



European Union Agency for the Cooperation
of Energy Regulators

Agency Report

Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Slovakia

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1. ACER conclusion

- (1) The transmission system operator (TSO), Eustream, has consulted on the tariff structure proposed for the Slovak transmission network¹. The TSO proposes to apply a postage stamp reference price methodology (RPM) complemented by the application of a benchmarking adjustment to both IPs and domestic points. The applied entry-exit is 37.5/62.5. In line with Article 9(1) of the Network Code on Harmonised Transmission Tariff Structures for Gas (NC TAR), the TSO does not propose to apply discounts at entry points from and exit points to storage facilities, as these points are connected to distribution networks and to neighbouring Member States. Finally, the TSO proposes to apply two commodity-based charges and no non-transmission services.
- (2) In the consultation document, the TSO mentions the existence of contracts falling under the scope of Article 35 of the NC TAR (contracts or capacity bookings concluded before 6 April 2017). A part of the capacity of the network is allocated using these contracts. However, the consultation does not explain how the capacity and the revenue associated with these contracts is separated from the capacity offered based on the reference prices calculated using the proposed RPM.
- (3) In addition to contracts falling under the scope of the NC TAR, Eustream proposes to move from a hybrid regime offering fixed and floating payable prices, to a regime based solely on the latter. As a result, reference prices for all point of the system, with the exception of contracts falling under the scope of Article 35 of the NC TAR, are derived using the proposed RPM and the adjustment to the RPM. The Agency also refers to the Slovak national legislation, which foresees the application of tariffs calculated outside the proposed RPM to domestic exit points and points with third countries. While the NRA has not made use of such option in the motivated decision of 5 June 2024, this approach, foreseen in the Slovak national legislation, is not compliant with the NC TAR.
- (4) The flows transported across the Slovak transmission network have decreased from 57 bcm to 16.1 bcm between 2020 and 2023. Currently, the contracted capacity forecast is subject to significant uncertainty as there is a risk that the transit contract through Ukraine will not be renewed. To counter the resulting increase in reference prices, the TSO proposes to benchmark tariffs at IPs and at domestic exit points.
- (5) The Agency acknowledges the aim of attracting flows to the Slovak transmission network. At the same time, the Agency remarks that the proposed benchmarking adjustment to IPs is not adequately justified. An adequate justification requires that Eustream had identified routes that are in competition with the Slovak transmission network, instead of comparing the minimum and maximum level of tariffs across a selected group of Member States to which Eustream intends to align its tariffs. Furthermore, Eustream proposes to apply the benchmarked tariffs at both entries and exits, instead of targeting tariffs for points that are in competition with the Slovak network. As a result, the measure applied results in lowering reference prices at all entry and exit IPs and not

¹ The NC TAR foresees a period of five months following the end of the final consultation for the NRA to take a motivated decision on all the items set out in Article 26(1) of the NC TAR. As part of this process, the Agency shall publish a report on the compliance of the consulted reference price methodology which the NRA should take into account for its motivated decision. The Agency notes that the NRA took its decision on the reference price methodology on 5 June 2024 ([link](#)), prior to the publication of this Report. As the NRA gave advance notification of this timeline, the Agency was able to provide preliminary input to the NRA for its motivated decision.

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just at the points that are in competition. The lower tariffs affect not only points that are in competition, but all gas transported in the Slovak network, including domestic exit points.

- (6) Regarding the application of the proposed benchmark to domestic exit points, Eustream proposes to decrease reference prices to levels comparable to the transmission tariffs, applicable in the Czech Republic. The Agency remarks that the benchmarking adjustment is intended for routes that are in competition. The Agency does not consider the proposed application of the benchmarking adjustment to domestic exit points compliant with the NC TAR.
- (7) The application of the proposed benchmarking adjustment de facto replaces the reference prices derived using the RPM at all points of the network. As a result, the TSO can potentially cease to recover EUR 76.9 million, as the missing revenue from the benchmarking adjustment is not rescaled. This adds up to the non-recovered revenue in 2022 and 2023 of EUR 207 million and EUR 212 million respectively, which can be compared to the target revenue set for 2025 of EUR 545 million.
- (8) In compensation for the risk borne, the TSO is remunerated with a risk premium of 0.8%. The consultation does not provide an assessment of how this premium is set and how it relates to the proposed reference prices, including the proposed benchmarking adjustment and the forecasted contracted capacity used as an input to the RPM.
- (9) The NC TAR foresees a cost allocation assessment (CAA) and the comparison of the proposed RPM with the capacity-weighted distance (CWD) methodology. The CAA² result provided by Eustream is 7%. The Agency notes that the result is within the 10% threshold laid out under Article 5(6) of the NC TAR and does not need additional justification. At the same time, the Agency notes that the calculation provided by Eustream does not allow assessing key features of the proposed tariff structure, such as the benchmarking adjustment.
- (10) A comparison to the CWD methodology is also included in the consultation document and its results show significant difference between the resulting reference prices from both methodologies. Yet, in the absence of stable flow patterns, the CWD methodology is not an accurate methodology to replace the proposed postage stamp methodology.
- (11) The Agency, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR concludes that:
 - The consultation document includes most of the elements required under Article 26(1), with the exception of those detailed in Table 1 of this report.
 - The RPM is compliant with the requirements of transparency (understood as enabling the reproduction and forecast of tariffs) and non-discrimination. At the same time, the Agency cannot conclude that the proposed RPM is compliant with the requirements on cost-reflectivity, preventing undue cross-subsidisation, non-discrimination of cross-border trade and volume risk.

² Throughout this document, 'CAA' is used to refer to the capacity cost allocation comparison index described in Article 5(3)(c) of the NC TAR.

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- The criteria for setting the commodity charge are not met. The flow-based charge is not the same at all exit points as Eustream proposes a discount to the tariffs applied at domestic exit points. The complementary revenue recovery charge is not set for the purpose of managing revenue under- and over-recoveries but to finance the security of supply of the network associated with the Polish-Slovak interconnection.
 - The criteria for setting the non-transmission do not apply.
- (12) The Agency notes that the applicable revenue regime is closely related to the proposed tariff structure. Based on the consultation document assessed, the Agency recommends that the NRA review the revenue regime applicable to Eustream in view of the past under- or over- recoveries and the potentially upcoming under- recovery, the uncertainty in network flows, the possible use of the regulatory account, the applicable risk premium and the past regulatory asset base (RAB) revaluations. The revenue of the TSO should reflect the efficiently incurred costs of the TSO, as required by Article 17 of Regulation (EU) 2024/1789^{3 4 5}. This decision should provide transparency on all the elements listed by the Agency in this paragraph and should be adequately justified.
- (13) The Agency further refers to the TSO efficiency comparison to be completed by ACER, pursuant to Article 19 of Regulation (EU) 2024/1789 on the internal markets for renewable gas, natural gas and hydrogen, which the NRA should take into account as of 2027.
- (14) The Agency provides the following recommendations to the NRA to complement the motivated decision published on 5 June 2024⁶, or to improve its next consultation on the RPM, should this process take place by 2025:
- (15) First, assess the split of revenue between the capacity offered on the basis of existing contracts falling under the scope of Article 35 of the NC TAR, and the capacity offered on the basis of the reference prices derived using the RPM. In addition, the NRA should revise the compliance of any existing contracts with Article 35 of the NC TAR.
- (16) Second, on the application of benchmarking, the Agency recommends that the NRA follow the steps described in sections 4.1.1.5 and 4.1.1.6 of the 2019 ACER report on the tariff consultation⁷ when applying the benchmarking adjustment, which include:
- Checking whether there is effective pipeline-to-pipeline competition;
 - Identifying the tariffs of such alternative routes;

³ Article 17 of Regulation (EU) 2024/1789 stipulates, inter alia, that tariffs of a TSO shall reflect the actual costs incurred, insofar as those costs correspond to those of an efficient and structurally comparable network operator. Article 17 replaces Article 13 of Regulation (EC) No 715/2009.

⁴ Regulation (EU) 2024/1789 of the European Parliament and of the Council of 13 June 2024 on the internal markets for renewable gas, natural gas and hydrogen, amending Regulations (EU) No 1227/2011, (EU) 2017/1938, (EU) 2019/942 and (EU) 2022/869 and Decision (EU) 2017/684 and repealing Regulation (EC) No 715/2009 (recast)

⁵ Regulation (EU) 2024/1789 enters into force on 4 August 2024.

