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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

**COMMISSION REGULATION (EU) .../... of XXX establishing a Network Code on
Harmonised Transmission Tariff Structures for Gas and**

**COMMISSION REGULATION (EU) .../...of XXX establishing a Network Code on
Capacity Allocation Mechanisms in Gas Transmission Systems and repealing
Commission Regulation (EU) No 984/2013**

{ C(2017) 1567 final}
{ C(2017) 1660 final}
{ SWD(2017) 107 final}

Executive Summary Sheet

Impact assessment on a Commission Regulation (EU) establishing a Network Code on harmonised Transmission Tariff Structures for Gas and on a Commission Regulation (EU) establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Commission Regulation (EU) No 984/2013 with regard to an EU-wide market-based approach on the allocation of 'new build' gas transmission capacity.

A. Need for action

Why? What is the problem being addressed? Maximum 11 lines

[Problems' size, probability of occurrence and expected evolution. Main underlying drivers (refer to evaluation results if pertinent). Most affected stakeholders]

The potential annual net welfare losses (on the wholesale level) due to the current lack of gas market integration amounted to up to 1.3 billion euros in 2014 on a European aggregated basis. Lack of harmonized tariffication structures as well as harmonized and market-based offer of new capacity are part of the problem. Today, the main difficulties energy companies face with regard to tariffs are related to the lack of transparency, consistency, predictability and objectivity of tariffs. Similarly, it is important to put in place a market-based system of offering incremental capacity to – where and when necessary – efficiently develop the system. Bringing about true competition between suppliers from inside and outside the EU requires that they are able to fully benefit from the existing transmission systems to ship their gas from low price areas to high price areas. Only a well-functioning network of interconnected transmission grids offering equal possibilities for access to all shippers and/or consumers ultimately leads to fair gas prices for all consumers.

What is this initiative expected to achieve? Maximum 8 lines

[Specify the main policy objectives providing a tentative quantitative indication of the targeted results]

The aim is to contribute to establishing an Energy Union and thus a functioning internal market in gas ensuring security of energy supply and to promote the interconnection of energy networks.

Specifically the measures aim to facilitate trade and competition through a well-functioning and transparent wholesale market; to improve transparency in the gas market; to avoid undue discrimination between network users and thereby ensuring cost-reflective transmission tariffs; and to provide incentive for investments and to maintain or create interoperability for transmission networks. Additionally the measures complement the well-functioning system of capacity offer for existing capacity to capacity that is yet to be built.

What is the value added of action at the EU level? Maximum 7 lines

[Transnational aspects. Limits of Member States action.]

Over the last years it has already been demonstrated (with other initiatives on capacity allocation, congestion management, balancing and interoperability) that for moving towards an EU internal gas market, European rules are necessary. However it has also been demonstrated that full harmonization of tariffication structures or of the offer of incremental capacity is (currently) not the most appropriate option given regional and network-related specificities that need to be accounted for. Nevertheless, stakeholders (suppliers and consumers alike) have been stressing the need for transparency and comparability of tariffs at EU level to ensure level playing field for all gas market players in the EU.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why? Maximum 14 lines

The Gas Regulation sets out the key principles for tariffication in the EU natural gas sector. Member States interpret these principles in different ways leading to significantly differing tariff structures (and tariffs for different customer groups) and relatively low overall transparency. It also often leads to cross-border flows being penalized compared to domestic ones which may in turn lead to gas that could bring diversification not being able to reach markets. Therefore, there is need for improvement.

Hence the baseline scenario of “business as usual” is not sufficient. The “basic harmonization” scenario takes key elements of designing tariffs and formulates common rules to create the necessary level playing field. While more assertive, full harmonization was also considered during the various consultations; stakeholders did not see the need for it given the regional, national, or system-related specificities that need to be accounted for. No clear evidence was found nor was there particular stakeholder support for harmonization of tariffs across the EU. This is also due to the fact that TSOs’ differing return expectations in different Member States are due to a number of factors from macroeconomic to system-specific ones.

As regards offer of incremental capacity, a similar “basic” harmonization was considered alongside full harmonization or the business as usual scenario. Here too, basic harmonization is most appropriate.

Who supports which option? Maximum 7 lines

All stakeholders (shippers, customers, TSOs and national authorities) supported the “basic harmonization” option which entails taking clear steps towards a harmonized tariff structure but not full harmonization.

