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

(for the Draft FG of 16 April 2013)

Evaluation of responses

Agency for the Cooperation of Energy Regulators
Trg Republike 3
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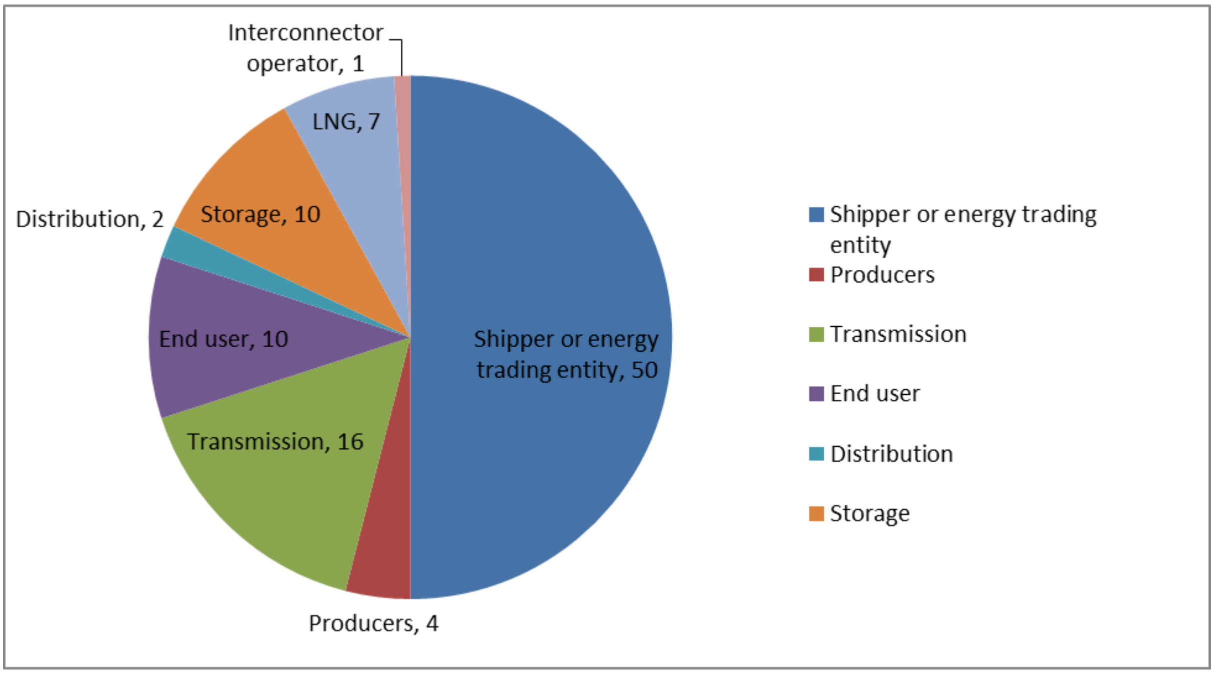
1. Introduction

On 5 September 2012, the Agency for Cooperation of Energy Regulators (the 'Agency') launched a public consultation on the draft Framework Guidelines rules regarding harmonised transmission tariff structures for gas. The purpose of this consultation was to collect the views of the 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 launched by the Agency solicited feedback from various stakeholders on the draft Framework Guidelines as published on 5 September 2012 on the Agency's website. The public consultation closed on 5 November 2012.

The consultation on the draft Framework Guidelines rules regarding harmonised transmission tariff structures for gas resulted in a total of 43 responses, 8 of which were provided by European Associations, and 4 of which were provided by National Associations. 1 shipper's response is confidential. All contributions considered and the weight of each segment of the gas business represented by companies and associations is shown in the following table:

Table 1. Representation per segment (percentage)



Annex 1 lists the names of all the respondents including their country/area of representation and the nature of activity (see end of the document).

In addition to the consultation, an Open House was conducted on 4 February 2013. Annex 2 contains stakeholders' views from the Open House submissions and the Agency's summary of the additional comments received in writing. Annex 3 provides the list of respondents to the Open House.

[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. Detailed review of the responses and Agency views

The Agency's public consultation aimed at collecting the views of the stakeholders on the draft Framework Guidelines on rules regarding harmonised transmission tariff structures for gas. Throughout the document, 16 April 2013 FG refers to the draft Framework Guidelines as published in April 2013.

The Agency shall finalise the Framework Guidelines by 30 November 2013.

NB: Please note that the chapter numbering between draft FG presented for public consultation in September 2012 and that of the draft of 16 April 2013 differs.

<table>
<tr><th>Respondents' feedback on the consultation doc</th><th>ACER's views</th></tr>
<tr><td colspan="2">1. <u>General provisions. Scope, application, definitions and implementation</u></td></tr>
<tr><td colspan="2">1.1. Please explain whether any of aspects of the application of the draft FG (NC) to existing contracts would cause disproportionate effects on gas business in relation to 3rd Package objectives</td></tr>
<tr><td>Major number of stakeholders found the September 2012 FG to impact existing contracts. Only 1 party stated that application to existing contracts can be done immediately. All other who responded stated 'you have to address proportionately' as there is quite a change coming due to September 2012 FG.

Some stakeholders listed the key provisions of September 2012 FG, which would trigger big change and would need to be considered for the matter (especially 50/50 rule on cost allocation was quoted).Many stakeholders speak of gradual and tailor-made need for negotiation between TSOs and shippers to address the change. Some respodents link the start of changes as a suggestion to start of new regulatory period, as that is when normally parties expect tariffs to change.

Only 1 stakeholder provided concrete numeric example of tariff effect in Germany of current tariff changes and 'walk-away' of shippers, and resulting pass through of higher costs to end-users[2].

A stakeholder provides suggestion of need for longer, i.e. 18 (or 24) months implementation, to address existing contracts in view of created expectations.</td><td>ACER carefully considered proportionality, foreseeability and applicability of the measures to existing contracts.

ACER is considering to allow for the network code provisions, including those relating to or affecting the tariff levels, to apply to all contracts at the latest from the 1 October 2017.

The 50/50 rule on cost allocation will be addressed in chapter 3, which is still under discussion.

To prevent or limit changes that may result in individual tariff changes, the NRAs may implement additional mitigating measures.

ACER considers 1 October 2017 an appropriate start date, by which most Member States will end their currently running regulatory periods and thus could institute the new regulatory periods along with the requirements of the future network code on tariffs.

Further revision of mitigating effects could be done at the end of the FG drafting process.</td></tr>
<tr><td colspan="2">1.2. Please explain if any further definitions should be added for clarity of the FG (NC)?</td></tr>
<tr><td>A majority (29/14) of respondents do not consider definitions to be an issue at this stage. 14 respondents see a possibility to improve these definitions.</td><td>ACER amended the definitions listed in the September 2012 FG with a view to improve their clarity. However, the FG should not be considered as a stand-alone document, as it will be accompanied by an Impact Assessment, in which concepts will be defined and clarified. For that reason, ACER considers that the 16 April 2013</td></tr>
</table>

[2] Another respondent stated that in Germany there is a 'threshold' defined under which parties can 'walk away from contracts.

Respondents' feedback on the consultation doc	ACER's views
	FG definition list should focus on essential elements and should not be significantly expanded.
1.3. Please suggest the top-5 core *indicators*[3] for monitoring the future EU-wide implementation of the future tariff FG (NC)?	
A majority (26/5) of respondents suggested indicators measuring: Direct Tariff aspects (evolution, revenue recovery, size of regulatory account size) (22); Market related aspects (Cross border trade, customer satisfaction, exemptions) (16); Transparency related aspects (e.g. on methodology (11)); Underlying to Tariffs cost efficiency (3); Literal NC implementation as such (9). 5 respondents, including ENTSOG, are opposed to the definition of indicators – they should be addressed nationally; must be flexible and it is now too early to define them.	In ACER's view indicators are necessary for the monitoring of both the implementation and the consequences of the NC in a common way. ACER proposes to include further non-exhaustive requirements for measuring indicators in line with these requests, especially focused at achieving envisioned end-situation of implementation (see chapter 1.4. of the 16 April 2013 FG).
<u>2.Cost allocation and determination of the reference price</u>	
2.1. Transparency provisions 2.1.1. Do you agree with the level of harmonization proposed for the transparency in relation to tariffication methodologies?	
A majority of (29/8) respondents argued for more transparency, calling for the harmonisation of tariff monitoring and increased harmonisation in tariff monitoring practices. 8 respondents opposed to further transparency, arguing that TSOs already fulfill wide requirements or this issue can be dealt with nationally; transparency provisions. They argued that this issue should be carefully reasoned and the current policy options do not address the issue with transparency.	In ACER's view, stakeholders wish to be, and must be, given the possibility to anticipate and estimate tariff changes, in order to make informed business decisions. This requires transparency over the tariff framework and methodology. 16 April 2013 FG, as revised, offers more transparency on parameters relevant to tariff derivation in chapter 2 of the 16 April 2013 FG.
2.1.2. Would you support additional requirement(s) to ensure "reasonable and sufficiently" detailed tariff information? For example, one could consider including a provision such as: "the transmission system operators or relevant national authorities shall provide additional information if a significant tariff fluctuation is expected on a specific or on all entry- and exit points".	
A majority of (29/8) respondents was in favour, 2 had no opinion on this question. 24 respondents suggested additional provisions on the monitoring of tariff fluctuations and their justification. They suggest the following - increased harmonisation in tariff monitoring	ACER acknowledges that customers should be able to reasonably estimate cost of access to network. ACER acknowledges that Transparency provisions will therefore need to ensure reasonable insight on; i) cost parameters/cost data ii) all aspects related to cost allocation and tariff setting.