⁶ See:

[https://data.urso.gov.sk/CISRES/Agenda.nsf/0/4BA72BEF1317C270C1258409002B0E9E/\\$FILE/0040_2019_P_eustream.pdf](https://data.urso.gov.sk/CISRES/Agenda.nsf/0/4BA72BEF1317C270C1258409002B0E9E/$FILE/0040_2019_P_eustream.pdf)

⁷ <https://www.acer.europa.eu/sites/default/files/documents/Publications/Agency%20report%20-%20Analysis%20of%20the%20consultation%20document%20for%20Slovakia.pdf>

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- Determining the level of cost-based tariffs in the Slovak system;
- Applying benchmarking only to the points of the Slovak network that are effectively in competition.

- (17) Third, clarify how the under-recovery borne by the TSO is managed.
- (18) Fourth, review the contracted capacity forecast. In the absence of an accurate capacity forecast, the Agency recommends that the NRA adopt a yearly tariff period to recalculate tariffs yearly. Eustream currently proposes a tariff period lasting between 2025 and 2027.
- (19) Fifth, justify the level of the proposed risk premium in view of the assessed risks faced by the TSO and the risk of transit via Ukraine not continuing after the existing transit agreement ends.
- (20) Sixth, calculate the CAA without the benchmarking adjustment and based on the application of the benchmarking adjustment.
- (21) Finally, the consultation refers to the possibility of changing the applicable tariff structure should the transit contract through Ukraine not be extended. In particular, the TSO proposes to change the level of benchmarking applied. The TSO justifies such approach on the basis of Article 16 of the national Act on Regulation⁸. The Agency notes that such approach is not compliant with the NC TAR. A change in the tariff structure, including the proposed RPM and adjustments, requires a prior consultation according to Article 26(1) of the NC TAR. In addition to this, the NC TAR foresees the change of the applicable tariffs with the tariff period in Article 12(3)(b) of the NC TAR.

⁸ Act on Regulation of 31 July 2012 ([link](#)). See footnote 10.

2. Introduction

- (22) Commission Regulation (EU) 2017/460 of 16 March 2017 establishes a network code on harmonised transmission tariff structures for gas (NC TAR).
- (23) Article 27 of the NC TAR requires the Agency to analyse the consultation documents on the reference price methodologies for all entry-exit systems.⁹ This Report presents the analysis of the Agency for the transmission system of Slovakia.
- (24) On 12 March 2024, the NRA, forwarded the consultation documents to the Agency. The consultation was launched on 11 March 2024 and remained open until 11 May 2024. On 15 May, the consultation responses and their English summary were published. The Agency has taken these into consideration for this analysis.
- (25) The NC TAR foresees a period of five months following the end of the final consultation for the NRA to take a motivated decision on all the items set out in Article 26(1) of the NC TAR. As part of this process, the Agency shall publish a Report on the compliance of the consulted reference price methodology which the NRA should take into account for its motivated decision. The Agency notes that the NRA took its decision¹⁰ on the reference price methodology on 5 June 2024¹¹, prior to the publication of this Report. As the NRA gave advance notification of its timeline, the Agency was able to provide preliminary input to the NRA for its motivated decision.

Reading guide

- (26) In section 3, this document first presents an analysis on the completeness, namely if all the information in Article 26(1) has been published. Section 4 assesses the proposed reference price methodology (RPM) for Slovakia. Section 5 focuses on the compliance, namely if the RPM complies with the requirements set out in Article 7 of the code, if the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met, whereas the criteria for setting non-transmission tariffs as set out in Article 4(4) does not apply. This document contains two annexes, respectively the legal framework and a list of abbreviations.

⁹ With the exception of Article 10(2)(b), when different RPMs may be applied by the TSOs within an entry-exit zone.

¹⁰ According to the Act on Regulation of 31 July 2012 ([link](#)), URSO is the competent authority for establishing tariff regulation in Slovakia for natural gas transmission networks. This is further detailed in §17(2)(d) and §14(11-15-21). §9 describes the scope of activities of the Office: Article 1(b)(1) refers to tariff regulation. §11 refers to tariff regulation and gas tariff regulation. § 14 refers to the proceedings on revenue regulation.

Furthermore, the Act on Regulation describes the exceptionality applied in case of crisis, as defined in Article § 16a: following the implementation of crisis regulation, the government will determine the prices and conditions of their application by government order. The government can set tariffs for regulated activities according to §11 or individual tariffs for a regulated entity.

URSO published its previous Decree on the allowed revenue on 12 December 2022 (*Decree n. 451/2022, establishing the price regulation of selected regulated activities in the gas industry and some conditions for the performance of selected regulated activities in the gas industry; was determined*; see [link](#)). In addition, URSO published its previous Tariff Decision on 5 June 2024 ([link](#)).

¹¹ See:

[https://data.urso.gov.sk/CISRES/Agenda.nsf/0/4BA72BEF1317C270C1258409002B0E9E/\\$FILE/0040_2019_P_eustream.pdf](https://data.urso.gov.sk/CISRES/Agenda.nsf/0/4BA72BEF1317C270C1258409002B0E9E/$FILE/0040_2019_P_eustream.pdf)

3. Completeness

3.1 Has all the information referred to in Article 26(1) been published?

- (27) Article 27(2)(a) of the NC TAR requires the Agency to analyse whether all the information referred to in Article 26(1) of the NC TAR has been published.
- (28) Article 26(1) of the NC TAR requires that the consultation document should be published in the English language, to the extent possible. The Agency remarks that the consultation document has been published in English.
- (29) Overall, most of the information in Article 26(1) of the NC TAR has been properly published. The Agency recommends that NRA includes the elements referred to in Table 1 below as a complement to the motivated decision published on 5 June 2024 or as part of the next consultation on the RPM, should this process take place by 2025.

Table 1 Checklist information Article 26(1)

Article	Information	Published: Y/N/NA
26(1)(a)	the description of the proposed reference price methodology	Yes
26(1)(a)(i) 26(1)(a)(i)(1) 26(1)(a)(i)(2)	the indicative information set out in Article 30(1)(a), including: <ul style="list-style-type: none"> the justification of the parameters used that are related to the technical characteristics of the system the corresponding information on the respective values of such parameters and the assumptions applied 	No. The forecasted contracted capacity is not adequately justified. The split of revenue and capacity between contracts falling under the scope of Article 35 of the NC TAR and floating payable prices is not explained. The assumptions used for the application of benchmarking are not properly justified.
26(1)(a)(ii)	the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9	Partially. The proposed benchmarking adjustment is not adequately justified.
26(1)(a)(iii)	the indicative reference prices subject to consultation	Yes
26(1)(a)(iv)	the results, the components and the details of these components for the cost allocation assessments set out in Article 5	Partially. Some components of the CAA are not published.
26(1)(a)(v)	the assessment of the proposed reference price methodology in accordance with Article 7	Yes
26(1)(a)(vi)	where the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8, its comparison against the latter accompanied by the information set out in point (iii)	Yes
26(1)(b)	the indicative information set out in Article 30(1)(b)(i), (iv), (v)	Yes
26(1)(c)(i) 26(1)(c)(i)(1) 26(1)(c)(i)(2) 26(1)(c)(i)(3)	where commodity-based transmission tariffs referred to in Article 4(3) are proposed <ul style="list-style-type: none"> the manner in which they are set the share of the allowed or target revenue forecasted to be recovered from such tariffs 	Yes

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	<ul style="list-style-type: none"> the indicative commodity-based transmission tariffs 	
<p>26(1)(c)(ii) 26(1)(c)(ii)(1) 26(1)(c)(ii)(2)) 26(1)(c)(ii)(3)) 26(1)(c)(ii)(4))</p>	<p>where non-transmission services provided to network users are proposed:</p> <ul style="list-style-type: none"> the non-transmission service tariff methodology therefor the share of the allowed or target revenue forecasted to be recovered from such tariffs the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3) the indicative non-transmission tariffs for non-transmission services provided to network users 	Not applicable.
26(1)(d)	the indicative information set out in Article 30(2);	Yes
<p>26(1)(e) 26(1)(e)(i) 26(1)(e)(ii) 26(1)(e)(iii) 26(1)(e)(iv)</p>	<p>where the fixed payable price approach referred to in Article 24(b) is considered to be offered under a price cap regime for existing capacity:</p> <ul style="list-style-type: none"> the proposed index; the proposed calculation and how the revenue derived from the risk premium is used at which interconnection point(s) and for which tariff period(s) such approach is proposed the process of offering capacity at an interconnection point where both fixed and floating payable price approaches referred to in Article 24 are proposed 	Not applicable.

