

Network Code on Harmonised Transmission Tariff Structures for Gas

ENTSOG's Network Code for Re-Submission to ACER

This document constitutes the Network Code on Harmonised Transmission Tariff Structures for Gas for Re-Submission to ACER (hereinafter 'the TAR NC').

The TAR NC was developed following an [invitation letter](#) from the European Commission (hereinafter 'the EC') to draft a Network Code on Tariff Structures in Gas Transmission Networks which was received by ENTSOG on 19 December 2013. The development of this network code is based on the [Framework Guidelines](#) on rules regarding harmonised transmission tariff structures for gas published on 29 November 2013 by the Agency for the Cooperation of Energy Regulators (hereinafter 'ACER').

The TAR NC for ACER reasoned opinion ([TAR0450-14](#)) was submitted to ACER on 26 December 2014. The Accompanying Document ([TAR0451-14](#)) clarified the chosen policy approaches further to the previously developed documents that provided the background for the draft versions of the TAR NC ⁽¹⁾.

Following the [Opinion](#) of ACER No 02/2015 of 26 March 2015 (hereinafter 'the Reasoned Opinion') on the submitted TAR NC and pursuant to Article 6(8) of Regulation (EC) No 715/2009 ⁽²⁾, ENTSOG has chosen to re-submit to ACER this amended TAR NC. It is accompanied by the Explanatory Document for the Network Code on Harmonised Transmission Tariff Structures for Gas (TAR0501-15, hereinafter 'the Explanatory Document') which explains ENTSOG's rationale for taking into account the feedback received from ACER and the EC within and after the 3-month period of ACER preparation of the Reasoned Opinion according to Article 6(7) of Regulation (EC) No 715/2009 as well as other changes.

For the avoidance of doubt, the Explanatory Document shall not be construed as part of the TAR NC and is publicly disclosed to the market for information purposes only and without any commitment whatsoever from ENTSOG as to the final content of the TAR NC. In case of inconsistency between the TAR NC and the Explanatory Document, the TAR NC shall prevail in all circumstances.

ENTSOG hereby disclaim all responsibility for any changes to the TAR NC as presented. Such changes may result from, amongst others, the results of comitology procedure. The final content of the TAR NC shall be subject to the outcome of the procedure according to Article 5a(1) to (4) and Article 7 of Council Decision 1999/468/EC ⁽³⁾, as foreseen by Article 28(2) of Regulation (EC) No 715/2009 ⁽⁴⁾. The content of the TAR NC and the Explanatory Document should not be considered to give rise to any specific right or obligation whatsoever to ENTSOG or any of its Members as to any stakeholders ⁽⁵⁾.

⁽¹⁾ For further details see Introduction and Annex 4 of the Explanatory Document.

⁽²⁾ 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 (EC) No 1775/2005 (OJ L 211, 14.8.2009, p. 36).

⁽³⁾ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the European Commission as amended by Council Decision 2006/512/EC of 17 July 2006 (OJ L 200, 22.7.2006, p. 11).

⁽⁴⁾ Currently Regulation (EC) No 715/2009 provides for the application of the regulatory procedure with scrutiny. In case of the change of the applicable procedure due to the Lisbon Treaty, the new procedure will apply accordingly.

⁽⁵⁾ The documents indicated via hyperlinks above are available on ENTSOG's website:

<http://www.entsog.eu/publications/tariffs> and on ACER's website:

<http://www.acer.europa.eu/Gas/Framework%20guidelines%20and%20network%20codes/Pages/Harmonised-transmission-tariff-structures.aspx>.

**COMMISSION REGULATION (EU) No [xx]/[xx]
of [xx]
establishing a Network Code on Harmonised Transmission Tariff Structures for Gas**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 (EC) No 1775/2005 ⁽¹⁾, and in particular Article 6(11) thereof,

Whereas:

- (1) Regulation (EC) No 715/2009 sets non-discriminatory rules for access conditions to the natural gas transmission networks with a view to ensuring the proper functioning of the internal market in gas. This Regulation establishing a network code on harmonised transmission tariff structures for gas sets out the Union-wide rules which have the objectives of contributing to market integration, enhancing security of supply, promoting competition and cross-border trade, ensuring non-discriminatory and cost-reflective transmission tariffs and avoiding cross-subsidisation between network users.
- (2) In order to move towards greater market integration, it is important that, where it is considered to be economically efficient, rules on harmonised transmission tariff structures for gas facilitate the merging of entry-exit systems. Therefore, these rules should not disincentivise such merging.
- (3) This Regulation sets out the requirements for the application of a reference price methodology aimed at calculating the reference price, which is the price for a capacity product for firm capacity with a duration of one year. Such price constitutes the starting point for the calculation of the reserve prices for non-yearly standard capacity products for firm capacity and both yearly and non-yearly standard capacity products for interruptible capacity. This Regulation stipulates the obligation to consult on the proposed reference price methodology. It also sets out the details of two primary

⁽¹⁾ OJ L 211, 14.8.2009, p. 36.

reference price methodologies and three secondary adjustments and foresees an option to propose another reference price methodology. Where the latter is the case, it is necessary to include in the consultation document a comparison of the proposed reference price methodology with one of the two primary reference price methodologies detailed in this Regulation and to request a non-binding opinion from the Agency on such proposed methodology. The national regulatory authority then sets or approves the reference price methodology to be applied and when taking this decision, should be guided by considerations of cost-reflectivity, transparency, non-discrimination and stability of transmission tariffs.

- (4) In order to enable network users to forecast transmission tariffs to a reasonable extent and to understand the costs underlying the transmission tariffs, this Regulation sets out the requirements for publishing the information related to the allowed or target revenue of the transmission system operator, to the parameters of the reference price methodologies and to the derivation of different transmission and non-transmission tariffs.
- (5) This Regulation sets out the principles for revenue reconciliation with the aim of promoting stability of transmission tariffs for network users and financial stability of transmission system operators. To that end, this Regulation stipulates that each transmission system operator is allowed to use only one regulatory account for aggregating the under- and over-recovery of transmission services revenue originating from all entry and exit points. The details of revenue reconciliation, in particular the frequency of reconciliation of the regulatory account, are to be determined by the national regulatory authority. The under- and over-recovery should be treated by the national regulatory authority consistently.
- (6) Regulation (EC) No 715/2009 is supplemented by Commission Regulation (EU) No 984/2013 ⁽¹⁾ which forms its integral part. Commission Regulation (EU) No 984/2013 further harmonises the rules laid down in Article 16 of Regulation (EC) No 715/2009 and supplements the principles of capacity allocation mechanisms and congestion management procedures concerning transmission system operators as laid down in point 2.1 of Annex I to Regulation (EC) No 715/2009. Likewise, this Regulation has been adopted on the basis of Regulation (EC) No 715/2009 which it supplements and of which it forms an integral part. References to Regulation (EC) No 715/2009 in other legal acts shall

⁽¹⁾ Commission Regulation No 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No 715/2009 of the European Parliament and of the Council (OJ L 273, 15.10.2013, p. 5).

be understood as also referring to this Regulation. Amongst other rules, this Regulation sets out the rules on the aspects of Commission Regulation (EU) No 984/2013 related to transmission tariffs.

- (7) This Regulation also sets out the rules on tariff principles for incremental capacity realised in a market-based manner according to the process set out in Articles 20a to 20f of Commission Regulation (EU) No 984/2013. In case realisation of incremental capacity leads to a level of cross-subsidisation that cannot be justified, this Regulation introduces mechanisms to alleviate such risks. Such mechanisms involve charging a mandatory minimum premium to network users that contract incremental capacity. Revenues collected via mandatory minimum premiums shall be used to offset the cross-subsidisation which may be achieved by the following measures: the integration into the revenue recovery mechanism set out in this Regulation, a specific account separate from the regulatory account for such revenues or an adjustment of the yearly rate of depreciation for the incremental capacity in accordance with the outlook on the level of its contracting so that the duration of binding commitments of network users for contracting capacity and the economic life of the asset is aligned.
- (8) This Regulation does apply to non-exempted capacities in major new infrastructures which have received an exemption from Article 41(6), (8) and (10) of Directive 2009/73/EC of the European Parliament and of the Council ⁽¹⁾ or from the former Article 25(2) and (4) of Directive 2003/55/EC of the European Parliament and of the Council ⁽²⁾ to the extent the application of this Regulation does not undermine such an exemption.
- (9) [This Regulation was established according to the procedure as set out in Article 6 of Regulation (EC) No 715/2009. Amongst other things, it further harmonises the rules on tariffs for access to networks laid down in Article 13 of Regulation (EC) No 715/2009.]
- (10) National regulatory authorities and transmission system operators should have regard to best practices and endeavours to harmonise processes for the implementation of this Regulation. Acting in accordance with Article 7 of Regulation (EC) No 713/2009 of the European Parliament and of the Council ⁽³⁾, the Agency and the national regulatory

⁽¹⁾ Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94).

⁽²⁾ Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (OJ L 176, 15.7.2003, p. 57).

⁽³⁾ Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (OJ L 211, 14.8.2009, p. 1).

authorities should ensure that rules on harmonised transmission tariff structures for gas are implemented across the Union in the most effective way.

- (11) [The measures provided for in this Regulation are in accordance with the opinion of the Committee established pursuant to Article 51 of Directive 2009/73/EC.]

CHAPTER I GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes a Network Code setting out the rules on harmonised transmission tariff structures for gas, including but not limited to the rules on the application of a reference price methodology, the associated consultation and publication requirements as well as the calculation of reserve prices for standard capacity products.