3 An example of a core indicator could be e.g. the relative size of (positive or negative) Regulatory account in comparison to overall Tariff revenues, indicating under- or over recovery of the tariff regime in a specific entry- and exit zone.

<table>
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<tr><td>practices.
In line with question 2.1.1, 24 respondents called for increased transparency on tariff methodology and underlying reasoning and assumptions at a level that will allow users to reproduce and anticipate their evolution.
In line with question 2.1.1, 7 respondents objected to additional transparency provisions, as: the regulation already provides sufficient requirements. They argued that each transparency obligation should be carefully reasoned - the policy options do no address the issue which is forecasting future.</td><td>ACER agrees with respondents signalling the need for increased transparency measures, as specified in chapter 2 of the 16 April 2013 FG. These measures ensure covering of main aspects relevant to tariff derivation, as guided by Article 18(2) of the Gas Regulation. In addition, ACER notes the importance, as supported in Open House comments as well, of a harmonised minimum notice period of tariff changes. Finally, ACER also suggests transparency measures in relation to network expansion (see also question 8.1).</td></tr>
<tr><td colspan="2">2.2. Cost allocation and reference price setting methodology, general questions</td></tr>
<tr><td colspan="2">2.2.1. Do you agree with proposed level of harmonization for the reference price setting methodology, aiming for same methodology for all types of network users per one entry-exit zone?</td></tr>
<tr><td>A majority (29/8) of respondents was in favor and 8 had no opinion on this question. It was proposed that, flexibility needed for the following reasons:

- SOS investments upstream have to be paid by downstream
- Short haul must remain possible
- Capacity charges to cover compressor costs must be default rule
- Even different TSOs at single entry points should apply common tariff.</td><td>ACER considers that cost allocation within entry-exit systems shall reflect ‘cost-reflectiveness’ as a key principle, balanced with avoidance of substantial cross-subsidies, and appropriately stimulating reduction of market barriers to entry and cross border trade within the internal energy market (the ‘IEM’).

The measures foreseen by ACER are under revision, but ACER does not foresee to apply one and same methodology to all networks, due to the different topologies of various EU gas networks (e.g. due to complexity of the meshed pipeline systems; relative size of the networks and degree of cross-border flows). Also, national approaches to SOS and issues like short haul can apply. ACER’s aim is to give a steer on on how the methodologies are applied by describing bottom-up.</td></tr>
<tr><td colspan="2">2.3. Cost allocation and the Reference price setting methodology, detailed questions.</td></tr>
<tr><td colspan="2">2.3.1. Do you agree with proposed option for setting reference prices for entry capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?</td></tr>
<tr><td>A majority (24/9) of respondents was in favor and 8 had no opinion on this question, 3 proposed some alternatives.

Two ideas, explained by respondents:

- cross-subsidies are inevitable in E/E, so cost-reflectiveness (based on distance) is unachievable;

- the equalization should not be considered as an exception to be justified</td><td>ACER is aware of the issues raised. The issue of cross-subsidy will be addressed by the bottom-up revision of the cost allocation methodologies. See further question 2.2.1 regarding equalisation justification.</td></tr>
<tr><td colspan="2">2.3.2. Do you agree with proposed option for setting Reference prices for exit capacity i.e. to have methodology based on major cost driver (e.g. distance) unless use of equal tariffs can be justified?</td></tr>
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<tr><td>A majority (24/9) of respondents was in favor and 10 had no opinion on this question. The main idea: equalization of exits at IP should also be allowed.</td><td>ACER will develop a bottom-up description of allowed cost allocation methodologies, based on the currently known European experiences. See further question 2.2.1 on general views of ACER on this topic.</td></tr>
<tr><td colspan="2">2.3.3. Do you agree with the cost allocation principle that revenue from entry points should equal 50% of revenue from all entry and exit points?</td></tr>
<tr><td>Some criticism was received (17/19) and 7 had no opinion on this question. Respondents argued that tariffs are not cost-reflective, so the detailed assessment necessary, especially in transit countries. Some respondents argued that this is a national issue, not suitable for one fits all solution, difficulties may emerge in case of zone mergers.</td><td>ACER is developing bottom-up cost allocation methodologies touching on the appropriate application of E/E split.</td></tr>
<tr><td colspan="2">2.3.4. Do you agree with application of the proposed options for setting reference prices to all entry and exit points?</td></tr>
<tr><td>A majority (22/6) of respondents was in favor and 14 had no opinion on this question, 1 respondent- proposed to have an alternative, based on Ramsey pricing.</td><td>The September 2012 FG changed substantially, leading to further harmonization. See ACER's views as formulated in questions 2.2.1 and 2.3.3, and Annex 2 with the Open House review.</td></tr>
<tr><td colspan="2">2.4. Pricing of entry- and exit capacity on the transmission network to and from gas storage facilities (see also questions under '9' Locational signals).</td></tr>
<tr><td colspan="2">2.4.1. Do you agree with proposed option to base tariffs for entry and exit capacity on the transmission network to and from gas storage facilities at an adequate discount to other entry and exit points on the TSO?</td></tr>
<tr><td>A majority (26/14) of respondents was in favor and 3 had no opinion on this question. Main proposals for consideration:
- Exit to storage and entry to transmission is already paid;
- Terminology 'discount' is undesirable
- Discount for storage should not be separate rule, but consequence of method
It was two strong themes in opposition that: (i) the discounts are not cost reflective (when capacity charges are based mainly on distance as cost driver) and (ii) are discriminatory (the benefits from storage are hard to measure and benefits from other flexible sources should also be captured in an equitable way). Furthermore if LRMC is used, the benefits will be captured in the reference price anyhow.</td><td>The bottom-up development of the cost allocation methodologies may have an impact on this issue. See answer to 2.2.1.</td></tr>
<tr><td colspan="2">2.4.2. Do you agree with harmonization of such a discount across all storage points in the EU?</td></tr>
<tr><td>Criticism was received (9/28) and 6 had no opinion on this question. Main proposal for consideration: the discount must be cost-reflective, thus different in each country. They argued that also the level playing field is</td><td>See question 2.4.1.</td></tr>
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Respondents' feedback on the consultation doc	ACER's views
desirable.	
2.4.3. If you prefer harmonization for an 'adequate' discount, which level of such a discount applied to firm capacity level do you advocate?	
A criticism was expressed (7/27 respondents and 9 had no opinion) on this question, as harmonization at both sides of IP may lead to inconsistency within each national methodology.	See 2.4.1.
2.4.4. What are your views on harmonization of tariff measures, leading to harmonization of transmission tariff levels across all storage points in the EU (instead of harmonizing a discount across all storage points in the EU)?	
Criticism was expressed (4/32 and 7 had no opinion) that storage is not a source, nor a final destination of gas in itself. Respondents argued that also differentiated treatment of non-exempted storage facilities can hardly legally be justified.	See 2.4.1 for ACER's views on the topic.
3.Revenue recovery	
3.1. General – interdependency questions.	
3.1.1. Do you agree that the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price are consistent together?	
A majority (17/13) would like more consistency between reserve prices, payable price and cost recovery. Concern about discounts on short term reserve prices was expressed. For some respondents, proposals cannot be consistent because of the wide differences between national regulatory regimes. It was a proposal that the September 2012 FG should better address the discrimination between different categories of users. 13 respondents argued that ACER proposals seem to be consistent together even if they do not support all of them.	ACER acknowledged that issues of payable price and revenue recovery could be looked at together, and assured that respective provisions in the 16 April 2013 FG were consistent.
3.1.2. Are the current draft FG proposals on Reserve prices for short term products, on revenue recovery and on payable price properly addressing the ambition for the pricing of transmission capacity to strike the right balance between facilitating short-term gas trading on one hand and providing long-term signals for covering costs and promoting efficient investments on the other?	
Criticism (23/6) was expressed about the balance between facilitating short term trading and long term signals: • Discounts on short term products criticized • Lack of harmonization of the short term reserve prices. • Some respondents see too much focus on revenue recovery • Some are concerned by the	ACER acknowledges that revenue recovery is a general principle aimed at ensuring that TSO costs are properly paid for. Any choice in terms of tariff design has to associate competition development objectives to a strategy of cost recovery. Objective of cost recovery mechanisms is to cover the gap between the allowed revenue and the collected revenue by: • Ex-ante: strategy aimed at minimizing the gap • Ex-post: re-allocation of the gap to next years ACER assured that the trade- offs were addressed in balanced way in the 16 April 2013 FG.

