Autoriteit
Consument & Markt

Muzenstraat 41
2511 WB The Hague
070 722 20 00
www.acm.nl

Confidential

Decision

Our reference ACM/UIT/613237
Case number ACM/23/181941
Date 11 April 2024

Decision of the Netherlands Authority for Consumers and Markets of 11 April 2024, ref. ACM/UIT/613237 amending the tariff structures and conditions as referred to in Sections 12a and 12b of the Dutch Gas Act concerning the implementation of Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonized transmission tariff structures for gas (NC-TAR)

The Netherlands Authority for Consumers and Markets

Having regard to Section 12 (1) of the Dutch Gas Act;

Having regard to Article 26 of the NC-TAR;

Having regard to Article 27 (4) and (5) of the NC-TAR;

Having regard to Article 28 (1) and (2) of the NC-TAR;

Decides the following:

Article I

The Tariff Code for natural gas is amended as follows:

A.
Article 3.5 is replaced by the following:

1. The unadjusted reference prices will be adjusted on the basis of Article 6 (4) of the NC-TAR by applying a discount to the unadjusted reference prices applicable to an entry point from an LNG facility and applying a discount to the unadjusted reference prices applicable at an entry point from or an exit point to a storage facility and by rescaling the unadjusted reference prices applicable to all entry and exit points. The following formulae will apply to these changes:

$$\Delta TI = \left(GK_{LNG} \times \left(\tilde{T}_{EN} \times \sum_{i \in EN_{LNG}} CAP_i \right) \right) + \left(GK_{opslag} \times \left(\tilde{T}_{EN} \times \sum_{i \in EN_{opslag}} CAP_i + \tilde{T}_{EX} \times \sum_{i \in EX_{opslag}} CAP_i \right) \right)$$

$$C = \frac{TI}{TI - \Delta TI}$$

$$T_{EN}^{NLNG} = C \times \tilde{T}_{EN}$$

$$T_{EN}^{LNG} = (1 - GK_{LNG}) \times C \times \tilde{T}_{EN}$$

$$T_{EN}^{opslag} = \left(1 - GK_{opslag}\right) \times C \times \tilde{T}_{EN}$$

$$T_{EX}^{NG} = C \times \tilde{T}_{EX}$$

$$T_{EX}^{opslag} = \left(1 - GK_{opslag}\right) \times C \times \tilde{T}_{EX}$$

Where:

ΔTI	is the loss of revenue resulting from the discount on the adjusted reference prices applicable to entry points from an LNG facility and resulting from the discount on the unadjusted reference prices applicable to entry points from and exit points to a storage facility expressed in euros;
GK_{opslag}	the percentage discount on the unadjusted reference prices applies to entry points from and exit points to a storage facility, as laid down in paragraph 2;
GK_{LNG}	is the percentage discount on the unadjusted reference prices applicable to entry points from an LNG facility, as set in paragraph 3;
$\tilde{T}_{EN}$	is the unadjusted reference price applicable to an entry point expressed in euro/kWh/hour/year;
EN_{LNG}	is the collection of entry points from LNG facilities;
EN_{opslag}	is the collection of entry points from storage facilities is to which paragraph 4 does not apply;
CAP_i	is the forecasted contracted capacity on an entry or exit point expressed in kWh/hour/year;
$\tilde{T}_{EX}$	is the unadjusted reference price applicable to an exit point expressed in euro/kWh/hour/year;
EX_{opslag}	is the collection of exit points to storage facilities to which paragraph 4 does not apply;
C	is the constant for rescaling the unadjusted reference prices;
TI	is the allowed revenues of the transmission system operator for natural gas expressed in euros;
T_{EN}^{NLNG}	is the reference price without discount, applicable to all entry points other than the entry points for which the tariff T_{EN}^{LNG} or T_{EN}^{opslag} applies, expressed in euro/kWh/hour/year;
T_{EN}^{LNG}	is the reference price including LNG discount applicable to an entry point from an LNG facility expressed in euro/kWh/year;
T_{EN}^{opslag}	is the reference price including gas-storage discount applicable to an entry point from a storage facility, to which paragraph 4 does not apply, expressed in euro/kWh/hour/year;
T_{EX}^{NG}	is the reference price without discount applicable to all exit points other than an exit point to a storage facility expressed in euro/kWh/hour/year; and
T_{EX}^{opslag}	is the reference price including gas-storage discount applicable to an exit point to a storage facility, to which paragraph 4 does not apply, expressed in euro/kWh/hour/year.

2. The percentage discount on the unadjusted reference prices applicable to entry points from and exit points to a storage facility as referred to in paragraph 1 will be 75%.

3. The percentage discount on the unadjusted reference prices applicable to entry points from an LNG facility as referred to in paragraph 1 will be 20%.

4. If a gas storage facility is directly connected to more than one transmission or distribution system and can therefore be used to transport natural gas from the Dutch transmission system to a directly connected transmission or distribution system located in another Member State, allowing the storage facility to be used to compete with an interconnection point, no gas storage discount will apply, and the full tariff must be paid. In that case, the reference price for an entry point from a storage facility or for an exit point to a storage facility is equal to T_{EX}^{NG}, T_{EN}^{NLNG} respectively, as referred to in paragraph 1.

5. In derogation of the previous paragraph, the gas storage discount may be granted if the operator of the gas storage facility concerned has concluded an agreement with the transmission system operator for natural gas in which arrangements are made to ensure that a gas storage discount is granted only in so far as the gas storage facility is used as gas storage, and there is therefore no transfer of gas between directly connected systems as referred to in consideration 4 of the preamble and Article 9 of the NC-TAR.