Article 2

Scope

1. This Regulation shall apply to all entry points and all exit points with the exception of Chapters V, VII, VIII and IX which shall apply only to interconnection points. Chapters V, VII, VIII and IX may apply to entry points from and/or exit points to third countries, subject to the decision of the relevant national regulatory authority.
2. This Regulation shall not apply in Member States for the duration of derogations granted under Article 49 of Directive 2009/73/EC.
3. This Regulation shall be applied taking into account the specific nature of interconnectors, in particular with regard to having an effective revenue recovery mechanism.

Article 3

Definitions

For the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 715/2009, Article 3 of Commission Regulation (EU) No 984/2013, Article 3 of Commission Regulation (EU) No 312/2014 ⁽¹⁾, Article 2 of Commission Regulation (EU) No 2015/703 ⁽²⁾ as well as Article 2 of Directive 2009/73/EC shall apply. In addition, the following definitions shall apply:

- (1) 'allowed revenue' means the sum of transmission services revenue and non-transmission services revenue for the provision of services by the transmission system operator within

⁽¹⁾ Commission Regulation No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (OJ L 91, 27.3.2014, p. 15).

⁽²⁾ Commission Regulation No 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules (OJ L 113, 1.5.2015, p. 13).

a given time period which such transmission system operator is entitled to obtain under a non-price cap regime and which is set or approved by the national regulatory authority;

- (2) 'auction premium' means the difference between the clearing price and the reserve price in an auction;
- (3) 'cost driver' means the factor of the transmission system operator's activity which is correlated to the costs of such transmission system operator, such as distance, technical capacity or forecasted contracted capacity;
- (4) 'non-price cap regime' means a regulatory regime under which the national regulatory authority sets the allowed revenue for the transmission system operator;
- (5) 'non-transmission service tariff methodology' means the methodology applied to the associated non-transmission services revenue with the aim of deriving a tariff for a given non-transmission service;
- (6) 'non-transmission services' means the regulated services other than transmission services that are provided by the transmission system operator;
- (7) 'non-transmission services revenue' means the part of the allowed or target revenue which is related to the provision of non-transmission services and is recovered by non-transmission tariffs;
- (8) 'locational signal' means the application of a differential pricing mechanism applied to specific entry or exit points in order to achieve an efficient operation of the transmission system and/or to encourage investment in the transmission system;
- (9) 'multiplier' means the factor applied to the respective proportion of the reference price in order to calculate the reserve price for a non-yearly standard capacity product;
- (10) 'price cap regime' means a regulatory regime under which the national regulatory authority does not set the allowed revenue for the transmission system operator;
- (11) 'reference price methodology' means the methodology applied to the part of the transmission services revenue to be recovered from capacity-based transmission tariffs with the aim of deriving reference prices;
- (12) 'regulatory account' means the account aggregating under- and over-recovery of the transmission services revenue under a non-price cap regime;
- (13) 'regulatory period' means the time period for which the national regulatory authority sets the general rules for setting transmission tariffs;

- (14) 'seasonal factor' means the factor reflecting the variation of demand within the year which may be applied in combination with the relevant multiplier;
- (15) 'target revenue' means the sum of expected transmission services revenue calculated in accordance with the principles set out in Article 13(1) of Regulation (EC) No 715/2009 and expected non-transmission services revenue for the provision of services by the transmission system operator within a given time period under a price cap regime;
- (16) 'tariff period' means the time period during which a particular level of reference price is applicable, which minimum duration is one year and maximum duration is the duration of the regulatory period;
- (17) 'transmission services' means the regulated services that are provided by the transmission system operator within the entry-exit system for the purpose of transmission;
- (18) 'transmission services revenue' means the part of the allowed or target revenue which is related to the provision of transmission services and is recovered by transmission tariffs.

Article 4

Transmission and non-transmission services and tariffs

1. Where both of the following criteria are met, a given service shall be attributed to transmission services:
 - (a) the costs of such services are caused by the cost drivers of both capacity and distance;
 - (b) the costs of such services are related to the regulated asset base for the provision of transmission services.

Where any of these criteria are not met, a given service may be attributed to either transmission or non-transmission services subject to Articles 14 and 15.

2. The transmission services revenue shall be recovered by capacity-based transmission tariffs set on the basis of reference prices.

In addition to capacity-based transmission tariffs, the transmission services revenue may be recovered by the following commodity-based transmission tariffs which are set separately from each other:

- (a) a flow-based charge shall be as follows:
 - (i) calculated on the basis of forecasted and/or historical allocations and set in such a way that it is the same at all entry points and the same at all exit points;

- (ii) levied for the purpose of covering the costs mainly driven by the quantity of the gas flow;
 - (iii) expressed in monetary terms or in kind.
- (b) a complementary revenue recovery charge shall be as follows:
- (i) calculated on the basis of forecasted and/or historical allocations and in accordance with the applicable national rules;
 - (ii) levied for the purpose of revenue recovery;
 - (iii) applied at points other than interconnection points;
 - (iv) applied after the national regulatory authority makes an assessment of its cost-reflectivity and its impact on cross-subsidisation between interconnection points and points other than interconnection points and submits this assessment to the Agency for information.

With the aim of promoting efficient use of the transmission system, the transmission services revenue may be recovered by alternative transmission tariffs applicable for a given specific standard capacity product that is approved by the national regulatory authority, such as shorthaul and conditional firm capacity products. Such transmission tariffs shall be set by applying a discount to the respective reserve price.

3. The non-transmission services revenue shall be recovered by non-transmission tariffs applicable for a given non-transmission service, which may be but is not limited to the following: metering, odourisation and depressurisation. Such non-transmission tariffs shall be as follows:
- (a) cost-reflective, non-discriminatory, objective and transparent;
 - (b) charged to the beneficiary of a given non-transmission service with the aim of minimising cross-subsidisation between network users.

Where no beneficiary of a given non-transmission service can be identified, the costs for such service shall be allocated to all network users.

Article 5

Rules for entry-exit systems within a Member State where more than one transmission system operator is active

1. The reference price methodology referred to in Article 6(2) shall be applied jointly to all transmission system operators within an entry-exit system. Where the reference price methodology is as set out in Article 6(2)(a) and if a secondary adjustment(s) is (are) used in such methodology, such a secondary adjustment(s) shall be applied jointly by all transmission system operators within an entry-exit system.

As a result of applying the reference price methodology jointly, the national regulatory authority shall establish an effective inter-transmission system operator compensation mechanism.

2. As an exception to the first sentence of paragraph 1 and subject to paragraph 3, the national regulatory authority may decide that:

(a) where the reference price methodology is as set out in Article 6(2)(a):

- (i) the primary reference price methodology is applied separately to each transmission system operator within an entry-exit system;
- (ii) as an exception to Article 6(4), when planning entry-exit system mergers, intermediate steps may be implemented allowing for different primary reference price methodologies to be applied separately to each transmission system operator within the entry-exit systems concerned. An impact assessment and a cost benefit analysis may be carried out prior to implementing such intermediate steps.

(b) where the reference price methodology is as set in Article 6(2)(b), such reference price methodology is applied separately by each transmission system operator within an entry-exit system.

As a result of applying the reference price methodology separately, the transmission services revenue of the transmission system operators involved shall be adjusted accordingly.

3. The decision referred to in paragraph 2 may be taken where the following conditions are met:

(a) an effective inter-transmission system operator compensation mechanism is established with the aim of:

- (i) preventing detrimental effects on the transmission services revenue of the transmission system operators involved and its recovery; and
 - (ii) avoiding cross-subsidisation between different groups of network users.
- (b) such separate application ensures that the costs correspond to those of an efficient transmission system operator.

The time period set out in the decision referred to in paragraph 2 shall be no later than five years as from the date referred to in the second subparagraph of Article 45. Sufficiently in advance of the date set out in this decision, the national regulatory authority may decide to postpone this date in the following sequential steps:

- (a) the national regulatory authority shall send to the Agency a request for an opinion on the duration of such extension accompanied by:
 - (i) a detailed explanation of the measures taken towards applying the reference price methodology as set out in paragraph 1; and
 - (ii) a reasoned justification for the necessity to postpone the date set out in the decision referred to in paragraph 2.
- (b) the Agency shall deliver its opinion within three months following the receipt of the request referred to in point (a);
- (c) the national regulatory authority shall take and publish a motivated decision within one month following the receipt of the opinion referred to in point (b).

The national regulatory authority shall submit the decision referred to in paragraph 2 and, if applicable, the decision referred to in the second subparagraph to the Agency for information.

4. At the same time as set out in Article 14(2), the national regulatory authority shall conduct a consultation on the principles of an effective inter-transmission system operator compensation mechanism referred to in paragraphs 1 and 2 and its consequences on the tariff levels. Together with the decision referred to in Article 15(2) or (3), as relevant, the national regulatory authority shall take and publish a motivated decision on the inter-transmission system operator compensation mechanism to be applied and shall publish the consultation responses.
5. The entry-exit split referred to in Article 12 shall be set or approved by the national regulatory authority for the entry-exit system. Where paragraph 2 is applied:

- (a) such entry-exit split shall be set or approved for each transmission system operator involved; and
 - (b) the entry-exit split for the entry-exit system shall be calculated by the national regulatory authority.
6. The consultation referred to in Article 14 shall be conducted by all transmission system operators jointly or by the national regulatory authority. Where paragraph 2 is applied, such consultation shall be conducted by each transmission system operator separately or by the national regulatory authority.
7. The information referred to in Articles 18 and 19 shall be published on an aggregated level for all transmission system operators involved. Where paragraph 2 is applied:
- (a) such information shall be published individually for each transmission system operator involved; and
 - (b) the information on the entry-exit split for the entry-exit system shall be published by the national regulatory authority.
8. The reserve price referred to in Article 32(1) shall be calculated as set out therein, *mutatis mutandis*. Where paragraph 2 is applied:
- (a) the calculation set out in Article 32(1) shall be carried out by each transmission system operator involved; and
 - (b) the weighted average of the resulting values referred to in point (a) shall be calculated in accordance with the formula set out in Article 32(1)(b), *mutatis mutandis*.