Respondents' feedback on the consultation doc	ACER's views
impact of floating tariffs on long term commitments	
3.2 Regulatory account	
3.2.1. Do you agree with the principle to set reference prices to minimise the difference between allowed and collected revenues?	
There was a large support for the reference price definition aimed at minimizing the difference between allowed and collected revenues. A wide majority also argued that periodic revision of the reference prices are essential to ensure tariffs stability and minimize the difference between allowed and collected revenues. Several respondents noted the need to take into account the special issues of price-cap regimes.	ACER addressed the reconciliation of the regulatory account through: - Frequency decided by the NRAs (The 16 April 2013 FG is in line with stakeholder requests.) - Capacity approach on IPs, as default rule with floating tariffs; - Reserve prices and regulated tariffs evolving according to allocation of the regulatory account; - Provisions that at non-IPs, NRAs may determine alternative methodologies to reconcile the regulatory account to non-IPs (subject to conditions as described in question 3.2.2); - Provisions for recovering cost driven by flows where flow based charges are used by ex-post adjustment of the flow based charge.
3.2.2 Do you agree with proposed level of harmonization of using the regulatory account?	
Concerning the regulatory account, majority (20/10 and 5 had no opinion) supports the level of harmonization. The NRA should determine, which part of the over- or under-recovery is allocated to network users and which part to the TSO, so that the TSO is incentivised to minimise costs and maximize revenues. 4 respondents did not agree with the level of harmonisation and argued that the decision should be left to the NRA. The NRA must have a degree of discretion over the utilisation of regulatory account. Flexibility is needed in order to take into account TSO specificities. Some respondents argued that further harmonisation is needed. Several respondents were against a unique regulatory account for entry and exit points in order to avoid cross-subsidies between cross-border and domestic entry and exit points.	ACER acknowledges that the reference price calculation should minimize the difference between the allowed and obtained revenues. (The 16 April 2013 FG is in line with stakeholder requests.) ACER noted the need to include assumptions on bookings and reserve price structure. ACER also acknowledges that a regulatory account records the gaps between allowed revenues and actual revenues of the TSO by: - Reconciliation on an ex-post basis; - Single regulatory account per TSO; (The 16 April 2013 FG is in line with stakeholder requests.) - Application of the cost allocation methodology to the regulatory account. As an option ACER introduces another possibility to reconcile the regulatory account in a specific way. It is expected that NRAs may only use that possibility for domestic points.
3.2.3. Do you agree that NRAs should determine or approve how often and how fast the regulatory account has to be reconciled on a national level, whilst preserving balance between timely cost recovery and sudden adjustments to tariffs?	
A majority (29/4) of respondents (4 had no opinion) supported this question. Keeping this as a NRA responsibility would allow considering local specificities and different degrees of recovery in the previous years. The	ACER follows stakeholders' views, and does not propose harmonization of this provision, and considered that this should be left to national decision making.

Respondents' feedback on the consultation doc	ACER's views
cause and magnitude of any under/over recoveries will depend on many different factors and may differ from year to year. A standard EU reconciliation could create distortions and volatility in future transmission tariffs. A respondent proposed that NRAs should consult the market. In favour to an EU harmonisation, some respondents argued that a full and automatic adjustment of the regulatory accounts, guaranteed through European regulation, would be preferable, to set a level playing field for all European TSOs and adopt a coordinated approach to the changes to tariffs. If under and over recovery issues were interpreted at a national level, TSOs would have to support a regulatory risk jurisdiction by jurisdiction. Also some respondents proposed that a default rule should be established on the adjustment in the FG. Some respondents argued that the reconciliation of the regulatory account should occur regularly.	
3.2.4. What is your view on including the option to use the Regulatory Account (including the potential over-recoveries from auction premium) to contribute to solving congestion? How could this be done, especially in view of principles of non-discrimination and cost-reflectivity? Please give reasons for your answer, including any quantitative evidence, tables and examples.	
A majority (13/6 in favor, 10 respondents answered that it ccould be one possibility among others, and 1 had no opinion) supported this question. For several respondents, the use of auction premium to solve congestion should only be considered when auction premium occur regularly at one IP, i.e. if there are consistently over-recovered regulated revenues at one IP. Some respondents also suggested distinguishing between volatile auction premiums occurring for a few products from stable auction premium occurring permanently. Volatile premium should be used to reduce under-recovery at other points. Several respondents suggested that solving congestions should be addressed to the annual long-term bundled capacity auctions or through open seasons for the development of new capacity. 4 respondents argued that auction premiums should contribute to lower transmission tariffs. The possibility to use over-recoveries from auction premiums to solve congestions should be considered as only one of the possible options to use under-recoveries. Other options, as the reduction of transmission tariffs, should be possible.	ACER considers that using congestion premium for solving congestion is an option, which is worded in 16 April 2013 FG. As auction premiums are unpredictable, they may contribute to solve congestion but should not be regarded as the only financial channel for the development of new capacity. Auction premiums may not generate a stable cash flow to finance new investment.

Respondents' feedback on the consultation doc	ACER's views
5 respondents suggested that auction premiums alone are not sufficient to solve the congestion. As auction premiums are unpredictable, they may contribute to solve congestion but should not be regarded as a priority financial channel for the development of new capacity. They may not generate a stable cash flow to finance the investment.	
3.3. Reconciliation of Regulatory accounts.	
3.3.1. Which option for the reconciliation of regulatory accounts do you prefer?	
The majority (17) prefers the capacity approach (option 1). A commodity charge could generate cross-subsidies between network users and could create potential barriers to trade. Many argued that a capacity approach is the simplest method. Two respondents have a preference for a commodity charge as this approach would target under and over recovery to the users causing it. A significant number (12) suggests combining capacity and commodity approaches and keeping flexibility for the NRAs.	ACER followed the majority view, and proposed capacity approach as most adequate EU-wide approach ensuring no barriers to trade, and as the most robust approach towards recovery of revenues in the current gas market situation. See chapter 4 FG.
3.3.2. In line with the interdependency discussion above in question 3.1, what are your views on recovering revenues by means of a separate charge set at the start of the gas year with the aim of minimising the amount that goes into the regulatory account?	
Criticism was expressed (6/20 respondents and 7 had no opinion) on this question. For 15 respondents, over and under-recoveries should be minimized ex-ante with reserve prices and regulated prices set on the basis of best available forecast information. An ex-ante separate charge could be discriminatory as it would add complexity and uncertainty. It would potentially create a risk of over-revenue and discrimination. It could also hamper cross-border trade. 11 respondents seek clarification on how a separate charge might work (for instance, Would it be billed during the next tariff period for reconciling over or under-recoveries from the past? Would it be billed only to those users that created over or under-recoveries?). Additional investigations are required to avoid excessive complexity and uncertainty. The option of an ex-ante separate charge could be relevant in some cases and should remain open (6 respondents). Some respondents argued that all reconciliation options should be allowed. A separate charge may be appropriate in some cases (for instance, during the implementation period of the network code or if	See 3.3.1.

<table>
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<tr><td>the short term capacity reserve price is lower in proportion than the long term one).</td><td></td></tr>
<tr><td colspan="2">3.3.3. Do you agree with application of the option on reconciling regulatory account to all entry and exit points (both domestic and cross-border)?</td></tr>
<tr><td>Small majority (16/13 respondents and 7 had no opinion) supported this question.

Respondents argued that reconciling regulatory account to all entry and exit points is the safest way to proceed in terms of simplicity, transparency, tariff stability and non-discrimination.
11 respondents argued that it would be discriminatory, if some points were exempted from contributing to the reconciliation. Moreover, targeting adjustments to particular entry and exit points would distort bidding behaviour and would exacerbate under or over-recoveries in the next years. If reserve prices and regulated prices are set on the basis of best available forecasts, the reconciliation will interfere marginally and the tariffs will stay cost-reflective.

