ACER Public Consultation on the Draft Framework Guideline on Harmonised transmission tariff structures

Cost allocation methodologies and Tariffs for incremental capacity

Evaluation of responses

28 November 2013

Agency for the Cooperation of Energy Regulators
Trg Republike 3
Ljubljana - Slovenia

1. Introduction

On 18 July 2013, the Agency for the Cooperation of Energy Regulators (the 'Agency') launched its second public consultation on Framework Guidelines (the 'FG') on harmonised transmission tariff structures for gas. The focus of the consultation was on cost allocation methodologies and tariffs for incremental capacity. The purpose was to collect the views of stakeholders in order to develop the Framework Guidelines (the 'FG') pursuant to Articles 6(2) and 8(6) (k) of Regulation (EC) No 715/2009 (the 'Gas Regulation') [1].

The public consultation closed on 17 September 2013.

A total of 41 responses were received, 7 of which were provided by European associations, and 4 of which were provided by national associations. The percentage of responses received by industry segment is shown in Figure 1.

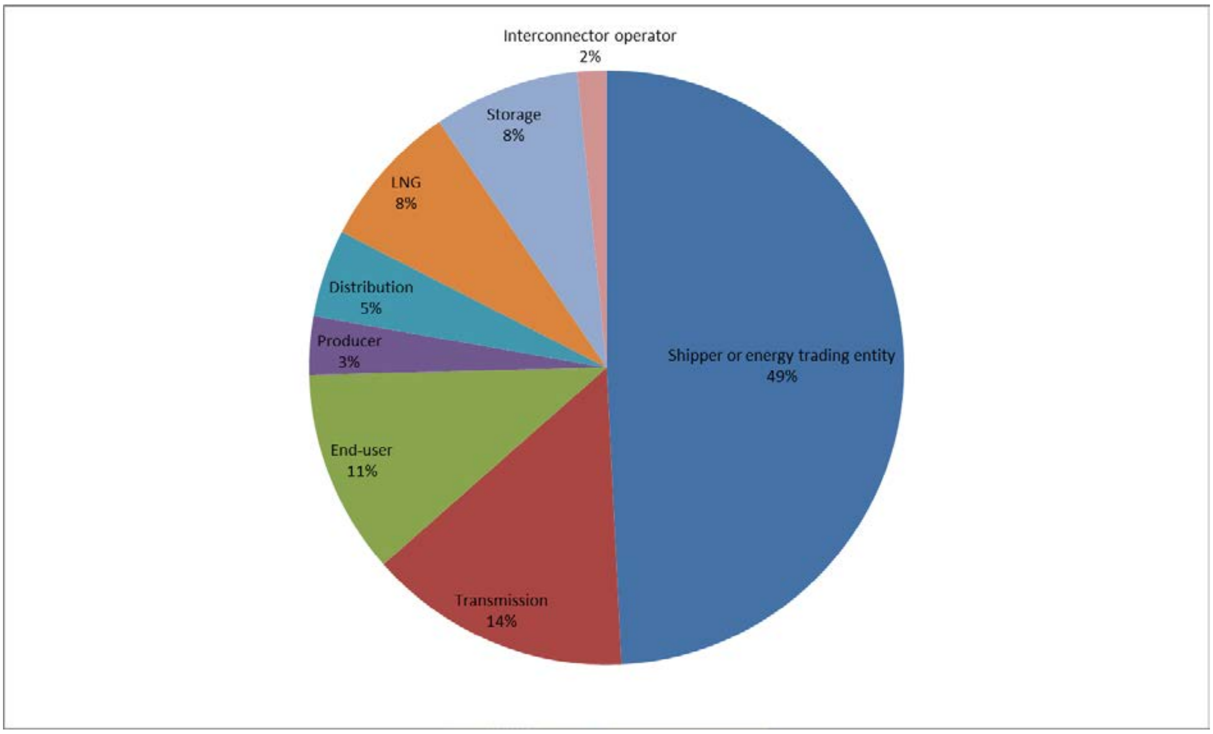

Figure 1: representation of respondents per segment (percentage)

Annex 1 lists the names of all the respondents including their country of origin, type of organisation, and industry segment.

[1] Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation 1775/2005, OJ L 211/36 14/08/2009.

2. Responses to the consultation

This section provides a comprehensive summary of the responses received. The Respondents' feedback sections identify the majority view first, followed by a summary of other remarks and amendment suggestions.

For most questions, respondents could express themselves in favour of the Agency's proposal (as represented in the July text), against the Agency's proposal, or in favour of an amended proposal, which could be specified in the comments box. A "majority" was only considered when the absolute majority of all responses to that question fell in one of the above-mentioned three groups. When there was no (absolute) majority, the analysis identifies the response with most respondents first.

The following section includes only the non-confidential responses received in this consultation, in compliance with Article 10(3) of Regulation (EC) No 713/2009 (the 'Agency Regulation').