CHAPTER II

REFERENCE PRICE METHODOLOGIES

Article 6

Reference price methodology application

1. The application of the reference price methodology shall provide a reference price, meaning the price for a capacity product for firm capacity with a duration of one year which is applicable at entry and exit points and used to set capacity-based transmission tariffs.
2. The reference price methodology to be applied shall be subject to the consultation and the approval by the national regulatory authority as set out in Chapter III. It shall be:

- (a) one of the primary reference price methodologies detailed in Articles 7 and 8 which may be complemented by a secondary adjustment(s) detailed in Articles 9 to 11; or
 - (b) reference price methodology other than as set out in point (a).
3. Where a secondary adjustment is applied after the application of the primary reference price methodology, the result of such methodology shall be the initial reference prices. Where a secondary adjustment is applied only as a step of the primary reference price methodology, the result of such methodology shall be the final reference prices. Secondary adjustments detailed in Articles 9 and 11 may be applied after the application of the primary reference price methodology and/or as a step thereof. Secondary adjustment detailed in Article 10 may be applied only after the application of the primary reference price methodology.
4. The same reference price methodology shall apply to all entry and exit points in an entry-exit system.
5. Within one year as from the entry into force of this Regulation, the Agency shall issue a recommendation on reference price methodologies other than detailed in this Chapter as well as relevant parameters and criteria for choosing such methodologies. Within five years as from the entry into force of this Regulation, the Agency shall publish a report on the applied reference price methodologies.

Article 7

Primary reference price methodology: postage stamp methodology

1. The relevant parameters for postage stamp methodology shall include, but shall not be limited to:
 - (a) the part of the transmission services revenue to be recovered from capacity-based transmission tariffs;
 - (b) the forecasted contracted capacity at each entry point and at each exit point;
 - (c) if applicable, the entry-exit split referred to in Article 12.
2. Where the entry-exit split is used as a parameter of the reference price methodology, the initial or final reference prices, as relevant, shall be derived in the following sequential steps:
 - (a) identify the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at all entry points and the part of the transmission

- services revenue to be recovered from capacity-based transmission tariffs at all exit points by applying the entry-exit split;
- (b) identify the part of the forecasted contracted capacity for all entry points and the part of the forecasted contracted capacity for all exit points;
- (c) divide the resulting value referred to in point (a) by the resulting value referred to in point (b) in accordance with the following respective formulas:

$$T_{En} = \frac{R_{\Sigma En}}{FC_{\Sigma En}}$$

$$T_{Ex} = \frac{R_{\Sigma Ex}}{FC_{\Sigma Ex}}$$

Where:

T_{En} is the reference price at entry points;

T_{Ex} is the reference price at exit points;

$R_{\Sigma En}$ is the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at all entry points;

$R_{\Sigma Ex}$ is the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at all exit points;

$FC_{\Sigma En}$ is the forecasted contracted capacity at all entry points;

$FC_{\Sigma Ex}$ is the forecasted contracted capacity at all exit points.

3. Where the entry-exit split is not used as a parameter of the reference price methodology, the initial or final reference prices, as relevant, shall be derived in the following sequential steps:
- (a) identify the transmission services revenue to be recovered from capacity-based transmission tariffs at all entry points and all exit points;
- (b) identify the part of the forecasted contracted capacity for all entry points and the part of the forecasted contracted capacity for all exit points;
- (c) divide the resulting value referred to in point (a) by the sum of the values referred to in point (b) in accordance with the following formula:

$$T_{En,Ex} = \frac{R_{\Sigma En,Ex}}{FC_{\Sigma En} + FC_{\Sigma Ex}}$$

Where:

$T_{En,Ex}$ is the reference price at entry points and exit points;

$R_{\Sigma En,Ex}$ is the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at all entry points and all exit points;

$FC_{\Sigma En}$ is the forecasted contracted capacity at all entry points;

$FC_{\Sigma Ex}$ is the forecasted contracted capacity at all exit points.

- (d) to arrive at the entry-exit split, multiply the resulting value referred to in point (c) by the respective resulting value referred to in point (b).

Article 8

Primary reference price methodology: capacity weighted distance methodology

1. The relevant parameters for capacity weighted distance methodology shall include, but shall not be limited to:
 - (a) the part of the transmission services revenue to be recovered from capacity-based transmission tariffs;
 - (b) the forecasted contracted capacity at each entry point or a cluster of entry points and at each exit point or a cluster of exit points;
 - (c) where entry points and exit points can be combined in a flow scenario, the distance between an entry point or a cluster of entry points and an exit point or a cluster of exit points;
 - (d) the entry-exit split referred to in Article 12.

Where some entry points and some exit points cannot be combined in a flow scenario, the relevant combinations of entry points and exit points shall be used as an additional parameter.

2. The initial or final reference prices, as relevant, shall be derived in the following sequential steps:
 - (a) calculate the weighted average distance for each entry point or each cluster of entry points and for each exit point or each cluster of exit points, taking into account, where relevant, the combinations referred to in the second subparagraph of paragraph 1, in accordance with the following respective formulas:

- (i) for an entry point, as the sum of the products of capacity at each exit point and the distance from this entry point to each exit point, divided by the sum of capacities at each exit point:

$$AD_{En} = \frac{\sum_{all\ Ex} CAP_{Ex} \times D_{En,Ex}}{\sum_{all\ Ex} CAP_{Ex}}$$

Where:

AD_{En} is the weighted average distance for an entry point;

CAP_{Ex} is the forecasted contracted capacity at an exit point;

$D_{En,Ex}$ is the distance between a given entry point and a given exit point.

- (ii) for an exit point, as the sum of the products of capacity at each entry point and the distance to this exit point from each entry point, divided by the sum of capacities at each entry point:

$$AD_{Ex} = \frac{\sum_{all\ En} CAP_{En} \times D_{En,Ex}}{\sum_{all\ En} CAP_{En}}$$

Where:

AD_{Ex} is the weighted average distance for an exit point;

CAP_{En} is the forecasted contracted capacity at an entry point;

$D_{En,Ex}$ is the distance between a given entry point and a given exit point.

- (b) calculate the weight of cost for each entry point or each cluster of entry points and for each exit point or each cluster of exit points in accordance with the following respective formulas:

$$W_{c,En} = \frac{CAP_{En} \times AD_{En}}{\sum_{all\ En} CAP_{En} \times AD_{En}}$$

$$W_{c,Ex} = \frac{CAP_{Ex} \times AD_{Ex}}{\sum_{all\ Ex} CAP_{Ex} \times AD_{Ex}}$$

Where:

$W_{c,En}$ is the weight of cost for a given entry point or a cluster of entry points;

$W_{c,Ex}$ is the weight of cost for a given exit point or a cluster of exit points;

AD_{En} is the weighted average distance for an entry point or a cluster of entry points;

AD_{Ex} is the weighted average distance for an exit point or a cluster of exit points;

CAP_{En} is the forecasted contracted capacity at an entry point or a cluster of entry points;

CAP_{Ex} is the forecasted contracted capacity at an exit point or a cluster of exit points.

- (c) identify the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at all entry points and the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at all exit points by applying the entry-exit split;
- (d) calculate the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at each entry point or each cluster of entry points and for each exit point or each cluster of exit points in accordance with the following respective formulas:

$$R_{En} = W_{c,En} \times R_{\Sigma En}$$

$$R_{Ex} = W_{c,Ex} \times R_{\Sigma Ex}$$

Where:

$W_{c,En}$ is the weight of cost for a given entry point or a cluster of entry points;

$W_{c,Ex}$ is the weight of cost for a given exit point or a cluster of exit points;

R_{En} is the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at an entry point or a cluster of entry points;

R_{Ex} is the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at an exit point or a cluster of exit points;

$R_{\Sigma En}$ is the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at all entry points;

$R_{\Sigma Ex}$ is the part of the transmission services revenue to be recovered from capacity-based transmission tariffs at all exit points.

- (e) divide the resulting values referred to in point (d) by the forecasted contracted capacity at each entry point or each cluster of entry points and at each exit point or each cluster of exit points in accordance with the following respective formulas:

$$T_{En} = \frac{R_{En}}{FC_{En}}$$

$$T_{Ex} = \frac{R_{Ex}}{FC_{Ex}}$$

Where:

T_{En} is the reference price at an entry point or each entry point within a cluster of entry points;

T_{Ex} is the reference price at an exit point or each exit point within a cluster of exit points;

$FC_{\Sigma En}$ is the forecasted contracted capacity at an entry point or a cluster of entry points;

$FC_{\Sigma Ex}$ is the forecasted contracted capacity at an exit point or a cluster of exit points.

Article 9

Secondary adjustment: equalisation

1. The conditions for the application of equalisation shall be at least one of the following:
 - (a) contribute to security of supply;
 - (b) enhance stability of transmission tariffs;
 - (c) foster competition in the retail market;
 - (d) foster competition in the renewable energy sector.
2. Equalisation shall be carried out by applying the same reference price within a homogenous group comprised of the following entry or exit points: entry interconnection points, exit interconnection points, domestic entry points, domestic exit points, entry points from storage facilities, exit points to storage facilities, entry points from LNG facilities, exit points to LNG facilities, entry points from production facilities.
3. When deciding to apply equalisation, the consultation document referred to in Article 14(1) shall include a justification for changing the locational signals, if any, created after the application of the primary reference price methodology.