4. Assessment of the proposed reference price methodology

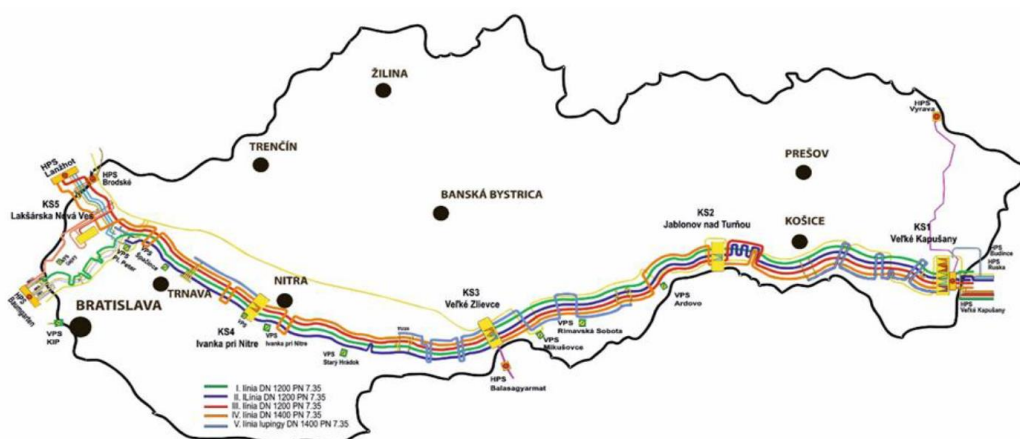
- (30) The following chapter assesses the proposed RPM taking into account the input parameters of the methodology and the cost allocation assessment.

4.1 Description of the network

- (31) The Slovak transmission network has a total length of 2,376 km and is based on four to five parallel pipelines between 1200-1400 mm operating at a pressure of 7.35 MPa. The pressure differential needed for the operation of the network is provided by four compressor stations with an aggregated power of almost 425 MW. The most important station is located at Veľké Kapušany at the Slovak-Ukrainian border. Technical capacity at entry points from Ukraine represents 1,976 GWh. The aggregated transmission capacity of all entry points to the transmission system is approximately 4,012 GWh. The network additionally provides connections to storage facilities. Figure 1 below provides a representation of the Slovak transmission network.

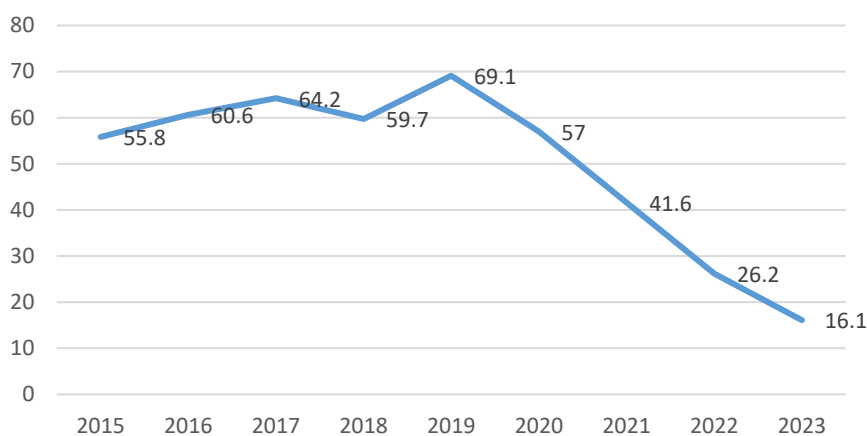
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Figure 1: Representation of the Slovak transmission network.



- (32) The network has historically transported very significant amounts of gas across the country. These flows have decreased over time. In particular, cross-system flows have decreased from 57 to 16.1 between 2020 and 2023. This decline is represented in Figure 2 below. The current lower cross-system flows are subject to potential changes as the existing transit contract through Ukraine terminates by the end of 2024, potentially without renewal. Absent this contract, flows across the Slovak system could decrease further in 2025. Volumes transported to supply end-consumers in the network represent 26.7% of the total transported volumes in 2023.

Figure 2: Total flows in the Slovak transmission system. Source: Eustream



4.2 Scope of application of the reference price methodology

- (33) The application of the proposed RPM is subject to the use of contracts falling under the scope of Article 35 of the NC TAR and to the option, foreseen under national legislation, for the NRA to set tariffs for domestic exit points and for points with third countries calculated independently from the RPM. The Agency notes that the latter option was not used by the NRA in the motivated decision following the consultation, which was published on 5 June 2024. The following section assesses these two features of the proposed tariff structure which impact the scope of application of the proposed RPM.

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4.2.1 Contracts falling under the scope of Article 35 of the NC TAR (concluded before 6 April 2017)

- (34) In the consultation document, the TSO mentions to the existence of a long-term contract. However, the consultation does not provide any description or analysis on how the RPM takes into account the contracted capacity and revenue associated with this contract.
- (35) Eustream explained to the Agency that existing long-term contracts are applicable in the Slovak network. A part of the capacity of the network is allocated using these contracts. Consequently, a part of the revenue of the TSO is also recovered using these contracts and not using the reference prices derived from the RPM.
- (36) The conditions for the continued use of contracts or capacity bookings concluded before 6 April 2017 are laid out in Article 35 of the NC TAR. According to the Article, “*such contracts or capacity bookings foresee no change in the levels of the capacity- and/or commodity-based transmission tariffs except for indexation*”. In addition, “*the contract provisions related to transmission tariffs and capacity bookings [...] shall not be renewed, prolonged or rolled over after their expiration date*”.
- (37) The Agency finds that the existence of such contracts in the case of the Slovak network raises several concerns.
- (38) First, it reduces the scope of application of the RPM. The Agency notes that the TSO does not explain, in the consultation document, how the revenue and the capacity associated with these contracts is carved out from the application of the RPM.
- (39) Second, the split of revenue and capacity between these existing contracts and the floating payable prices derived using the proposed RPM could lead to a potential incompliance of the proposed RPM with the requirements under Article 7 of the NC TAR.
- (40) Based on the information provided in the consultation document, the Agency cannot assess the concerns referred to in paragraphs (38) and (39). In addition, the Agency has not assessed the compliance of the existent contracts with Article 35 of the NC TAR.
- (41) The Agency therefore recommends that the NRA assess the split of revenue between the capacity offered on fixed payable prices basis and the capacity offered on the basis of the reference prices derived using the RPM. The Agency recommends that the NRA provide such analysis as a complement to the motivated decision published on 29 May 2024 or include it in the next consultation on the RPM, should this process take place by 2025.
- (42) In addition, the Agency recommends that the NRA, as part of this analysis, examine and suggest the revision of any existing contract under Article 35 of the NC TAR for compliance.

4.2.2 Tariffs for domestic exit points and points with third countries

- (43) The TSO proposes in the consultation document to derive tariffs for all points of the network using the proposed RPM, with the exception of the capacity subject to long term contracts that is described in the previous section. In this context, the Agency refers that the possibility foreseen under national legislation for the NRA to set reference prices for domestic exit points and points

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with third countries outside the consulted RPM, which has not been applied in the motivated decision¹². This approach would not be compliant with the NC TAR and is still currently in application following the 2019 tariff consultation¹³. In particular, column A of Table 4 below show currently applicable tariffs of 103 [€/MWh/d)/y] for domestic exit points and 195 to 282 [€/MWh/d)/y] for IP exits.

- (44) The TSO refers in the consultation document to a 'limited scope' and a 'broader scope' for the application of the NC TAR. The former is applied to domestic exit points and to points with third countries (entry-exit Velké Kapušany and entry-exit Budince). The consultation document states that: *"Final reference prices for the non-IPs (entry/exit Domestic point, entry/exit Velké Kapušany and entry/exit Budince) may not serve as the reserve prices for the standard yearly capacity products. Derivation of the reserve prices for the non-IPs is not subject of the TAR NC, however Eustream proposes the use of the proposed indicative reference prices for all entry/ exit points of the transmission network"*¹⁴. Furthermore, the consultation document states that: *"indicative reference prices for entry/exit point domestic points may not serve as the reserve prices for the standard yearly capacity products. The reserve prices for entry/exit point Domestic point are subject to methodology based on the national legislation. [...] the reserve prices for entry/exit point Domestic point will be under the approval of ÚRSO in accordance with the valid and applicable national legislation"*¹⁵.
- (45) The Agency notes that the applied tariffs do not differ from those proposed in the consultation. At the same time, the Agency notes that the scope of application of the NC TAR is detailed in Article 2, and it applies to *"entry points from third countries or exit points to third countries, or both, where the national regulatory authority takes a decision to apply Regulation (EU) 2017/459 at those points"*, as well as to all entry points and all exit points of gas transmission networks. This includes Article 6(3) of the NC TAR, which states that *"the same reference price methodology shall be applied to all entry and exit points in a given entry-exit system"*. The Agency remarks, therefore, that the approach to setting tariffs for these points independently of the proposed RPM would have been incompliant with the NC TAR.