11 respondents agreed that to ensure cost-reflectivity, NRAs and TSOs should keep some flexibility to target costs and allocate them to the users that are causing over or under-recoveries.
4 respondents agreed that NRAs and TSOs should keep some flexibility, if it turns out that it would be necessary to look beyond individual TSOs to ensure revenue recovery.</td><td>See 3.2.2.</td></tr>
<tr><td colspan="2">3.3.4. Do you agree that the regulatory account should be recovered by splitting the total under- or over- recovery across all entry and exit points in the same proportion as set out in the cost allocation methodology?</td></tr>
<tr><td>Criticism was expressed (11/20 respondents and 1 had no opinion) on this question.
Same cost allocation should be kept for reconciliation of the regulatory account (10 respondents). Respondents proposed that for the purpose of simplicity and transparency, the reconciliation of the regulatory account should be done using the same cost allocation methodology. Excluding a particular point or a particular user would be discriminatory.
16 respondents argued that NRAs and TSOs should keep some flexibility in order to ensure a reasonable cost-reflectivity. Non-discrimination and effective cost-recovery may require that the reconciliation of the regulatory account deviates from the initial cost allocation. Many respondents did not understand the rationale behind the rule stating that 50% of the costs would be initially allocated to entry points and 50% to exit points.</td><td>See 3.2.2. and 2.3.3</td></tr>
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Respondents' feedback on the consultation doc	ACER's views
Therefore, they are opposed to this rule concerning the reconciliation of the regulatory account as well. Such an allocation rule would be too rigid and would cause cross-subsidies between users.	
4. Reserve prices	
4 General.	
4.1.1. Do you consider it sufficient to have rules on firm, interruptible and non-physical backhaul capacity products or are you aware of other capacity products that should be addressed in the FG?	
A majority (24/13) respondents supported that the September 2012 FG sufficiently addresses topic of Reserve prices in terms of scope. Respondents used the opportunity to comment on Reserve prices policy options as such. 4 respondents did not have an opinion; however 15 respondents (mainly traders, some shippers, consumers) favor proportional reserve prices as default rule. They argued against multipliers, as those distort competition in the markets. 16 respondents (mainly TSOs, some shippers) favor revenue equivalence principle, i.e. multipliers (risk of under-recovery, flight to the short-term at non-congested IPs, stability of reference prices and cross-subsidisation).	ACER acknowledges that the responses to its consultation requested to: - Be more prescriptive; - Offer less discretion for NRAs, e.g. introduce "floor" for discounts; - Provide the necessary flexibility, e.g. to distinguish between congested and non-congested IPs; - Be less complex, e.g. the relation between multipliers and seasonal factors was mentioned as unclear. According to these requests, ACER decided to apply a clear default rule, ACER is more prescriptive on the deviations possible from this rule (floor on multipliers), provides criteria when the deviations could be applied (congested/ non-congested IPs) multipliers and seasonal factors are clearly and in the same way capped. Backhaul rule for unidirectional IP acknowledges special treatment as explained under 4.4.1. See also Open House review in Annex 2.
4.2 Reserve prices (firm)	
4.2.1 Do you agree with proposed level of harmonization?	
Criticism was expressed (8/17 respondents and 5 had no opinion) on this question. 3 respondents asked for more prescriptive rules to limit the discounts that NRAs can give on short term products in the case of expected under-recovery, e.g. a rule could be set requiring a certain % of capacity to be sold out or amount of revenue guaranteed at a given point before significant discounts are offered on short-term capacity. It was expressed (7 answers) a concern that there is too much discretion for NRA intervention (regulatory risk). There were some concerns (3) on flexibility –and complexity (5) of the rules.	ACER will address the request for more prescriptive rules by defining more clearly, under which circumstances multipliers higher and lower than 1 may be applied by the NRAs. To limit the discretion of NRAs, a floor for quarterly and monthly products will be introduced.
4.2.2 Do you agree with proposed option for the Reserve price for short-term products including the possibility that the national regulatory authority may decide to allow for higher short-term prices that may apply (via multiplier higher than one, but not higher than 1.5) if there is risk of significant under-recovery of allowed revenues?	
Some criticism was expressed (15/16 respondents 7 had no opinion) on this question. 12 respondents supported the idea that multipliers shall observe the 'equivalence principle', because supporting short-term trade	ACER acknowledges that the proportional pricing as default rule for pricing quarterly and monthly products is suitable but that deviations from default rule may be justified within the range of 0.5 to 1.5 for quarterly and monthly products ACER acknowledges that the default rule for daily and within-day

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<tr><td>by discounting transportation costs is neither efficient, nor fair. 4 respondents agreed on the concept of multipliers but disagreed with the size of multipliers. Some respondents argued that multipliers higher than 1 should be the default rule. 3 respondents argued that long-term bookings provide stable long-term signals for TSOs which are key for investments and security of supply, long-term reserve prices shall be lower than short-term ones.
8 respondents supported proportional reserve prices. 1 respondent suggested that multipliers and seasonal factors distort the market and competition; proportional reserve prices should be the cap for short-term products, rather than the default rule.
It was mentioned also limit on multipliers (9), risk of under-recovery with the shift to short-term (7).</td><td>products, as pricing them less than or equal to proportional amount for the annual firm products is suitable, but that deviations from the default rule may be justified within the range of 0 to 1.5 for daily and within-day products.
ACER agrees that there is a need to revise the definition of "significant" under-recovery. The revision will take into consideration that significant under-recovery triggered by a potential change in booking behavior by shippers may only occur at non-congested IPs. Therefore a stable definition from the CMP decision was proposed in the 16 April 2013 FG. See chapter 5 of the 16 April 2013 FG.</td></tr>
<tr><td colspan="2">4.2.3 Do you agree with application of the proposal on short-term Reserve prices to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?</td></tr>
<tr><td>A majority (33/2) respondents (2 had no opinion) was in favour of reserve prices applying to CAM IPs. Some respondents underlined the scope of application (7), in particular a suitable proposal for the pricing of short-term capacity, such as that he reserve prices, should apply where the CAM NC applies, i.e. at IPs;

Some respondents mentioned that not all national entry and exit points will be subject to auctions, to the extent that they are, the reserve prices in these auctions need to apply the same rules that are applicable at IPs. They argued that transmission entry/exit points to/from storage should not be concerned by the FG.

Respondents also argued that application to all (entry) points of the methodology for calculating tariffs should be the same for all entry points to ensure non-discriminatory approach, there should be broadly no undue discrimination between interconnection points at borders and intra-country interconnection points.</td><td>ACER notes the support for the application of the proposal on short-term reserve prices to entry and exit points, where the Network Code on CAM applies. The 16 April 2013 FG is in line with stakeholder requests.</td></tr>
<tr><td colspan="2">4.2.4. What criteria would you propose to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?</td></tr>
<tr><td>Respondents (13) proposed heterogeneous criteria:
1. Efficient use of the network (1);
2. Incentive to book long term. 8 respondents mentioned that network users with a requirement to for long-term capacity should</td><td>In ACER's view, the criteria proposed by respondents can be met when applying the rules laid down in the Framework Guideline. The default rule of proportionate reserve prices for quarterly and monthly products and less than or equal to proportionate prices for day-ahead and within-day will incentivize shippers with a long-term flat capacity demand to participate in the annual yearly</td></tr>
</table>

Respondents' feedback on the consultation doc	ACER's views
have an incentive to book long-term capacity; 3. Minimize cross-subsidization. 3 respondents argued that short-term tariffs shall be set in such a way to minimize cross-subsidization between different types of network users; 4. Minimize tariff volatility. 3 respondents stressed that short-term tariffs shall be set in such a way to minimize tariff volatility, the tariff structure shall allow for recovery of required capacity revenues ex-ante, in order not to create a systematic need for corrective mechanisms ex-post, which will have distortive effects; 5. Stable revenue recovery. 4 respondents argued that short-term tariffs shall be set in such a way to provide stable revenue recovery; short-term capacity embodies a higher risk for TSOs and thus a higher price would reflect that risk.	auction in order to save transaction costs which would otherwise arise, if they would participate in 365 daily auctions. On the other hand, the default rule of proportionate reserve prices for quarterly and monthly products and less than or equal to proportionate prices for day-ahead and within-day allows shippers with a profiled capacity demand to book such profile and thereby support the efficient use of the network. In ACER's view, the possible deviations from the default rule of proportionate reserve prices for quarterly and monthly products and less than or equal to proportionate prices for day-ahead and within-day allow to properly address the criteria of minimisation of cross-subsidisation and tariff volatility as well as ensuring stable revenue recovery. These criteria are especially relevant in case of non-congested IPs, where a potential change in booking behavior by shippers may occur. ACER acknowledges the need to allow for flexibility for NRAs to address these issues based on the underlying situation.
4.2.5. Would you agree with using Seasonality (or other criteria, which you may suggest) of the systems as criteria to set the Reserve price for short-term products that will be higher than the price of an annual product, to interconnection points?	
A majority (25/11) of respondents supported seasonality factors, as a tool to optimise network use. 11 respondents are against seasonality factors, they argued that seasonality factors can distort the market.	ACER acknowledges that the methodology for determining seasonal factors and the conditions under which seasonal factors are applied needs to be developed in the Network Code. ACER agrees that the seasonal factor (higher in winter than in summer) can represent a way to incentivise use of network in summer. However, seasonal factors should not generally be applied, as they may pre-judge the market value of transmission capacity. Therefore, ACER considers that seasonal factors should only be applied, where they improve the gas transmission system's efficiency and cost-reflectivity.
4.3 Reserve prices (interruptible)	
4.3.1. Do you agree with proposed option to set Interruptible Reserve prices at a discount to firm capacity where the discount is based on the likelihood of interruption, and to recalculate once a year?	
A majority (38/16) of respondents was in favour.	ACER acknowledges that the methodology for determining discounts for interruptible and non-physical backhaul capacity shall be developed in the Network Code.
4.3.2 If you prefer a fixed discount, which level of such a discount applied to firm capacity level do you advocate?	
2 answers were received on the level of discount. ENTSO-G proposes detailed rules in the NC.	ACER acknowledges that the majority of respondents do not support fixed discounts.
4.3.3 Do you agree with application of the proposed option to entry and exit points where the Network Code on CAM applies, i.e. interconnection points only?	
A majority (32/2) of respondents (1 had no opinion) was in favor on this question. Specific points: • These provisions apply to the same points	ACER notes the support for the application to entry and exit points where the Network Code on CAM applies. The 16 April 2013 FG is in line with stakeholder requests.

