ACER

Agency for the Cooperation of Energy Regulators

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ACER Public Consultation on Scope and main policy options for Framework Guidelines on Harmonised transmission tariff structures

Evaluation of responses

Agency for the Cooperation of Energy Regulators
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Table of Contents

1 Introduction

On 8th February 2012, the Agency for Cooperation of Energy Regulators (ACER) launched a public consultation on the Scope and main policy options for Framework Guidelines on Harmonised transmission tariff structures for the European Gas Transmission Network. The purpose of this consultation was to collect the views of the stakeholders in order to develop the Framework Guidelines pursuant to Article°8(6)(k) of the EC Regulation 715/2009.

The public consultation launched by ACER sollicited feedback from various stakeholders on the scoping document as published on 8th February 2012 on ACER's website. The public consultation lasted six weeks and closed on 26th March 2012.

The scoping document was based on the former work of ERGEG and ACER, which has been developed in the course of 2010 to 2012.

The consultation on the Scope and main policy options for Framework Guidelines on Harmonised transmission tariff structures resulted in a total of 38 responses, out of which one was confidential. ACER's evaluation will a priori only address those responses, where confidentiality of content has not been claimed by the stakeholders. Out of 38 responses 13 associations and 6 Transmission System Operators (TSOs) have responded to the public consultation. The Annex lists the names of all the respondents who agreed to reveal their identity including their country of origin and the nature of activity.

2 Responses

The ACER public consultation aimed to collect the views of the stakeholders on the scope and policy options for the Framework Guidelines on Harmonised transmission tariff structures in general and addressed particular questions to the stakeholders.

Where relevant and practical, ACER has provided the number of respondents that agreed or disagreed with ACER's proposals in the scoping document (e.g. *"18 respondents agreed with the proposed scope."*). It should be noted that this does not mean that the remaining respondents disagreed with the proposal, unless otherwise stated. Respondents may have chosen not to respond, or may have commented instead.

The following table provides an exhaustive analysis on the non-confidential responses received in the consultation and focuses on key issues raised by the respondents, in compliance with Article 10(3) of Regulation (EC) No 713/2009.

Respondents' feedback on the consultation doc	ACER's views
1. General comments	
2. Issues, objectives and ACER approach	
Question 1: What other issues should be dealt with in this framework guideline? What is the evidence for including these issues? Please give a detailed answer.	
Most stakeholders agreed with the issues mentioned in the Public Consultation document. However, significant number (14) of stakeholders, including Eurogas, Eurelectric, OGP, Gas Forum and AEP, asked for the inclusion of the efficient development of the network, i.e. reserve prices for incremental capacities, in this Framework Guideline. Some respondents underlined that stability of tariffs should be one of the overall goals. Some respondents asked for establishing a proper monitoring scheme for tariffs to allow benchmarks. Centrica energy and Gas Forum urged ACER to address how FGs/NCs shall apply to merchant interconnector pipelines such as IUK and the BBL. Some respondents asked for giving more guidance on which TSOs shall be in charge of charging tariffs for bundled products. Furthermore, some stakeholders asked for more guidance for all products which have relevance for IPs, as conversion services (L-gas to H-gas). The issue of dealing with currency differences was raised as well. EDF asked for avoiding undue discrimination between incumbents and new entrants regarding access to capacity and the price being paid. Two respondents (Uprigaz and FGSZ LTD) requested that the FG should deal with the allocation/usage of auction revenues between adjacent TSOs. Two respondents (E.ON AG, Gas Forum) asked ACER to consider also negative tariffs. Wingas asked for addressing the possibility to cancel capacity contracts in case of substantial tariff increases.	ACER welcomes the support for the issues identified, including suggestion to address issue of (tariff structures for) Incremental capacity. ACER will launch a study in autumn of 2012 to study the issue. ACER agrees that non-discrimination is one of the objectives to be followed when establishing a Framework Guideline on harmonised transmission tariff structures (further referred here as 'FG') as well as effective competition and to the efficient functioning of markets as outlined by the Gas Regulation. Furthermore, ACER notes the views of some respondents over having tariff stability as a goal, as well as with the idea to more closely monitor the transparency obligations stemming from Regulation (EC) 715/2009 regarding tariff structures. Concerning which TSOs shall be responsible for charging tariffs for bundled products, ACER doesn't see a need for further guidance and considers this can be left to the choice of TSOs. However, ACER will closely monitor the concrete developments to ensure that bundled products are properly designed and offered to the market. ACER acknowledges the proposal to analyse the possibility of negative tariffs. ACER wants to underline, however, that cost recovery has to be ensured in all circumstances and that the concept of negative tariffs refers to a specific approach at a level of an integrated system, i.e. in LRMC approach when the background principle for tariff design is whether some additional capacity promotes a more efficient use of the network. Tariffs may be negative when the cost reductions due to new flow patterns are higher than the cost of investment. Such an approach does not e.g. seem appropriate for pricing cross-border interconnections. ACER notes preference for more guidance on conversion services and the application of network codes to pipelines with an Article 36 exemption. However, since these are rather locational issues compared to issues which arise in the whole EU the Framework Guidelines for whole of EU is not considered as the right place to address these issues. ACER addressed the scope issues in chapter 1 of the draft FG.
Question 2: What are the most important problems that relate to tariff structures? Do the problems identified by you relate to the lack of harmonised approaches?	