Article 10

Secondary adjustment: benchmarking

1. The conditions for the application of benchmarking on a case-by-case basis shall include all of the following:
 - (a) where there is effective pipeline-to-pipeline competition between the transmission system operators;

- (b) where the result of the application of the primary reference price methodology is not sufficient for meeting the competitive level of transmission tariffs;
 - (c) in order to increase the amount of contracted capacity at a given entry or exit point;
 - (d) where the result of its application better meets the objectives set out in Article 1 of Regulation (EC) No 715/2009.
2. Subject to paragraphs 3 and 4, benchmarking shall be carried out by the relevant national regulatory authority by decreasing transmission tariffs at a given entry point or exit point so that the resulting value meets the competitive level of transmission tariffs. Where the forecasted capacity sales at the points at which benchmarking is carried out are not expected to ensure obtaining the allowed revenue, the transmission tariffs at other entry points or exit points may be increased.
 3. Where benchmarking is considered to be applied, the consultation document referred to in Article 14(1) shall include:
 - (a) the justification for the possibility to apply the benchmarking;
 - (b) the explanation of the consequences of decreased transmission tariffs for:
 - (i) the other transmission tariffs; and
 - (ii) the entry-exit split derived after the application of the primary reference price methodology.
 4. After the approval referred to in Article 15(2), benchmarking shall be carried out by the relevant national regulatory authority upon request of the transmission system operator submitted to the national regulatory authority and accompanied by a proposal for decreasing transmission tariffs. Where and to the extent the transmission system operator functions under a non-price cap regime, the transmission system operator's right of proposal is without prejudice to the right of the national regulatory authority to take a decision on carrying out the benchmarking on its own initiative. Before taking such decision, the national regulatory authority shall consult with the national regulatory authorities of relevant Member States and the relevant stakeholders.

Article 11

Secondary adjustment: storage adjustment

When the national regulatory authority sets or approves the reference prices at entry points from and exit points to storage facilities, the following shall be taken into consideration:

- (1) the net benefits that the storage facilities may provide to the transmission system;
- (2) the need to promote efficient investment in the transmission system;
- (3) the need to minimise detrimental effects on cross-border trade.

Article 12

Entry-exit split

1. The entry-exit split shall be set or approved by the national regulatory authority as part of the decision referred to in Article 15(2) or (3), as relevant.
2. Where the entry-exit split is used as a parameter of the reference price methodology, it shall be equal to 50/50, unless otherwise set or approved by the national regulatory authority. The national regulatory authority may decide to apply the entry-exit split other than 50/50 where:
 - (a) it is based on cost drivers; and
 - (b) it better fulfils the following minimum objectives:
 - (i) minimise cross-subsidisation between network users, in particular between cross-border and domestic network users;
 - (ii) not create barriers to cross-border trade;
 - (iii) avoid differences between the allowed revenue and the actually obtained revenue.
3. Where the entry-exit split is not used as a parameter of the reference price methodology, it shall result from the application of the reference price methodology.

Article 13

Criteria for choosing primary reference price methodologies and secondary adjustments

1. When postage stamp methodology detailed in Article 7 is considered to be proposed, either of the following criteria shall be applied:
 - (a) at least two thirds of the amount of transmission capacity is used by domestic or by cross-border network users;
 - (b) the absolute value of the difference between the average distance calculated as set out in Article 8(2)(a)(ii), *mutatis mutandis*, for all domestic exit points and for all cross-border exit points, calculated in accordance with the following formula, does not exceed fifty percent:

$$\frac{|AD_{DM,Ex} - AD_{CB,Ex}|}{AD_{Ex}}$$

Where:

$AD_{DM,Ex}$ is the average distance for domestic exit points;

$AD_{CB,Ex}$ is the average distance for cross-border exit points;

AD_{Ex} is the average distance for domestic exit points and cross-border exit points.

2. When capacity weighted distance methodology detailed in Article 8 is considered to be proposed, at least one of the following criteria shall be applied:
 - (a) better cost-reflectivity of the resulting reference prices;
 - (b) better locational signals;
 - (c) efficient use of the transmission system.
3. When a reference price methodology referred to in Article 6(2)(b) is considered to be proposed, at least one of the following criteria shall be applied:
 - (a) as set out in paragraph 2;
 - (b) minimise cross-subsidisation between network users;
 - (c) provision of investment signals.
4. Where a secondary adjustment(s) detailed in Articles 9 to 11 is (are) considered to be proposed, the criterion whether a given secondary adjustment better meets the objectives of the applied primary reference price methodology shall be applied.

CHAPTER III CONSULTATION REQUIREMENTS

Article 14

Periodic consultation

1. A consultation document shall be published in the official language(s) of the Member State and in English by the transmission system operator(s) or the national regulatory authority, as decided by the national regulatory authority, with the following information:
 - (a) the description of the proposed reference price methodology as well as:
 - (i) its assessment against the criteria set out in Article 13;
 - (ii) the indication of parameters used therein set out in Article 19(1)(c), the justification for their relevance and the corresponding information on their respective values and the assumptions used;
 - (iii) the results, the components and the details of these components for the cost allocation test set out in Article 16:
 - (1) where the proposed reference price methodology is as set out in Article 6(2)(a), after the application of the primary reference price methodology and, if any, after the application of the secondary adjustment(s);
 - (2) where the proposed reference price methodology is as set out in Article 6(2)(b), after the application of such methodology.
 - (iv) the resulting reference prices;
 - (v) its comparison accompanied by the information set out in points (i) to (iv) based on the same cost drivers and assumptions as used for the proposed reference price methodology:
 - (1) where the proposed reference price methodology is capacity weighted distance methodology as set out in Article 6(2)(a), against postage stamp methodology;
 - (2) where the proposed reference price methodology is as set out in Article 6(2)(b), against either postage stamp methodology or capacity weighted distance methodology.
 - (b) where commodity-based transmission tariffs referred to in the second subparagraph of Article 4(2) are proposed, the manner in which they are set;

- (c) where alternative transmission tariffs referred to in the third subparagraph of Article 4(2) are proposed, the manner in which they are set;
 - (d) where a non-transmission service(s) provided to network users is (are) proposed, the non-transmission service tariff methodology therefor and the manner in which the associated non-transmission services revenue is reconciled;
 - (e) where discounts for transmission tariffs at entry points from and exit points to storage facilities are proposed, the manner in which they are set;
 - (f) where the fixed payable price approach referred to in Article 34(2) is considered to be offered under a price cap regime for existing capacity:
 - (i) the proposed index;
 - (ii) the proposed calculation and treatment of the risk premium;
 - (iii) at which interconnection point(s) and for which tariff period(s) such approach is proposed;
 - (iv) the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 34 are proposed.
2. The consultation on the document referred to in paragraph 1 shall be initiated within a reasonable time period as from the entry into force of this Regulation. The subsequent consultations shall be conducted at least every four years as from the date of the decision referred to in Article 15(2) or (3), as relevant.

Article 15

National regulatory authority decision-making

1. Based on the results of the consultation referred to in Article 14, the national regulatory authority shall decide on the following:
- (a) the reference price methodology to be applied;
 - (b) where commodity-based transmission tariffs referred to in the second subparagraph of Article 4(2) were proposed, the manner in which they set;
 - (c) where alternative transmission tariffs referred to in the third subparagraph of Article 4(2) were proposed, the manner in which they are set;
 - (d) where a non-transmission service(s) provided to network users was (were) proposed, the non-transmission service tariff methodology therefor;

- (e) where discounts for transmission tariffs at entry points from and exit points to storage facilities were proposed, the manner in which they are set;
 - (f) where the fixed payable price approach referred to in Article 34(2) was offered under a price cap regime for existing capacity, the details set out in Article 14(1)(f).
2. Where the proposed reference price methodology is as set out in Article 6(2)(a), the national regulatory authority shall take and publish a motivated decision within three months following the end of the consultation.
 3. Where the proposed reference price methodology is as set out in Article 6(2)(b), the following sequential steps shall apply:
 - (a) within a reasonable time period following the end of the consultation, the national regulatory authority shall send a request to the Agency for an opinion on the reference price methodology to be applied accompanied by the consultation responses;
 - (b) the Agency shall deliver its opinion within three months following the receipt of the request referred to in point (a);
 - (c) the national regulatory authority shall take and publish a motivated decision within three months following the receipt of the opinion referred to in point (b).
 4. The decision referred to in paragraphs 2 or 3, as relevant, shall be taken by:
 - (a) the date referred to in the second subparagraph of Article 45; or
 - (b) the date referred to in Article 43(1), where Article 43 is applied.

Such a decision shall be accompanied by the consultation responses and shall contain a detailed explanation and a reasoned justification therefor. Where paragraph 3 is applied, it shall also contain a reasoned justification for how the recommendation referred to in Article 6(5) and the opinion referred to point (b) were taken into account. For the transmission tariffs at entry points from and exit points to storage facilities, it shall also contain a detailed explanation of how the requirements of Article 11(1) to (3) have been taken into consideration.

Article 16

Cost allocation test

1. As part of the consultation referred to in Article 14, the cost allocation test shall be applied to the transmission services revenue. The cost allocation test shall be based on the cost drivers of capacity or capacity and distance. Where commodity-based transmission tariffs

referred to in the second subparagraph of Article 4(2) are proposed, the cost allocation test shall also be based on flows.