Respondents' feedback on the consultation doc	ACER's views
where the network code on CAM applies. • Same treatment of interruptible capacity throughout the European gas markets is appropriate and would increase transparency. • It leaves the possibility to NRAs to apply different restrictions for the allocation of interruptible capacity to those entry and exit points that are not included in the CAM NC.	
4.4. Reserve price (backhaul)	
4.4.1 Do you agree with proposed level of harmonization?	
A majority (18/7) of respondents supported (3 had no opinion) this question. Some respondents (12) argued that backhaul capacity should be viewed simply as an interruptible product. Other found that as inappropriate pricing of backhauls could distort flows in neighboring networks as it can inhibit trades that could occur in the presence of appropriate backhaul pricing. Some argued that multipliers may be too low.	ACER acknowledges that a large number (12) of respondents argued that non-physical backhaul capacity should be treated, as interruptible capacity. ACER agrees that the product quality of non-physical backhaul capacity and interruptible capacity have the same effect. However, ACER considers that a different methodology for determining the reserve price for non-physical backhaul is necessary, in comparison to other interruptible products. Reason for different approach is that discounts may not be applied at unidirectional interconnection points, where TSOs offer firm capacity only in one direction and capacity is offered in the other direction only on an interruptible basis (non-physical backhaul capacity). At these points, there is no corresponding firm standard capacity product in relation to which a discount could be set, contrary to other interruptible products.
4.4.2 Do you agree with proposed option to set backhaul prices at a discount to firm capacity level so that Reserve prices reflect the level of actual marginal costs (= IT and administrative costs)?	
Stakeholder opinion (16/16 and 3 had no opinion) could not give steer on this question. Some respondents (4) argued that tariffs are cost-reflective as users only pay for the costs they impose on the system. Some proposed that non-physical backhaul should be priced as interruptible capacity. Others argued that negative prices should be avoided. 11 respondents specified that there is no tariff distinction between interruptible capacity and backhaul capacity (discount on backhaul should reflect the risk of interruption).	ACER takes note of the split views by respondents on this question. As pointed out in ACER's policy view to question 4.4.1, it is not possible to apply the same methodology for determining the reserve price for non-physical backhaul capacity than for interruptible capacity. ACER therefore considers it necessary to distinguish between a methodology for determining the reserve price for non-physical backhaul capacity and a methodology for determining discounts for interruptible capacity.
4.4.3 Do you agree with application of the proposed option on backhaul capacity pricing to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?	
A majority (26/2) of respondents (4 had no opinion) agreed on this question because of its consistency with CAM. Also it leaves the possibility to NRAs to apply different restrictions for the allocation of backhaul capacity to those entry and exit points that are not included in the CAM NC.	ACER notes the support for the application to entry and exit points where the Network Code on CAM applies. The 16 April 2013 FG is in line with stakeholder requests.
5. Virtual IPs Do you support the proposed option for Reserve price in Virtual IPs as EU-wide standard? Please reason your	

Respondents' feedback on the consultation doc	ACER's views
answer, including any quantitative evidence, tables and examples on balance between cost-reflectivity and cross border trade stimulation?	
A majority (24/4) of respondents (10 respondents did not have opinion, 7 respondents proposed alternative options) supports the proposed option for reserve price in Virtual IPs. Some respondents offered an alternative option: aggregate the points and then calculate the tariff as if it was just one single point, depending on the allowed revenue that should be recovered.	ACER acknowledges that almost no concrete examples for VIPs in the EU exist yet. The policy option as worded in 16 April 2013 FG was adequate to allow NC to develop appropriate eeserve price for VIPs. We note that between Spain and Portugal there is a VIP, as mentioned in the ENTSOG CAM NC Early Implementation Roadmap (see page 40 of the ENTSOG report).
6. **Bundled capacity products**	
6.1 Reserve price (Bundled)	
6.1.1 Do you agree with proposed level of harmonization?	
A majority (34/0) of respondents supports the proposed option. 9 respondents did not have an opinion. One respondent opposed to mandatory bundling.	ACER notes the support for the proposed level of harmonisation. The 16 April 2013 FG is in line with stakeholder requests.
6.1.2. Do you agree with the proposed option that the sum of Reserve prices for unbundled capacity is used as bundled Reserve price?	
A majority (34/0) of respondents was in favor and 9 had no opinion on this question. Some respondents argued that the sum of the reserve prices for unbundled entry and exit capacity at cross-border points should be used as the bundled reserve price. It is important that the individual reserve prices for cross-border entry and exit capacity are aggregated to calculate the bundled reserve price to ensure revenue recovery.	ACER notes the support for the proposed option to determine the bundled reserve price. The 16 April 2013 FG is in line with stakeholder requests.
6.1.3 Do you agree with application of the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?	
A majority (32/2) of respondents was in favor and 9 had no opinion on this question. Most of the respondents agreed that the bundled reserve price should apply at IPs in line with the CAM NC. Few argued that there is no reason to limit this measure to CAM IPs only.	See question 6.1.2.
6.2. Do you support the proposed option for Reserve price (if unbundled) as the EU-wide standard?	
A majority (18/8) of respondents was in favor, and 13 had no opinion on this question, as well 4 proposed some alternatives. Some respondents (4) consider that the reserve price for unbundled capacity at an IP should reflect the reserve price of either the entry or exit capacity, from which the unbundled capacity originates. Arbitrarily inflating or deflating the unbundled/bundled product price is not consistent with the cost reflectivity principles of the tariff setting. Having different prices for	ACER follows the majority view, and disagrees with higher price for unbundled capacities. If the market requires bundled capacity there should be no need to price unbundled capacity at a higher level purely to incentivize the sale of bundled capacity. Moreover, progressive bundling of capacity is already incentivized by the procedures specified in NC CAM. To avoid restating the obvious, the text "the reserve price of the unbundled capacity shall equal the reserve price of either the entry or exit capacity from which the unbundled capacity originates" was removed from the FG (see chapter 7 of the 16 April 2013 FG).

Respondents' feedback on the consultation doc	ACER's views
bundled and unbundled capacity would seem discriminatory, particularly if the intention is to price one product at a higher level to make the other product more attractive. If the market requires bundled capacity, there should be no need to price unbundled capacity at a higher level purely to incentivize the sale of bundled capacity. Moreover, progressive bundling of capacity is already incentivized by the CAM NC even without taking into account any default rule. Some respondents disagreed with higher price for unbundled capacities.	
6.3 The Network Code on Tariffs shall specify that the revenues from Reserve price of bundled capacity products shall be attributed to the TSOs proportionally to the Reserve prices of their respective capacities in the Bundled Capacity. The revenues from the auction premium from bundled capacity above the Reserve price shall be split according to agreement between the relevant national regulatory authorities. Furthermore, the Network Code on Tariffs shall in the case that no agreement is concluded before the auction, specify that the revenues from the auction premium shall be split equally between the TSOs.	
6.3.1 Do you agree with proposed level of harmonization in that approach above?	
A majority (24/4) of respondents was in favor, and 15 had no opinion on this question. Some respondents argued that NRAs and TSOs have the flexibility to agree an appropriate allocation of revenues above the reserve price, taking into the account the circumstances of the relevant TSOs (e.g. for those with an allowed revenue regime, the NRAs could consider whether a TSO is in an under-recovery situation or has exceeded their allowed revenue).	ACER notes the support for the proposed level of harmonisation. The 16 April 2013 FG is in line with stakeholder requests.
6.3.2 Do you agree with proposed option for splitting auction revenues from bundled products to the relevant TSOs?	
A majority (20/12) of respondents was in favor and 11 had no opinion on this question. Some respondents argued that a unique option for splitting auction revenues is not cost-reflective, especially if the auction takes place during a physical congestion. The split should be apportioned to the reserve prices. Others were concerned about delay - given the time it can take for NRA approval and agreement it may be appropriate to allow the NRAs to reach agreement after the auction and delay application of the default 50/50 split of the auction premium. It goes without saying that full transparency is needed on how NRAs do decide to split auction revenues.	See 6.3.1. ACER considers that given the time that may take for NRAs to approve and agree, it is appropriate to formulate a default rule in line with the respondents' majority guidance.
6.3.3 Do you agree with application of the proposal to entry and exit points where the Network Code on CAM applies i.e. interconnection points only?	
A majority (30/1) of respondents was in favor and 12 had no opinion on this question. One respondent reminded that the proposal should apply to connection points between adjacent entry-exit systems.	ACER acknowledges that the proposal should apply to connection points between adjacent entry-exit systems.