<table>
<tr><th>Respondents' feedback on the consultation doc</th><th>ACER's views</th></tr>
<tr><td>The respondents raised the following problems:
Lack of transparency; stability and uncertainty leading to a reluctance for the shippers to make long term commitments
Discrimination/cross-subsidies between different categories of network users/usage (domestic versus cross border, long term versus short term, pipeline and LNG terminal users)
Under- or over-recovery of the allowed revenues
Unfavourable investment conditions
Pricing of interruptible capacity
Inconsistent pricing methodologies at IPs
Shifting of costs to cross-border IPs
Inefficient use of system
Complexity of tariff systems
Limited size of entry-exit zones
Lack of 3rd package implementation
Tariffs pancaking
Tariffs for virtual entry/exit points</td><td>ACER would like to thank stakeholders for giving such detailed answers to this question.

Some of the identified problems, i.e. the lack of 3rd package implementation, investment conditions in general and the determination of the size of entry/exit zones, are clearly out of the scope of a FG on Harmonised Transmission Tariff Structures.

In ACER's view specific problems that result from differences in tariff methodologies between TSOs are: differences in cost allocation, non cost-reflective pricing, distortion of competitiondistortion of short-term cross-border trading, . differences in pricing of non-physical backhaul capacity and interruptible products, different treatment of gas storage tariffs and the lack of transparency.

ACER addressed the scope issues in chapter 1 of the draft FG.</td></tr>
<tr><td colspan="2">Question 3: Based on the Gas Regulation, are there further principles to be added?</td></tr>
<tr><td>Many respondents (see also analysis to question 4) asked for including principles to deal with incremental capacities.

Some respondents asked for considering incentives to attract gas to flow to Europe, i.e. Security of Supply issues.

ENTSOG furthermore, asked for including system integrity to the list of principles.

Several respondents asked for expanding the competition principle to "tariffs for network access shall neither restrict liquidity nor distort trade across borders of different transmission systems".

One respondent (IFIEC/CEFIC) asked for considering the cost-carrier of gas.

Shannon LNG respondent asked for deleting "undue" when talking about discrimination since the Regulation is very clear on this.</td><td>ACER will consider the issue of reserve price for incremental capacities in the Framework Guideline on the basis of the impact assessment.

ACER will address the relation between security of supply and tariffs insofar it concerns the efficient use and development of gas transmission networks, however, the FG on harmonised transmission tariff structures will not address issues which are covered by Regulation (EG) No. 994/2009 since there is no legal basis for this in the Gas Regulation. ACER agrees to consider including the competition definition ("tariffs for network access shall neither restrict liquidity nor distort trade across borders of different transmission systems") as proposed by stakeholders as this is supported by Article 13(2) of the Gas Regulation.

Concerning discrimination, ensuring non-discrimination is a key objective of the framework guideline, through a fair treatment of all types of network users. See further chapter 1.1 of the draft FG.</td></tr>
<tr><td colspan="2">Question 4: How would you interpret the above principles and objectives? Which objective would you consider to be the most important for achieving an EU internal market for gas? How would you rank the rest of the objectives? Please provide justification.</td></tr>
</table>

<table>
<tr><th>Respondents' feedback on the consultation doc</th><th>ACER's views</th></tr>
<tr><td>According to the responses received the long-term stability of tariffs as well as transparency regarding tariff structures are the most important principles and objectives.

These are followed by non-discrimination, avoidance of cross subsidies, the recovery of allowed revenues, facilitation of cross-border trade, competition and cost reflectiveness.

Furthermore, significant number of respondents (22; including the following associations: Afg, OGP, IFIEC/CEFIC, GIE, ENTSOG, Eurogas, Eurelectric, Energie Nederland, EFET) urged for principles to ensure efficient investments to take place.</td><td>ACER confirms that transparency is a key objective and is aware of the importance shippers give to tariff stability. ACER considered and clarified the objectives in chapter 1.2 of the draft FG.</td></tr>
<tr><td colspan="2">3. Proposed scope and application</td></tr>
<tr><td colspan="2">Question 5: What are your views on the proposed scope and application regarding:
-Entry and exit points
-Determination of the annual reference price
-Mechanisms to deal with over- and under-recovery of allowed revenues and the definition of the clearing price?
Please justify your answer.</td></tr>
<tr><td>Respondents were split over this question.

For many respondents (including the following associations: Afg, Aep, EFET, Eurelectric, Gas Forum, Uprigaz) the scope of the FG Tariffs should be consistent with the scope of the CAM NC.

Many respondents (12; namely: BP, Energie Nederland, Eni, Enagas, ENTSOG and GIE, Exxon Mobil, FGSZ, Gas Natural Fenosa, IFIEC/CEFIC, OGP, Shannon LNG) did ask for including not only cross-border IPs but also all other entry-exit points.