Respondents' feedback	ACER's views
I. Cost allocation methodologies **Input assumptions and general principles**	
1. Do you agree with the current proposal on the information to be gathered regarding input assumptions to run the methodologies (as described in Section 3.2 of the Cost allocation and the determination of the reference price)	
No majority identified, but more opposed than supported the proposal (Yes 12/No 15). 14 respondents would support an amended policy. 11 respondents indicated that the publication requirements should enable users to reproduce tariff calculations. 13 respondents called for additional transparency. Of these, 5 indicated publication of the scenarios used to define flows was important, 4 indicated transparency on the derivation of the allowed revenue was important, and 5 wanted a simplified IT model to help verify tariffs. 11 respondents asked that the policy take into account existing regulations (namely transparency and REMIT). 6 respondents believed that the proposal was redundant. 5 identified some of the information required as commercially sensitive, and 2 saw a subsidiarity conflict. 7 wished that the provisions be further developed in the Network Code.	ACER amended the publication requirements as follows: • ACER assessed existing rules for any potential conflict with the subsidiarity principle and with the provisions on commercially sensitive information. This is reflected in the adapted FG text. • The text now specifies that all of the relevant input information necessary to calculate tariffs should be made publicly available. The text specifies a non-exhaustive list of what this information may comprise, and specifies that the Network Code may define it further. • The text also specifies the publication requirements leading to the choice of cost allocation methodology, including a public consultation on the proposed methodology and an assessment of the methodology against the circumstances criteria, cost allocation test, and a methodology counterfactual.
2. Do you agree with the current proposal on the determination of the entry/exit split? (as described in Section 3.3.2 of the Cost allocation and the determination of the reference price)	
No majority identified, but more opposed than supported the proposal (Yes 11/No 15). 15 would support an amended policy. 6 respondents favoured a strongly harmonised approach. 11 respondents believed that it may be appropriate to weight the split in favour of entry in order to stimulate supply. 5 observed that a 50/50 split does	ACER considered the following: • No party has provided evidence that the 50/50 split is detrimental as such. • No evidence was provided on how certain entry/exit splits constrain hub liquidity, competition or supply stimulation. • The draft proposal already allows deviations from the 50/50 if a different split ensures better

<table>
<tr><th>Respondents' feedback</th><th>ACER's views</th></tr>
<tr><td>not ensure cost-reflectivity. 4 were opposed to the imposition of a common split where there is more than one TSO within an entry-exit zone, and saw a conflict with the subsidiarity principle and competition law.</td><td>cost-reflectivity.
• ACER's legal assessment is that the entry/exit provision is not in conflict with the subsidiarity principle.
ACER thus did not amend the initial proposal.</td></tr>
<tr><td colspan="2"><u>Circumstances</u></td></tr>
<tr><td colspan="2">3. Do you agree with the proposed level of harmonisation regarding the circumstances leading to choose a tariff methodology? (as described in Section 3.3.3 of the Cost allocation and the determination of the reference price)</td></tr>
<tr><td>No majority identified among the respondents, but more opposed than supported the proposal (Yes 10/No 16). 15 would support an amended policy.
Critics pointed out that the subsidiarity principle will not be respected (5).
Amendment suggestions included more flexibility (4), increased discretion given to the NRAs (4) and further clarification on circumstances (7).</td><td>ACER considered the following:
• ACER carefully assessed the legal issues in relation to the subsidiarity principle. In ACER's view, the text was balanced and no further changes in this context were required.
• ACER acknowledged the need for further analysis and clarification in the Network Code process. The text requires the Network Code to evaluate the relevance of each methodology against these parameters.</td></tr>
<tr><td colspan="2">4. Do you agree with the identified circumstances? (as described in Section 3.3.3 of the Cost allocation and the determination of the reference price)</td></tr>
<tr><td>The majority (Yes 3/No 29) of respondents opposed the proposal. 9 would support an amended policy.
Critics pointed out the need for further debate, preferably during the Network Code development process (10); in particular, they underlined the arbitrary nature of the approach to postage stamp (14).
Amendment suggestions included the need for additional consultation and transparency (3) and further guidance (2).</td><td>See ACER's reaction to the previous question.
In addition, taking into account of stakeholders' views on Postage Stamp, ACER took a more general approach to the circumstances applying to that methodology.</td></tr>
<tr><td colspan="2"><u>Primary Methodologies</u></td></tr>
<tr><td colspan="2">5. Do you agree with the 4 generic Methodologies and their level of harmonisation as a basis for the description and harmonisation of current European Tariff approaches? (as described in Section 3.4.1 of the Cost allocation and the determination of the reference price</td></tr>
<tr><td>No majority identified among the respondents, but more opposed than supported the proposal (Yes 10/No 13). 18 respondents would support an amended policy.
7 respondents believed the number of allowed methodologies should be reduced. 5 believed that it should be increased. Opponents pointed out that the proposal is in conflict with subsidiarity (6) and asked for a higher level of detail in the FG (8); among these 4 preferred those details to be in the NC.
Suggested amendments included: allowing a mix of methodologies (3), the non-socialisation of costs specific to one point (4), and the identification of a reference methodology (3).</td><td>ACER considered the following:
• ACER's legal assessment is that the measures proposed are proportionate and are not in conflict with the subsidiarity principle;
• ACER concludes from stakeholders responses that the methodologies are relevant;
• ACER considers that there is enough flexibility offered by the FG: a primary methodology could be combined with secondary adjustments.
ACER amended the FG on the 4 methodologies as follows:
• 3.3. specifies that in developing the Network Code, ENTSOG shall consider, for each methodology consisting of more than one variant, whether it can be described as a single</td></tr>
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Respondents' feedback	ACER's views
4 respondents stressed the need for an Impact Assessment.	methodology (without variants), with a comparable level of detail and consistent with the Framework Guideline objectives. • 3.1.1 has been amended to specify possible exemptions from the primary cost allocation methodology as the means or revenue recovery. This includes charges for dedicated services. A counterfactual methodology is requested among the initial publication requirements (section 2.1.1). An impact assessment is under preparation and will be published before the year end.
6. Do you agree with the description of the "postage stamp" methodology? (as described in Section 3.4.1.1 of the Cost allocation and the determination of the reference price)	
No majority identified among respondents, but more supported than opposed the proposal (Yes 18/No 14). 14 respondents would support an amended policy. Supporters valued the high level of transparency and stability (3); opponents pointed to the lack of cost-reflectivity (3). 5 respondents suggested that the proposal be further detailed, 4 of whom suggested that it is done in the NC development process.	ACER amended the description of the "postage stamp" methodology as follows: • ACER removed its initial suggestion of a capacity threshold of 90%. The text now mentions a "significant majority (at least 2/3)"; • the NC shall define an acceptable threshold.
7. Do you agree with the description of the "capacity-weighted Distance" methodology? (as described in Section 3.4.1.2 of the Cost allocation and the determination of the reference price)	
No majority identified among respondents, but more supported than opposed the proposal (Yes 17/No 11). 13 respondents would support an amended policy. Supporters of the methodology valued that in this methodology a good compromise was made between simplicity of the method and its cost reflectivity, in particular this was held for variant B, based on peak flows (5). Suggested amendments included: • Clearer circumstances driving the choice between (A) technical and booked capacity (3), (B) forecasted flows and booked capacity. 1 respondent suggested that the proportion of capacity used to weigh the average distance should be based only on technical capacity, not booked capacity; • Taking into account the possibility for Entry/Exit splits to be an output of the methodology (4)	ACER amended the description of the "capacity-weighted distance" methodology as follows: reference to peak flows scenarios in variant B was broadened to flow scenarios. ACER notes that the Network Code will further analyse the association between inputs and methodologies as provided in Chapter 2 ("General publication requirements") and chapter 3 ("input criteria").