¹² See page 36 of the NRA motivated decision of 5 June 2024: [https://data.urso.gov.sk/CISRES/Agenda.nsf/0/56FD8C5C92054E9BC1258B2A001E90C7/\\$FILE/0001_2025_P_eustream.pdf](https://data.urso.gov.sk/CISRES/Agenda.nsf/0/56FD8C5C92054E9BC1258B2A001E90C7/$FILE/0001_2025_P_eustream.pdf)

¹³ the NRA issued two separate decisions on tariffs:

Decision No 0040/2019/P as of May 29, 2019 in accordance with the Article 26 and 28 of the TAR NC, by which the NRA determined the reference price methodology including the final reference prices for all IPs, including reserve prices for EU IPs.

Decision No 0031/2023/P as of February 13, 2023, in accordance with the national legislation (Price Decree in place in 2024), by which the NRA determined the tariffs applicable to points with third countries based on the methodology established in the national legislation, in addition to other issues not covered by the price decision No. 0040/2019 P.

¹⁴ Page 18 of the consultation document.

¹⁵ Page 22 of the consultation document.

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4.3 Proposed reference price methodology

- (46) The TSO proposes to apply a postage stamp RPM based on an 37.5/62.5 entry-exit split, in addition to a benchmarking adjustment to IP exits and domestic exit points. The TSO proposes not to apply discounts to entry points from and exit points to storage facilities.

4.3.1 Timeline for the application of transmission tariffs in the Slovak network

- (47) The regulatory period for the Slovakian transmission network started on 1 January 2023 and finishes on 31 December 2027. The tariff period is based on the gas year, starting on 1 October until 30 September.
- (48) Tariffs are proposed for a single tariff period extending for the remainder of the regulatory period, from 2025 to 2027. The TSO proposes an average tariff that is calculated taking into account inflation. The proposed values for this adjustment are summarised in Table 5 below.

4.3.2 Contracted capacity forecast

- (49) In the consultation document, the TSO provides the contracted capacity forecast for each remaining year of the regulatory period. The resulting values are provided in Table 2 below.

Table 2: Forecasted contracted capacity for the Slovak transmission network, 2025-27.

	[MWh/d)/y]	2025	2026	2027	AVG
Entries	Lanžhot	28,493	28,493	28,493	28,493
	Baumgarten	28,493	28,493	28,493	28,493
	Domestic point	0	0	0	0
	Veľké Zlievce	51,227	51,227	51,227	51,227
	Veľké Kapušany	14,969	14,969	14,969	14,969
	Budince	0	0	0	0
	Výrava	0	0	0	0
	Total entry	123,182	123,182	123,182	123,182
Exits	Total exit	205,303	205,303	205,303	205,303
	Lanžhot	27,791	27,791	27,791	27,791
	Baumgarten	7,123	7,123	7,123	7,123
	Domestic point	128,219	128,219	128,219	128,219
	Veľké Zlievce	0	0	0	0
	Veľké Kapušany	0	0	0	0
	Budince	42,170	42,170	42,170	42,170
	Výrava	0	0	0	0

- (50) The Agency notes that proposed contracted capacity forecast foresees the continuation of imports via Ukraine associated to the Ukrainian transit contract. In particular, the forecast foresees imported volumes of 13.6 bcm/y, which add to 0.52 bcm/y associated with the use of the storage of gas in Ukrainian underground storage facilities (UGS).
- (51) At the same time, the Agency notes that the contracted capacity forecast does not vary over the years, and hence, it can be concluded, that the forecast of the contracted capacity is not accurate. This is particularly relevant as the TSO proposes a single tariff period which is calculated based on the proposed forecasted contracted capacity.

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- (52) The Agency notes that the contracted capacity forecast determines the potential missing revenue resulting from the application of benchmarking, which is borne by the TSO. Furthermore, the TSO is remunerated with a risk premium that accounts for the uncertainty associated with future cross-system flows and possibly for the missing revenue non-recovered revenue associated with the application of the benchmarking adjustment. As a result, the contracted capacity forecast impacts the risk borne by the TSO and, consequently, the risk premium borne by all users of the network to mitigate this risk.
- (53) The Agency therefore concludes that the determination of the risk premium should take into account the uncertainty and accuracy of the contracted capacity forecast. The Agency remarks that this assessment is not part of the consultation document.
- (54) The Agency recommends that the NRA review the contracted capacity forecast. In the absence of an accurate capacity forecast, the Agency recommends that the NRA adopt a yearly tariff period to recalculate tariffs on yearly basis. The risk premia provided to the TSO should be adapted accordingly, if relevant.
- (55) Finally, the consultation refers to the possibility of changing the applicable tariff structure should the transit contract through Ukraine not be extended. In particular, the TSO proposes to change the level of benchmarking applied¹⁶. The TSO justifies such approach on the basis of Article 16 of the national Act on Regulation¹⁷. The Agency notes that such approach is not compliant with the NC TAR. A change in the tariff structure, including the proposed RPM and adjustments, requires a prior consultation according to Article 26(1) of the NC TAR. In addition to this, the NC TAR foresees the change of the applicable tariffs with the tariff period in Article 12(3)(b) of the NC TAR.

4.3.3 Discounts to storage

- (56) Article 9(1) of the NC TAR requires that “a discount of at least 50 % shall be applied to capacity-based transmission tariffs at entry points from and exit points to storage facilities, unless and to the extent a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point”. Eustream clarifies that the storage facilities connected to the transmission network are also connected to distribution networks and to the Austrian transmission network. Based on this, Eustream proposes not to apply discounts to entry points from and exit points to storage facilities.

4.3.4 Benchmarking

- (57) In the consultation document, Eustream proposes to apply a benchmarking adjustment to the reference prices derived using the proposed RPM at both IPs and domestic exit points. Eustream explains the use of this adjustment as a measure to ensure the competitiveness of the Slovak

¹⁶ Page 19 of the consultation document states that “the final reference prices provided are based on the assumption of contracted capacities and natural gas flows as presented in this document. Eustream reserves the right to recalculate the presented reference prices and submit a proposal for their adjustment to the pricing decision of ÚRSO in the event of any significant changes after 2024, based on significant changes in input economic parameters”.

¹⁷ Act on Regulation of 31 July 2012 ([link](#)). See footnote 10.

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transmission network in view of the increases in tariffs resulting from the decrease in transported natural gas volumes. The resulting benchmarked tariffs are summarised Table 4 below.

- (58) The reference prices resulting from the proposed RPM are in Table 4 below. For the year 2025, the reference price resulting from the proposed RPM is EUR 584.9 MWh/d/y (EUR 1.6 MWh/d). Eustream proposed to benchmark tariffs at IPs down to a level of EUR 365 MWh/d/y (EUR 1 MWh/d) and at domestic exit points down to a level of EUR 328.5 MWh/d/y (EUR 0.9 MWh/d).

4.3.4.1 Benchmark applied to IPs

- (59) Regarding the benchmark applied to IPs, Eustream does not provide an assessment on the routes against which the Slovak transmission network is competing in the consultation document nor in the accompanying document “*Methodology for setting the tariffs for the access to the transmission network and natural gas transmission*”. Instead, the TSO provides a range of maximum and minimum tariffs applicable to the networks of Austria, Czech Republic, Germany, Hungary, Italy and the Polish Transit Gas Pipeline System (TGPS) and proposes to adjust tariffs based on the average value of this basket:
- Where the reference prices derived using the proposed RPM are below the average, the TSO foresees the possibility to increase reference prices for the Slovak network.
 - Where the reference prices derived using the proposed RPM are above the average, the TSO foresees the possibility to decrease reference prices for the Slovak network.
- (60) Eustream provides the following table summarising the maximum and minimum level of entry and exit tariffs at selected networks.

Table 3: Supporting tariff information provided by Eustream in the consultation document explaining the application of the benchmarking adjustment.