2. The cost allocation test shall demonstrate the degree of cross-subsidisation between domestic and cross-border network users based on the proposed reference price methodology.
3. The cost allocation test shall be carried out as follows:

(a) the transmission services revenue to be obtained from domestic network users at both entry points and exit points shall be divided by the value of the relevant cost driver(s) for domestic network users in accordance with the following formula:

$$(R : CD)_{DM} = \frac{R_{DM}}{CD_{DM}}$$

Where:

R_{DM} is the revenue from domestic network users;

CD_{DM} is the value of cost driver(s) for domestic network users.

(b) the transmission services revenue to be obtained from cross-border network users at both entry points and exit points shall be divided by the value of the relevant cost driver(s) for cross-border network users in accordance with the following formula:

$$(R : CD)_{CB} = \frac{R_{CB}}{CD_{CB}}$$

Where:

R_{CB} is the revenue from cross-border network users;

CD_{CB} is the value of cost driver(s) for cross-border network users.

(c) the correlation between the ratios referred to in points (a) and (b) shall be calculated in accordance with the following formula:

$$\frac{|(R : CD)_{DM} - (R : CD)_{CB}|}{[(R : CD)_{DM} + (R : CD)_{CB}] / 2}$$

4. The transmission services revenue to be obtained from domestic network users at entry points referred to in paragraph 3(a) shall be calculated as follows:
 - (a) the actual amount of capacity attributed to the provision of transmission services to cross-border network users at entry points shall be deemed equal or proportionate to

- the amount of capacity attributed to the provision of transmission services to cross-border network users at exit points;
- (b) the amount of capacity determined as set out in point (a) shall be used to calculate the transmission services revenue to be obtained from cross-border network users at entry points;
- (c) the difference between the overall transmission services revenue to be obtained at entry points and the resulting value referred to in point (b) shall be equal to the transmission services revenue to be obtained from domestic network users at entry points.
5. Where more than one cost driver is identified as relevant, the combination of such cost drivers shall be used taking into account the following:
- (a) the total number of cost drivers shall be minimised;
- (b) the relative importance of all cost drivers shall be demonstrated;
- (c) where distance is used as a cost driver, the weighted average distance shall be used.
6. Where the results of the calculation referred to in paragraph 3 exceed ten percent, the national regulatory authority shall provide the justification therefor in the decision referred to in Article 15(2) or (3), as relevant. Where the reason for such excess originates from the proposed charge referred to in Article 4(2)(b), the value or the application of such charge shall be reviewed so that the results of the calculation referred to in paragraph 3 do not exceed ten percent.

CHAPTER IV

PUBLICATION REQUIREMENTS

Article 17

General provisions

1. The information set out in this Chapter shall be published to enable network users to understand:
- (a) different types of transmission and non-transmission services;
- (b) transmission and non-transmission tariffs corresponding to the services referred to in point (a);
- (c) how transmission and non-transmission tariffs referred to in point (b) are set, have changed and may change.

2. At the points excluded from the definition of relevant points referred to in point 3.2(1)(a) of Annex I to Regulation (EC) No 715/2009, the information on the amount of forecasted contracted capacity and the quantity of the gas flow shall be published as set out in point 3.2(2) of Annex I to Regulation (EC) No 715/2009.

Article 18

Information to be published before the annual yearly capacity auction

For interconnection points and points other than interconnection points where the national regulatory authority took a decision to apply Commission Regulation (EU) No 984/2013, the following information shall be published before the annual yearly capacity auction:

- (1) the reference prices;
- (2) the following information for standard capacity products for firm capacity:
 - (a) the reserve prices and the formulas for the calculation of reserve prices for non-yearly standard capacity products;
 - (b) justification for the level of multipliers;
 - (c) where seasonal factors are applied, justification for their application.
- (3) the following information for standard capacity products for interruptible capacity:
 - (a) the reserve prices;
 - (b) a report on the probability of interruption of the interruptible capacity including:
 - (i) the list of all types of standard capacity products for interruptible capacity offered;
 - (ii) for each, some or all interconnection points, as relevant, and for each standard capacity product for interruptible capacity of a certain duration, a table indicating the information related to each type of product referred to in point (i), namely the probability of interruption and the level of the relevant discount applied;
 - (iii) the explanation of how the probability of interruption is calculated for each type of product referred to in point (i);
 - (iv) the historical and/or forecasted data used for the estimation of the probability of interruption.

Article 19

Information to be published before the tariff period

1. The following information shall be published before the tariff period:
 - (a) information on transmission and non-transmission tariffs accompanied by the relevant information related to their derivation:
 - (i) the reference prices and other prices applicable at points other than referred to in Article 18;
 - (ii) where applied, transmission tariffs referred to in the second subparagraph of Article 4(2);
 - (iii) where applied, alternative transmission tariffs referred to in the third subparagraph of Article 4(2) or formulas for their calculation;
 - (iv) where applied, non-transmission tariffs for non-transmission services provided to network users accompanied by the relevant information related to their derivation;
 - (b) information on the allowed revenue or the target revenue of the transmission system operator:
 - (i) the level of the allowed revenue or the target revenue of the transmission system operator and the information related to changes in its level;
 - (ii) the transmission services revenue as well as the following ratios:
 - (1) capacity-commodity split, meaning the revenue from capacity-based transmission tariffs and the revenue from commodity-based transmission tariffs;
 - (2) entry-exit split, meaning the revenue from capacity-based transmission tariffs at all entry points and the revenue from capacity-based transmission tariffs at all exit points;
 - (3) cross-border-domestic split, meaning the revenue from domestic network users at both entry points and exit points and the revenue from cross-border network users at both entry points and exit points calculated as set out in Article 16.
 - (iii) where and to the extent that the transmission system operator functions under a non-price cap regime, the following information on reconciliation of the regulatory account related to the previous tariff period:
 - (1) the actually obtained revenue, the under- or over-recovery of the allowed revenue and the part thereof attributed to the regulatory account;

- (2) the reconciliation period, the incentive mechanisms implemented and the applied mitigating measures.
 - (iv) the treatment of the auction premium.
 - (c) information on parameters used in the applied reference price methodology, such as:
 - (i) parameters related to the technical characteristics of the transmission system:
 - (1) technical capacity at entry and exit points and associated assumptions;
 - (2) forecasted contracted capacity at entry and exit points and associated assumptions;
 - (3) the quantity and the direction of the gas flow for entry and exit points and associated assumptions, such as demand and supply scenarios for the gas flow under peak conditions;
 - (4) the structural representation of the transmission network with an appropriate level of detail;
 - (5) additional technical information about the transmission network, such as the length and the diameter of pipelines and the power of compressor stations.
 - (ii) description of the method used to achieve locational signals, where the provision of locational signals is prioritised.
- 2. In addition, the following information shall be published with regard to transmission tariffs:
 - (a) explanation of the following:
 - (i) the difference in the level of transmission tariffs for the same type of transmission service applicable for the current tariff period and for the tariff period for which the information is published;
 - (ii) the estimated difference in the level of transmission tariffs for the same type of transmission service applicable for the tariff period for which the information is published and for each tariff period within the remainder of the regulatory period.
 - (b) additional information in the form of either of the following:
 - (i) a simplified tariff model, accompanied by the explanation of how to use it, enabling network users to calculate the transmission tariffs applicable for the current tariff period and to estimate their possible evolution beyond such tariff period;
 - (ii) sensitivity analyses enabling network users to estimate the possible evolution of transmission tariffs beyond such tariff period.

Article 20

Standardised format

1. The information set out in Articles 18 and 19(1) shall be published via a standardised table. The standardised table shall consist of three columns, namely the indication of the information item, the respective value in the applicable units and, if necessary, other details. Each of the information items shall be indicated in a separate row of the standardised table.
2. The standardised table referred to in paragraph 1 and the information set out in Article 19(2) shall be published in the following manner:
 - (a) via a link on the platform referred to in point 3.1.1(1)(h) of Annex I to Regulation (EC) No 715/2009 to the website of the party referred to in Article 21;
 - (b) accessible to the public, free of charge;
 - (c) in a user-friendly manner;
 - (d) in a clear, quantifiable, easily accessible way and on a non-discriminatory basis;
 - (e) in a downloadable format;
 - (f) in the official language(s) of the Member State and in English.

Article 21

Publication notice period

The transmission system operator or the national regulatory authority, depending on the party responsible for calculating transmission tariffs, shall publish:

- (1) at the latest seven days before the annual yearly capacity auction, the information set out in Article 18;
- (2) at least thirty days before the respective tariff period or, where the difference in the level of the respective transmission tariffs applicable for next tariff period as compared to the current one is expected to exceed twenty percent, at least sixty days before the respective tariff period, the information set out in Article 19;
- (3) as soon as possible before they are applicable and subject to the approval by the national regulatory authority, the respective transmission tariffs updated within the tariff period:
 - (a) where Article 22(2)(a) and (b) is applied;
 - (b) where the charge referred to in Article 4(2)(b) is recalculated within the tariff period.

Each update of such transmission tariffs shall be accompanied by the supporting information indicating the reasons for the changes in their level. Where Article 22(2)(b) is applied, it shall also be accompanied by the updated report referred to in Article 18(3)(b) for the respective types of standard capacity products for interruptible capacity.