8. Do you agree with the description of Variant A of the “virtual point based” methodology? (as described in Section 3.4.1.3 under the title Variant A of the Cost allocation and the determination of the reference price)	
No majority identified among the respondents, but more supported than opposed the proposal (Yes 18/No 11). 12 respondents would support an amended policy. Those who commented requested greater clarity, particularly for the initial entry flow assumptions (6). 6 respondents believed the methodology to be very complex.	ACER amended the description of Variant A as follows: • the structure of the text was amended to provide greater clarity for each step of the methodology; • new equations were included.
9. Do you agree with the description of Variant B of the “virtual point based” methodology? (as described in Section 3.4.1.3 under the tittle Variant B of the Cost allocation and the determination of the reference price)	
A majority (Yes 21/No 9) of respondents supported the proposal. 11 respondents would support an amended policy. Critics deemed the methodology to be too complicated (4). Amendment suggestions included the use of flow assumptions (2) or imposing pipeline distance over geodesic distance (straight lines) (3).	ACER did not amend the initial proposal.
10. Do you agree with description of the “matrix” methodology? (as described in Section 3.4.1.4 of the Cost allocation and the determination of the reference price)	
A majority (Yes 22/No 10) of respondents supported the proposal. 9 respondents would support an amended policy. 6 respondents considered that the description should be further detailed and clarified. 10 opponents raised concerns regarding the complexity (5) and the arbitrariness (6) of the methodology.	ACER did not amend the initial proposal. ACER’s view is that the analysis of the circumstances and cost allocation test in conjunction with the methodology counterfactual shall allow the added value of complex methodologies to be assessed.
Secondary adjustments	
11. Do you agree with the 3 proposed secondary adjustments and their level of harmonisation? (as described in Section 3.4.2 of the Cost allocation and the determination of the reference price)	
The majority of respondents would support an amended policy (22). More supported than opposed the proposal (Yes 10/No 9). Amendment suggestions included a requirement to consult on the application of applied secondary adjustments (13), the restriction of the use of certain secondary adjustments in combination with certain tariff methodologies (3), and the determination of the appropriate secondary adjustments by TSOs (4).	ACER considered the followings (see section 2.1): • The secondary adjustments will be published, as part of the initial publication requirements; • These initial publication requirements will be consulted. ACER did not amend the secondary adjustments but specified that adjustments shall not undermine the initial decision to use a given methodology.

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<tr><td colspan="2">12. Do you agree with the proposal regarding the “rescaling”? (as described in Section 3.4.2.1 of the Cost allocation and the determination of the reference price)</td></tr>
<tr><td>No majority identified among respondents, but more supported than opposed the proposal (Yes 15/No 8). 18 respondents would support an amended policy.

Suggested amendments included the authorisation of rescaling provided that it does not undermine locational signals (3), the ability for rescaling to be embedded in the methodology itself in the case of distance to virtual point, as an alternative to a subsequent step after running the methodology (2), or the inclusion of the goals of rescaling, e.g. consistency with economic/locational signals and a minimised risk of under-recovery, in the methodology (1).