Country/TSO	2024						2025 EUR/MWh/d/y			
	Currency	Units	ENTRIES		EXITS		ENTRIES		EXITS	
			min	max	min	max	min	max	min	max
CZ/Net4Gas	CZK	MWh/d/y	280,39	1124,28	3694,01	10208,39	11,28	45,22	148,58	410,59
HU/FGSZ	HUF	kWh/h/y	1352,98	1352,98	1263,77	1263,77	145,80	145,80	136,18	136,18
DE/all TSOs	EUR	kWh/h/y	5,1	5,1	5,1	5,1	216,75	216,75	216,75	216,75
PL/Gaz System – NTS	PLNgr	kWh/h/y	0,6617	0,6617	0,3214	0,3214	570,26	570,26	276,98	276,98
PL/Gaz System – Yamal	PLNgr	kWh/h/y	0,5157	1,1774	0,4916	0,813	444,43	1014,69	423,66	700,65
AT/GCA, TAG	EUR	kWh/h/y	0,85	0,97	1,23	3,26	36,13	41,23	52,28	138,55
IT/SNAM	EUR	Smc/d/y	1,23	3,01	2,30	3,70	119,93	292,59	223,85	359,45

- (61) The Agency notes that the information provided by Eustream does not adequately justify the application of the benchmarking adjustment to IPs.
- (62) First, Eustream does not identify the routes that are in competition. In the absence of routes in competition, it is not possible to benchmark tariffs to a level considered as competitive.
- (63) Second, Eustream does not justify how the identified networks are relevant for this assessment. The relevant tariffs to be considered should be related to the cost of transporting gas across specific routes, not the minimum and maximum tariffs across EU networks.

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- (64) Third, Eustream proposes to lower the reference prices of both entries and exits. Such approach does not take into account the role that entries and exits have transporting gas across different routes and supplying different customers. In particular, the benchmarking of reference prices at entry points impacts all exit points of the network, including domestic exit points.
- (65) Fourth, Eustream proposes to increase or decrease reference prices depending on how the reference prices derived using the RPM compare to the selected tariffs. The Agency notes that the benchmarking adjustment, as foreseen in the NC TAR is not intended to increase reference prices, but only to decrease reference prices.
- (66) Finally, Eustream explains in the consultation document that, in the event of the non-extension of the Ukrainian transit contract, the TSO will request the NRA the possibility of cancelling the benchmarking adjustment (based on a fundamental change in the input parameters to the RPM) to set tariffs to a level of, at least, EUR 1.6 MWh/d.

4.3.4.2 Benchmark applied to domestic exit points

- (67) Regarding the application of the proposed benchmark to domestic exit points, Eustream proposes to decrease tariffs to levels comparable to the transmission tariffs, entries and exits, applicable in the Czech Republic.
- (68) The Agency remarks that the benchmarking adjustment is intended for routes that are in competition. The Agency notes that the Slovak transmission network is not in competition with other networks when supplying domestic end-users. As a result, the Agency does not consider the proposed application of the benchmarking adjustment to domestic exit points compliant with the NC TAR.

4.3.4.3 ACER view on the proposed application of benchmarking

- (69) Overall, the Agency acknowledges the challenge keeping tariffs competitive in view of the large decrease in flows in the last years and recommends bringing the proposed benchmarking approach in closer compliance with the NC TAR.
- (70) The Agency remarks that the proposed application of benchmarking to all points of the network decouples the resulting reference prices at all points of the network from the underlying target revenue of the TSO. In addition, the application of the benchmarking adjustment can potentially lead to revenue not recovered by the TSO, potentially amounting to EUR 76.9 million, as per the TSO estimation provided by Eustream to the Agency. The consultation document does not explain how the potentially missing revenue is treated.
- (71) The Agency refers to sections 4.1.1.5 and 4.1.1.6 of the 2019 ACER report on the tariff consultation¹⁸, which proposed four consecutive steps for Eustream to consider when proposing a

¹⁸<https://www.acer.europa.eu/sites/default/files/documents/Publications/Agency%20report%20-%20Analysis%20of%20the%20consultation%20document%20for%20Slovakia.pdf>

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benchmarking adjustment. The Agency recommends that the NRA follow these steps when setting the benchmarking adjustment or justify the use of a different approach, if applied.

4.3.5 Resulting reference prices

- (72) The reference prices resulting from the proposed RPM and from the benchmarking adjustment are summarised in Table 4 below.
- (73) As a result of the proposed benchmarking adjustment, reference prices at entry and exit IPs are 38% lower, while reference prices at domestic exit points are 44% lower compared to the reference prices resulting from the proposed RPM. This is shown in column F of Table 4 below.
- (74) Overall, the decrease in network flows results in higher reference prices across the network. This is summarised in column D of Table 4 below. Reference prices increase between 80% and 155% at entry IPs and between 29% and 86% at exit IPs.

Table 4: Indicative reference prices resulting from the proposed RPM and from the benchmarking adjustment. Source: Eustream consultation and ACER calculations

		[A] Current tariff level (escalated to 2025) [€/MWh/d]/y]	[B] Reference prices, pre benchmarking 2025 [€/MWh/d]/y]	[C] Reference prices, post benchmarking 2025 [€/MWh/d]/y]	[D] Difference between reference prices for 2024 and 2025 post benchmarking [%]	[E] Difference between reference prices for 2025 pre and post benchmarking [€/MWh/d]/y]	[F] Difference between reference prices for 2025 pre and post benchmarking [%]	[G] Reference prices, pre benchmarking 2026 [€/MWh/d]/y]	[H] Reference prices, pre benchmarking, 2027 [€/MWh/d]/y]
Entries	Lanžhot	143.2	584.9	365	155%	221.8	-38%	596.6	608.6
	Baumgarten	143.2	584.9	365	155%	221.8	-38%	596.6	608.6
	Domestic point	19.2	584.9	328.5	1611%	309.3	-44%	335.1	341.8
	Veľké Zlievce	143.2	584.9	365	155%	221.8	-38%	596.6	608.6
	Veľké Kapušany	203.2	584.9	365	80%	161.8	-38%	596.6	608.6
	Budince	203.2	584.9	365	80%	161.8	-38%	596.6	608.6
	Výrava	143.2	584.9	365	155%	221.8	-38%	596.6	608.6
Exits	Lanžhot	195.9	584.9	365	86%	169.1	-38%	596.6	608.6
	Baumgarten	195.9	584.9	365	86%	169.1	-38%	596.6	608.6
	Domestic point	103.6	584.9	328.5	217%	224.9	-44%	335.1	341.8
	Veľké Zlievce	195.9	584.9	365	86%	169.1	-38%	596.6	608.6
	Veľké Kapušany	282.4	584.9	365	29%	82.6	-38%	596.6	608.6
	Budince	282.4	584.9	365	29%	82.6	-38%	596.6	608.6
	Výrava	195.9	584.9	365	86%	169.1	-38%	596.6	608.6

- (75) Reference prices are calculated for the three remaining years of the regulatory period and increased based on inflation, which is provided in Table 5 below.

Table 5: Past and proposed inflation rates to be applied to reference prices in the Slovak network. Source: Eustream consultation.

	2020	2021	2022	2023	2024	2025	2026	2027
EU inflation rate	0.7%	2.9%	9.2%	6.4%	2.0%	2.0%	2.0%	2.0%

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4.3.6 Comparison with the CWD methodology

- (76) In the consultation document, Eustream compares the proposed reference prices with those resulting from the CWD methodology. Table 6 below summarised the reference prices resulting from both methodologies.

Table 6: Comparison between the reference prices resulting from the proposed RPM and the CWD methodology. Source: Eustream consultation and ACER calculations.

		Reference prices prior to benchmarking [€/ (MWh/d)/y]	Reference prices after benchmarking [€/ (MWh/d)/y]	CWD results [€/ (MWh/d)/y]	Difference in %	Difference [€/ (MWh/d)/y]
Entries	Lanžhot	584.9	365.0	1,052.1	-188	-687.1
	Baumgarten	584.9	365.0	1,113.9	-205	-748.9
	Domestic point	584.9	328.5	N/A	N/A	N/A
	Veľké Zlievce	584.9	365.0	415.0	-13.6	-50.0
	Veľké Kapušany	584.9	365.0	875.0	-140	-510.0
	Budince	584.9	365.0	N/A	N/A	N/A
	Výrava	584.9	365.0	N/A	N/A	N/A
Exits	Lanžhot	584.9	365.0	426.9	-17	-61.9
	Baumgarten	584.9	365.0	435.2	-19	-70.2
	Domestic point	584.9	328.5	378.0	-15	-49.5
	Veľké Zlievce	584.9	365.0	N/A	N/A	N/A
	Veľké Kapušany	584.9	365.0	N/A	N/A	N/A
	Budince	584.9	365.0	774.0	-112	-409.0
	Výrava	584.9	365.0	N/A	N/A	N/A

- (77) The Agency notes that there is significant difference between the resulting reference prices of both methodologies. However, in the absence of stable flow patterns, the CWD methodology is not an accurate methodology to replace the proposed postage stamp methodology.
- (78) Given the linear topology of the Slovak transmission network, the Agency recommends that the NRA or the TSO assess the CWD as a possible methodology to be adopted, once flows across the EU and across the Slovak transmission network become more stable.

