



21 June 2017

## Comments on Implementation Document for the Network Code on Harmonised Transmission Tariff Structures for Gas by ENTSOG

### 1. Comments on ENTSOG's interpretation of Article 2 of TAR NC (cf. page 22 of IDoc)

Article 2 of the TAR NC exactly defines the scope with a differentiation between Chapters applicable to all entry and exit points to/from the gas transmission network ("broader scope rules") and Chapters which are only applicable to Interconnection Points in clause 1 and – subject to the decision of the relevant national regulatory authority – to entry points from and/or exit points to third countries in clause 2 ("limited scope rules"). Neither Article 2 of TAR NC nor the scope of CAM NC extend the limited scope rules to non-IPs (so called "other points") such as entry points from or exit points to storage facilities. VNG Gasspeicher GmbH (VGS) therefore points out that Figure 3 on page 23 and the relevant text on page 22 do not represent the scope per Article 2 of TAR NC correctly. More precisely Article 2 of TAR NC does not permit that limited scope rules are applicable on "other points" by decision of a national competent authority as well. This extension to "other point" is not covered by TAR NC.

**VGS therefor asks ENTSOG to delete or correct the relevant sentence in the summary on page 21 as well as the relevant text on page 22 of IDoc as follows and to correct Figure 3 on page 23 accordingly.**

*Page 21: "Chapters III, V, VI, IX and Article 28 **may** be applied ~~at non-IPs~~ at entry points from third countries or exit points to third countries."*



*Page 22: “Broader scope’ rules apply at all points. The application of ‘limited scope’ rules depends on the type of point: (1) at IPs, such application is ‘by default’; (2) at points with third countries where the NRA decides to apply the CAM NC, such application is ‘automatic’ and does not require additional decision; (3) at other points, such application is possible per national decision. Based on Article 2(1), Figure 3 explains this difference. The red lines stand for the application of the ‘broader scope’ rules, while the orange lines represent the application of ‘limited scope’ rules. Figure 3 also shows which connections are explicit (solid lines) in the TAR NC and which ones are based on ENTSOG’s assumptions (dashed lines). The IDoc is written to reflect the reference of IPs and non-IPs as set out in the TAR NC. However, nothing prevents the relevant national authority to extend the ‘limited scope’ rules to non-IPs. Therefore, the IDoc should be read together with Figure 3.”*

## **2. Comment on chapter “tariff adjustments at certain points” (cf. page 50 of IDoc)**

### **2.1. Comment on ENTSOG explanations regarding the general adjustment of discounts at Storage Connection Point (SCP)**

Art. 9.1 of Regulation (EU) 2017/460 (“TAR NC”) define an adjustment of tariffs at entry points from and exit points to storage facilities with the following provisions:

*“1. A discount of at least 50% shall be applied to capacity-based transmission tariffs at entry points from and exit points to storage facilities, unless and to the extent a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point.”*

With this provision and despite the exception given (see further down no. 2.2) the legislator clearly states a minimum discount (“at least”) of 50% to be applied on capacity based transmission tariffs at storage entry and exit points.

In contradiction to the related explanations in the relevant chapter on page 50 of the IDoc this clearly leaves an obligation and not an allowance to TSO to generally comply with.



Furthermore, legislator argued the application of the minimum provision solely with the avoidance of double payments for transmission services by storage user. In contradiction to the explanations of ENTSOG, the benefit storage facilities might provide to the transmission system is not yet covered by the minimum discount.

The legislator moreover intends with the wording (“at least”) used in the provision to apply an even higher discount exceeding 50%. A higher discount is justified and subject to the approval by the competent authority by further taking into account the benefit that storage facilities provide to the transmission system as well as for the public welfare. This means, that TSO are obliged to take into account the avoidance of network enhancements due to the storage availability as well as cost savings in regard to the system stability, efficiency and security, i.e. short and midterm balancing and pressure services and seasonal offset.

**VGS therefore asks ENTSOG to clarify and extend its explanations in regard to the general provisions addressing best practice in adjusting the discount for storage facility connection points, for example as follows:**

*“NC TAR ~~allows~~ **obliges** TSOs to set tariff discounts for storage points and **allows to set tariff discounts** for LNG regasification points and infrastructure aiming at removing gas supply isolation. The discounts are in effect adjustments to the results of the RPM, but separate from the benchmarking, rescaling and equalisation identified in Article 6. As a default, storage discounts must be at least 50 %, to avoid double charging. ~~and~~ **In order to take into account the contribution that storage facilities provide in avoiding the need for additional gas transmission investments and reduction of operational costs as well as the public welfare provided due to system stability, security of supply and market liquidity further discounts for storage points are justified. Such discounts should inter alia cover avoided transmission capacity requirements for peakday-demand, cost savings due to increased operational efficiency by effects of seasonal and short term balancing and provided system stability for security of supply obligations.**“.....*



## **2.2. Comment on ENTSOG explanations regarding exception for storage facilities enabled to compete with interconnection points by being connected to more than one transmission system**

The provision in Art 9.1 of the regulation (EU) 2017/460 clearly makes exceptions for those storage facilities connected to more than one transmission or distribution network **“unless and to the extent a storage facility is used to compete with an interconnection point”**.