Some respondents believed the description lacks clarity (8).</td><td>ACER considered the following:
• The current restrictions on rescaling are consistent with the request to authorise it provided that is does not undermine locational signals;
• The clarification of the variant A of the approach to virtual point addresses the concerns over rescaling related to that methodology.
ACER therefore did not amend the initial proposal.</td></tr>
<tr><td colspan="2">13. Do you agree with the proposal regarding the “equalisation”? (as described in Section 3.4.2.2 of the Cost allocation and the determination of the reference price)</td></tr>
<tr><td>No majority identified among the respondents, but more supported than opposed the proposal (Yes 15/No 8). 18 respondents would support an amended policy.

Supporters (9) believed equalisation to increase transparency (simplicity) and stability, while reducing discrimination.
Suggested amendments included:
• Consultation of the approach before enforcement (4)
• Deletion of the 2nd paragraph of section 3.4.2.2. (3)</td><td>ACER considered the following (see section 2.1):
• The secondary adjustments, including equalisation, will be published, as part of the initial publication requirements;
• These initial publication requirements will be consulted.

ACER amended the text as follows:
• The use of ‘simplicity’ as a reason for equalisation has been removed. Equalisation would always be simpler, but given that if can lead to cross subsidy, does not seem like a sufficient justification.
• The footnote describing homogenous points which can be equalised has been amended to exclude ‘all entry points’. In our view this could lead to a grouping of entry points with divergent cost profiles.</td></tr>
<tr><td colspan="2">14. Do you agree with the proposal regarding “benchmarking”? (as described in Section 3.4.2.3 of the Cost allocation and the determination of the reference price)</td></tr>
<tr><td>No majority identified among respondents, but more opposed than supported the proposal (Yes 11/No 14). 16 respondents would support an amended policy.

Critics stressed that a tariff decrease for benchmarking at a given point may induce an increase at other points with negative effect on their competitiveness (14); they believed that benchmarking is a source of tariff instability (5). 2</td><td>ACER’s view is that the goal of this section is not to promote, but to restrict the possible use of benchmarking in line with the Gas Regulation.

ACER did not find incompatible provisions with price cap regimes. ACER understands that critics, at this point, objected to the restrictions imposed on the use of benchmarking, as a secondary adjustment.

The FG now specifies that higher capacity sales at the benchmarked point would be expected to offset the</td></tr>
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other critics saw that the current approach does not accommodate price cap regimes (2).	need for increased tariffs at other points in order to collect allowed revenues.
Test	
15. Do you agree with the proposed cost allocation test? (as described in Section 3.6 of the Cost allocation and the determination of the reference price)	
No majority identified, but more opposed than supported the proposal (Yes 10/No 18). 13 respondents would support an amended policy. 6 opponents believed that the introduction of the bottom up cost allocation methodologies in chapter 3 makes the test redundant. While 8 respondents saw the need to check cost reflectivity and avoidance of cross subsidy, 13 identified a difficulty in defining the parameters and the thresholds for the test. 8 respondents suggested that additional precision shall be brought by the NC.	ACER amended the chapter on the cost allocation test as follows: • as the bottom-up approach is not fully deterministic (i.e. more than one methodology could stand against a given set of circumstances), the test is not redundant; • as the test is indicative, the thresholds are also indicative; • the initial ACER proposal has already foreseen further refinement taking place in the NC process; • a proxy identifying domestic entry capacity from non-domestic entry capacity was put forward and takes into account the difficulty of defining these parameters.
Implementation	
16. Do you agree with the proposed implementation measures? (as described in Section 3.7 of the Cost allocation and the determination of the reference price)	
No majority identified, but more opposed than supported the proposal (Yes 10/No 16). 15 respondents would support an amended policy. Critics believed that consultation on 2 methodologies is an onerous obligation (5), or that it is an insufficient measure (10). Amendment suggestions asked for a default comparator (tool or methodology) (5); and the lowering of the mitigation level from 25% to 15%, 10% or 5%.	ACER amended the section on implementation (section 1.4 of the FG) as follows: • the consultation on the proposed methodology shall include methodology counterfactual (see section 2.1 of the FG and question 1 above); • the methodology counterfactual can be Postage Stamp, which is a methodology known and easy to produce; • the mitigation level has been lowered to 20% and the transitional period extended to 24 months. For regimes where charges are set annually, this would allow three tariff setting periods over which to transition to new tariff levels.
17. Do you agree that at least every 4 years the input assumptions, forecasts and choice of methodology shall be revised by the NRAs regardless to the applicable national revision cycles? (as described in Section 3.7 of the Cost allocation and the determination of the reference price)	
No majority identified, but more opposed than supported the proposal (Yes 13/No 16). 12 respondents would support an amended policy. Critics would like to see the update of the input data on a yearly basis (8); or asked for tariff cycles offering stability (8). Another suggestion was to amend the text and base the review on the national regulatory cycle (10).	ACER amended the proposal as follows: • this provision does not lead to systematic tariff recalculation (thus possible instability) but provides transparency on the evolution of tariff inputs; • taking into account the incompatibility of an annual approach with certain regulatory regimes, flexibility was offered at national level.