CHAPTER V RESERVE PRICES

Article 22

General provisions

1. For yearly standard capacity products for firm capacity, the reference prices shall be used as reserve prices. For non-yearly standard capacity products for firm capacity, the reserve prices shall be calculated as set out in this Chapter. For both yearly and non-yearly standard capacity products for interruptible capacity, the reserve prices shall be calculated as set out in this Chapter. The level of multipliers, the level of seasonal factors and the level of discounts for the standard capacity products for interruptible capacity may be applied for each, some or all interconnection points.
2. The respective reserve prices referred to in Article 18 shall be binding for the first gas year following the annual yearly capacity auction unless:
 - (a) the discounts for monthly and daily standard capacity products for interruptible capacity are recalculated within the tariff period if the probability of interruption referred to in Article 26 changes by more than twenty percent;
 - (b) the reference price is recalculated within the tariff period due to exceptional cases.In addition, the respective reserve prices may be binding beyond the first gas year referred to in the first subparagraph, where the fixed payable price approach referred to in Article 34(2) is offered.
3. Every tariff period and as set out in Article 21(1), the national regulatory authority shall take and publish the decision on the following:
 - (a) the level of multipliers;
 - (b) where seasonal factors are applied, their level and the calculations set out in Article 25;
 - (c) the levels of discounts set out in Article 26.
4. Before taking the decision on the level of multipliers and of seasonal factors, the national regulatory authority shall consult with the national regulatory authorities of adjacent

Member States and the relevant stakeholders. In adopting its decision, the national regulatory authority shall take into account the opinions received and the following:

(a) for multipliers:

- (i) the balance between facilitating short-term gas trade and providing long-term signals for efficient investment in the transmission system;
- (ii) impact on the transmission services revenue and its recovery;
- (iii) the need to avoid cross-subsidisation between network users and to enhance cost-reflectivity of reserve prices;
- (iv) the situations of physical congestion and contractual congestion.

(b) for seasonal factors:

- (i) the impact on facilitating the economic and efficient utilisation of the infrastructure;
- (ii) the need to improve the cost-reflectivity of reserve prices.

Article 23

Level of multipliers and seasonal factors

1. The level of multipliers shall fall within the following ranges:

- (a) for quarterly standard capacity products and for monthly standard capacity products, the level of the respective multiplier shall be no less than 1 and no more than 1.5;
- (b) for daily standard capacity products and for within-day standard capacity products, the level of the respective multiplier shall be no less than 1 and no more than 3.

After four years as from the date referred to in the second subparagraph of Article 45, the level of multipliers for daily standard capacity products and for within-day standard capacity products shall be no more than 1.5.

2. Within two years as from the date referred to in the second subparagraph of Article 45, the Agency shall publish a report outlining the appropriateness of the ranges referred to in paragraph 1. Such report shall examine the following aspects before and as from the date referred to in the second subparagraph of Article 45:

- (a) changes in booking behaviour;
- (b) impact on the transmission services revenue and its recovery;

- (c) differences between the level of transmission tariffs applicable for two consecutive tariff periods;
- (d) cross-subsidisation between network users having contracted yearly and non-yearly standard capacity products.

Without prejudice to Article 7(1) of Regulation (EC) No 715/2009, ACER shall publish together with the report an opinion, based on the conclusions of the report, as to whether an amendment to this Article and Article 25 is necessary.

3. Within two years as from the date of publication of the report referred to in paragraph 2, the Agency shall publish the update thereof examining the aspects set out therein. The second subparagraph of paragraph 2 shall apply, *mutatis mutandis*.
4. Where seasonal factors are applied, the arithmetic mean over the gas year of the product of the multiplier applicable for the respective standard capacity product and the relevant seasonal factors shall be within the same range as for the level of the respective multipliers set out in paragraph 1.

Article 24

Calculation of reserve prices for non-yearly standard capacity products for firm capacity in absence of seasonal factors

The reserve prices for non-yearly standard capacity products for firm capacity shall be calculated as follows:

- (1) for quarterly standard capacity products, for monthly standard capacity products and for daily standard capacity products, in accordance with the following formula:

$$P_{st} = (M \times T / 365) \times D$$

Where:

P_{st} is the reserve price for the respective standard capacity product;

M is the level of the multiplier corresponding to the respective standard capacity product;

T is the reference price;

D is the duration of the respective standard capacity product expressed in gas days.

For leap years, the formula shall be adjusted so that the figure 365 is substituted with the figure 366.

(2) for within-day standard capacity products, in accordance with either of the following formulas:

- (a) as set out in point (1) for daily standard capacity products;
- (b) as follows:

$$P_{st} = (M \times T / 8760) \times H$$

Where:

P_{st} is the reserve price for the within-day standard capacity product;

M is the level of the corresponding multiplier;

T is the reference price;

H is the duration of the within-day standard capacity product expressed in hours.

For leap years, the formula shall be adjusted so that the figure 8760 is substituted with the figure 8784.

Article 25

Calculation of reserve prices for non-yearly standard capacity products for firm capacity with seasonal factors

1. Where seasonal factors are applied, the reserve prices for non-yearly standard capacity products for firm capacity shall be calculated in accordance with the relevant formulas set out in Article 24 complemented with multiplication by the respective seasonal factor calculated as set out in paragraphs 2 to 6.
2. The methodology set out in paragraph 3 shall be based on the forecasted flows unless the quantity of the gas flow at least for one month is equal to 0. In such case, the methodology shall be based on the forecasted contracted capacity.
3. For monthly standard capacity products for firm capacity, the seasonal factors shall be calculated in the following sequential steps:
 - (a) calculate for each month within a given gas year the usage of the transmission system on the basis of forecasted flows or forecasted contracted capacity using:
 - (i) the data for the individual interconnection point, where the seasonal factors are calculated for each interconnection point;

- (ii) the average data, where the seasonal factors are calculated for some or all interconnection points.
 - (b) sum up the resulting values referred to in point (a);
 - (c) calculate the usage rate by dividing each of the resulting values referred to in point (a) by the resulting value referred to in point (b);
 - (d) multiply each of the resulting values referred to in point (c) by 12. Where the resulting values are equal to 0, adjust these values to the lower of 0.1 or the lowest of the resulting values other than 0;
 - (e) calculate the initial level of the respective seasonal factors by raising each of the resulting values referred to in point (d) to the same power which is no less than 0 and no more than 2;
 - (f) calculate the average of the products of the resulting values referred to in point (e) and the multiplier for monthly standard capacity products;
 - (g) compare the resulting value referred to in point (f) with the range referred to in Article 23(1), as relevant:
 - (i) if this value falls within this range then the level of seasonal factors shall coincide with the respective resulting values referred to in point (e);
 - (ii) if this value falls outside of this range then point (h) shall apply.
 - (h) the level of seasonal factors shall be calculated as the product of the respective resulting values referred to in point (e) and the correction factor calculated as follows:
 - (i) where the resulting value referred to in point (f) is more than 1.5, the correction factor shall be calculated as 1.5 divided by this value;
 - (ii) where the resulting value referred to in point (f) is less than 1, the correction factor shall be calculated as 1 divided by this value.
4. For daily standard capacity products for firm capacity and within-day standard capacity products for firm capacity, the seasonal factors shall be calculated by carrying out the steps set out in paragraph 3(f) to (h), *mutatis mutandis*.
5. For quarterly standard capacity products for firm capacity, the seasonal factors shall be calculated as follows:
- (a) calculate the initial level of the respective seasonal factors as either of the following:

- (i) equal to the simple average of the respective seasonal factors applicable for the three relevant months;
 - (ii) no less than the lowest and no more than the highest level of the respective seasonal factors applicable for the three relevant months.
- (b) carry out the steps set out in paragraph 3(f) to (h), using the resulting values referred to in point (a), *mutatis mutandis*.
6. For all non-yearly standard capacity products for firm capacity, the rounding of the resulting values referred to in paragraphs 3 to 5 shall be carried out, where deemed appropriate.

Article 26

Calculation of reserve prices for standard capacity products for interruptible capacity

1. The reserve prices for standard capacity products for interruptible capacity shall be calculated by multiplying the reserve prices for the respective standard capacity products for firm capacity calculated as set out in Article 24 or 25, as relevant, by the difference between 100% and the level of an ex-ante discount calculated as set out in paragraphs 2 and 3.
2. An ex-ante discount shall be calculated in accordance with the following formula:

$$D_{\text{ex-ante}} = \text{Pro} \times 100\%$$

Where:

$D_{\text{ex-ante}}$ is the level of an ex-ante discount;

Pro is the probability of interruption of the type of standard capacity product for interruptible capacity.

3. The factor Pro referred to in paragraph 2 shall be calculated for each, some or all interconnection points per type of standard capacity product for interruptible capacity offered in accordance with the following formula on the basis of forecasted information related to its components:

$$\text{Pro} = \frac{N \times D_{\text{int}}}{D} \times \frac{\text{CAP}_{\text{av.int}}}{\text{CAP}}$$

Where:

N is the expectation of the number of interruptions over D;

D_{int} is the expected average duration of each interruption expressed in hours;

D is the total duration of the respective type of standard capacity product for interruptible capacity expressed in hours;

$CAP_{av.int}$ is the expected average amount of interrupted capacity for each interruption related to the respective type of standard capacity product for interruptible capacity;

CAP is the total amount of interruptible capacity for the respective type of standard capacity product for interruptible capacity.

4. The calculation referred to in paragraph 1 shall apply to all standard capacity products for interruptible capacity regardless of the direction of the gas flow at a given interconnection point. This calculation shall also apply to interruptible capacity products offered in the direction opposite to the physical gas flow at unidirectional interconnection points where technical capacity is offered only in one direction as set out in Article 21 of Commission Regulation (EU) No 984/2013.

CHAPTER VI TRANSMISSION SERVICES REVENUE RECONCILIATION

Article 27

General provisions

1. Where and to the extent that the transmission system operator functions under a non-price cap regime, the following principles shall apply:
 - (a) the under- or over-recovery of the transmission services revenue shall be minimised;
 - (b) the level of transmission tariffs shall ensure that the allowed revenue from transmission services is recovered by the transmission system operator in a timely manner;
 - (c) significant differences between the level of transmission tariffs applicable for two consecutive tariff periods shall be avoided to the extent possible.
2. Where and to the extent that the transmission system operator functions under a price cap regime, only Article 29(4) shall be applied.
3. Subject to Articles 14 and 15, this Chapter may also apply to non-transmission services revenue, *mutatis mutandis*.
4. The application of this Regulation shall avoid incurring detrimental effects on the revenue and cash flow position of the transmission system operator.