Respondents' feedback on the consultation doc	ACER's views
7. **Payable price**	
7.1.1 Do you agree with proposed level of harmonization?	
A majority (18/6) of respondents was in favor and 10 had no opinion on this question. Some of the respondents reminded that planning will help shippers to effectively schedule their gas transportation. Harmonizing the payable price for bundled capacity at interconnection points between adjacent market areas avoids distorting trade between those market areas. Others (4) concerned about flexibility: fixed price, or both, a fixed and a floating price should be possible. One respondent stressed that if there is no certainty about the price, there should at least be "forward transparency".	ACER notes the support for the proposed level of harmonization. However, ACER considers it necessary to allow for some flexibility in NRA decision making regarding Payable price when releasing incremental capacity at an interconnection point. The NRA decision making is however to be bound by criteria of transparency, non-discrimination, and shall be in in line with IEM network code developments. Notably, it is expected that for the release of incremental capacity separate EU-wide rules will be developed. See ACER preparatory study under this link: 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
7.1.2 Do you agree with the proposed option to set payable price equal to the current Reserve price for year in which capacity is used plus any premium?	
A majority (15/11) of respondents was in favor and 10 had no opinion on this question (7 proposed alternatives). Some respondents (9) argued that floating tariffs would help to minimize under- or over- recovery of TSO allowed revenues. Around two-thirds of those who are generally supportive of floating prices cited their potential to minimize under- or over- recovery of TSO allowed revenues, as a principle. Some respondents stressed that floating tariffs would avoid discrimination between network users (7). Around half of the respondents who were generally supportive of floating prices pointed out such floating prices contribute to avoid discrimination between network users. Roughly half of the respondents who were supportive of floating prices argued that those would minimize cross-subsidisation. Some respondents were in opposition, saying that network users need certainty, which is provided by fixed prices (16). Almost every respondent opposing the proposed option cited this as the primary reason. Also they stated that floating prices distort incentives against long-term booking (2). Two respondents argued that floating prices would have a distorting effect on incentives. Some respondents were concerned that floating prices undermine core market principles.	ACER acknowledges that a majority of respondents was in favour of a floating payable price. In order to address the concerns raised that floating payable prices would distort incentives against long-term booking, ACER considers it necessary to allow for some flexibility when it comes to the release of incremental capacity at an interconnection point. Further work on this issue has started. See question 7.1.1.
7.1.3 Do you agree with the application of specified options regarding payable price to entry and exit points where the	

Respondents' feedback on the consultation doc	ACER's views
Network Code on CAM applies i.e. interconnection points only?	
A majority (25/2) of respondents was in favour, 13 had no opinion on this question (4 proposed alternatives). Some respondents argued that application of the specified options should be consistent with the CAM network code (23). Almost every respondent who was supportive of specified options applying to interconnection points cited as primary reason the need for consistency with the NC CAM. 1 respondent opposed, stressing that this mechanism should be made applicable to all EU entry and exit points.	ACER notes the support for the application to entry and exit points where the Network Code on CAM applies. The 16 April 2013 FG is in line with stakeholder requests.
8. **Incremental capacity**	
8.1. Please provide evidence of concrete problems with the current arrangements for incremental capacities, whereas these problems affect tariff structures in EU.	
Respondents specified that the topic should not be addressed within this FG (8). They argued that investment in incremental capacity raises complex questions that are also strongly related to CAM, CMP and security of supply issues. Extensive debate is required before guidelines can be developed. Hence, respondents suggested that the topic is further studied within specific working groups. Another respondent pointed out the complexity of the incremental capacity issue and suggested that it should be best dealt with by TSOs.	ACER's assessment of the question leads to largely same conclusions as drawn by respondents. In consequence, the 16 April 2013 FG will not address globally the issue of Incremental Capacity and the topic will be developed in another process. The 16 April 2013 FG will address Publication requirements for inputs to the economic tests in chapter 2, and allow some flexibility on Payable price setting in chapter 8 of the 16 April 2013 FG. To allow for assessment of the issues, ACER contracted Frontier Economics to assist with Impact Assessment ('IA') on Incremental Capacity ('IC') issues. The IA on this topic has been requested by European Commission in its letter initiating the work on this FG. ACER conducted the study in close co-operation with CEER in a twin-track approach CEER being tasked to prepare a Blueprint proposal on the same topic for the Madrid Forum. The Final study has been published at: 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).
8.2. Please therefore consider if harmonization or partial harmonization of any parameters in the "market test" is appropriate within Tariffication principles at EU-level?	
4 respondents argued that investments should be triggered on the basis of sufficient market demand and hence an economic test should be performed.	The ACER study (see question 8.1) has reached some conclusions about the principles of the market test, which might form the basis of a harmonised approach. See question 8.1 for general explanation on the way forward.
8.3. Are there any other elements required in the Network Code on transmission tariff structures, to accommodate incremental capacity offer?	
A respondent highlighted that, while the EU tariff regime promotes hub-to-hub short-term trading, the importance of long-term supply contracts and the need for corresponding long-term capacity subscription remain. In a context of increasing pipe-to-pipe competition, there would	As mentioned above, the issue of Incremental Capacity will be developed in another process. However, the 16 April 2013 FG will include provisions on increased transparency over the inputs of economic tests. See question 8.1 for general explanation on the way forward.

Respondents' feedback on the consultation doc	ACER's views
be a risk of network users favouring TPA exempted pipelines to which the EU tariff regime does not apply and can offer more competitive long-term prices. Another respondent pointed to a general move from long-term commitments to a more mixed market. This change would imply that investments can no longer be triggered on the basis of long-term subscriptions. Some respondents underlined the merits of the UK integrated auctions, while others expressed preference for a separate process for incremental capacity, such as open seasons.	
9. Usage of locational signals	
9.1 Please provide evidence of concrete problems with the current arrangements for locational signals	
A majority (26) of respondents did not provide evidence of concrete problems and 17 respondents had no opinion. Some respondents argued that locational signals should be limited to certain end users or gas infrastructures (3). Others proposed that certain cost drivers lead already to locational signals (4). Two respondents stressed that locational signals are currently inappropriate.	In ACER's view, the locational signals are already included in the general tariff methodology through the use of appropriate cost drivers. A specific measure for locational signals has been developed for gas storage, in view of the received stakeholders' feedback in the public consultation. See question 2.4.1 for further explanation.
9.2. Are there any other elements required in the Network Code on transmission tariff structures to accommodate locational signals?	
A majority (21/4) of respondents answered that elements are not required and 18 had no answer. Some respondents answered that locational signals are already included in the general tariff methodology through distance related cost drivers or LRMC.	ACER notes the importance of locational signals. In practice, the locational signals should allow system users to take account of the respective costs of routing gas flows and making choices as to where they connect to the system. See question 9.1.
9.3. Please consider whether the chapter on 'Reference price' should have more options added in regard to use of locational signals.	
A majority (4/21) of respondents considers that there are no major ground/issues for special rules. 18 respondents dis not provided any answer. Respondents argue that locational signals are already included in the general tariff methodology through distance related cost drivers or LRMC.	ACER notes that locational signals (in order to influence locating of infrastructure) should not be addressed as a separate chapter. In general chapter 3 of the FG will address the matter through the development of bottom-up cost-allocation methodologies. See question 9.1 and question 2.4.1.
9.4 Short haul as a form of 'locational signal' in e/e systems	
9.4.1. Should the FG have a tariff structure in place to avoid the incentive for inefficient building of pipelines (to avoid the entry-exit system charges) described above?	
A majority (16/13) of respondents agreed with the proposal. 13 respondents had no opinion. Some respondents proposed that building of pipelines should be part of the incremental capacity issue.	ACER notes that the tariff structure should in principle block inefficient investments to build new pipelines. Shorthaul is a measure that seeks to address a weakness inherent in all zone-based charging approaches. Zone-charging aims to avoid charging based on contractual paths, whilst being cost reflective. ACER considered Shorthaul as a specific measure related to

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<tr><td></td><td>particular national network topologies, and concluded that EU-wide measures are not appropriate in this particular case.</td></tr>
<tr><td colspan="2">9.4.2. How could this tariff structure be designed?</td></tr>
<tr><td>A majority (14/5) of respondents answered that it is in the NRAs' competence. 9 respondents suggested being consistent and non-discriminatory.</td><td>ACER notes that the views expressed by stakeholders do not contradict the wording of the 16 April 2013 FG, where such measure is implicitly left to national decision making.</td></tr>
<tr><td colspan="2">9.4.3. Should there, in order to address risk of cross-subsidies and discrimination - be a limitation on the capacities that can be "short haul capacities"?</td></tr>
<tr><td>A majority (17/4) of respondents agreed that it is in NRAs' competence. 3 respondents argued that an assessment needs to be done. One respondent argued that there is unutilised capacity available to accommodate the additional load, setting charges at a level that ensures there is a contribution to fixed costs of the transmission system may be appropriate.</td><td>ACER acknowledges that NRAs should be able to analyse the risk of cross-subsidies and discrimination (as it is in NRAs competence).
ACER acknowledges that the issue should be taken care of at national level. The 16 April 2013 FG will not include further provisions.</td></tr>
<tr><td colspan="2">9.5 Specific treatment of LNG (if any) considered, in view of considering specific storage treatment (see questions under 2.4).</td></tr>
<tr><td colspan="2">9.5.1. Do you think that tariffs for entry and exit capacity from the LNG terminal could incorporate a discount relative to other entry and exit tariffs on the TSO, similar to the proposed option for underground gas storage?</td></tr>
<tr><td>A majority (9/17) of respondents criticized this view. Some respondents argued that an LNG terminal is in essence no different to a standard pipeline entry terminal. Storage is very different as it provides the system with flexibility and can only serve a specific location. An LNG terminal competes with LNG terminals across the globe and it cannot be guaranteed that it will deliver gas into the network at peak times.</td><td>ACER notes that this would go beyond the scope of harmonized transmission tariff structures (LNG facilities (capacities) used for storage purposes may be legally covered under 'gas storage' provisions, described in locational signal chapter (see also question 2.4.1).</td></tr>
<tr><td colspan="2">10. Effects Entry-Exit Zone mergers & Virtual IPs</td></tr>
<tr><td colspan="2">10.1. Please provide evidence of concrete problems with the current arrangements for mergers of entry-exit zones at national level.</td></tr>
<tr><td>Some support was provided (18/23, the critical 23 respondents did not provide any evidence). Some specific issues were raised: TSOs must be able to recover allowed revenues. Some respondents proposed possible deviations from the general rules (5); others saw drawbacks of zone mergers (4).</td><td>ACER acknowledges that special Tariff approaches for (cross-border) mergers of entry-exit zones shall not be part of the FG at this stage of the market development. The public consultation gave very mixed responses (5 in favour/8 opposed/25 no opinion), ACER considers the action premature. Thus, the question may be addressed at a later stage of Internal Energy Market codes development, and should be monitored via Regional initiatives, when it becomes relevant.