Furthermore, some respondents did ask for considering entry points from LNG (3) and storage facilities (2), especially for the application of the tariffs transparency and avoidance of cross-subsidisation.</td><td>Ensuring consistency with the CAM network code was a first principle. However, since tariff structures involve all the entry and exit points of transmission systems, ACER is of the view that the framework guidelines shall a priori concern all entry or exit points of gas TSOs, irrespective of whether they are physical or virtual. The letter sent by the Commission confirms this approach, which does not mean that identical rules will apply to all the points.

ACER specifies scope in chapter 1 of the draft FG.</td></tr>
<tr><td colspan="2">Question 6: Regarding the issue of compensation payments between TSOs within cross-national entry-exit zones, do you consider that:
i. No harmonisation is required.
ii. The rules establishing compensation payments should be harmonised at EU level.
iii. Guidelines of good practice on the issue would suffice. Please provide guidelines suggestions.
iv. Other option: ______________________________. Please provide justification.
v. I don't know.</td></tr>
<tr><td>This is an area where respondents doubt need for EU-wide harmonisation. A significant number, nearly 50%, of respondents (including the following associations: Aep, EFET, Energie Nederland, Eurelectric, Gas Forum) were in favour of rather introducing voluntary Guidelines</td><td>ACER acknowledges the view of respondents. One might argue that it is too early to regulate cross-national entry-exit zones, however, it might be very well appropriate to set already now rules to avoid difficulties or problems in the future when cross-national entry-exit zones will be implemented. In this respect ACER would also like to remind stakeholders that in two of the ACER Gas</td></tr>
</table>

Respondents' feedback on the consultation doc	ACER's views
of Good Practice.	Regional Initiatives projects on possible cross-national entry-exit zones are being elaborated. With this background, ACER will consider this issue in the Framework Guideline on the basis of the IA.
4. Policy options	
4.1. Concepts for the determination of reference price	
Question 7: Do you agree that reserve prices shall be based on reference prices as described above?	
Respondents did agree that the reserve price shall be based on the reference price as described.	ACER welcomes the positive comments from respondents regarding using the reference price to set the reserve price for the firm annual standard capacity product and, for that price to be used as the basis for setting other reserve prices.
Question 8: Which option would you find appropriate to determine the reference price? Please justify your answer.	
A significant number of respondents favoured an actual cost approach (16; Edison, ENEL, IFIEC/CEFIC, OGP, Eni, AFG, Energie Nederland, JP Morgan, EFET, Eurogas, Mutual Energy, GDF Suez, Exxon Mobil, FGSZ, Shannon LNG, Vattenfall) over a long run marginal costs approach (6; Aep, SSE, Shell Energy Europe, Gas Forum, Statoil, Galp Energia). A significant number of (16) respondents (including the following associations: ENTSOG, EFET, Eurelectric, Uprigaz) acknowledged the pertinence of the two concepts. Some of them indicated that the LRMC methodology can deliver market signals to promote investments but remains very complex to implement. The actual costs methodology is perceived as more appropriate to secure cost recovery for the TSOs and has the advantage of simplicity. One respondent (Gas Natural Fenosa) argued that the LRMC approach requires further study before considering its expansion to the rest of Europe. Three other respondents (Galp energia, Gas Forum, Statoil) expressed the need for some modelling in order to enable the comparison of price effects between LRMC and actual costs. The relationship between Cost Concepts and Cost Allocation Methodologies was underlined by some of the respondents, claiming that the locational signalling of LRMC would become ineffective with the use of equalization in cost allocation. Some shippers indicated that different cost concepts require adequate cost allocation methodologies. Among these, 4 see greater advantages in actual costs but claim that LRMC should still be available, and 1 energy company (Statoil) has a	ACER acknowledges that from responses no clear support for full EU-wide harmonisation of cost concepts as basis for setting Reference price can be distilled. In any case, the cost concepts have to be clarified, in particular as far as long run marginal cost (LRMC) concept is concerned. Different approaches can indeed be developed, either using LRMC as a cost allocation methodology or as a way to calculate a cost basis for a transmission services based on investment needs. The need for harmonisation and the preferred approach depend on the definition we choose. ACER notes the importance to have, beyond cost concepts, some cost allocation methodologies which are compatible together and contribute to achieving the general objectives of the framework guideline.

<table>
<tr><th>Respondents' feedback on the consultation doc</th><th>ACER's views</th></tr>
<tr><td>preference for LRMC while indicating that actual costs should also be an option. 3 of the respondents indicating a preference for actual costs claimed that LRMC should be used for tariffs of incremental capacity. 1 energy company (BP) claimed that LRMC should be used for large systems with constrained routes in order to give locational signals, while Actual Costs is more adequate in smaller systems with fewer alternative routes. The rest of those seeing benefits in both options claimed that the choice should be available as different cost concepts suit different national systems, and that the benefits of each of these options still need to be weighed on a case by case basis. ENTSOG in particular considers that the choice of a cost concept should be dependent on each national system.