That said, a group of shippers having long-term capacity contracts which are often out of the money due to – among others – declining demand, have been advocating a more radical overhaul of the tariffication system in the form of either a capacity reset or a general change of gas tariffication rules. While the proposals as such merit further attention of the Commission with a view to deepening market integration, such changes are of a fundamental nature and thus cannot be undertaken in the process at hand (comitology).

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)? Maximum 12 lines

Provide summary of expected economic, social and environment positive impacts indicating quantitative estimates to the extent possible and referring to main beneficiary groups (incl. consumers, businesses, etc.).

Whenever the case:

- *Include a justification for lack of quantification.*
- *Explicitly state absence of significant direct benefits in economic, social or environmental area*

Basic harmonization of tariff structures will contribute to integrating further the EU’s gas markets in the prudent and realistic manner that is consistent with the approach chosen for other market rule harmonization projects (on capacity allocation, congestion management, balancing and interoperability).

Specific economic benefits from these particular initiatives are challenging to quantify, given that more harmonized tariff structures are only one element of a better functioning internal market. The recent ACER monitoring report has stated that over EUR 1 bn per year is lost due to EU gas markets not functioning efficiently. Tariff structures play a key role in the gas network industry as they are able to steer flows within and between Member States. As most of the gas in the EU is imported it is extremely important that the tariff structures are designed in such a way as to work towards an EU optimum relative to gas supply and tariff design is an important lever.

As regards incremental capacity offer basic harmonization ensures that projects, large or small, can be solicited by the market and, in case they are economic, will be built by the TSO. Impacts other than economic are however relatively modest.

What are the costs of the preferred option (if any, otherwise main ones)? Maximum 12 lines

Provide summary of expected economic, social and environment negative impacts providing quantitative estimates to the maximum extent possible and referring to main groups affected whenever relevant.

Please clarify magnitude and type of compliance costs and their sources.

Whenever the case:

- *Include a justification for lack of quantification.*
- *Explicitly state absence of significant direct negative impacts in economic, social or environmental area*

In general, the proposed rules intend to create a more efficient EU-internal market by way of implementing changes in the gas tariffication structures and to the offer of incremental capacity.

To our knowledge there are no specific negative economic, social or environmental impacts of the preferred option of basic harmonization. Stakeholders have been very supportive of a prudent approach throughout the process of developing these legislative initiatives. Consequently the preferred option represents an incremental shift in EU tariffication policy in the gas sector.

How will businesses, SMEs and micro-enterprises be affected? Maximum 8 lines

Clarify and justify regime for micros and for SMEs [total exemption / partial exempt. / Lighter / Others / Full application] - Describe any specific impact for these types of businesses (or state that there are none expected)

Businesses – large and small – on the consumer side will be affected positively as they will have a level playing field in terms of competition with market players in the EU. The effect will be more directly felt in those businesses where gas is a crucial input in the value chain (i.e. which use natural gas for their industrial processes and not only e.g. for heating purposes). Businesses, such as large industrial customers, active on the wholesale market and in EU-wide and world-wide competition will stand to benefit from having cost-reflective tariffs. Tarification structures and capacity allocation mechanisms are an important ingredient to a functioning EU wholesale gas market so the effects will be felt on retail markets in an indirect manner. Therefore, unless domestic customers were to date heavily subsidized to the detriment of cross-border gas flows – which is clearly against the principles of an internal market – all businesses consuming gas stand to benefit from more transparent and better functioning wholesale gas market.

Will there be significant impacts on national budgets and administrations? Maximum 4 lines

There are no significant impacts on national budgets and administrations as a result of choosing the basic harmonization approach.

Will there be other significant impacts? Max 6 lines

No (why) / Yes [identify impact and provide reference to section in IA report]

Reference impacts are those outlined in IA guidelines and not already covered above. For instance, fundamental rights, competitiveness, regional, simplification, international (third countries, trade and investment flows), competition etc.

As set out, key impacts of this measure are of an economic nature and are part of a suite of measures being put in place to ensure the creation of a functioning internal market in gas in the EU. The internal market in turn brings about better supply security and gas at the most competitive prices to customers. Other impacts can be considered to be of a lesser nature.

D. Follow up**When will the policy be reviewed? Maximum 4 lines**

No firm review date is set for the entire proposal but ACER (with ENTSOG) will monitor the effects of implementing it and may suggest amendments from early on to ensure the desired effect is achieved.

In view of the EU's growing dependence on external sources of natural gas it could however be reasonable to consider whether a more over-arching initiative concerning gas tariffs is opportune.