On page 50 of its Implementation Document, ENTSOG falsely considers that this rule should be applied even if a storage facility could be **used as an alternative to an interconnection point**.

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— VGS considers the legislator to carefully have chosen the wording “is used to compete with” in order to distinguish the services “transportation” and “storage”. Furthermore, the legislator intends to **limit the number of exceptions made** (“to the extent of competing usage”) in order to not undermine the generally justified discounts on transmission tariffs for storage facilities. In contradiction to the formulation applied in the TAR NC, by replacing the wording “used to compete” with “used as an alternative to” ENTSOG performs an illegitimate constraint of the provision.

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— This false explanation is continued in the Implementation Document by referring to the example in Annex F describing already applied rules in Germany, which entered into force before finalizing the TAR NC. The rules applied in Germany therefore do not fully comply with the TAR NC provision as explained above. Moreover, the rules are complex and may lead to discrimination of storage users by applying the German model instead. Furthermore, the rule applied in Germany and its complexity leads to undue barriers in cross border use of storage facilities and reduces the possibility for liquidity in adjacent markets for economic reasons. Thus ENTSOG should not refer to this example in the IDoc. In contradiction to Germany, Austria applies different rules for cross border usage of the same storage facilities with interconnections to Germany and Austria.

— VGS proposes to clearly define competing usage of storage facilities to IP as a **simultaneous usage of the exit point of the storage facility to TSO 1 and the entry point to TSO 2 and change the wording in the Implementation document as follows and to delete Annex F:**



*“The TAR NC envisages exceptions where a storage facility is also connected to at least one other TSO or DSO system **only and to the extend**, if network users use the storage facility ~~as an alternative to~~ to compete to a possible simultaneous usage of IP., as in Germany and Slovakia. Some TSOs in this situation reduce the discount, and Annex F provides an example of such an approach. **TSO’s are allowed to reduce the minimum discount for related gas flows.**”*

VGS is aware of the need to receive an EU-wide common understanding of defining the part of transmission services probably delivered by storage usage and to which extent this service is competing with IPs. VGS likes to clarify, that only simultaneous entry and exit usage through a storage facility, meaning bypassing an IP, fulfills the matter of fact to deliver transport services in competition to the IP.

Any other usage of the storage facility fulfills the requirements for storage services and is subject to the business of SSO’s and serves for the welfare of the markets and it needs and for the EU-provision to facilitate market integration. The application of the sole wording “alternative usage” instead defines any usage of the storage as a competitive usage of storage facilities to IP usage and might lead to discrimination of storage user of such facilities compared to other storage and transport user instead.

### **3. Comment on application of multipliers on page 56 of the ENTSOG Implementation Document**

VGS in general welcomes the explanations regarding the application of multipliers in the Document. But VGS proposes to sharpen the explanations in referring to Art. 2 of TAR NC, which limits the application of multipliers to IP’s only.

**VGS proposes to add the following text:**

***„Regarding Art 2 of TAR NC all provisions in Chapter III, V, VI, Article 28, Article 31 (2) and (3) and Chapter IX are applicable only to IP’s or – by national decision – to entry points from third countries or exit points to third countries. Regarding multipliers this means that multipliers are not applicable at other points such as entry points from and exit points to storage facilities”.***

*It is necessary to clarify that multipliers shall not be applied at storage connection points. Apart from the wording of Art 2 of TAR NC, also the statutory system as well as the purpose of multipliers do indicate the inapplicability.*



*Art 9 of TAR NC has the title “Adjustments of tariffs at entry points from and exit points to storage facilities [...]”. It is the only place within the text of the regulation, where storage points are explicitly mentioned. Thus, the provision conclusively governs the special regulation for the tariffs on storage points. Regulated is the application of a special discount, but not the application of multipliers. If the legislator had wanted to allow the application of multipliers on storage points, he would have pointed it out in this connection.*

*The inapplicability with a view to the purpose of multiplier is inter alia justified by the matter of fact, that storage facilities by its function do not need transport capacity in one direction during a whole year and thus bookings in periods less than a year do not produce a vacancy rate in an undue manner caused by the storage.*



#### **4. Comments on ENTSOG’s interpretation of Article 15 of TAR NC (cf. page 64 and Annex K/L of IDoc)**

VGS shares the view of ENTSOG that the application of seasonal factors at interconnection points shall foster the efficient use of the gas transmission system. Seasonal factors shall be employed to encourage system use during periods of low demand in summer and to discourage it during periods of high demand in winter. Gas storage may be increasingly used to seasonal balance gas supplies with respective gas demand. Injecting surplus gas into storage during summer fosters availability of gas irrespective of technical failure in major import infrastructure and/or instability in political conditions, thus helping to maintain security of gas supply rather than relying on a “just-in-time” delivery in times of high demand.

**VGS therefore proposes further ENTSOG to strengthen respective wording on Page 64 of IDoc as to further highlight the importance of seasonal factors not only for an efficient system use but also to increase security of gas supply.**