18. Do you agree with the proposed mitigating measures in case of a tariff increase (applying at a tariff increase of more than 25%)? (as described in Section 3.7 of the Cost allocation and the determination of the reference price)	
A majority (Yes 6/No 21) of respondents opposed the proposal. 14 respondents would support an amended policy. Critics believed that a triggering level of 25% is too high (12) and that long-term capacity contracts should be considered (9). Mitigating measures should not be restricted to price cap increases (3). Suggested lower mitigation levels vary from 5% to 15%.	See question 16 above.
Further transparency measures[2] and other issues	
19. ACER consults on the publication of the following data of the regulated assets on the following: 1. *RAB per TSO* 2. *Depreciation period per asset category* 3. *Rate of return, as defined by the regulatory rules applicable* 4. *Variable costs of the system[3] per TSO* 5. *Major investment costs per country[4]* Do you deem proportionate the proposed level of harmonisation regarding additional transparency?	
No majority identified, but more supported than opposed the proposal (Yes 19/No 17). 5 respondents would support an amended policy. Supporters deemed the approach proportionate (3). Suggested amendments included: • Additional data, needed to calculate a cost per unit, and not only aggregated data (9); • Data limited to what is strictly necessary to understand tariff calculation (3).	ACER amended the initial proposal to align it with the suggested list in question 19: it now includes RAB.
20. Do you agree with the level of detail on the proposed provisions on monitoring, as set in section 1.4 of the endorsed Framework Guidelines on rules regarding harmonised transmission tariff structures for gas of 16 April 2013, page 8[5]?	
No majority identified, but more supported than opposed the proposal (Yes 19/No 14). 8 respondents would support an amended policy.	ACER amended the initial proposal as follows: • The text now specifies that the monitoring provisions will be detailed jointly by ACER and ENTSOG within three months after the entry into

[2] Based on the concerns raised in the letter from the European Commission to ACER dated 15 March 2013 http://www.acer.europa.eu/Gas/Framework%20guidelines_and_network%20codes/Documents/FG_TAR_concerns_DG%20ENER%202015032013.pdf

[3] Costs triggered by the actual flows in the system, such as compressor fuel costs, allowing to define the capacity/commodity split

[4] For example: steel prices, manpower and costs relating to environmental and safety standards

[5] http://www.acer.europa.eu/Gas/Framework%20guidelines_and_network%20codes/Documents/outcome%20of%20BoR27-5%201_FG-GasTariffs_for_publication_clean.pdf

Critics (14) believed that monitoring provisions should be detailed after the development of the Network Code; that NRAs have investigative powers, and not ENTSOG (3) therefore NRAs shall be the ones assisting the Agency (4). Amendment suggestions included: • A review of these provisions once the Network Code is detailed (3); • The publication of information both at TSO and Entry/Exit zone levels (2); • The availability of data for network users as well as NRAs (2).	force of the Network Code; • The text now specifies that TSOs shall provide ENTSOG with the relevant data; • The text includes a review requirement; • The text clarifies that data shall be made available for stakeholders.
21. Do you see value in having a standard gas tariff year across the EU, either starting on 1 January or 1 October?	
A majority (Yes 21/No 13) of respondents supported the proposal. 7 respondents would support an amended policy. Supporters saw a decrease in complexity when trading across Member states (2) and called for consistency with the long-term capacity auctions defined in CAM NC (13). Opponents asked for a cost-benefit analysis to be conducted, and consulted before any decision is taken (5).	ACER did see value in having a standard gas tariff year across the EU and requested that the NC performs an impact assessment analysis to underpin such possible future alignment.
22. Do you agree to the proposal to consider a 30 day minimum notice period for an NRA decision or TSO communication of changes in the reference prices as compared to entering into force of the tariffs?[6]	
There was an equal number of supporters and opponents (Yes 14/No 14). 13 respondents would support an amended policy. Among the opponents, 12 suggested a longer notice period and 2 a shorter one. In total, 14 respondents suggested a longer notice period. 5 suggested 60 days. 9 suggested an approach specific to significant tariff changes, with suggestions varying from 60 days to 6 months. 13 respondents stated that the reference period should be relative to the yearly auction.	ACER amended the proposal as follows: • ACER noted that the notice period should take account of the significance of the anticipated tariff change; • ACER noted that longer notice periods decrease the quality of the tariff forecast. The text now includes a notice period of 30 days by default, extended to 60 days when anticipating a tariff increase of more than 20%.
23. In the Framework Guidelines there are no specific measures included to take into account the nature of interconnectors which currently is dealt separately from the national TSO network. Do you find that further provisions for interconnectors are necessary?	
A majority (25/16) of respondents supported the	ACER did not amend the initial proposal, but rather