4.3.7 Cost allocation assessment

- (79) In the consultation document, Eustream provides the results of the CAA calculation. For this calculation Eustream takes into account the proposed benchmarking adjustment. The result of the CAA is summarised in Table 7 below.

Table 7: CAA results for the proposed reference prices for the period 2025-27. Source: Eustream consultation.

	2025	2026	2027
CAA	7.64%	7.64%	7.64%

- (80) The Agency notes that the result of the CAA is within the 10% threshold laid out under Article 5(6) of the NC TAR and does not need additional justification. At the same time, the Agency notes that this calculation is not sufficient to understand the proposed RPM and adjustment in the context of the uncertainty associated with the contracted capacity forecast.

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- (81) The Agency recommends that the NRA calculate the CAA for without the benchmarking adjustment and based on the application of the benchmarking adjustment.

4.4 Target revenue and price cap approach to setting tariffs

- (82) The following section refers to the target revenue of the TSO which includes a risk premium for the purpose of remunerating the TSO for the price cap regulation used to set tariffs.

4.4.1 Target revenue

- (83) The tariff structure proposed for the Slovak network uses as an input parameter the target revenue of the TSO. The NRA published the previous decision on the target revenue of the TSO on 29 May 2019¹⁹, following the 2019 ACER report on the tariff consultation²⁰. A new proposal to revise the target revenue was published by the TSO in the 11 March 2024²¹ which was followed by an NRA decision published on 5 June 2024²².
- (84) The reference prices discussed in the consultation are proposed on the basis of a price cap regime. According to Article 17(1) of the NC TAR, the reconciliation of the under- and over- recoveries apply “*where and to the extent that the TSO functions under a non-price cap regime*”. Furthermore, Article 3(17) of the NC TAR defines ‘price cap’ as a “*regulatory regime under which a maximum transmission tariff based on the target revenue is set in accordance with Article 41(6)(a) of Directive 2009/73/EC*”. Under such approach, the TSO bears the risk of potential under- recoveries.
- (85) In return for bearing this risk of under- recovery, the TSO is remunerated with a risk premium, which is set to 0.8%. The revenue associated with this premium is recovered from all points of the network and amounts to EUR 33.1 million.
- (86) The target revenue for the period 2025-27 is summarised in Table 8 below. As discussed in section 4.2.1, a share of this revenue is recovered by the contracts falling under Article 35 of the NC TAR, however, the consultation document does not specify this share.

Table 8: Eustream target revenue for the period 2025-27.

[mEUR]	2025	2026	2027	AVG
Target revenue	545.1	543.3	541.8	543.4

- (87) In the consultation document, Eustream explains that the revenue recovered in 2022 and 2023 was lower by EUR 207 million and EUR 212 million compared to the target revenue set for those years. As discussed in paragraph (70) above, the application of the benchmarking adjustment proposed

¹⁹ <https://www.urso.gov.sk/00402019p/>

²⁰ <https://www.acer.europa.eu/sites/default/files/documents/Publications/Agency%20report%20-%20Analysis%20of%20the%20consultation%20document%20for%20Slovakia.pdf>

²¹ [Final consultation document on information referred to in article 26\(1\) of the Commission Regulation \(EU\) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas | Eustream](#)

²² <https://www.urso.gov.sk/926-sk/cenove-rozhodnutia-2017-2024/>

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in the consultation can potentially lead to missing revenue amounting to EUR 73 million, which would be borne by the TSO.

- (88) The Agency recommends that the NRA clarify how the under-recovery borne by the TSO is managed.
- (89) Furthermore, in the 2019 ACER report on the tariff consultation, the Agency referred to the revaluations of Eustream's regulatory assets base (RAB) performed in 2016 increasing the book value of the assets from EUR 2.2 bn to EUR 4.3 bn which has not been further assessed by the NRA since the 2019 ACER report on the Slovak tariff consultation.
- (90) The Agency notes that the applicable revenue regime is closely related to the proposed tariff structure. Based on the consultation document assessed, the Agency recommends that the NRA review the revenue regime applicable to Eustream in view of the past under- or over- recoveries and the potentially upcoming under- recovery, the uncertainty in network flows, the possible use of the regulatory account, the applicable risk premium and the past regulatory asset base (RAB) revaluations. The revenue of the TSO should reflect the efficiently incurred costs of the TSO, as required by Article 17 of Regulation (EU) 2024/1789²³. This decision should provide transparency on all the elements listed by the Agency in this paragraph and should be adequately justified.
- (91) The Agency further refers to the TSO benchmark to be completed by ACER, pursuant to Article 19 of Regulation (EU) 2024/1789 on the internal markets for renewable gas, natural gas and hydrogen, which the NRA should take into account as of 2027.

4.4.2 Risk premium

- (92) In compensation for the risk borne by the TSO, associated with the application of a price cap regime, the TSO is allowed to earn a risk premium.
- (93) The Agency notes that the consultation document does not assess how the risk premium is set in accordance with the contracted capacity forecast, the ending of the Ukrainian transit agreement and the proposed benchmarking adjustment.
- (94) The Agency notes that by Article 17 of Regulation (EU) 2024/1789 requires that tariffs, including an appropriate remuneration, shall be in line with actual costs incurred by an efficient network operator. An additional premium to cover risk not covered already by the regular weighted average cost of capital (WACC) can still be justifiable. By definition, a corporate WACC reflects the appropriate return for a company by reflecting its risk profile and financing structure. An additional premium should then be proportional to the potential value at risk above the WACC and should be allocated based on the provisions foreseen in the NC TAR.
- (95) The Agency recommends that the NRA to justify the level of the proposed risk premium in view of the assessed risks faced by the TSO as referred to in paragraph (93) above.

²³ Article 17 of Regulation (EU) 2024/1789 stipulates, inter alia, that tariffs of a TSO shall reflect the actual costs incurred, insofar as those costs correspond to those of an efficient and structurally comparable network operator.

5. Compliance

5.1 Does the RPM comply with the requirements set out in Article 7?

- (96) Article 27(2)(b)(1) of the NC TAR requires the Agency to analyse whether the proposed reference price methodology complies with the requirements set out in Article 7 of the NC TAR. This article refers to by Article 13 of Regulation (EC) 715/2009 and lists a number of requirements to take into account when setting the RPM. As these overlap, in the remainder of this chapter, the Agency will focus on the requirements set by Article 7 of the NC TAR.
- (97) As the concepts of transparency, cost reflectivity, non-discrimination, cross-subsidisation and cross border trade are closely related the Agency concludes with an overall assessment. Special attention is paid to the allocation of revenues between domestic and transit routes.

5.1.1 Reproduction and forecast of reference prices

- (98) **Article 7(a)** of the NC TAR requires that the RPM aims at ensuring that network users can reproduce the calculation of reference prices and their accurate forecast. The Agency finds that the simplified tariff model, as required by Article 30(2)(b) of the NC TAR, allows reproducing the calculation of reference prices and forecasting reference prices.
- (99) At the same time, the Agency notes that the reference prices at all points of the network are replaced by benchmarked tariffs which are decoupled from the input parameters of the RPM (i.e. target revenue and forecasted contracted capacity). As the potential under- and over- recoveries are not reconciled, network users do not require any additional input for calculating reference prices.

5.1.2 Cost-reflectivity

- (100) **Article 7(b)** of the NC TAR requires the RPM to take into account the actual costs incurred for the provision of transmission services, considering the level of complexity of the transmission network.
- (101) The Agency notes that the application of benchmarking to all points of the network, as described in section 4.3.4.1, ultimately replaces the reference prices derived using the RPM. The final reference prices are not an output of the RPM, but a result of the application of benchmarking.
- (102) The Agency notes that the current tariff setting does not allow assessing whether tariffs reflect the efficient costs of the TSO as required by Article 17 of Regulation (EU) 2024/1789.
- (103) In addition, based on the information provided in the consultation document, it is not possible to understand how the capacity offered under contracts falling under Article 35 of the NC TAR and payable prices is split.
- (104) Based on these arguments, the Agency cannot conclude that the proposed reference price methodology and the resulting reference prices are compliant with the requirement on cost reflectivity. The Agency refers to the recommendation under paragraphs (90) and (91) to review the revenue regime applicable to Eustream.

