonal factors are applied, by linking them to the expectation of significant under and over recovery and to improving system efficiency. We also recognise that the methodologies determining how they are applied will be developed within the Network Code. However, we still think there is a strong likelihood of them being applied differently either side of an interconnection point.<sup>11</sup> This seems inconsistent with the principle that entry and exit capacity which is allocated on a bundled basis should be subject to the same conditions, and have the same rights associated with it. Also, the conditions under which multipliers and seasonal factors are applied still remain vague and the prospect of them being adjusted during the course of the year does not seem to be ruled out, both of which would distort trading in commodity markets.

As regards interruptible and non-physical backhaul capacity, ACER appear to have discounted our view that these should have a zero reserve price. Under the CAM Network Code, interruptible capacity is only ever likely to be released on a day-ahead or within day basis once all firm capacity has sold out. The reasons for interruptible capacity being interrupted therefore relate only to unforeseen outages, short term congestion and changes in the nominations and renominations of other users. All of these factors are inherently unpredictable and not necessarily ones on which NRAs/TSOs can easily make probability assessments. Similarly, the reasons for non-physical backhaul capacity being interrupted will be determined by the same circumstances, although the risk of interruption will differ. Because the reasons for interruption of these two products are the same and are inherently unpredictable, we

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<sup>11</sup> Different NRAs/TSOs may apply different multipliers for the same capacity period and different average multipliers for the year as a whole. Also, the system efficiency criteria used to justify the application of a seasonal factor may apply in one market but not in another depending on network topology and flows.

still think there is a strong case for applying a zero reserve price to both of them<sup>12</sup>. This will not make under recovery any more likely. But, to the extent any other reserve prices are applied, these could reduce the likelihood of such capacity being used to by shippers to optimise the efficient flows of gas between markets.

### **Section 7: Payable Price**

We can accept that the payable price of bundled capacity sold for periods in excess of one year should not remain fixed for the duration because we see merit in adopting floating reserve prices as a means of equitably managing under and over recovery. However, our support for this approach requires that the Framework Guidelines include some pre-defined escalation criteria,<sup>13</sup> and/or a cap, on the extent to which floating reserve prices are able to vary year on year. For example, if the concept of a significant change<sup>14</sup> is established elsewhere in the Network Code, year on year tariff changes could be capped in relation to this definition of significance and applied with the minimum notice period. This would provide those shippers who book long term capacity with a reasonable understanding of tariff evolution or of the worst case tariff escalation scenario. It would also lessen the likelihood of a flight to short-term capacity booking that may exacerbate under-recovery and undermine long-term investment signals.

Finally, as regards the last paragraph of this section relating to incremental capacity developments, we assume that any adjustments NRAs may decide to make to the payable price will apply to the reserve price element only, not to the fixed premium determined at the time of the auction (if any). Also, as regards footnotes 11 & 12, by specifically referring to reserve prices for capacity products more than 3-4 years ahead not being set at the time of the auction, this could be construed as meaning that reserve prices for capacity product up to 3-4 years ahead could be set at the time of the auction and fixed throughout this period. We do not think this is ACER's intention. As long as the concept of floating reserve prices applies we assume that the reserve price will always be subject to potential variation year on year. To the extent any reserve prices are published at the time of the auction for periods beyond the first year in question, we assume these will be for indicative purposes only.

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<sup>12</sup> Whilst the risk of interruption of non-physical bakchaul capacity is likely to be lower than for interruptible capacity, it would still be legitimate to apply a zero reserve price as the alternative methodology based on the actual (marginal) cost of providing the service is also likely to be very low.

<sup>13</sup> For example, inflation, although clearly this could differ either side of an interconnection point

<sup>14</sup> See footnote 6