[6] See relevant text in the endorsed Draft Framework Guidelines of 16 April 2013, Chapter 2, page 10, footnote 13, http://www.acer.europa.eu/Gas/Framework%20guidelines_and_network%20codes/Documents/outcome%20of%20BoR27-5%201_FG-GasTariffs_for_publication_clean.pdf

proposal. Limited comment was received on this issue. Some considered that interconnectors could apply adapted versions of the FG methodologies. Others noted revenue recovery was the most important issue from an interconnector's point of view.	sees value in approaching the issue at a Member state level. In addition ACER considers that deviating provisions would require proper justification. The NC development process may offer such opportunities while the analysis on the network circumstances would be further developed by ENTSOG.
II. **Incremental capacity**	
24. Do you agree that the economic test for incremental capacity should be a financial validation comparing the present value of capacity volume commitments times the projected tariff, with the deemed investment cost to release the respective capacity times the fraction committed by shippers (as set out in the formula: PV≥DIC*f)?	
A majority (Yes 24/No 8) of respondents supported the proposal. 9 respondents would support an amended policy. Supporters underlined that the definition of the economic test meets the requirements for a market based procedure (24). Amendment suggestions included further refinement or clarification (11 respondents).	ACER did not amend the principle set in the initial proposal, but the following was clarified (see section 3.5.1.1): • Test parameters; • Role of the economic test; • Types of capacity subject to the economic test.
25. Do you agree that the principles of the economic test should be harmonised on a European level?	
No majority identified, but more supported than opposed the proposal (Yes 20/No 7). 14 respondents would support an amended policy. Amendment proposals included: • specific quantitative parameters to be defined on a case-by-case basis in order to reflect local market conditions and risk profile of the project (13); • Harmonisation of both technical and procedural aspects of the economic test (4); • Additional transparency over the definition of the f parameter and the deemed investment costs (6); • The use of a single economic test per interconnection point (4).	See question 24 above.
26. Do you agree with the principles of setting the **f parameter**, where f represents the fraction of investment underwritten by the shippers in the economic test?	
No majority identified, but more supported than opposed the proposal (Yes 15/No 7). 19 respondents would support an amended policy. Suggested amendments included: • additional clarity on how the part of the DIC not covered by up-front network user commitments (1-f) will be paid for (13); • the requirement that the 'f' factor should be set sufficiently high to limit the risk of stranded investments (8); Critics (5) pointed out that the parameters for the f factor should be defined in the Framework Guideline.	ACER amended the approach on setting the f factor as follows: • the treatment of the part of the DIC (in the current text PV_{AR}) not covered by up-front network user commitments (1-f) is now explained; • as a consequence, the appropriate setting of the "f" factor shall reduce the risk of stranded investments.

27. When external effects influencing f are monetised should the used method be aligned with the CBA analysis of the (TEN-E) Regulation (EU) No. 347/2013[7] according to its Annex V	
A majority (Yes 25/No 12) of respondents supported the proposal. 4 respondents would support an amended policy. 13 respondents insisted on alignment between CBCA and TEN-E Regulation. However, 5 respondents stressed that further analysis is needed. 5 respondents requested that externalities should not be used to reduce the value of f.	Discussions and contributions related to the on-going work on Projects of Common Interest provided ACER with further understanding of the issue. ACER now considers that TEN-E principles are adapted to external effects resulting in a pan-European benefit, where the goal of the CBA is to assess contributions of countries potentially benefiting from the investment. Within the tariff FG, parameters influencing f are limited to two adjacent markets. Therefore, ACER did not amend the initial proposal.
28. Which option of tariff adjustment is appropriate for cases where the tariff for existing capacity does not suffice to validate the economic test? a. Increasing the reference price for all capacity users at the IP? b. Increasing the reference price except for users who booked capacity before the investment decision c. Introducing a minimum auction premium for users participating to the incremental process d. Other options should be also considered e. None, no adjustment is appropriate	
8 respondents would support option a); 6 would support option b); 4 respondents would support option c); 23 respondents suggested the inclusion of other options. Suggestions for other options included: • Only bidders for incremental should bear the costs of providing it (11) / this could dis-incentivise investment (4); • Not only increase, but also discounts for incremental should be allowed (3); • Several options possible depending on circumstances (4), adapted to tariff adjustment size, nature of investment and mitigating measures (1), or allocation process (1); • Tariff increase at all points (1); • Increase booking period and decrease short-term reservation (1). Critics pointed out the complexity and administrative burden (1) of such approaches.	ACER amended the proposal regarding tariffs adjustments as follows (section 3.5.2): • Because f is approved by the NRA based on its assessment of the proportion of an investment which should be covered by binding user commitments and the proportion which should be socialised, to prevent undermining the purpose of f, the default approach should be that only bidders for incremental should pay the premium necessary to meet f; • the default approach, where the tariff for existing capacity does not suffice to validate the economic test, results in a premium for those users booking the incremental capacity; • to accommodate any unintended consequences, the NC shall consider alternative approaches, in addition to the default option. Where such alternatives are consistent with a set of principles listed in the FG, ENTSOG shall include them in the NC.
29. Do you agree that the NRA shall have powers to decide to use an alternative approach for payable price (fixed/ floating) exclusively for incremental capacity	
No majority identified, but more supported than opposed the proposal (Yes 19/No 18). 5	ACER retained a single approach for payable price for both existing and incremental and new capacity:

[7] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:115:0039:0075:EN:PDF

respondents would support an amended policy. Some respondents requested that the payable price should be adapted to the circumstances; it could be used as a means to incentivise bidders to commit (7). As an alternative approach, both incremental and existing should be fixed or allowed to be fixed (6). Critics pointed out the complexity (2) and possible discrimination (1).	namely, that the payable price for each should be the floating reference price at the time of capacity use, plus any premium paid at the time of capacity booking. This approach offers long term certainty on capacity premia, while ensuring that socialised costs and the risks of under recovery are appropriately shared among users i.e. subject to the cost allocation methodology. In our view fixing tariffs for one category of user and not another would insulate that category from future revenue under recovery while exposing the other. This level of risk sharing could lead to cross subsidy.
30. Should users, who have previously committed to an auction premium on existing long term capacity (in the interim period until a European incremental capacity regime is in place), be compensated when incremental capacity for the year for which the premium was committed is released at a later stage at a lower price[8]?	
A majority (Yes 10/No 24) of respondents opposed the proposal. 8 respondents would support an amended policy. Critics underlined that when users know that incremental capacity could be made available, it is their own choice to secure existing capacity at a higher price (9). Alternative proposals included: • only allowing the NRA to set a higher minimum price on incremental (3); • better balance to be struck between incentive and protection of existing users (5).	Premiums paid at auction for future capacity in the period preceding implementation of a European incremental capacity regime reflect the benefits to users of securing long-term capacity rights. ACER's view is to mandate a consistent payable price regime, where users pay the floating reference price for capacity at the time of use, plus any premium paid at auction, regardless of when that auction took place. This approach will ensure appropriate risk sharing among the various users of the system.
III. **General part**	
31. Additional comments on tariff and incremental issues ACER should consider	

	Theme	Respondents
1	Tariff provision for gas storage	(8)
2	Multipliers on short term capacity to take account of under recovery i.e. not less than 1	(6) in favor (1) against
3	FG too detailed/restrictive, NC is better placed to deliver optimum solutions.	(6)
4	Impact of the FG on TSO competition	(4) in favor (1) against.
5	Concern that draft FG published in April had been amended to include congestion criteria on short term reserve prices without consultation	(4)

8 Chapter 8.1, page 94 of the Frontier Report on Impact Assessment, http://www.acer.europa.eu/Gas/Framework%20guidelines_and_network%20codes/Documents/Impact%20assessment%20of%20policy%20options%20on%20incremental%20capacity%20for%20EU%20gas%20transmission.pdf

32. Please rank the three most important issues for your company, association.

	Theme	No. of responses
1	Multipliers on short term capacity to take account of under recovery i.e. not less than 1	11 for 3 against
2	Stable, predictable and transparent tariffs/ tariff methodologies	10
3	Mitigating measures to permit capacity surrender to avoid tariff increases	7
4	Ability to fix payable price on long term and incremental capacity	7 and 1
5	Impact of the FG on TSO competition	6 and 1
6	Cost reflectivity (should be a priority vs other considerations)	5 and 2
7	Mitigating measures to apply to tariff % changes on an enduring/longer basis	5
8	Ability to prioritise the most effective revenue recovery mechanism	5
9	Incremental capacity issues (various)	4
10	Notice period for tariff changes	3
11	Data publication requirements to respect commercial confidentiality	3
12	Restriction of the FG to CAM points	3
13	Consideration within the FG to third parties including DSOs	3
14	Issues to do with entry/exit split	3
15	Tariff provision for gas storage	1
16	Security of supply	1
17	Ability to apply suitable methodology for network with simple topology	1
18	Take into account the specific nature of interconnectors	1

3. Changes resulting from the public consultation

ACER has amended the Framework Guidelines on Harmonised Transmission Tariff Structures, either as a direct result of the public consultation, or of further policy discussions at Task Force and Gas Working Group level, and ACER internal analysis, triggered by the public consultation. The table below details the main changes to the text mentioned in Section 2.

The table does not include non-policy related drafting changes which resulted from peer review and from the consolidation of the endorsed draft Framework Guidelines published on 16 April 2013 with the draft text of the public consultation on cost allocation methodologies of 18 July 2013.

Section	Changes introduced
1.2. Scope and objectives	The Objectives of the Framework Guidelines have been clarified, in particular the link with the objectives of the Gas Regulation. An additional objective clarifies that tariff structures shall support cross-border mergers. Specific objectives were moved to the relevant chapters. On the Scope, the Framework Guidelines requests the Network Codes to provide justified improvements for the definition of transmission services.
1.3. Definitions	The Definitions chapter has been amended as follows: • The definition of ‘transmission services’ was introduced, with a view to clarify the scope of application of the Framework Guidelines; • the chapter was reorganised, and starts with the most important definitions (e.g. transmission services, tariff structure and transmission tariffs); • Other definitions were deleted when consolidating the Framework Guidelines.
1.4. Implementation	The implementation rules in the 18 July consultation document appear in this section. The following new provisions were introduced: • The threshold for application of mitigating measures has been lowered from 25% to 20%; • The duration for the application of such measures has been extended from 12 to 24 months; • The exceptional circumstances for an implementation timeline extension has been revised accordingly, while the implementation date has remained unchanged.
2. Publication requirements	Section 3.2 of the 18 July consultation document and Chapter 2 of the 16 April draft Framework Guidelines were merged and consolidated. In that process: • requirements have been clarified and overlaps have been removed; • requirements concerning the information to be included in the consultation used to determine the cost allocation methodology have been included; • the requirement to publish the Regulated Asset Base has been introduced; • publication requirements specific to incremental capacity have been introduced (section 2.4.1); • the publication notice period for tariff changes has been set to 30 days, and the timeline extended from 30 days to 60 if the expected increase is above 20%.
3.1. General principles on the determination of the reference price	Section 3.3 of the 18 July consultation document became section 3.1 of the Framework Guidelines. Regarding **Capacity/commodity split (3.1.1):** the text now specifies that