ACER notes that the 16 April 2013 FG considers that an E/E-zone could cover networks of more than one TSO. The FG, indeed, does not explicitly mention cross-border E/E-zones involving several TSOs and at least 2 NRAs from two different countries.

<u>However, the 16 April 2013 FG does not preclude such developments.</u>

It is left to NRAs to define appropriate co-ordination regarding cost allocation, tariff methodology and reference price,</td></tr>
</table>

Respondents' feedback on the consultation doc	ACER's views
	to allow for appropriate reference prices and cost allocation methodology setting in the countries involved. The FG does provide for a degree of harmonization of methodologies for NRAs from countries belonging to the same E/E-zone, via inter alia setting a strict ex-ante test on treatment of cross-border and domestic network users, as well as via provision of general common revenue recovery provisions. With regard to revenue recovery, it is not made explicit how each TSO can ensure recovery of cost, in particular if a TSO belongs to a cross-border E/E-zone with a common tariff methodology and several physical entry points from several TSOs belonging to a single virtual entry point with a unique tariff. Such mechanisms for inter-TSO compensation (within E/E-zone) are deliberately left for NRA decisions and NRA cooperation, at this stage of the Internal Energy Market development.
10.2. Please advise, if there are alternatives or additional requirements within Tariffication setting harmonization steps, to accommodate 'Effects Entry-Exit Zone mergers' (once there). Please consider the Initial (draft) Impact assessment, when answering.	
Some criticism (5/8) was provided, although no answer from 25 respondents. 6 respondents underlined the recovering of lost revenues. Recovering lost revenues by increasing prices at other points should be possible, where the price mechanism in the affected zones is under a revenue cap regime or a rate of return regime. 6 respondents argued that no special rules are necessary, because it is too early to set harmonization steps to accommodate effects of these mergers, knowing that it is for the moment a purely theoretical question.	Although ACER acknowledges that the recovery of lost revenues is an important issue for future market developments, as mentioned above, the issue will be addressed later in the process.
11. What additional tariff structure measures do you envisage could improve the network code?	
12 answers received in total. 2 respondents consider that the Framework Guidelines should prioritise the objectives it sets, and believe that primary objectives should be to avoid both undue discrimination between network users and any detrimental effect on efficient trade. 4 respondents insisted on the necessity for the Tariff Framework Guidelines to efficiently implement incentives related to flexibility (i.e. FG should leave flexibility for TSOs to use incentives so as to ensure an efficient and safe behaviour of network users) and allow for TSO incentive revenue. 3 respondents suggest mechanisms to mitigate the risk of under-recovery. Some respondents	ACER considers that majority of respondents did not indicate need for further specific measures of harmonization of tariff structures. ACER acknowledges the further need for a clear prioritisation of the objectives pursued by the FG, and amended section 1.1 of the September 2012 FG to include a provision addressing that need, which now states: *The overall final aim of the Network Code on Tariffs is to lead to gas transmission tariff structures in Europe which do not discriminate between cross-border and domestic network users and do not have detrimental effects on cross-border trade.*

<table>
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<tr><td>promoted short-term discounts: the choice of an NRA to offer significant discounts for short-term reserve prices compared with the reserve price for the annual product should be dependent on there not being any significant under-recovery. Some respondents proposed that a mandatory trigger mechanism could be considered in the FG and developed further in the NC.</td><td></td></tr>
<tr><td colspan="2">12. <u>Please share below any further comments concerning the draft Framework Guideline.</u></td></tr>
<tr><td>9 answers were received in total.

Some respondents found that the implementation time it is not feasible to proper implementation of the NC, given the 12 months for developing methodologies, consulting network users and obtaining NRA approval.
Regarding transparency, for some respondents it is unclear how TSOs can meet the obligation on informing all concerned counterparties, in a timely manner, on the possible consequences the implementation of the NC Tariffs.
Some respondents stressed the issue of storage - it is very important that the FG and the tariff system do not prevent gas storage from being able to compete at a multi-jurisdictional level.
Some respondents stressed the revenue recovery, arguing that TSOs' allowed revenues and cash flow positions should not be unduly disadvantaged by the NC Tariff which should provide for timely cost recovery.
Some respondents reminded about prioritization of objectives: given the complexity with tariff methodologies and their application it may be pragmatic to limit the scope of harmonisation to those elements considered essential to meet the required objectives, rather than those elements of a more desirable nature, when considering alternative solutions.</td><td>ACER proposes in the 16 April 2013 FG to start the applicability by 1 October 2017. Therefore, NRAs are – if circumstances require - advised to take mitigating measures ahead of 1 October 2017. See chapter 1.4 of the FG, and question 1.1.

ACER agrees that transparency is important. The proposed measures aim to allow for the publication of reasonably and sufficiently detailed information, as to the scope of the FG. ACER notes that standard notification period for tariff changes are important to be set. See chapter 2 of the 16 April 2013 FG.

ACER addresses major concerns of the stakeholders in the light of their contributions, see question 2.4.1.

ACER notes that options for capacity based charging on IPs and for reconciliation take a balanced approach allowing for some flexibility on domestic points, where flow-based charges are applied.

ACER agrees with the need of the proper priotization (see answer to question 1.1 above) and the importance of articulating trade-offs when proposing policy rules. The trade-offs will be further explained by the Impact Assessment.</td></tr>
<tr><td colspan="2">13. <u>Please comment on any factual incorrectness of the attached Initial (draft) Initial Impact Assessment, if possible with specific page references</u></td></tr>
<tr><td>7 answers received in total. Some stakeholders were not in a position to provide as detailed or comprehensive analysis, as what has been included in the Brattle Report.

Some respondents argued that_the IIA does not reach the objective, e.g. in many cases; the information is not available for the 'EU25' Member States with gas markets. The IIA provided by ACER does not provide quantitative information about the potential impact of the proposed tariff arrangements and does not</td><td>The comments received are taken into account in the drafting of the final ACER's Initial Impact Assessment.

ACER welcomes the criticism expressed. At this stage, the Impact assessment is initial; it will be further developed and will be completed by the work of ENTSOG and the European Commission.</td></tr>
</table>

Respondents' feedback on the consultation doc	ACER's views
address the issue of the transition from the current tariff regimes to the new harmonized tariff rules.	

3. Changes 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 the consultants, ACER developed the Framework Guideline on Harmonised Transmission Tariff Structures (16 April 2013).

The most importance changes surface:

General Provisions (Chapter 1)	Improved definition list Implementation monitoring with indicators Reviewed implementation timeline
Publication requirements (Chapter 2)	Increased publication requirements and transparency Minimum notice period for tariff modifications Transparency on economic test for incremental capacity
Cost allocation and determination of the reference price (Chapter 3)	This chapter is under revision. Final version is expected for 30 November 2013
Revenue recovery (Chapter 4)	Appropriate mechanisms for reconciliation of the regulatory account with flexibility on collecting revenues for domestic points
Reserve price (Chapter 5)	Proportionate reserve prices for short-term products Firm rules on the use of multipliers and seasonal factors Special methodology to be developed in the network code process for interruptible and backhaul products
Virtual interconnection points (Chapter 6)	No major changes
Bundled capacity products (Chapter 7)	No major changes
Payable price (Chapter 8)	Flexibility on payable prices for incremental capacity

Annex 1 – List of Respondents

Name	Organisation	Segment	Country of origin	Confidential
AFG	National Association	Producer, Network user, Storage	France	
BBL	An Interconnector operator	Transmission	Netherlands	
BDEW	National Association	Network user, Industry	Germany	
BP	Company	Shipper, trader	UK	
Centrica	Company	Shipper, end user	UK	
Centrica storage	Company	Storage	UK	
DEPA	Company	Network user	Greece	
EDP	Company	Trader, Shipper	Portugal	
EDF	Company	Network user	France	
Edison	Company	Network user, Trader, Shipper	-	YES, only company name public
EFET	Association	Trader	Europe	
ENAGAS	TSO	Transmission	Spain	
EnBW	Company	Network user, Trader	Germany	Only personal data is confidential
ENEL	Company	Network user	Italy	
Energy UK	National Association	Trade association for the energy industry	UK	
Entso-G	Association	Transmission	Europe	
ENI	Company	Network user, Trader	Italy	
Eon	Company	Trader, Shipper	Germany	
Eurogas	Association	Wholesale, retail and distribution	Europe	
Eurelectric	Association	Industry	Europe	
Eustream	TSO	Transmission	Slovakia	
ExxonMobil	Company	Producer, Network user, Storage, LNG	UK	
FGSZ	Company	Transmission	Hungary	
Gas Storage Netherlands	National Association	Storage	Netherlands	
GasNatural Fenosa	Company	Network user	Spain	
Gazprom MT (Marketing trading)	Company	Trader	UK	
GasTerra	Company	Trader, shipper	Netherlands	

