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Draft GIE response to ACER Public Consultation on the scope and main policy options for Framework Guidelines on Harmonised transmission tariff structures (PC -06)

1. <u>Introduction</u>

GIE welcomes ACER's consultation of the "Scope and main policy options for Framework Guidelines on Harmonised Tariff structures", which sets out important aspects of tariff structures in a clear and balanced manner. GIE is happy to contribute to this public consultation with its views.

Who is GIE?

Gas Infrastructure Europe (GIE) is an association representing the sole interest of the infrastructure industry in the natural gas business such as Transmission System Operators, Storage System Operators and LNG Terminal Operators. GIE has currently 70 members in 25 European countries.

One of the objectives of GIE is to voice the views of its members vis-à-vis the European Commission, the regulators and other stakeholders. Its mission is to actively contribute to the construction of a single, sustainable and competitive gas market in Europe underpinned by a stable and predictable regulatory framework as well as by a sound investment climate

2. <u>Executive Summary</u>

GIE agrees that cross-border and inter-zonal transmission interconnection points (IPs) are within the scope of a Tariff FG. GIE also fully supports the idea that intra-zone downstream points and interconnections with LNG, storage and production (i.e. non-IPs) **are out of scope**. This is notwithstanding that, of course, the high level allocation of cost recovery to these classes of points needs to be non-discriminatory.

Currently, the introduction of the entry-exit transportation model across the EU and the expected CAM network code necessitate the redesign of tariff structures. This redesign provides insights into the challenges involved in attaining the pursued objectives. In designing entry-exit tariff systems, there is always the aim to minimise any cross-subsidisation and maximise cost-reflectivity, both locational and between long and short term system usage. But in fact, it has to be noted that an entry-exit-system itself may lead to cross-subsidisation between short-haul and long-haul transports within an entry-exit zone in favour of the latter.

GIE would like to stress that that a tariff structure distortion on cross-border IPs may indirectly hamper infrastructures business (LNG, storage, etc.) and their future investments. Evidently, the existence of entry-exit systems introduces an inevitable relationship between cross-border transmission points (IPs) and the domestic points (non-IPs). In case expected TSO's allowed revenues are not recovered from one group of points (IPs), they will have to be recovered from the other group of points (LNG, storages, production, DSOs). ***For this reason, and in order to avoid detrimental effects for non-IPs, great care should be taken to ensure that a proper cost allocation for cross-border and domestic points on a system level avoids discriminatory shifts in costs between IPs and non-IPs.***

GIE would also like to highlight that the enforcement of an entry-exit system with differential pricing could be hampered if binding long-term contract for the users are not in place, in particular in those systems where there is spare capacity. Users might change their location contracts to optimise their payments, which could defeat the provisions of revenue equivalence and from the operational point of view could lead a big change in flow patterns. This could endanger the cost-recovery for the whole trasnmission system and, at the same time, be detrimental for storage, production and LNG activities. Thus, it is a must to safeguard long-term contracts binding upon network users.

In general, the integrity of general tariff principles such as recovery of actual costs incurred and appropriate return on investment have to be safeguarded.

I. Scope and Objectives

Question 3: Based on the Gas Regulation, are there further principles to be added?

Question 4: How would you interpret the above principles and objectives? Which objective would you consider to be the most important for achieving an EU internal market for gas? How would you rank the rest of the objectives? Please provide justification.

GIE agrees with the general principles that tariff structures should comply with, which are enshrined in Regulation 715/2009. Aims of tariff structures listed by ACER include:

- Efficient gas trade and competition
- Avoid cross-subsidies and undue discrimination
- Deliver cost reflective charges and ensure cost recovery
- Allow for market signals and incentives enabling efficient infrastructure development (investment); this includes safeguarding of security of supply
- Be transparent, stable and visible in the long term

The aims of security of supply and tariff stability are not explicitly mentioned in Regulation 715/2009, but they certainly can be derived from the aim of long term efficiency and may be added to the tariff structure objectives.

These objectives of tariff structures have to be assessed collectively. Policy decisions on different design elements of tariff structures to support these aims cannot be looked at discretely, because they are strongly interrelated.