Article 28

Under- and over-recovery

1. The under- or over-recovery of the transmission services revenue shall be equal to:

$$R_A - R$$

Where:

R_A is the actually obtained revenue related to the provision of transmission services;

R is the transmission services revenue.

The values of R_A and R shall be attributed to the same tariff period and, where an effective inter-transmission system operator compensation mechanism referred to in Article 5(1) and (2) is established, shall take such mechanism into account.

2. Where the difference calculated in accordance with paragraph 1 is positive, it shall indicate an over-recovery of the transmission services revenue. Where such difference is negative, it shall indicate an under-recovery of the transmission services revenue.

Article 29

Regulatory account

1. The regulatory account shall indicate at least the information referred to in Article 28(1) for a given tariff period.
2. All of the transmission system operator's under- or over-recovery shall be attributed to the regulatory account, unless otherwise decided by the national regulatory authority. Where incentive mechanisms for capacity sales are implemented in accordance with the decision of the national regulatory authority, only a part of the transmission system operator's under- or over-recovery shall be attributed to the regulatory account. In such case, the residual part thereof shall be met by the transmission system operator.
3. Each transmission system operator shall use one regulatory account. This regulatory account may be split into a number of sub-accounts for the purpose of tracking the under- or over-recovery originating from a particular group of points or from a particular type of transmission tariff.
4. Subject to the decision of the national regulatory authority, the earned auction premia, if any, may be attributed to a specific account separate from the regulatory account referred to in paragraph 3. The national regulatory authority may decide to use this auction premia

for reducing physical congestion or to decrease the transmission tariffs for the next tariff period as set out in Article 30(3).

Article 30

Reconciliation of regulatory account

1. The national regulatory authority shall set or approve the reconciliation period, meaning the time period over which the regulatory account referred to in Article 29(3) shall be reconciled.
2. The regulatory account shall be reconciled with the aim of reimbursing to the transmission system operator the under-recovery and of returning to the network users the over-recovery.
3. When setting the transmission tariffs for the next tariff period, the reconciliation of the regulatory account shall be carried out in accordance with the applied reference price methodology and, in addition, by using the charge referred to in Article 4(2)(b), if applied.

CHAPTER VII

PRICING OF BUNDLED CAPACITY AND CAPACITY AT VIRTUAL INTERCONNECTION POINTS

Article 31

Pricing of bundled capacity

1. The reserve price for a bundled capacity product shall be equal to the sum of the reserve prices for the capacities contributing to such product. The reserve prices for corresponding entry and exit capacities shall be made available when the bundled capacity product is offered and allocated by means of a joint booking platform referred to in Article 27 of Commission Regulation (EU) No 984/2013.
2. The revenue originating from the bundled capacity product sales corresponding to the reserve price for such product shall be attributed to the respective transmission system operators:
 - (a) after each transaction for a bundled capacity product; and
 - (b) in proportion to the reserve prices for the capacities contributing to such product.
3. The auction premium originating from the bundled capacity product sales shall be attributed in accordance with the agreement between the respective transmission system operators which is subject to the approval by the national regulatory authority(-ies) to be granted

sufficiently in advance of, and no later than three months before the start of the annual yearly capacity auctions. In absence of such approval by all national regulatory authorities involved, the auction premium shall be attributed to the respective transmission system operators equally.

4. Where the interconnection point concerned connects adjacent entry-exit systems of two Member States, the respective national regulatory authorities shall submit the agreement referred to in paragraph 3 to the Agency for information.

Article 32

Pricing of capacity at a virtual interconnection point

1. The reserve price for an unbundled standard capacity product offered at a virtual interconnection point shall be calculated in accordance with either of the following approaches:
 - (a) calculated on the basis of the reference price, where the applied reference price methodology allows for the taking into account of the established virtual interconnection point;
 - (b) equal to the weighted average of the reserve prices, calculated on the basis of the reference prices for each interconnection point contributing to such virtual interconnection point, where the applied reference price methodology does not allow for the taking into account of the established virtual interconnection point, in accordance with the following formula:

$$P_{st, VIP} = \frac{\sum_i^n (P_{st, i} \times CAP_i)}{\sum_i^n CAP_i}$$

Where:

$P_{st, VIP}$ is the reserve price for a given unbundled standard capacity product at the virtual interconnection point;

i is an interconnection point contributing to the virtual interconnection point;

n is the number of interconnection points contributing to the virtual interconnection point;

$P_{st, i}$ is the reserve price for a given unbundled standard capacity product at interconnection point i ;

CAP_i is technical capacity or forecasted contracted capacity, as relevant, at interconnection point i .

2. The reserve price for a bundled standard capacity product offered at a virtual interconnection point shall be calculated as set out in Article 31(1).

CHAPTER VIII CLEARING PRICE AND PAYABLE PRICE

Article 33

Calculation of clearing price at interconnection points

The clearing price for a given standard capacity product at an interconnection point shall be calculated in accordance with the following formula:

$$P_{cl} = P_{R,au} + AP$$

Where:

P_{cl} is the clearing price;

$P_{R,au}$ is the applicable reserve price for a standard capacity product which is published at the time when this product is auctioned;

AP is the auction premium, if any.

Article 34

Calculation of payable price at interconnection points

The payable price for a given standard capacity product at an interconnection point shall be calculated in accordance with either of the following formulas:

- (1) where the floating payable price approach is followed:

$$P_{flo} = P_{R,flo} + AP$$

Where:

P_{flo} is the floating payable price;

$P_{R,flo}$ is the reserve price for a standard capacity product applicable at the time when this product may be used, as set or approved by the national regulatory authority;

AP is the auction premium, if any.

(2) where the fixed payable price approach is followed:

$$P_{\text{fix}} = (P_{R,y} \times \text{IND}) + \text{RP} + \text{AP}$$

Where:

P_{fix} is the fixed payable price;

$P_{R,y}$ is the applicable reserve price for a yearly standard capacity product which is published at the time when this product is auctioned;

IND is the chosen index which is accessible to the public;

RP is the risk premium reflecting the benefits of certainty regarding the level of transmission tariff, which shall be no less than 0;

AP is the auction premium, if any.

Article 35

Conditions for offering payable price approaches

1. Where and to the extent that the transmission system operator functions under a non-price cap regime, the conditions for offering payable price approaches shall be as follows:
 - (a) for existing capacity:
 - (i) the floating payable price approach shall be offered;
 - (ii) the fixed payable price approach shall not be allowed.
 - (b) for incremental capacity and existing capacity offered in the same auction, the floating payable price approach and/or the fixed payable price approach may be offered. Where the fixed payable price approach is offered, the duration of its offer shall be as set out in Article 11(3) and 20e(1) of Commission Regulation (EU) No 984/2013.
2. Where and to the extent that the transmission system operator functions under a price cap regime, the conditions for offering payable price approaches shall be as follows:
 - (a) for existing capacity, the floating payable price approach and/or the fixed payable price approach may be offered;
 - (b) for incremental capacity and existing capacity offered in the same auction, as set out in paragraph 1(b).

CHAPTER IX INCREMENTAL CAPACITY

Article 36

Economic test

1. The economic test shall be applied for each offer level of an incremental capacity project after binding commitments of network users for contracting capacity have been obtained by the respective transmission system operators and shall consist of the following parameters:
 - (a) the present value of binding commitments of network users for contracting capacity, which is calculated as the discounted sum of the following parameters:
 - (i) the sum of the respective estimated reference price and a potential auction premium and a potential mandatory minimum premium multiplied by the amount of contracted incremental capacity;
 - (ii) the sum of a potential auction premium and a potential mandatory minimum premium multiplied by the amount of available capacity that was contracted in combination with the incremental capacity;
 - (b) the present value of the estimated increase in the allowed revenue or target revenue of the transmission system operator associated with the incremental capacity included in the respective offer level, as approved by the relevant national regulatory authority in accordance with Article 20c(3)(c) of Commission Regulation (EU) No 984/2013;
 - (c) the f-factor that defines the minimum share of the parameter set out in point (b) that needs to be covered by the parameter set out in point (a).
2. The outcome of the economic test application shall be:
 - (a) positive, where the value of the parameter set out in paragraph 1(a) is at least equal to the share of the parameter set out in paragraph 1(b) as defined by the f-factor;
 - (b) negative, where the value of the parameter set out in paragraph 1(a) is lower than the share of the parameter set out in paragraph 1(b) as defined by the f-factor.
3. An incremental capacity project shall proceed if the economic test has a positive outcome for at least one offer level that is including incremental capacity. In case more than one offer level results in a positive outcome of the economic test, the offer level with the largest amount of capacity that resulted in a positive outcome shall be used for proceeding with the next phases of the incremental capacity project towards commissioning.