Among the advantages of the LRMC methodology cited by respondents we can count: economic allocative efficiency, locational signals, and the delivery of market signals to promote investments. However, even proponents of LRMC acknowledge that it could be very complex to implement. For example, they cite the lack of a uniform, easily applicable calculation methodology for LRMC, the challenges of its implementation in a cross-border setting, and the problems it causes for cost-recovery, which could lead to the extensive use of under-recovery mechanisms. The proponents of the actual costs methodology claim that it is more appropriate to secure cost recovery for the TSOs and has the advantage of simplicity, as it is a commonly understood methodology among all TSOs. This is perceived to be very beneficial in a cross-border setting. Its critic claims it lacks allocative efficiency and of locational signals.</td><td></td></tr>
<tr><td colspan="2">Question 9: Regarding the cost concepts, do you consider that:
i. No harmonisation is required.
ii. The rules should be harmonised, along the following lines: ___________________________. Please provide justification.
iii. Guidelines of good practice would suffice, along the following line: ___________________________. Please provide justification.
iv. Other option: ___________________________. Please provide justification.
v. I don't know.</td></tr>
<tr><td>13 respondents (including the following associations: AFG, Energie Nederland, Eurogas, OGP) were in favour of an EU wide harmonisation. 9 respondents (including EFET, Gas Forum, Centrica energy, EDP, Enel, E.ON AG, Galp energia, FGSZ, Mutual Energy,) also</td><td>ACER acknowledges the view of respondents regarding the need for some harmonisation. However, responses to this question cannot been seen in isolation but will need to be viewed in relation with responses to questions 8 and 10.</td></tr>
</table>

Respondents' feedback on the consultation doc	ACER's views
argued that the harmonization of the cost concepts in the framework guideline should be accompanied by voluntary Guidelines of Good Practice notably ensuring that the costs calculations are transparent. 9 respondents (3 energy companies,1 TSO, 5 associations EFET, ENTSOG, Eurelectric and IFIEC/CEFIC) are against harmonization. Among these respondents, 3 claimed that Guidelines of Good Practice should be used instead of harmonization. However, some respondents argued it is too early to have a firm view on this issue. Considering that several respondents who called for harmonization of cost concepts had also called for the availability of both cost concepts, it is not clear that respondents favouring harmonization are in favour of an uniformisation of cost concepts across Europe. This is even clearer given the fact that a large majority considers that both cost concepts can coexist in a bundled product, as stated in question 10.	
Question 10: Could two different cost concepts be applied on the two sides of an interconnection point without hindering cross-border trade? Please justify your answer.	
17 respondents (including the following associations: Gas Forum, Eurelectric, IFIEC/CEFIC, Energie Nederland, ENTSOG and OGP) stated that two different cost concepts can be applied on the two sides of an IP. Reasons cited for this include that this reflects the current situation in Europe, and that there is no evidence that the use of cross-border exchanges with different cost concepts as is currently taking place in Europe has had any negative effects on trade. However, some proponents of LRMC claim that the use of both cost concepts in a bundled product would distort the locational and allocative signals given by LRMC.	ACER acknowledges the view of respondents that two different cost concepts can be applied on the two sides of an IP, however by 1 of the consulted in expert group experts this has been identified as potentially a problem, which might impede cross-border trade. At this stage ACER does not have a clear evidence that cost concepts need to be harmonised and included this issue within the first version the draft FG. It remains however open to further analysis. See chapter 2 of draft FG.

<table>
<tr><th>Respondents' feedback on the consultation doc</th><th>ACER's views</th></tr>
<tr><td colspan="2">4.2. Cost allocation methodology</td></tr>
<tr><td colspan="2">Question 11: Regarding the issue of cost allocation, do you consider that:
i. No harmonisation is required.
ii. Methodologies for allocating a TSO's costs between cross-border and domestic usage should be harmonised across Europe.
iii. Methodologies for allocating a TSO's costs between cross-border and domestic usage should be established on a more local basis, in combination with guidelines of good practice.
iv. Are there any other ways of allocating the TSO's costs in a harmonised or local way which should be considered, focusing on the allocation of costs between cross-border and domestic usage?
v. If cost allocation methodologies are to be set on a local basis, do you agree with the criteria set out above for assessing the methodologies?</td></tr>
<tr><td>A significant number of respondents (19; including the following associations: AFG, EFET, Eurogas, IFIEC/CEFIC, OGP, Uprigaz) prefer harmonisation across the EU. ENTSOG, the majority of the responding TSOs, as well as the associations such as OGP, Eurelectric, Energie Nederland, Gas Forum opted for no harmonisation or voluntary GGPs. ENTSOG claimed that cost allocation methodology depends on national characteristics and that no need for harmonization has been observed.

Overall, 17 respondents claimed that cost allocation methodologies should follow a framework allowing for the avoidance of discrimination and cross-subsidies, particularly between cross-border and domestic transport, and between entry and exit tariffs.

In general respondents did urge for a pragmatic approach towards cost allocation methodologies indicating that locational/national specifities might justify different approaches, but highlighted also that they might need more information on possible methodologies to come to a better understanding of this issue (Eurelectric, Eurogas, Energie Nederland).

