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The Netherlands Authority for Consumer and Markets (ACM)
Energy Department – ACM/14/023224
PO Box 16326
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Netherlands

Dear Madame or Sir,

GAZPROM Germania Group companies response to draft code amendment decision for the implementation of the Network Code Tariffs in the Netherlands (case number: ACM/14/023224).

First of all, we would like to take this opportunity to express our appreciation to be able to share our views on this draft code amendment decision. It is our belief that the Network Code Tariff offers supportive instruments and the adequate regulatory framework to strengthen tariff transparency as well as tariff reproducibility, which are cornerstones for the functioning of the European gas market. However, it has also the potential to negatively disrupt market dynamics and liquidity, if its implementation attempts to fundamentally change the existing functioning market design.

The Dutch wholesale gas market is until today the European benchmark hub in terms of pricing and liquidity, which has benefited both traders and end customers within the Netherlands equally. In combination with a fastening domestic production, we believe that this draft decision may significantly change the fundamental working of the market area.

We believe there are a number of elements ACM should consider regarding practical implications of market design choices impacting the Dutch gas market and have outlined these below.

Reference Price Methodology and Entry-Exit Split

The proposed introduction of a postage stamp reference price methodology in combination with a 50/50 entry-exit split will result into an estimated tariff hike of up to 87% at entries of cross-border points in Northern Netherlands in comparison to the 2018 tariffs. This is a significant change for all market parties who committed to long-term transmission capacities and are now financially exposed to the impacts of the proposed methodology. Despite the positive results of the conducted cost allocation assessment in relation to postage stamp, we believe that a 50-50 entry-exit split is not cost-reflective. As acknowledged by ACM¹, a more entry “friendly” split (e.g. 40/60) leads to lower total transmission costs (sum between entry and exit). This is mainly due to the fact that there is less contracted entry than exit capacity in the Dutch gas market, which has also been reiterated to ACM during the hearing on 14 May 2018 by GTS. Consequently, we argue that the revenue split should be an output of the postage stamp methodology and not an input. This should increase cost-reflectivity, minimize cross-subsidization, and should be equally transparent to the proposed 50-50 input approach. Furthermore, the ENTSOG implementation document also stresses the applicability of this option.

In light of the discussion on the reasonable entry-exit split, we would like to emphasize strongly that we do not agree with ACM’s view that, “the chosen entry-exit split of 50/50 resembles the current split, which is around 40/60”². As shown by the GTS analysis³ on the tariff sensibility of different entry-exit splits, the entry tariff will drop by 0.38 €/kWh/a if a 40/60 split is applied in comparison to a 50/50 split, while the sum of entry and exit tariffs is reduced by 0.11 €/kWh/a. These are very significant tariff differences that have a strong impact on the profitability of cross-border trades, end-customer prices - if supplied by cross-border flows, or capacity portfolio costs.

In addition to the entry-exit split discussion, we do believe that there is a negative correlation between tariffs and market liquidity. Similar to the GTS proposal, the study of the Ministry of Economy on the Italian liquidity corridor also extensively finds a positive impact of lower entry tariffs on the PSV’s prospective market liquidity. We are aware that the gas wholesale market of the Netherlands and Italy cannot be directly compared in terms of hub development, market design or flows, yet their findings emphasize a correlation between the two variables which should not be completely denied.

Lastly, and independent of the chosen methodology, we want to encourage ACM to facilitate increasing flexibility for shippers that have committed to long-term contracts. The proposed methodology increase capacity portfolio costs significantly without having any legal ground for adjustment. As a consequence,

¹ Draft decision by Netherlands Authority for Consumers and Markets (ACM) of 1 March 2018 (reference ACM/UIT/490522) page 29 on: <https://www.acm.nl/sites/default/files/documents/2018-03/draft-code-amendment-decision-490522.pdf>

² Draft decision by Netherlands Authority for Consumers and Markets (ACM) of 1 March 2018 (reference ACM/UIT/490522) page 29 on: <https://www.acm.nl/sites/default/files/documents/2018-03/draft-code-amendment-decision-490522.pdf>