	"charges for dedicated services [...] may be established" and details the flexibility given to points not under the scope of the Network Code on Capacity Allocation Mechanisms.
3.2. Cost allocation methodology selection	This new section clarifies the necessary justification behind the selection of a cost allocation methodology. The requirements include: • An analysis of circumstances (now 3.2.1, formerly 3.3.3 in the 18 July consultation document); • The cost allocation test (now 3.2.2., formerly 3.6 in the 18 July consultation document); • A methodology counterfactual (3.2.3), as proposed by the stakeholders in the public consultation.
3.3. Main cost allocation methodologies	Section 3.4 of the 18 July consultation document became section 3.3 of the Framework Guidelines. The application of one and the same cost allocation methodology applies to all entry-exit zones, regardless of whether they are in a Member State or are cross-border. The Framework Guidelines allows NRAs to use appropriate instruments to facilitate the mergers, like ITCs and intermediate steps. Furthermore, a more detailed description of the virtual point based approach (variant A – section 3.3.1.3) clarifies this concept.
3.4 Storage	This section has been reframed to specify the approach to storage in terms of tariff setting, rather than cost allocation. The text on the criteria NRAs should consider in setting storage tariffs has been simplified.
3.5. Incremental and new capacity	This section is new and was based on the CEER Blueprint on incremental capacity and stakeholders' inputs to the 18 July consultation. The text consists of: • The economic test (3.5.1) • The determination of the price at which users can request incremental or new capacity (3.5.2). This section describes the default rule in the specific case where incremental or new capacity offered at the reference price would not generate sufficient revenues to pass the economic test.
5. Reserve price	This chapter underwent substantial rewording, without change in substance: • The objectives for reserve prices were moved here from Chapter 1; • The static nature of multipliers, as defined under 5.1.1 and 5.1.2., was clarified and underpinned with formulas.
8. Payable price	The payable price for existing capacity and for incremental and new capacity is specified as the floating reference price at the time of capacity use, plus any premium paid at the time of capacity booking.

Annex 1 – List of Respondents

Name	Organisation	Segment	Country of origin	Confidential
BDEW	National Association	Network user	Germany	No
BBL	Company	TSO	Netherlands	No
BP Gas Marketing Ltd	Company	Shipper	UK	No
Centrica Plc	Company	Shipper	UK	No
E.ON SE	Company	Shipper	Germany	No
EDF	Company	Network user	France	No
Edison spa	Company	Shipper	Italy	No
Enagas S.A	TSO	Transmission	Spain	No
Enel	Company	Network user	Italy	No
Energy UK	National Association	Shipper	UK	No
Eni	Company	Shipper	Italy	No
ENTSOG	Association	TSO	Europe	No
Eurelectric	Association	Industry	Europe	No
EUROGAS	Association	Wholesale, retail and distribution	Europe	No
European Federation of Energy Traders (EFET)	Association	Shipper	Europe	No
EWE GASSPEICHER GmbH	Company	Storage operator	Germany	No
EWE NETZ GmbH	Company	DSO	Germany	No
EWE VERTRIEB GmbH	Company	Shipper	Germany	No
ExxonMobil	Company	Producer, Network user, Storage, LNG	UK	No
Gas Natural Fenosa	Company	Network user	Spain	No
Gas Storage Netherlands	National Association	Storage	Netherlands	No
GasTerra B.V.	Company	Shipper	Europe	No
Gasunie Deutschland Transport Services GmbH	Company	TSO	Germany	No
Gazprom Marketing & Trading	Company	Shipper	UK	No
GDF SUEZ	Company	Shipper, TSO; storage, LNG operator	France	No
GEODE	Association	DSO	Europe	No
GIE, Gas Infrastructure Europe	Association	TSO, storage, LNG operator	Europe	No
IFIEC Europe and CEFIC	Association	Industrial energy users	Europe	No
International Association of OIl and Gas Producers (OGP)	Association	Producer	Europe	No
National Grid	Company	TSO	UK	No
NET4GAS	Company	TSO	Czech Republic	No
Nordenhamer Zinkhütte GmbH	Company	Network user	Germany	No
Reganosa	Company	LNG operator	Spain	No
Shannon LNG	Company	LNG operator	Ireland	No
Sorgenia SpA	Company	Network user	Italy	No
Stadtwerke Emden GmbH	**Company**	**Network user**	**Germany**	**Yes**
Statoil	Company	Producer, Network user	Norway	No
Thyssengas GmbH	Company	TSO	Germany	No
Vattenfall	Company	Shipper	Europe	No
Vereinigung der Saarländischen Unternehmensverbänd	National Association	Network user	Germany	No
Vereniging Energie-Nederland	National Association	Industrial energy users	Netherlands	No