GIE	Association	Transmission, Storage, LNG	Europe	
GRTgaz	Company	Transmission	France	
GDF Suez	Company	Network user, Trader, TSO, Shipper or energy trending entity, End-user (power plants), Storage operator, LNG terminals operator	France	
IFIEC	Association	Industrial energy users	Europe	
JP Morgan	Company	Trader, shipper	UK	
Interconnector	Company	TSO	UK	
Mutual Energy	Company	TSO	Northern Ireland	
National Grid	Company	Transmission	UK	
Net4gas	Company	TSO	Czech	
OGP	Association	Producer	Europe	
Sorgenia	Company	Trader, shipper	Italy	
Shannon LNG	Company	Shipper	Ireland	
Statoil	Company	Producer, Network user	Norway	
Storengy	Company	Storage	France	
Vattenfall	Company	Shipper or energy trading entity	Sweden	
VEN	Association	Producer, Network user	Netherlands	

Annex 2 - Open House stakeholders' and Agency's views (summary)

Subject: *Summary of the responses to the Open House materials on draft Framework Guidelines on rules regarding Harmonised Transmission Tariff Structures in European Gas Transmission Networks*

On 1 February 2013, the Agency published Open House materials on the draft Framework Guidelines on rules regarding Harmonised Transmission Tariff Structures in European Gas Transmission Networks. As an outcome of the responses received in the public consultation (5 September 2012 and 5 November 2012) and the workshop discussions of 23 January 2013, the Agency reviewed the framework guidelines to a substantial extent. The Open House exercise of 4 February 2013 was triggered by these policy changes and the intention of the Agency to share these results openly with stakeholders. The Open House materials were published on 1 February 2013, orally presented on the 4 February 2013 and were open for written comments up to 11 February 2013.

General views

While responses to the Open House document were heterogeneous and different stakeholders put emphasis on different issues, the overwhelming majority welcomed the document and the policies put forward by the Agency.

The Open House material of the Agency received 32 contributions, 2 of them being confidential[4]. (See Annex 3 for list of respondents to the Open House.) This note summarises the responses, along 8 sections, which reflect the main issues the Agency presented in its material:

1. Implementation timeline
2. Indicators
3. Transparency
4. Cost allocation
5. Storages
6. Revenue recovery
7. Reserve prices
8. Payable prices

Implementation timeline

Most respondents agreed to the proposal made on the implementation timeline (6 in favour and 4 in opposition), however some of respondents underlined the need for a longer period.

[44] The Agency received for publishing purposes non-confidential versions.

The main message from those stakeholders opposing to the proposed timeline was that 12 months for implementation is too challenging. They proposed 24 months instead.

ACER policy: The start-up date for application of the rules is 1 October 2017. NRAs are advised – if required - to take mitigating measures ahead of 1 October 2017. See section 1.4. of the 16 April FG and question 1.1 of the Evaluation of responses.

Indicators

The wide majority of the contributions supported the introduction of indicators (11 in favour and 2 in opposition).

The main message from those few opposing the introduction of indicators was that it was not appropriate for a framework guideline to introduce in the network code a task regarding the monitoring of the implementation.

ACER policy: It is important to have indicators providing for a transparent way for monitoring after the NC enters into force.

Transparency

There was a broad agreement for promotion of transparency measures, proposed by ACER (18 in favour and 2 in opposition*).*

The main message from opposing stakeholders was that TSOs already publish substantial and wide ranging amount of information that fulfil the transparency requirements. Some of the supporters suggested putting an obligation in the framework guidelines, where transport customers can easily check transportations costs and others proposed the introduction of a route calculator. Most of the respondents' supported the transparency measures; some of them argued that a 30 day notice should be a minimum requirement.

ACER policy: Knowing how important transparency is, the measures proposed aimed at allowing shippers to be better informed. In this context, it is important to set the standard notification period for tariff changes, and allow shipper to access reasonably and sufficiently detailed information. It. See chapter 2 of the 16 April 2013 FG.

Cost allocation: The ex-ante test

While there was agreement on the need for a test in cost allocation (14 in favour and 9 in opposition), a variety of views emerged on ratios and diverse views were expressed on the most efficient cost allocation measures.

The main message from stakeholders was that the cost allocation test may be complex to apply, nevertheless such measure was supported. Also some of the respondents argued that the ratio cannot be robust for all network configurations and the identification of the cost drivers should be done during the network code process.

ACER policy: ACER is developing bottom-up cost-allocation methodologies. See answers to questions 2.2.1 and 2.3.2 of the Evaluation of responses.

Storages

There was no common view about the proposal for storages, and especially the policy relating to provision of 'discounts', i.e. fee reductions (9 in favour and 12 in opposition).

The stakeholders had various views. Some of them were supporting the alternative proposal where users of storage facilities should face charges that reflect the services that storage facilities provide to the network. Some others proposed exempting (not discounting) storage facilities from paying entry-exit charges. Some respondents found that fee reductions are not appropriate for cases, where storages are used for covering peak demand to end users.

ACER policy: ACER aims to address the major concerns of the stakeholders in the light of their contributions, taking account of transmission fees paid, cross-border effects and investments to networks. After the 16 April 2013 draft FG, ACER constinues to focus its work on bottom-up cost-allocation methodologies.

Revenue recovery

The vast majority of the contributions did not support the draft text presented in the Open House on revenue recovery (4 were in favour and 18 in opposition).

The main message from the opponents to this proposal was that under the current proposal the costs will not be covered and will have to be borne in the subsequent year with huge under-recovery risks. Concerning the commodity charge applied only on domestic points, some of the respondents proposed that it should be authorised for IPs under specific circumstances. Others were against its application even on the domestic points.

The main message from the supporting stakeholders was that they agree with the selected option to manage possible under-recoveries introducing a regulatory account to record the differences between allowed and current revenues, which shall be reconciled via an ex-post adjustment of reserve or regulated prices. Nevertheless, they are convinced that the future NC should carefully design the revenue recovery mechanism to ensure that all users contribute to tackle the under-recovery in line with the established cost allocation methodology.

Several respondents argued that a unique regulatory account for all entry and exit points will create cross-subsidies and distort cost reflectivity.

ACER policy: There is a capacity-based charging on the IPs. Reconciliation takes a balanced approach allowing for some flexibility on domestic points, including recovery of costs driven by flows, where flow-based charges are applied. See chapter 4 of the 16 April 2013 FG.

Reserve prices

The vast majority of the contributions did not support the text on reserve prices (5 in favour, 17 in opposition).

The main message from the stakeholders was that they appreciated the exclusion of quarterly and monthly products from the application of multipliers lower than 0.5, thus limiting the possibility to have a very low or zero reserve prices for these products.

The main message from stakeholders, opposing this proposal, was that cross subsidization between entry tariffs and exit tariffs may occur, if it is possible that entry tariffs for day-ahead and within-day capacity are auctioned with a zero reserve price. Some of the respondents urged for consideration of the negative impact of zero and/or marginal pricing (reserve price lower than the regulated tariff) in the upcoming FG.

ACER policy: There is proportionate pricing as default rule for all products. Multipliers and seasonal factors are allowed for all relevant products, provided that they are to act within a strict corridor and regulatory triggers. Backhaul marginal cost pricing is allowed for unidirectional points only, see chapter 5 of the 16 April 2013 FG.

Payable prices

There was no common view about proposal for payable prices (8 in favour and 6 in opposition).

The main concern raised by stakeholders was that floating prices could discourage long-term bookings particularly at non-congested points.

ACER policy: Transparent price adjustments may take place, when incremental capacity is introduced. See chapter 8 of the 16 April 2013 FG.

Annex 3 – List of Respondents to the Open House

Name	Organisation	Segment	Country of origin
Anigas	Association	DSO	Italy
ESB	Company	DSO	Ireland
Centrica	Company	Shipper, end user	UK
Centrica storage	Company	Storage	UK
EDF	Company	Network user	France
Edison	Company	Network user, Trader, Shipper	-
EFET	Association	Trader	Europe
ENAGAS	TSO	Transmission	Spain
Energie-Nederland	Association	Association of energy producers, traders and retailers	Netherlands
ENEL	Company	Network user	Italy
Energy UK	National Association	Trade association for the energy industry	UK
ENTSOG	Association	Transmission	Europe
ENI	Company	Network user, Trader	Italy
Eon	Company	Trader, Shipper	Germany
Eurogas	Association	Wholesale, retail and distribution	Europe
Eurelectric	Association	Industry	Europe

Eustream	TSO	Transmission	Slovakia
ExxonMobil	Company	Producer, Network user, Storage, LNG	UK
GASCASCADE	Company	Network user	Germany
Gas Storage Netherlands	National Association	Storage	Netherlands
GasNatural Fenosa	Company	Network user	Spain
Gazprom MT (Marketing trading)	Company	Trader	UK
GasTerra	Company	Trader, shipper	Netherlands
GIE	Association	Transmission, Storage, LNG	Europe
IFIEC	Association	Industrial energy users	Europe
Interconnector	Company	TSO	UK
National Grid	Company	Transmission	UK
Net4gas	Company	TSO	Czech
OGP	Association	Producer	Europe
Open grid Europe (OGE)	Company	Transmission	Germany
SSE	Company	Network user	UK
Thyssengas	Company	Transmission	Germany