³ Gasunie Transport Services on NC TAR implementation process – Analysis entry/exit revenue split on tariffs: <https://www.gasunietransportservices.nl/en/shippers/shippers-information/nc-tar-implementation-process>

we are largely exposed to the regulatory risk associated to ACM's regulatory decision, which might have an immediate impact on our commercial activities. Examples of increasing the flexibility for portfolio adjustments are: (1) the inclusion of termination clauses within the framework transmission contracts, similar to other European gas markets; (2) additional portfolio flexibility through GTS by allowing capacity holders to move their contracts to other IPs independent on their affiliation to a specific physical cluster.

1. Multipliers and Seasonal Factors

We generally believe that multipliers should be set in a way to reflect TSO costs adequately. Such an approach fosters overall revenue, system stability and thus cost-reflectivity. This trade-off needs to be considered by ACM and GTS equally and will demand periodic review to monitor their effectiveness.

In terms of the set level of seasonality factors, we believe that they should not apply for storage points. ACM stresses under point 86 of the draft decision that seasonal factors are applied since "the gas transmission network is used much more in the winter months, and that the gas transmission network has been constructed for the peak supply" (p. 32). Following this rationale, and defining storages as a source of flexibility in periods of peak demand, seasonal factors should not be applied at these particular points as they would additionally penalize the injection of gas into the grid during the winter months and, therefore, the commercial strategies of the market participants.

2. Shift of capacity (Transmission Code 2.1.8)

In ACM's draft decision 'shift of capacity' is seen as a 'Special Condition provided under a Transmission Service' and appears as contractual right, which means that it won't be regarded as a (customized) 'service' anymore as it is today. Apparently, in the context of the NC TAR, this is the only option to keep 'Shift of capacity' also in future and to fit it in the NC TAR framework. This results in the fact that 'Shift of capacity' will be free of charge in a world in which the NC TAR is implemented in the Netherlands.

In this regard, the ACM's NC TAR draft decision introduces a very narrowing and limiting definition of 'shift of capacity' and is probably foreseen as a measure, to prevent an 'unbridled' usage of such service. However, limiting the definition leads to an unpredictable usage of the contractual rights and is therefore not feasible for a Shipper. Moreover, already today GTS has the right to approve or reject any request for the capacity shifting service. Thus, we believe strongly that the current definition of the 'shift of capacity' service laid down in the Transmission Code should be sufficient to prevent unbridled use also within the setting of the NC TAR implementation decision in the Netherlands.

Moreover, we want to point out that Shippers and End-Customer-with-Exit-capacity (EWEX) need clarity about reliability and predictability of their contractual rights. In case the shipper and/or end-consumer cannot estimate beforehand whether GTS approves the request for a capacity shift or not, as a result of unclear definitions, market parties can't actually rely on that contractual right and take it into account in their internal risk-assessments with respect to handling for instance situations of (un-)planned maintenance periods.

Furthermore, we are wondering why the services 'diversion' and 'shift of capacity' are treated in such a different manner in ACM's draft decision. We believe that they are actually both very similar services (of course not identical), and both are categorized as 'Special Condition provided under a Transmission Service' in the draft decision. However, for 'diversion' ACM provides a much more narrowed description in the draft decision. According to our opinion, this made differentiation is unjustified and discriminates the 'service' shift of capacity in comparison to other services (e.g. diversion), although they are part of the same category of contractual rights. In case ACM decides to keep the proposed definition of the capacity shift, shippers and EWEX (end-customer-with-exit-capacity) will lose one of the rare options of flexibility for their capacity portfolio, which contributes to a more efficient grid usage. We want to point out strongly that we do not support such a development.

We hope the comments above prove helpful. Please do not hesitate to contact me on [REDACTED] [REDACTED]@gazprom-mt.com or +44 [REDACTED] in the first instance should you have any questions.

Yours sincerely,

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