Article 37

The f-factor

1. When approving the level of f-factor for a given offer level, the Member State or, where the Member State so provides, the national regulatory authority of such Member State shall take into account the following:
 - (a) the amount of technical capacity set aside in accordance with Article 8(8) and (9) of Commission Regulation (EU) No 984/2013;
 - (b) positive externalities of the incremental capacity project on the market and/or the transmission network;
 - (c) the duration of binding commitments of network users for contracting capacity compared to the economic life of the asset;
 - (d) the extent to which the demand for the capacity established in the incremental capacity project can be expected to continue after the end of the time horizon used in the economic test.
2. If the economic test has a positive outcome then the actual investment costs associated with the incremental capacity shall be reflected in full in an increase in the allowed revenue or target revenue in accordance with the applicable national rules. The part of the allowed revenue or target revenue associated with the incremental capacity project which is not covered by binding commitments of network users for contracting capacity shall be covered by the future contracting of the incremental capacity and to the extent future contracting of the incremental capacity does not occur, be guaranteed through transmission tariffs paid by network users also at other points of the system or through another appropriate payment mechanism established by the relevant Member States or, where the Member States so provide, the national regulatory authorities of such Member States.

Article 38

Combination into single economic test

1. In order to facilitate the offer of bundled capacity products, individual economic test parameters of the involved transmission system operators for a given offer level shall be combined into a single economic test.
2. The single economic test shall consist of the following parameters:

- (a) the present value of binding commitments of network users for contracting bundled capacity, which is the sum of the values according to Article 36(1)(a) of the involved transmission system operators;
 - (b) the sum of the individual present values of the estimated increase in the allowed revenue or target revenue of the involved transmission system operators that is attributable to the incremental capacity of a respective offer level;
 - (c) the f-factor that defines the share of the parameter set out in point (b) that needs to be covered by the parameter set out in point (a) and allows all the involved transmission system operators individually to cover their individual upfront defined respective shares.
3. The outcome of the single economic test application shall be positive where all underlying economic tests result in positive outcomes as set out in Article 36(2)(a) taking into account a possible redistribution of revenues according to paragraphs 4 and 5. Otherwise, the outcome of the single economic test application shall be negative.
4. In case a redistribution of revenues could potentially lead to a decrease in the level of binding commitments of network users for contracting capacity required for a positive single economic test outcome, transmission system operators may submit to the relevant national regulatory authorities for co-ordinated approvals the mechanisms for a redistribution of revenues from incremental capacity.
5. A redistribution of revenues may be carried out as follows:
 - (a) during the process of integrating the individual economic test parameters into a single economic test;
 - (b) in case the single economic test has a negative outcome while at the same time the level of binding commitment of network users for contracting capacity exceeds the minimum required to cover the individual present value of the increase in the allowed revenue or target revenue for at least one of the involved transmission system operators.

Article 39

Publication requirements relating to the economic test

1. For a given incremental capacity project, the transmission system operator(s) shall submit to the relevant national regulatory authority(-ies) for approval the following information for each offer level:

- (a) the reference prices estimated for the time horizon of the initial offer of incremental capacity that are used for the calculation of the parameter set out in Article 36(1)(a) and 38(2)(a), as relevant;
 - (b) the parameters set out in Article 36(1)(b) to (c) and 38(2)(b) to (c), as relevant;
 - (c) if applicable, the mandatory minimum premium for each offer level and interconnection point applied in the first auction and possibly in subsequent auctions in which the incremental capacity is offered as defined in Article 40(3).
2. Following the approval by the relevant national regulatory authority(-ies), the information set out in paragraph 1 shall be published by the involved transmission system operator(s) as set out in Article 20c(5) of Commission Regulation (EU) No 984/2013.

Article 40

Tariff principles for incremental capacity

1. The minimum price at which transmission system operators shall accept a request for incremental capacity is the reference price. For the calculation of the economic test, reference prices shall be derived by including into the reference price methodology the relevant assumptions related to the offer of incremental capacity.
2. Where the fixed payable price approach set out in Article 34(2) is considered to be offered for incremental capacity:
 - (a) the reserve price referred to in Article 34(2) shall be based on projected investment and operating costs. Unless point (b)(iii) is applied, such reserve price shall be adjusted once when the incremental capacity is commissioned proportionally to the difference, irrespective whether positive or negative, between the projected investment costs and the actual investment costs.
 - (b) the consultation set out in Article 20b(9) of Commission Regulation (EU) No 984/2013 shall include the following:
 - (i) the proposed index;
 - (ii) the proposed calculation and treatment of the risk premium;
 - (iii) where proposed, the arrangement other than as set out in the second sentence of point (a).
3. In case the allocation of all incremental capacity at the reference price would not generate sufficient revenues for a positive economic test outcome, a mandatory minimum premium

may be applied in the first auction in which the incremental capacity is offered. The mandatory minimum premium may also be applied in subsequent auctions when the capacity is offered that initially remained unsold or when capacity is offered that was initially set aside according to Article 8(8) and (9) of Commission Regulation No (EU) 984/2013. The decision on whether and in which auctions to apply a mandatory minimum premium is subject to the approval by the relevant national regulatory authority.

4. The level of the mandatory minimum premium shall enable a positive economic test outcome with the revenues generated by the allocation of all offered capacity in the first auction in which the incremental capacity is on offer.
5. A mandatory minimum premium approved by the national regulatory authority shall be added to the reference price for the bundled capacity products at the respective interconnection point and shall exclusively be attributed to the transmission system operators, for which the mandatory minimum premium was approved by the respective national regulatory authority. This default principle for the attribution of a mandatory minimum premium is without prejudice to the provisions on the split of a possible additional auction premium according to Article 31(3) or an alternative agreement between the involved national regulatory authorities.
6. In case initial commitments for contracting of incremental capacity by network users are for any reasons cancelled, the transmission system operator may charge the outstanding amounts resulting from the initial commitment to the respective network users.
7. Where a mandatory minimum premium is applied and the relevant national regulatory authorities conclude that based on the relevant assumptions described in paragraph 1 there are doubts whether future capacity bookings will generate sufficient revenues to cover the allowed revenues or target revenues associated with the incremental capacity beyond the initial time horizon for booking capacity, the part of the revenues following from the mandatory minimum premium shall be used for measures to mitigate possible future under-recovery with regard to the incremental capacity. Potential measures to minimise cross-subsidisation of possible future under-recovery of the incremental capacity shall be evaluated in the proposal set out in Article 20c(3) of Commission Regulation (EU) No 984/2013 and consequently decided upon by the relevant national regulatory authority. The extent of the occurrence of such under-recovery shall be monitored by the transmission system operators.
8. When, in the future, under-recovery associated with the incremental capacity as described in paragraph 7 does not occur, over-recovery at that time shall be prevented by using the

accumulated revenues from the mandatory minimum premium in accordance with the applied reference price methodology.

CHAPTER X FINAL AND TRANSITIONAL PROVISIONS

Article 41

Transitional provisions

1. To apply the arrangements set out in Articles 42 and 43, a transmission system operator may send a request to the national regulatory authority as from the entry into force of this Regulation. The implementation of such arrangements shall be subject to the approval by the national regulatory authority.
2. The duration of the arrangements set out in Articles 42 and 43 shall be as follows:
 - (a) the start date shall be no earlier than the date referred to in the second subparagraph of Article 45; and
 - (b) the end date shall be no later than twenty-four months as from the date referred to in the second subparagraph of Article 45.
3. The arrangements set out in Articles 42 and 43 shall not be applied simultaneously. Where Article 43 is applied until a date earlier than the date referred to in paragraph 2(b), Article 42 may be applied subsequently subject to paragraph 2(b).

Article 42

Mitigating measures

1. Where a mitigating measure is applied, this Regulation shall apply as from the date referred to in the second subparagraph of Article 45 or, where Article 43 is applied, as from the date referred to in Article 43(1).
2. A request to implement a mitigating measure shall demonstrate that the application of this Regulation results in an increase of the reference price at a minimum of one entry point or exit point by more than twenty percent as compared to the reference price applicable for the tariff period preceding the date referred to in the second subparagraph of Article 45 or, where Article 43 is applied, the date referred to in Article 43(1).

3. The detailed design of mitigating measures shall be defined by the national regulatory authority or by the transmission system operator subject to the approval by the national regulatory authority. Such measures may include the following:
 - (a) use of the auction premium earned in the previous tariff period that exceeds the allowed revenue applicable for that tariff period for the purpose of decreasing the transmission tariffs applicable for the current tariff period at those interconnection points where the auction premium was earned;
 - (b) apportionment of any increase of or decrease in transmission tariffs applicable for two consecutive tariff periods over a number of tariff periods subject to Article 41(2)(b).

Article 43

Transitional period

1. Where a transitional period is applied, this Regulation shall apply as from a date later than the date referred to in the second subparagraph of Article 45 subject to Article 41(2)(b).
2. A request to postpone the application of this Regulation shall demonstrate that the application of this Regulation as from the date referred to in the second subparagraph of Article 45:
 - (a) affects the execution of specific contracts; or
 - (b) does not coincide with the beginning of the regulatory period or the tariff period.

Article 44

Existing contracts

1. This Regulation shall not affect the level of transmission tariffs stipulated in the following contracts where such contracts foresee no change of their level except for indexation, if any:
 - (a) concluded before 29 November 2013;
 - (b) concluded within the period from 29 November 2013 to the date referred to in the second subparagraph of Article 45:
 - (i) where and to the extent that the transmission system operator functions under a price cap regime, for existing and incremental capacity;
 - (ii) where and to the extent that the transmission system operator functions under a non-price cap regime, for incremental capacity.

2. The contracts referred to in paragraph 1 shall not be renewed, prolonged or rolled over after their expiration date.
3. Within a reasonable time period as from the entry into force of this Regulation, a transmission system operator shall send the contracts referred to in paragraph 1 to the national regulatory authority for information.

Article 45

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Without prejudice to Articles 6(5), 14(2), 15(4), 41(1) and 44(3), this Regulation shall apply as from whichever of the following dates is the later:

- (1) 1 October 2017; or
- (2) the first day of the month following the date calculated as twenty-four months as from the entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.