However, 10 respondents tempered their answers by asking for limited harmonization addressing only the broad framework or a particular set of issues, namely the avoidance of discrimination and cross-subsidization. Thus, the majority called for a harmonized non-discriminatory framework but not for uniformization

11 considered that different methodologies can coexist if they meet the objectives identified in the PC document and are compliant with pre-identified criteria. The equalisation approach received some support from respondents, including EFET, Gas Forum, GIE, ENEL, Shell Energy Europe, Vattenfall, Wingas, Mutual Energy. The individual cost-based approach was</td><td>ACER is aware of the complexity of cost allocation and agrees with respondents that a careful approach has to be taken when harmonising cost allocation methodologies across the EU. However, it looks at potential guidelines to minimise the drawbacks of lacks of harmonisation in this area.

ACER addressed the issue in Chapter 2 of the draft FG.</td></tr>
</table>

Respondents' feedback on the consultation doc	ACER's views
supported by two respondents (Energie Nederland and GDF Suez). The distance to the virtual trading point approach was preferred by Aep and SSE. Some respondents brought forward the idea that cost allocation mechanisms should be consisted with the cost concepts chosen, while another respondent claimed that cost allocation mechanisms should be consistent with short-term reserve prices.	
Question 12: Do you consider potential cross-subsidies as a concern in relation to the coexistence of different cost allocation methodologies? Please provide justification.	
A significant number of respondents (23) agreed that the potential for cross-subsidies is a concern. However, some (4; OGP, Exxon Mobil, ENTSOG, Enagas) argued that cross-subsidies to a certain extent have to be accepted in entry/exit systems.	ACER agrees with the views expressed by stakeholders. A degree of cross-subsidies is an inherent consequence of entry/exit systems and that concern needs to be addressed. ACER believes the current draft FG addressed these concerns to a sufficient degree.
4.3. Reserve price structure	
Question 13: Regarding the issue of reserve prices for short term products, do you consider that: i. No harmonisation is required. ii. The rules should be harmonised, along the following lines: ____________________________. Please provide justification. iii. Guidelines of good practice would suffice, along the following line : ____________________________. Please provide justification. iv. Other option: ____________________________. Please provide justification. v. I don't know.	
Respondents (30; including all responding associations with the exception of Gas Forum and GIE) were in favour of an EU harmonisation regarding the issue of reserve prices for short term products. If all respondents are being considered, almost 80 % (including the following associations: EFET, ENTSOG, Eurelectric, Eurogas, IFIEC/CEFIC and OGP) were in favour of this option, from the TSOs also the majority was in favour of EU wide harmonisation, including ENTSOG, however one (Mutual Energy) argued also for voluntary GGPs. In addition, 4 respondents opted for voluntary GGPs, 3 see no need for harmonisation at all.	ACER notes the clear support from stakeholders on this issue to proceed with EU-wide harmonisation. ACER considers in particular that such harmonisation is consistent with the principles established by the CAM network code. ACER addressed the issue in Chapter 4 of the draft FG.
Question 14: What are your views on the proposed policy options? Would you suggest other options? Please provide your reasons.	
Question 15: What are in your view the advantages/disadvantages of each of the options?[1]	

[1] The analysis for questions 14 and 15 is being done together.

Respondents' feedback on the consultation doc	ACER's views
The responses to questions 14 and 15 have to be seen in context to the affiliation of the respondents. From 38 responses, 13 associations, 15 established energy companies, 2 "new" comers, 6 TSOs and ENTSOG did respond. Around 55% of the respondents, including all TSOs and 6 associations (AFG, energie Nederland, Eurogas[2], IFIEC/CEFIC, Uprigaz, ENTSOG) and 8 energy companies (Edison, Enel, Eni, Gas Natural Fenosa, GDFSuez, Vattenfall, Centrica and JP Morgan[3]), and 1 LSO (Shannon LNG) did support the equivalence principle (option 4) brought forward by ENTSOG. In general a majority of respondents did express interest in this option. According to those in favour, this option stabilises TSO revenues, avoids cross-subsidies between long term and short term users, incentivises long term bookings and favours investments. The main cited disadvantages were the detrimental effect on competition, the arbitrary setting of multipliers, the inefficient use of capacities and the risk of over-recovery and thus windfall profits. However, some asked for further information on this proposal and argued that this option is detrimental to competition. Several respondents also mentioned that the multipliers should not be excessive in order not to hinder cross-border trade. Option 1, setting the reserve price proportionally to the yearly price, was as well supported by several stakeholders (9; including the following associations: Eurelectric, Eurogas[4], OGP). Some of them argued that this option has the advantage of simplicity, giving equal importance to all contract durations and limits the risk of revenue under-recovery. The main cited disadvantages were that this option lacks of cost reflectivity, leads to cross subsidies and might dampen incentives to book long term. Option 2, applying short run marginal costs, was explicitly preferred by two respondents (E.ON	ACER thanks stakeholders for their very helpful and detailed responses to these questions. ACER wants to recall that the establishment of the Internal Energy Market is the main goal to be achieved by the 3rd package. Furthermore, the Gas Regulation provides for high-level principles which every Framework Guideline should contribute to: non-discrimination, effective competition and the efficient functioning of the Internal Energy Market. Therefore ACER addressed the issue in Chapter 4 of the draft FG, allowing for balance between stimulating cross-border trade, and ensuring stable TSO revenues.

