Summary of responses to preliminary consultation on EU Commission Regulation 2017/460 (EU Tariff Code)

Background

Commission Regulation (EU) 2017/460 (TAR NC) is the fourth network code concerning the gas sector as part of the EU Third Energy Package. The regulation establishes a set of common rules on harmonised tariff structures for gas, including 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.

Under Article 26 of the TAR NC there is an obligation to carry out one or more consultations on the implementation of the code, to repeated at least every five years.

This was a preliminary consultation and used the Consultation Template developed by ACER as described in Art 26(5) of the TAR NC. This consultation, run by National Grid, should be seen as complimentary but independent of the formal consultation that was run as part of the GB UNC modification process for UNC Modification 0621 (Amendments to Gas Transmission Charging Regime). The final Art 26 consultation shall be run by Ofgem in Quarter 4 of 2018.

The consultation took place in late spring and ran until 22 June 2018. The responses are summarised below.

Consultation responses

Within the context that this was a parallel consultation to that of UNC 0621, only 4 responses were received. This contrasts with the 36 responses for UNC 0621.

The comments received were wide ranging covering the nature of the consultation itself and how it could be improved, to advocating specific modification alternatives of UNC 0621 with the reasons why.

General views on consultation

There was a general criticism that the template was difficult to follow and that it would have helped to have a summary of key points for each question and that additional material would have been useful on occasion.

The standard ACER template includes parts that are not relevant to GB – it was advised that such issues are identified - e.g. inter-TSO compensation.

It was not clear to some respondents if some information was missing as required by Art. 30 of the TAR NC. This article does not actually give an exhaustive list of information that must be published, but presents an illustrative list of items that need only be published if relevant to the reference price methodology. It is also clear that some respondents were uncertain if terms used in the consultation document were fully aligned to that used un the TAR NC. The document should contain explanations as to how terms are consistent with the definitions within the TAR NC.

Although this interim consultation was based on the requirements of Art. 26 of the TAR NC, one respondent highlighted that thee should also be a demonstration as to the way existing contracts are protected by Art. 35 provisions, as this seems to be an omission from TAR NC.

There were also concerns that the consultation was too focused on National Grid's modification UNC 0621 to the partial neglect of the many alternatives. The respondent wondered whether it would be appropriate to issue a separate document for each alternative.

The analysis presented was criticised as being too focused on 0621 concerning the justifications given in the analysis. Assessments with respect to the cost allocation test and impact on cross-border trade was considered inadequate.

The results of the cost allocation assessment were criticised as being unclear if the methodology as described in TAR NC was correctly followed or that the results were clearly explained as to the justification as to why these values are acceptable.

There was also a request for more tables of values rather than simply presenting links to where the information could be sourced.

There were general concerns about a perceived lack of "significant" analysis and the impact of any proposed changes or benchmarking of the proposals against market liquidity, prices, volatility and resilience against supply and demand shocks. An independent impact assessment in the final consultation was anticipated.

Comments on Options discussed

One respondent reflected on whether a minimum requirements approach to meet EU TAR NC compliance should be considered.

There was some support to minimise some of the changes by maintaining the use of obligated levels of capacity as the basis for calculating tariffs and the retention of a commodity based revenue recovery charge. The argument being that obligated levels are

stable and transparent and would lead to stable charges which lowers risk to shippers and reduces barriers to entry.

Although views were expressed that were promoting a high percentage of Transmission Services revenue may be recovered by commodity charges another respondent highlighted that this was not consistent with TAR NC Article 4(3) where there is clear intent from the code that revenues “shall be recovered by capacity-based transmission tariffs.”

With respect to the reference price methodology, it was felt that the overview of the CWD and postage stamp models were at too high a level with a lack of explanation over choice of methodology and choice of parameters such as cost drivers, adjustments etc. It was commented that it would have been useful to explain the treatment of existing contact volumes and revenues, as well as the impact of discounted prices on the reference price calculation.

Concerns were raised that the CWD methodology does not demonstrate cost reflectivity for Exit points that are physically close to Entry points. There was also criticism that the methodology seemed to produce high Exit prices in areas with spare capacity (e.g. Scotland) and comparatively low prices in area with less spare capacity (e.g. South of England).

The nature of the CWD calculation was also challenged as to the exclusion of the existing contract volume from the calculation as being distortionary of the actual cost reflectivity of the charges being calculated.

Another concern was that using a Forecast capacity parameter introduces uncertainty and has a yet to be developed methodology. There was a concern that no analysis had been performed on price volatility due to errors in forecasting the Forecasted Contracted Capacity (FCC).

Where one respondent was promoting the enduring use of obligated capacity levels for charge calculations rather than a FCC value, another respondent wanted a more accurate Forecast value, and one that should be used from October 2019 thus reducing any step-change in charges from the transition period to the enduring regime. Currently most options propose the use of obligated capacity levels for the first two years from October 2019 before moving to forecasted values in 2021. The compliance of using obligated levels for charge calculation, even on a transitional basis, was questioned by one respondent.

The variation in how the different options for UNC 0621 performed with the capacity cost allocation index was highlighted – including how the option to use obligated levels of capacity for charge calculation rather than a forecast produces a more favourable index value for the cost allocation assessment – although conceded that this recovers only about 40% of target revenues through a CWD based charge.

Comments on specific areas

There were specific areas of concern raised by some respondents, such as in the treatment for storage. Comments were made similar to those submitted to the UNC 0621 consultation with regards that the higher capacity discount proposed by some customers of 86% for storage facilities is preferable to the default minimum discount of 50% as this more accurately reflects the benefits/cost of storage facilities. One respondent did recognise that this will automatically be subject to review at least every 5 years.

The option of having a zero-price for off-peak (i.e. interruptible) exit capacity was supported, arguing that this would facilitate the refill of storage and thus help manage the network through periods of high demand. It was also stated by one respondent that to facilitate access to storage facilities then all fully adjusted capacity at storage points should be exempt from any capacity-based revenue recovery charge.

There were concerns that as all current proposals for UNC 0621 result in higher costs for users of GB storage leading to a reduced ability for storage to support the network (with the risk of future storage closures) and thus higher operational costs for transmission.

There was some criticism of the optional charge, highlighting that any such charge should reflect the real cost of any potential by-pass pipeline and should not have an arbitrary distance cut-off. There was even support that the removal of the Optional Charge would remove the concern and issues that such a charge creates, and in addition, the charge should be capacity based product with conditions rather than commodity as this is more consistent with TAR NC Art 4(2).

There were concerns raised over the impact of running the 2019 AMSEC and QSEC auctions under the current regime and how this may impact booking behaviour in anticipation of how prices may vary in the future.

It was argued that the interruptible charges should reflect the risk of interruption and the availability of capacity rather than take a banded option of a fixed 10% discount where the risk lies in a range of 0 to 10%.

Conclusion

It was difficult to identify general themes from such a small sample of responses but there was a consistent request for more detailed analysis and justification for proposed changes to be given, with more tables and less links to the outputs from the Charging Review on UNC 0621.

It should be restated that this was a preliminary response and that the final formal consultation may see greater participation.