ACER tends to put a lot of focus on Regulation 715/2009's tariff structure requirements. Of course, a tariff framework guideline will have to be in line with these. However, it is primarily TSOs and NRAs on a system level who are addressed by the Regulation in their design decisions and who are to weight conflicting principles against each other

Besides the above cross-border tariff structure principles, Regulation 715/2009 also contains general tariff principles. In any policy decision taken in a framework guideline on tariff structures, utmost care has to be taken to ensure these general principles. These are:

- Appropriate return on investment
- Provide incentives for investment
- Recovery of actual costs incurred
- System integrity
- System improvement
- Facilitate efficient gas trade and competition within-zone (or through zone mergers)

- Avoiding cross-subsidies within-zone

The safeguarding of these strongly interrelated general tariff principles is to be considered as a prerequisite for any tariff structure decisions – both on a national level as well as on EU level.

TSOs need assurance that any tariff policy decision on EU level will not jeopardise these important principles; or even some of them, as they are closely connected. Therefore any potential framework guidelines would have to contain appropriate safeguards.

Question 1: What other issues should be dealt with in this Framework Guideline? What is the evidence for including these issues? Please provide justification.

Question 2: What are the most important problems that relate to tariff structures? Do the problems identified by you relate to the lack of harmonised approaches?

GIE believes that undue discrimination should be avoided. Cross subsidies between cross border and domestic network usage should be minimised. Transparent and detailed methodologies for the calculations of the Entry and Exit Tariffs should apply. Such methodologies do not need, however, to be harmonized across Europe: there are several approaches which aim to avoid such cross-subsidies.

Under or over recovery of allowed revenues is certainly a primary concern to TSOs. However, GIE would like to note that the regulation of allowed revenues is clearly out of scope. However, it is a must that a potential tariff framework guideline states that tariff structures are to be set such that the required revenues are fully recovered (as the over and under recovery safeguard clause in the CAM network code does) but without hampering on a discriminatory way the value and business of gas systems connected to the transmission systems (LNG terminals, underground gas storages, distribution, etc.)

Risk and uncertainty is a primary concern for shippers and gas infrastructure operators. In today's dynamic environment, improvements of long term stability and visibility of tariffs will foster the internal energy market. Here, GIE is ready to work with network users and regulators to look into how uncertainty in tariffs could be mitigated. Measures such as market area mergers or changes of or within allowed revenue/price regimes also have impact on levels of specific tariffs – here regulatory commitment and stability is important.

Mitigating risk and uncertainty requires long term stability, and long term stability requires enabling users to enter long term commitments with TSOs.

Question 5: What are your views on the proposed scope and application regarding:

> ***-Entry and exit points***
>
> ***-Determination of the annual reference price***
>
> ***-Mechanisms to deal with over- and under-recovery of allowed revenues and the definition of the clearing price?***

Please justify your answer.

According to Regulation EC/715, Art 7, network codes concern themselves with cross-border issues. In line with this, GIE agrees that cross-border and cross-market area interconnection points are certainly within scope, while domestic downstream points and network interconnections with storage, production, and LNG are out of scope. This is notwithstanding that, of course, the high level allocation of cost recovery to these classes of points needs to be non-discriminatory according to art 13 of Regulation 715/2009.

It should be kept in mind, however, that decisions on the allocation of costs to be recovered from groups of points indirectly impacts interconnections with storage, production, and LNG as well as domestic downstream points. (Costs that are not recovered from one group of points will have to be recovered from the other group). Here the principle of non-discrimination of domestic and cross-border transports becomes relevant. Care has to be taken that tariff structure rules on cross-border interconnection points do not inadvertently lead to shifts in costs between these points and other classes of points. Such shift should be avoided by proper cost allocation to cross-border and domestic points on a system level.

Question 12: Do you consider potential cross-subsidies as a concern in relation to the coexistence of different cost allocation methodologies?

Please justify your answers.

GIE would like to remark that in case of merging areas, single TSOs may lose marketable points and therefore adjustments to the above methodologies may be needed. Furthermore, this would also have an inevitable impact on the non-IPs. This impact should be carefully considered in order to avoid detrimental effect and unfair tariffs which could affect the value of the gas storage/LNG facilities connected to the non-IPs of the resulting new area.