2 Eurogas did also support option 1.

3 Centrica and JP Morgan also supported option 1.

4 Eurogas did also support option 4.

Respondents' feedback on the consultation doc	ACER's views
AG, SSE), however a limited number of other espondents did also highlight advantages of this option. Option 3, multiplier smaller than 1 was only supported for within day capacity by one respondent (JP Morgan). Respondents supporting these two options argued that these choices would boost trade and lead to price convergence. They would however lead to revenue under-recovery due to a shift from long term to short term bookings. Two of these respondents (EFET with a caveat and E.ON AG) also called in general for a zero reserve price for within day and day ahead capacity products, Six respondents (including GIE) did not express a clear preference for one of the four options. For one energy company (BP), not in favour of harmonising the reserve prices for short term products, the setting of this price has to comply with two objectives: avoidance of "flight towards short term and avoidance of capacity hoarding". Two energy companies (Centrica and JP Morgan) and one EU association (Eurogas) equally supported option 1 and option 4, subject to further discussion on the size of multipliers to be used. For JP Morgan, option 1 does not disadvantage shippers committed on the long term and is also fair for new short-term entrants and option 4 protects the capacity holding of long term shippers. One energy company (SSE) and one national association (AEP) consider that option 1 provides balance between the needs for short term and long term users, but could potentially encourage more likely long term bookings than options 2 and 3. Option 2 may be the most cost reflective and encourage trading between zones but may deter long term bookings and have an impact on revenue recovery.	
Question 16: Should seasonal factors be applied?	
Respondents did not give a very clear steer on this question. For some it was too early to give a definitive response, however, 17 respondents did state that there might be merits in applying seasonal factors. Those respondents include Aep, AFG, Energie Nederland, OGP, Uprigaz, Centrica energy, ENEL, Eni, Exxon Mobil, Gas Natural Fenosa, GDF Suez, Shannon LNG, Enagas, ENTSOG, FSGZ, Mutual Energy and	ACER notes the views on seasonal factors given by respondents. ACER has suggested in draft FG to take account of seasonal factors where needed when setting a reserve price.

Respondents' feedback on the consultation doc	ACER's views
REN.	
Question 17: Regarding the issue of reserve prices for interruptible and non-physical backhaul capacity, do you consider that: i. No harmonisation is required. ii. The rules should be harmonised, along the following lines: ___________________________. Please provide justification. iii. Guidelines of good practice would suffice, along the following line: ___________________________. Please provide justification. iv. Other option: ___________________________. Please provide justification. v. I don't know.	
Similar to the responses to question 13 significant number of respondents was in favour of an EU wide harmonisation (23), including the following associations: Aep, AFG, EFET, Energie Nederland, Eurelectric, Eurogas, IFIEC/CEFIC. Some stakeholders (6), including Gas Forum as the only association, would favour GGPs instead of a FG/NC approach. Only 2 respondents (BP and ENTSOG) were strongly opposed to harmonisation through FG/NC. ENTSOG stated that given the uncertainties with respect to the design of interruptible products and CMP measures, the harmonisation of the reserve price for interruptible capacity seems not to be feasible at this stage. For BP, "flight from firm should be avoided". A significant number of respondents (20) supported a discount on the price of interruptible and non-physical backhaul capacity. Many actors considered that it should reflect the risk of interruption, as long as this risk is transparently evaluated. One actor raised the issue of risk evaluation: a discount proportional to the risk of interruption gives responsibility for risk evaluation to the TSO, while an ex-post reduction places this burden on shippers. While some proponents of a 0 reserve price for interruptible claimed that this option would allow for capacity to be sold without an allocation of this risk burden, critics claimed that this would not be cost-reflective and would hinder TSO revenue-recovery. Ex-post adjustments or justifications were proposed to address this concern. Concerning non-physical backhaul capacity, 17 actors proposed a discount and six actors (E.ON AG, EDF, Edp, Exxon Mobil, Shell Energy Europe) proposed a zero, or close to zero pricing for non-physical backhaul capacity as there are no significant operating costs. A large	ACER welcomes the clear steer from stakeholders on this issue, to harmonise reserve prices for interruptible and non-physical backhaul capacity. ACER addressed the issue in chapter 4.2 of the draft FG.

<table>
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<tr><td>majority of those calling for SRMC or a 0 reserve price claimed that only administrative costs are associated to non-physical backhaul, and in order for the reserve price to be cost-reflective, only these costs should be covered. If they are negligible, then they should be set at 0 for the sake of simplicity. Also, some respondents calling for a discount for non-physical backhaul claimed that, if the associated operating costs are close to 0, using a 0 reserve price should not be excluded.

Several respondents (including ENTSOG, FGSZ, Eustream and REN to a certain extent) were in favour of an ex-post reduction of the price of interruptible capacity (option 3).

Some respondents brought attention to the fact that interruptible and non-physical backhaul capacity should be treated separately, and that the definitions have to be clearly decided upon before deciding on their tariffs.</td><td></td></tr>
<tr><td colspan="2">4.4. Definition of the payable price</td></tr>
<tr><td colspan="2">Question 18: Would you suggest other options?</td></tr>
<tr><td>24 respondents did not suggest additional options.