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5.1.3 Cross-subsidisation and non-discrimination

- (105) **Article 7(c)** of the NC TAR requires the RPM to ensure non-discrimination and prevent undue cross-subsidisation. One instrument to evaluate this is the cost allocation assessment (CAA). The result for the cost allocation comparison index is 7%, which does not need additional justification
- (106) As discussed in the section on cost-reflectivity, the proposed benchmarking adjustment replaces the reference prices derived using the proposed RPM.
- (107) At the same time the Agency notes that the benchmarking adjustment is not exclusively applied for the purpose of incentivising tariffs for points that are in competition with alternative routes. The proposed benchmark reduces the transmission costs across all users of the network. Based on the information provided in the consultation document, the Agency cannot assess the impact on cross-subsidisation. The Agency therefore cannot conclude that the proposed reference price methodology and the resulting reference prices are compliant with the requirement on preventing undue cross-subsidisation.
- (108) Regarding the requirement of ensuring non-discrimination, the Agency has not identified any form of discrimination related to the proposed RPM or the proposed reference prices. This analysis is based on the definition of 'discrimination' as 'charging different prices to different network users for the identical gas transmission service'.
- (109) The Agency notes that, compared to the previous consultation, the TSO no longer proposes to apply a combination of fixed and floating payable price regimes for yearly capacity. Instead, Eustream proposes to offer all capacity not covered by long-term contracts under a floating payable price approach based on the RPM, which is an improvement to the previous application.

5.1.4 Volume risk

- (110) **Article 7(d)** of the NC TAR requires that the RPM ensures that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system.
- (111) The consultation document proposes three instruments to attract flows and limit the costs allocated to domestic exit points:
- (112) First, Eustream proposes the application of a benchmarking adjustment. The Agency notes that this approach might not serve to compensate for the revenue resulting from the cessation of the Ukrainian transit contract.
- (113) Second, Eustream proposes to set reference prices to domestic exit points outside the RPM. The Agency notes that this approach, while not applied in the motivated decision of 5 June 2024, is not compliant with the NC TAR.
- (114) Third, Eustream proposes to apply a discount on the flow-based charge applicable to domestic exit points. As discussed on section 5.2.1 below, this approach is not compliant with the NC TAR.

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- (115) Based on the points above, the Agency cannot conclude that the RPM is compliant with the requirement on volume risk.
- (116) In the view of the Agency, the repetition of the tariff consultation following any significant changes in the Ukrainian transit contract is an instrument to review the compliance of the proposed tariff structure with the requirement on volume risk.

5.1.5 Cross-border trade

- (117) **Article 7(e)** of the NC TAR requires that the RPM ensures that the resulting reference prices do not distort cross-border trade.
- (118) The Agency notes that the proposed RPM is complemented by the application of a benchmarking adjustment. This instrument is used to decrease reference prices to levels that are competitive compared to alternative routes. The instrument ensures that the costs allocated to the cross-system use of the network are lower than those resulting from the RPM.
- (119) Based on the conclusion on the requirement on cost-reflectivity, the Agency cannot conclude on the compliance with the requirement on non-distortion of cross-border trade. The Agency refers to the recommendation under paragraphs (90) and (91) to review the revenue regime applicable to Eustream.

5.2 Are the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) met?

- (120) Article 27(2)(b)(2) of the NC TAR requires the Agency to analyse whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met.
- (121) Eustream proposes to apply a flow-based charge and a complementary revenue recovery charge.

5.2.1 Flow based charge

- (122) Eustream proposes to apply a flow-based charge to entries and exits of the network. The flow-based charge is proposed to be set on the level of 1.7% of transmitted volume (expressed in kind).
- (123) Eustream proposes a discount for the flow-based charge set at domestic exit points. The Agency notes that such discount is not compliant with the NC TAR. Table 9 below summarises the compliance requirements applicable to the proposed flow-based charge.

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Table 9 Criteria Article 4(3a) of the NC TAR.

Criteria	Y/N?
levied for the purpose of covering the costs mainly driven by the quantity of the gas flow	Yes
calculated on the basis of forecasted or historical flows, or both.	Yes
set in such a way that it is the same at all entry points and the same at all exit points.	No
expressed in monetary terms or in kind	Yes

5.2.2 Complementary revenue recovery charge

- (124) The CRRC has been set based on the decision of ÚRSO No. 0001/2016/P-ST of 7 November 2016, for the provision of regulatory incentives for the project of the Polish-Slovak Interconnection. According to the approved methodology and based on the price decision of ÚRSO No. 0100/2017/P of 17 August 2017, the CRRC is used as a tariff set to domestic exit points, at the level of 0.08 EUR/MWh, for the purpose of increasing the level of security of supply of the Slovak transmission network. The fee is set in 2016 and is escalated, using the harmonised index of consumer prices (HICP) inflation index of EU countries published by Eurostat.
- (125) The amount of the provided incentives is determined yearly, as the difference between the average of total yearly planned revenues of the project and the actual yearly incomes coming from the sale of the transmission capacities at the planned IP Vyrava at the Polish-Slovak border.
- (126) The proposed CRRC does not meet the criteria set in Article 4(3) of the NC TAR. The Agency understands that the CRRC is to be applied at domestic points if capacity bookings at the Vyrava IP (the one related to the Polish-Slovak interconnector) and the associated revenue fall below a certain threshold²⁴. The TSO is concerned, as it will not recover the cost of this pipeline if insufficient capacity is booked. The Agency understands Eustream's concerns and does not question the importance of the project nor the need for incentives.
- (127) The proposed CRRC is not compliant with the NC TAR. Should the costs of the incentives for the project of the Polish-Slovak Interconnection be caused by capacity and distance, these should be allocated using the RPM, as required by Article 4(1) of the NC TAR. The application of a CRRC requires meeting the criteria under Article 4(3)(b) of the NC TAR, summarised in Table 10 below.

²⁴ Decision of ÚRSO No. 0001/2016/P-ST from 7th November 2016.

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Table 10 Criteria Article 4(3b) of the NC TAR

Criteria	Y/N?
levied for the purpose of managing revenue under- and over-recovery	No, it is stated that the revenue recovery charge is used as the fee for increasing security of supply
calculated on the basis of forecasted or historical capacity allocations and flows, or both	Yes.
applied at points other than interconnection points	Yes
applied after the national regulatory authority has made an assessment of its cost-reflectivity and its impact on cross-subsidisation between interconnection points and points other than interconnection points	Unable to assess based on the URSO decision.

Annex 1: Legal framework

(128) Article 27 of the NC TAR reads:

1. *Upon launching the final consultation pursuant to Article 26 prior to the decision referred to in Article 27(4), the national regulatory authority or the transmission system operator(s), as decided by the national regulatory authority, shall forward the consultation documents to the Agency.*

2. *The Agency shall analyse the following aspects of the consultation document:*

(a) whether all the information referred to in Article 26(1) has been published;

(b) whether the elements consulted on in accordance with Article 26 comply with the following requirements:

(1) whether the proposed reference price methodology complies with the requirements set out in Article 7;

(2) whether the criteria for setting commodity-based transmission tariffs as set out in Article 4(3) are met;

(3) whether the criteria for setting non-transmission tariffs as set out in Article 4(4) are met.

3. *Within two months following the end of the consultation referred to in paragraph 1, the Agency shall publish and send to the national regulatory authority or transmission system operator, depending on which entity published the consultation document, and the Commission the conclusion of its analysis in accordance with paragraph 2 in English.*

The Agency shall preserve the confidentiality of any commercially sensitive information.

