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Dear Marcel/Robert,

Implementation of TAR European Network Code on interconnectors with the continent: Ofgem assignment of tasks under TAR

Introduction

The European Network Code (ENC) on harmonised transmission tariff structures for gas (TAR) was published in the Official Journal of the European Union on 16 March 2017.¹ TAR aims to contribute to 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),² some of which include:

- having a methodology showing how the minimum auction price (or reserve price) for yearly capacity is set, i.e. the reference price methodology
- the possibility to use multipliers, within a defined range, and seasonal factors to be applied to the yearly capacity reserve price to derive the reserve prices for quarterly, monthly, daily and remainder of the day capacity, and
- using prescribed methods and mechanisms to
 - set reserve prices for bundled capacity products³
 - set tariffs for incremental capacity, and
 - derive the actual price paid for capacity from the auction clearing price.

There are also many requirements in TAR which aim to increase the transparency of how tariffs are set and what level they are. These relate to requirements to consult on and publish various pieces of information.

TAR also provides the possibility for eligible interconnectors to apply for a derogation from TAR articles under certain circumstances.

Interconnector (UK) limited (IUK) owns and operates the gas pipeline between the UK and Belgium for which it holds a gas interconnector licence. BBL Company V.O.F. (BBL) owns

¹ Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0460&from=EN>.

² Note that interconnectors are considered to be TSOs and are certified as TSOs.

³ Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 requires that adjacent TSOs offer capacity at their common interconnection point in one transaction rather than two separate transactions.

and operates the gas pipeline between the Netherlands and the UK for which it holds a gas interconnector licence.

NRA decisions on which entity must perform certain tasks under TAR

There are several requirements in TAR for which the national regulatory authority (NRA) has to decide whether the NRA or the TSO(s) will perform a particular task. These are to:

- Perform and publish the cost allocation assessment, as per TAR article 5(1).⁴
- Adjust the reference price methodology by means of equalisation⁵ or rescaling⁶, as per TAR articles 6(4)(b) and 6(4)(c).
- Do an impact assessment and cost benefit analysis before implementing intermediate steps for a planned entry-exit merger where more than one TSO is active in a single entry-exit zone within one European Union (EU) country, as per TAR article 10(2)(b).
- Conduct the final consultation (as required in TAR article 26) when there is more than one TSO in an entry-exit system in one EU country and either the TSOs (i) apply the same reference price methodology separately or (ii) apply different reference price methodologies separately, as per TAR article 10(7).
- Carry out periodic consultations on topics including the reference price methodology, capacity-commodity split, entry-exit split, etc, as per TAR article 26(1).⁷
- Publish the periodic consultation responses and their summary, as per article 26(3).
- Forward the final consultation documents (of the periodic consultations) to the Agency for the Cooperation of Energy Regulators (ACER), as per TAR article 27(1).
- Publish specific information before the yearly capacity auction, as per TAR article 29.
- Publish specific information before the reference price applies, as per TAR article 30.

As the GB NRA, Ofgem,⁸ therefore must decide whether we perform these tasks or whether BBL and IUK perform these tasks.

Ofgem proposal

Ofgem proposed and consulted on the views in separate letters issued to BBL and IUK on 8 August 2017. The proposal was that BBL and IUK perform all such tasks, where applicable, in the above articles where the NRA has to choose whether the NRA or the TSO performs a task.⁹ The one exception to this is that Ofgem proposed that it would publish the justification of the NRA for the level of multipliers, where required, as per TAR article 29(a)(iii).

For clarity the proposal is that the interconnectors will perform the tasks in articles 5(1), 6(4)(b), 6(4)(c), 10(2)(b), 10(7), 26(1), 26(3), 27(1), 29(a)(i), 29(a)(ii), 29(a)(iv), 29(b) and 30.

Ofgem proposed that the interconnectors will have to perform these tasks on an enduring basis as and when required by TAR.

⁴ The cost allocation assessment assesses whether revenues recovered from the transport of gas at entry and exit points between TSOs is reflective of the costs for the transport of gas at entry and exit points between TSOs compared to that for the transport of gas at entry and exit points to and from that TSO only.

⁵ Equalisation is where the same reference price is applied to some or all points within a homogenous group of points.

⁶ Rescaling is where all entry points or all exit points (or both) are adjusted either by multiplying their values by a constant or by adding/subtracting a constant from their values.

⁷ Note that the text in TAR article 6(1) repeats the decision that the NRA must make under TAR article 26(1). Therefore we do not consider which entity must make a decision under 6(1) as this is already covered in our proposal for which entity performs the requirement in TAR article 26(1).

⁸ The "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Office of Gas and Electricity Markets (Ofgem) supports the Authority in its day to day work.

⁹ A consultation is also taking place on the requirements on National Grid Gas plc (NGG), at the following location <https://www.ofgem.gov.uk/publications-and-updates/consultation-proposals-implement-aspects-regulation-eu-2017460-european-network-code-harmonised-transmission-tariff-structures-gas-tar-nc>

In order to meet implementation deadlines, Ofgem requests that BBL and IUK demonstrated compliance with performing the above listed tasks by 3 January 2018.

Failure by BBL or IUK to do so may require that Ofgem perform the tasks in order to meet TAR implementation deadlines.

BBL and IUK's views

Both interconnectors agreed with our proposals. However, one party commented that the deadline of demonstrating compliance by 3 January 2018 is not feasible.

Ofgem decision

Taking into account the views submitted by BBL and IUK we have decided to implement our proposal that BBL and IUK shall perform all such tasks, where applicable, in the above articles where the NRA has to choose whether the NRA or the TSO performs a task. The one exception to this is that Ofgem proposed that it would publish the justification of the NRA for the level of multipliers, where required, as per TAR article 29(a)(iii).

For clarity the proposal is that the BBL and IUK will perform the tasks in articles 5(1), 6(4)(b), 6(4)(c), 10(2)(b), 10(7), 26(1), 26(3), 27(1), 29(a)(i), 29(a)(ii), 29(a)(iv), 29(b) and 30.

Note as part of plans to comply with TAR, an interconnector, that meets the criteria laid down in TAR article 37(1), may request derogations from certain articles under the criteria given in article 37. Such requests for a derogation may or may not relate to the articles referred to in this letter. If a derogation is not granted by the NRA under Article 37(1), the decision in this letter will still apply.

Ofgem requests that BBL and IUK provide evidence by 3 January 2017 that it is making sufficient progress towards demonstrating compliance with performing the above listed tasks. Failure to do so by either BBL or IUK may require that Ofgem perform the tasks in order to meet implementation deadlines.

Ofgem reasons for our proposals

As indicated above, TAR requires that NRA decide whether the tasks mentioned above are carried out by the TSO or by the NRA. The reason for our proposals that the TSO should do the tasks listed in our decision is that, in the case of BBL and IUK,

- both interconnectors hold relevant information and are custodians of their charging methodologies which makes them best placed to consult or publish various items of information and perform various calculations/forecasts, and
- both interconnectors are required by their licence already to perform some tasks required by TAR.

Please contact Robin Dunne at Robin.Dunne@ofgem.gov.uk or on 0207 901 3127 if you have any questions about this letter.



Chris Brown
Head of Gas Systems, Ofgem