Two additional options were suggested by stakeholders. The pay as bid approach (Gas Forum, E.ON AG) and an approach to reduce the uncertainty shippers face when bidding, in the event that the tariff payable when capacity is being used (Ty) is higher than the reserve price at the time of the bid (T0), the premium could be reduced by an amount equal to the difference between the Ty and T0 was proposed by Edison.

Some called for a standardisation of interruptible products as well as flow commitments.</td><td>ACER thanks stakeholders for proposing two additional approaches. However, since a broad majority did agree with the proposals made by ACER and the clear support for options 1 and 4 (see analysis of responses to question 19) ACER will not analyse the two additionally proposed approaches in more detail.</td></tr>
<tr><td colspan="2">Question 19: What are your views on the proposed policy options? Would you prefer one option over the other? To what extent can this preferred option be uniformly applied? Please explain.</td></tr>
<tr><td>In general those options were preferred where no indexation is envisaged. A significant number of respondents (15) did favour option 4, clearing price not indexed to inflation. Respondents in favour of option 4 include EFET, Eurelectric, Gas Forum, IFIEC/CEFIC, OGP, BP, centrica energy, Edison, Edp gas, Exxon Mobil, Galp Energia, JP Morgan, Shell Energy Europe, Statoil, Vattenfall. Option 1, regulated tariff plus auction premium, was preferred by 11 respondents (including the following</td><td>ACER acknowledges the views expressed by stakeholders on this issue with almost similar preferences for Option 1 and 4.

ACER addressed the issue in chapter 7 of the draft FG.</td></tr>
</table>

Respondents' feedback on the consultation doc	ACER's views
associations: AFG, ENTSOG[5], Eurogas, Uprigaz). E.ON and aep were clearly in favour of option 3 and two TSOs (Eustream, REN) of option 2. Some respondents, including EFET and Eurelectric, argued that option 3 would be a workable solution. Respondents often ranked the different options. From that it seems that options 1 and 4 are in general the most preferred options. Overall, there seemed to be a tension between the predictability of cost for shippers and revenue recovery by TSOs. Proponents of option 4 consider that it gives the highest predictability and visibility for shippers, reducing risk and uncertainty, and thus facilitating long-term commitments. Critics of option 4 consider it is detrimental to cost recovery by TSOs. In fact, a large number of proponents of option 4 agree that it could easily entail under-recovery mechanisms, and that this question cannot be treated in isolation of question 21. In addition, some proponents of option 4 worry about the allocation of risk in cost-recovery, and that the under-recovery mechanisms could cause a burden on them. In this context, option 3 is presented as a compromise solution, increasing long-term price visibility for shippers while decreasing under-recoveries for TSOs. In contrast, proponents of option 1 argue that it assures cost-recovery by TSOs, thus better fulfilling the objectives of the FG. They claim that under and over-recovery mechanisms associated other option 4 would be burdensome both to shippers and TSOs, while simultaneously reducing tariff visibility in the long run. Critics of option 1 claim that unpredictability in future regulated tariffs reduces the shippers' ability to commit to capacity in the long-term. As a solution, some proponents of option 4 claim they could accept option 1 but only as long as it is accompanied by a very high level of transparency in tariff setting that could allow shippers to accurately predict future tariffs, which they claim is not the case at the moment. Some respondents such as BP argued that	

[5] Please note that ENTSOG did not express a clear preference.

Respondents' feedback on the consultation doc	ACER's views
indexes must be harmonized and clearly set, as different indexation concepts compete (Retail Price Index, Consumer Price Index, specific indexes related to the industry).	
Question 20: Do you consider that different approaches could be applied for one bundled capacity product?	
A significant number (>75%) of respondents did argue for a harmonised approach for one bundled capacity product. The following respondents did argue against harmonisation: IFIEC/CEFIC, JP Morgan, ENTSOG, FGSZ, Mutual Energy.	ACER notes the view expressed by stakeholders. ACER addressed the issue in chapter 6 of the draft FG.
4.5. Recovery of allowed revenues	
Question 21: Regarding the issue of recovery of allowed revenues, do you consider that: i. No harmonisation in required. ii. The rules establishing this relation should be harmonised at EU level. Please provide harmonisation suggestions. iii. Guidelines of good practice on the issue would suffice. Please provide guideline suggestions. iv. Other option: ____________________________. Please provide justification. v. I don't know.	
In general respondents agreed that recovery of allowed revenues has to be ensured. A significant number of respondents (22), including the following associations: Aep, AFG, energie Nederland, Eurelectric, Eurogas, IFIEC/CEFIC, OGP and Uprigaz, is in favour of EU wide harmonisation on this issue. TSOs argued for harmonisation, 2 being strongly opposed to it (REN and Mutual Energy) and 1 calling for GGPs (FGSZ). ENTSOG argued that in case of a price cap regulation harmonisation would not be needed, and considered that these mechanisms would be better tackled at a national level. A significant number of respondents (24) is in favour of introducing a regulatory account for this purpose. The regulatory account was the preferred option for the following associations: AFG, EFET, energie Nederland, Eurelectric, Eurogas, IFIEC/CEFIC, OGP and Uprigaz. In general 16 (out of 38) respondents was against the introduction of commodity charges. From 9 associations responding only one, Gas Forum, was explicitly in favour of commodity charges, and 6 clearly against them. TSOs, including ENTSOG which argued that commodity charges should not be used to correct any systematic flaws, were in general, with the exception of REN, against the introduction of commodity charges. Many respondents stated that it would introduce market distortions and have a negative	ACER acknowledges the view of stakeholders that an EU wide harmonisation is required. ACER would like to recall the interrelation between the different policy choices, as i.e. the interrelation between regulatory accounts, fixed prices and quotas for short-, medium- and long-term capacity bookings and therefore the resulting need for cost recovery. 1) ACER is investigating two approaches which are presented in the draft FG. Two options for setting a regulatory account to 0 are proposed, either via the regulated tariff or reserve price of capacity products or via an additional charge collected according to capacity booked by shippers and commodity flowed into the system. See further chapter 3 in draft FG.