4. *Within five months following the end of the final consultation, the national regulatory authority, acting in accordance with Article 41(6)(a) of Directive 2009/73/EC, shall take and publish a motivated decision on all items set out in Article 26(1). Upon publication, the national regulatory authority shall send to the Agency and the Commission its decision.*

5. *The procedure consisting of the final consultation on the reference price methodology in accordance with Article 26, the decision by the national regulatory authority in accordance with paragraph 4, the calculation of tariffs on the basis of this decision, and the publication of the tariffs in accordance with Chapter VIII may be initiated as from the entry into force of this Regulation and shall be concluded no later than 31 May 2019. The requirements set out in Chapters II, III and IV shall be taken into account in this procedure. The tariffs applicable for the prevailing tariff period at 31 May 2019 will be applicable until the end thereof. This procedure shall be repeated at least every five years starting from 31 May 2019.*

(129) Article 26(1) of the NC TAR reads:

1. *One or more consultations shall be carried out by the national regulatory authority or the transmission system operator(s), as decided by the national regulatory authority. To the extent possible and in order to render more effective the consultation process, the consultation document should be published in the English language. The final consultation prior to the decision referred to in Article 27(4) shall comply with the requirements set out in this Article and Article 27, and shall include the following information:*

(a) the description of the proposed reference price methodology as well as the following items:

(i) the indicative information set out in Article 30(1)(a), including:

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- (1) *the justification of the parameters used that are related to the technical characteristics of the system;*
 - (2) *the corresponding information on the respective values of such parameters and the assumptions applied.*
- (ii) *the value of the proposed adjustments for capacity-based transmission tariffs pursuant to Article 9;*
- (iii) *the indicative reference prices subject to consultation;*
- (iv) *the results, the components and the details of these components for the cost allocation assessments set out in Article 5;*
- (v) *the assessment of the proposed reference price methodology in accordance with Article 7;*
- (vi) *where the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8, its comparison against the latter accompanied by the information set out in point (iii);*
- (b) *the indicative information set out in Article 30(1)(b)(i), (iv), (v);*
- (c) *the following information on transmission and non-transmission tariffs:*
 - (i) *where commodity-based transmission tariffs referred to in Article 4(3) are proposed:*
 - (1) *the manner in which they are set;*
 - (2) *the share of the allowed or target revenue forecasted to be recovered from such tariffs;*
 - (3) *the indicative commodity-based transmission tariffs;*
 - (ii) *where non-transmission services provided to network users are proposed:*
 - (1) *the non-transmission service tariff methodology therefor;*
 - (2) *the share of the allowed or target revenue forecasted to be recovered from such tariffs;*
 - (3) *the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3);*
 - (4) *the indicative non-transmission tariffs for non-transmission services provided to network users;*
- (d) *the indicative information set out in Article 30(2);*
- (e) *where the fixed payable price approach referred to in Article 24(b) is considered to be offered under a price cap regime for existing capacity:*
 - (i) *the proposed index;*
 - (ii) *the proposed calculation and how the revenue derived from the risk premium is used;*
 - (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 24 are proposed.*

(130) Article 7 of the NC TAR reads:

The reference price methodology shall comply with Article 17 of Regulation (EU) 2024/1789 and with the following requirements. It shall aim at:

- a) *enabling network users to reproduce the calculation of reference prices and their accurate forecast;*
- (b) *taking into account the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network;*
- (c) *ensuring non-discrimination and prevent undue cross-subsidisation including by taking into account the cost allocation assessments set out in Article 5;*

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(d) ensuring that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system;

(e) ensuring that the resulting reference prices do not distort cross-border trade.

(131) Article 13 of Regulation (EC) No 715/2009 reads:

1. Tariffs, or the methodologies used to calculate them, applied by the transmission system operators and approved by the regulatory authorities pursuant to Article 41(6) of Directive 2009/73/EC, as well as tariffs published pursuant to Article 32(1) of that Directive, shall be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments, and, where appropriate, taking account of the benchmarking of tariffs by the regulatory authorities. Tariffs, or the methodologies used to calculate them, shall be applied in a non-discriminatory manner.

Member States may decide that tariffs may also be determined through market-based arrangements, such as auctions, provided that such arrangements and the revenues arising therefrom are approved by the regulatory authority.

Tariffs, or the methodologies used to calculate them, shall facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.

Tariffs for network users shall be non-discriminatory and set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the national regulatory authorities. By 3 September 2011, the Member States shall ensure that, after a transitional period, network charges shall not be calculated on the basis of contract paths.

2. Tariffs for network access shall neither restrict market liquidity nor distort trade across borders of different transmission systems. Where differences in tariff structures or balancing mechanisms would hamper trade across transmission systems, and notwithstanding Article 41(6) of Directive 2009/73/EC, transmission system operators shall, in close cooperation with the relevant national authorities, actively pursue convergence of tariff structures and charging principles, including in relation to balancing.

(132) Article 17 of Regulation (EU) 2024/1789 reads:

1. Tariffs, or the methodologies used to calculate them, applied by the transmission system operators and approved by the regulatory authorities pursuant to Article 78(7) of Directive (EU) 2024/1788, as well as tariffs published pursuant to Article 31(1) of that Directive, shall be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments. Tariffs, or the methodologies used to calculate them, shall be applied in a non-discriminatory manner.

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Tariffs may also be determined through market-based arrangements, such as auctions, provided that such arrangements and the revenue arising therefrom are approved by the regulatory authority.

Tariffs, or the methodologies used to calculate them, shall facilitate efficient natural gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.

Tariffs for network users shall be non-discriminatory and shall be set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the regulatory authorities. Regulatory authorities shall ensure that network tariffs shall not be calculated on the basis of contract paths.

2. Tariffs for network access shall neither restrict market liquidity nor distort trade across borders of different transmission systems. Where, notwithstanding Article 78(7) of Directive (EU) 2024/1788, differences in tariff structures would hamper trade across transmission systems, transmission system operators shall, in close cooperation with the relevant national authorities, actively pursue convergence of tariff structures and charging principles.

3. Until 31 December 2025, the regulatory authority may apply a discount of up to 100 % to capacity-based transmission and distribution tariffs at entry points from, and exit points to, underground natural gas storage facilities and at entry points from LNG facilities, unless and to the extent that such a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point.

From 1 January 2026, the regulatory authority may apply a discount of up to 100 % to capacity-based transmission and distribution tariffs at entry points from, and exit points to, underground natural gas storage facilities and at entry points from LNG facilities for the purpose of increasing security of supply. The regulatory authority shall re-examine that tariff discount and its contribution to the security of supply during every regulatory period, in the framework of the periodic consultation carried out pursuant to the network code adopted pursuant to Article 71(2), first subparagraph, point (d).

4. Regulatory authorities may merge adjacent entry-exit systems with a view to enabling full or partial regional integration where tariffs may be abolished at the interconnection points between the entry-exit systems concerned. Following the public consultations conducted by the regulatory authorities or by the transmission system operators, the regulatory authorities may approve a common tariff and an effective compensation mechanism between transmission system operators for the redistribution of costs arising from the abolition of interconnection points.

5. Member States with more than one interconnected entry-exit system, or more than one network operator within one entry-exit system, may implement a uniform network tariff with the aim of creating a level playing field for network users, provided that a network plan has been approved and a compensation mechanism between the network operators is implemented.

(133) Article 4(3) of the NC TAR reads:

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3. *The transmission services revenue shall be recovered by capacity-based transmission tariffs. As an exception, subject to the approval of the national regulatory authority, a part of the transmission services revenue may be recovered only by the following commodity-based transmission tariffs which are set separately from each other:*

(a) a flow-based charge, which shall comply with all of the following criteria:

- (i) levied for the purpose of covering the costs mainly driven by the quantity of the gas flow;*
- (ii) calculated on the basis of forecasted or historical flows, or both, and set in such a way that it is the same at all entry points and the same at all exit points;*
- (iii) expressed in monetary terms or in kind.*

(b) a complementary revenue recovery charge, which shall comply with all of the following criteria:

- (i) levied for the purpose of managing revenue under- and over-recovery;*
- (ii) calculated on the basis of forecasted or historical capacity allocations and flows, or both;*
- (iii) applied at points other than interconnection points;*
- (iv) applied after the national regulatory authority has made an assessment of its cost-reflectivity and its impact on cross-subsidisation between interconnection points and points other than interconnection points.*

(134) Article 4(4) of the NC TAR reads:

4. The non-transmission services revenue shall be recovered by non-transmission tariffs applicable for a given nontransmission service. Such tariffs shall be as follows:

- (a) cost-reflective, non-discriminatory, objective and transparent;*
- (b) charged to the beneficiaries of a given non-transmission service with the aim of minimising cross-subsidisation between network users within or outside a Member State, or both.*

Where according to the national regulatory authority a given non-transmission service benefits all network users, the costs for such service shall be recovered from all network users.

Annex 2: List of abbreviations

Acronym	Definition
ACER	Agency for the Cooperation of Energy Regulators
ENTSOG	European Network of Transmission System Operators for Gas
NRA	National Regulatory Authority
TSO	Transmission System Operator
EC	European Commission
EU	European Union
MS	Member State
NC TAR	Network code on harmonised transmission tariff structures for gas
IP	Interconnection Point
VIP	Virtual Interconnection Point
RPM	Reference Price Methodology
CWD	Capacity Weighted Distance
CAA	Cost Allocation Assessment
RAB	Regulated Asset Base
OPEX	Operational Expenditures
CAPEX	Capital Expenditures