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Dear Pavanjit,

IUK: Authority Motivated Decision pursuant to Article 27(4) of the EU Network Code on Gas Tariffs

Introduction

The European Network Code on harmonised transmission tariff structures for gas (TAR)¹ aims to contribute to European market integration, enhance security of supply and promote interconnection between gas markets. It does this by introducing a number of requirements for transmission system operators (TSOs). In particular, it sets out how TSOs must design reference price methodologies and how corresponding reserve prices are calculated. There are also requirements in TAR that aim to increase the transparency of tariffs. These relate to requirements to publish and consult on various pieces of information.

In order to implement TAR, Interconnector (UK) (IUK) has already made modifications to its charging methodology.² Under Article 37, IUK also received a derogation from certain articles in TAR that if applied would have negative consequences on IUK as a merchant interconnector.³

Article 26 Consultation

Article 26(1) of TAR requires TSOs to consult on information relating to the reference price methodology (RPM), including indicative prices, technical characteristics of the transmission system and an assessment of the RPM against Article 7 of TAR. IUK ran its Article 26 consultation from 4 October 2018 to 3 November 2018⁴. There were no responses received in relation to this consultation.

Agency Recommendation

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0460&from=EN>

² https://www.ofgem.gov.uk/system/files/docs/2018/02/decision_letter_on_proposed_modifications_to_iuk_charging_methodology.pdf

³ <https://www.ofgem.gov.uk/publications-and-updates/decision-derogate-bbl-certain-articles-eu-network-code-tariffs>

⁴ <https://www.interconnector.com/about-us/our-consultations/latest-consultation/>

Pursuant to Article 27(3) of TAR, the Agency for the Cooperation of Regulators (the Agency) published a report⁵ on 3 January 2019 setting out its analysis of IUK's Article 26 consultation. The report found that:

- Overall, the information in Article 26(1) relating to non-derogated aspects of TAR had been published by IUK.
- due to the granted derogations, the Agency could not provide recommendations on whether the RPM:
 - meets the requirements Article 7 of TAR (pursuant to Article 27(b)(2)),
 - satisfies the requirements for setting commodity based transmission tariffs (pursuant to Article 27(b)(2)).
- The Initial Registration Fee and Monthly Administration Fee referred to in the consultation should be treated as either transmission or non-transmission services

Motivated Decision

Article 27(4) of TAR requires the respective National Regulatory Authority (NRA) to take and publish a motivated decision on all items set out in Article 26(1). Ofgem is the NRA for Great Britain. This letter sets out our motivated decision for IUK.

Ofgem Assessment

The final consultation prior to this decision, referred to in Article 27(4) shall comply with the requirements set out in Article 26 and 27 of TAR, and shall include the information set out in Article 26(1). The consultation by IUK is the final Article 26(1) consultation prior to the motivated decision required by Article 27(4) of TAR.

The IUK consultation sets out where the information required by Article 26(1) is found, either within the Charging Statement⁶ or information that is permanently published on IUK's website. It also indicates where information is not published either due to derogation from the requirement, or the requirement not being applicable to IUK given its nature. This is set out below.

- Information required by the following Articles are published on IUK's website:
 - Article 26(1)(a)(i) which requires the publication of indicative information from Articles 30(1)(a)(iv), (iv) and (v).
- Information required by the following Articles published in IUK's Charging Statement:
 - Articles 26(1)(a)(c)(i)(1) and (3).
- Information required by the following Articles are not included due to IUK receiving derogations under Article 37 of TAR:
 - Article 26(1)(a)(i),⁷ Article 26(1)(a)(iii), Article 26(1)(a)(iv)⁸ Article 26(1)(a)(v),⁹ Article 26(1)(a)(vi), Article 26(1)(b)¹⁰ Article 26(1)(d)¹¹.

⁵ https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/Agency%20Report%20-%20analysis%20of%20the%20consultation%20document%20for%20Interconnector%20UK.pdf

⁶ <https://www.interconnector.com/access-services/iaa-contract/>

⁷ NA due to derogation from Articles 30(1)(a)(ii) and (iii)

⁸ NA due to derogation from Article 5

⁹ NA due to derogation from Article 7a)

¹⁰ NA due to derogation from Articles 30(1)(b)(i), (iv), (v)

¹¹ NA due to derogation from Article 30(2)

- Information required by the following Articles are not applicable to IUK as it is a merchant operator with no allowed revenue and is not connected to captive customers, storage sites or LNG:
 - Article 26(1), Article 7(d) (Article 26(1)(a)(v)), Article 26(1)(c)(2), Articles 26(1)(c)(ii) and Article 26(1)(e).

In its consultation IUK also provided an explanation as to how its RPM reflects actual costs incurred, pursuant to Article 26(1)(a)(v). IUK notes in its explanation that the RPM takes into account capital and operating expenditures, as well as the running costs of compressor power.

Authority Decision

Upon reviewing the consultation and the documents referred to by that consultation and considering the information above, we are satisfied that IUK has fulfilled the requirements of Article 26(1) of TAR.

We also accept that the granted derogations will not allow the Agency to reach conclusions set out in Article 27(b)(1) and (2). As noted in our derogation decision, IUK is a merchant asset that competes with other sources for flexible supply (and demand) in GB. Given the competitive environment, we think it is appropriate for IUK, as a merchant interconnector operator, to have more tariff setting flexibility than allowed for under TAR.

We agree with the Agency's view that the initial registration and monthly administration fees should be classified as transmission or non-transmission services. We ask that IUK address this point in the next review of its Charging Methodology.

This decision satisfies the requirement to take and publish a motivated decision in Article 27(4) of TAR. Upon publication we will send this decision to the European Commission and the Agency.

If you have any questions relating to this decision, please contact Robin.dunne@ofgem.gov.uk

Yours Sincerely

David Hall
Head of European Markets