Respondents' feedback on the consultation doc	ACER's views
impact on cross-border trade, while leading to tariff uncertainty, price volatility, volume risk, cross-subsidization, and stimulating free-rider behaviour. Some minority views included an opposition to any ex-post corrective behaviour, and an opposition to any retroactive mechanism.	
Question 22: Should there be a cap on the percentage of revenues to be recovered through a commodity charge? If so, then please provide proposals for how this could work in practice.	
Significant number of stakeholders, including EFET opted for a zero % cap. Several stakeholders, including Eurelectric, Eurogas and OGP, explained their response with their refusal of commodity charges. Some stakeholders called for the minimization of commodity charges, while others were opposed to any caps, stating that these would necessarily be arbitrary.	ACER acknowledges the position of certain stakeholders against a commodity charge. The use of a commodity charge is under investigation, in particular as far as revenue recovery is concerned. In the option developed in the FG such commodity charge could be combined with capacity charge (see Option 2, addressed under chapter 3 of draft FG).
Further suggestions	
Two respondents asked for clearly stating that bundled capacity products shall be tradable products.	ACER agrees that bundled products shall be tradable products. However, ACER considers it is out of scope, and should not be handled in a Framework Guideline for Harmonised Transmission Tariff Structures as it is clearly a pure trading issue. According to the priorities consultation of the European Union it is envisaged to launch the discussions on a Framework Guideline on Trading Rules in the future. ACER will in due time consider whether it is needed to deal with this issue in the FG Trading Rules, if clarity is required.
Two respondents did ask for setting transparency requirements for tariff structures.	ACER agrees that it might be beneficial to publish certain aspects regarding applied tariff structures, and stresses importance of transparency; ACER addressed the issue in Chapter 2 of the draft FG.
One respondent did ask for obligatory consultations of stakeholders prior to tariffs and tariff structures are being approved.	ACER sees some merit in this suggestion, and addressed the issue in Chapter 2 of the draft FG. However, it has to be clarified that one can only consult on (background materials for) actual tariffs without releasing confidential business information.

3 Scope and choice of policy options resulting from the public consultation

As a result of the public consultation and in the light of the discussions with the set up ad hoc expert group on tariffs and work of consultants, ACER developed a draft Framework Guideline on Harmonised Transmission Tariff Structures. This draft Framework Guideline will be published in September 2012, following the letter of the European Commission of 29 June 2012, inviting ACER to draft a Framework Guideline on this issue.

Annex 1 – List of Respondents

Name	Organisation	Country of origin
aep	Association	United Kingdom
AFG	Association	France
BP	Energy company	United Kingdom
IFIEC/ CEFIC	Associations	Belgium
Centrica	Energy company	United Kingdom
EDF SA	Energy company	France
EDP Gas	Energy company	Portugal
Edison	Energy company	Italy
EFET	Association	Belgium
Eni	Energy company	Italy
ENEL	Energy company	Italy
ENTSOG	Association	Belgium
Energie Nederland	Association	Netherlands
E.On AG	Energy company	Germany
Enagas	TSO	Spain
Eurelectric	Association	Belgium
Eurogas	Association	Belgium
Eustream	TSO	Slovakia
ExxonMobil	Energy company	Netherlands
FGSZ	TSO	Hungary
Galp Energia	Energy company	Portugal
Gas Natural Fenosa	Energy company	Spain
Gas Forum	Association	United Kingdom
GDF Suez	Energy company	France
GIE	Association	Belgium
JP Morgan	Energy company	United Kingdom
Mutual Energy	TSO	United Kingdom
National Grid	TSO	United Kingdom

OGP	Association	Belgium
REN	TSO	Portugal
Shannon LNG	LSO	Ireland
Shell Energy Europe	Energy company	United Kingdom
SSE	Energy company	United Kingdom
Statoil	Energy company	Norway
Uprigaz	Association	France
Vattenfall	Producer	Netherlands
Wingas	Energy company	Germany
Confidential respondents agreeing only to the disclosure of their names	Organisation	Country of origin
Union Fenosa Gas	Energy company	Spain

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