B.

In Article 3.7, paragraph 4:

Replace “1.553” with “1.482”.
“0.712” is replaced with “0.784”
“0.552” is replaced with “0.629”
“1.183” is replaced with “1.105”

C.

In Article 3.7, paragraph 5:

“1.877” is replaced with “1.773”
“1.753” is replaced with “1.585”
“1.269” is replaced with “1.239”
“0.903” is replaced with “0.924”
“0.711” is replaced with “0.819”
“0.631” is replaced with “0.688”
“0.583” is replaced with “0.649”
“0.555” is replaced with “0.618”
“0.604” is replaced with “0.686”
“0.784” is replaced with “0.787”
“1.269” is replaced with “1.168”
“1.677” is replaced with “1.472”
“1.785” is replaced with “1.715”
“1.667” is replaced with “1.533”
“1.207” is replaced with “1.199”
“0.859” is replaced with “0.894”
“0.676” is replaced with “0.792”
“0.600” is replaced with “0.665”
“0.555” is replaced with “0.628”
“0.528” is replaced with “0.597”
“0.574” is replaced with “0.663”
“0.745” is replaced with “0.761”
“1.207” is replaced with “1.130”
“1.595” is replaced with “1.424”

D.

The first paragraph of Article 3.9 is replaced with the following:

1. The price payable for entry and exit capacity in the form of interruptible capacity is calculated by:

a. determining the entry and exit tariff that a network user is due on the relevant entry and exit point for contracting fixed entry or exit capacity; and

b. applying the discount percentage determined on the basis of the calculated interruption probability for that point to the tariff in subparagraph a. Discount percentages have been set on the basis of the interruption probability:

- For the following entry and exit points, the discount for interruptible capacity, based on the calculated interruption probability, has been determined per direction:

ID	Network point	Entry discount	Exit discount
301576	VIP BENE-L	33,19%	0,01%

301568	VIP TTF-THE-L	25,86%	0,01%
301546	VIP BENE	97,86%	0,01%
301453	OUDE STATENZIJL (EWE JEMGUM)	0,01%	71,90%
301401	OUDE STATENZIJL (ETZEL FREYA H)	0,01%	49,36%
301400	OUDE STATENZIJL (ETZEL-CRYSTAL-H)	0,01%	33,33%
301391	OUDE STATENZIJL (ASTORA JEMGUM)	0,01%	95,73%
301360	OUDE STATENZIJL (ETZEL EKB H)	0,01%	15,25%
301348	BERGERMEER (TAQA-UGS)	51,20%	13,93%
301345	ROTTERDAM (GATE)	64,59%	0,01%
301320	ZUIDWENDING (UGS)	62,50%	62,21%
301116	NORG (NAM-UGS)	0,01%	1,47%
301114	GRIJPSKERK (NAM-UGS)	31,78%	0,01%
300131	HILVARENBEEK (FLUXYS)	4,68%	34,54%

- A discount percentage of '0.01%' applies to all other entry and exit points.

Article II
The tariffs and services of the transmission system operator prior to the 2025 tariff period will be governed by the code provisions that were in force before this decision comes into force. This decision will apply to the tariff periods from 2025 through 2029.

Article III
ACM adopts this decision, taking into account the interests, rules, and requirements as referred to in Section 12 of the Dutch Gas Act.

This decision will enter into force on the day following the publication date of the Dutch Government Gazette in which it is published.

This decision and the explanatory notes will be published in the Dutch Government Gazette.

the Hague,
Date: 11 April 2024

The Netherlands Authority for Consumers and Markets,
On its behalf,

M.R. Leijten
Member of the Board

Interested parties that disagree with this decision have the opportunity to file an appeal with the Dutch Trade and Industry Appeals Tribunal (CBb) in The Hague within six weeks after the date this decision has been announced. Its postal address is: College van Beroep voor het bedrijfsleven, P.O. Box 20021, 2500 EA, The Hague. Appeals must be signed, and must at least contain the name and the address of the applicant, the date of the appeal, and a description of the decision against which the appeal is filed. Furthermore, appeals must contain reasons for the appeal, and must contain a copy of the disputed decision.

Explanatory notes

1. Summary

1. With this decision, the Netherlands Authority for Consumers and Markets (ACM), in a nutshell, regulates and imposes requirements on how entry and exit tariffs are derived from the allowed revenues of a transmission system operator. In this code amendment decision, several elements of the NC-TAR, such as multipliers and seasonal factors, gas storage discounts, interruptible capacity and entry points of LNG facilities, are reconsidered in coordination with market participants.

2. Background and the followed procedure

2. By decision of 16 March 2017, the European Commission adopted Regulation (EU) 2017/460, a network code on harmonized transmission tariff structures for gas (hereinafter: NC-TAR). The purpose of this network code is, in accordance with Regulation (EC) No 715/2009, to establish harmonized transmission tariff structures for gas and to lay down Union-wide rules pursuing the objectives of contributing to market integration, increasing the security of gas supply and facilitating the interconnection of gas networks.

3. By decision of 10 December 2018, ACM implemented the NC-TAR following extensive consultation of the market on the choices to be made.[1] Pursuant to Article 27 (5) of the NC-TAR, this process must be repeated at least every five years.

4. ACM has the power to take this decision. Article 27 (4) of the NC-TAR stipulates that the national regulatory authority (the NRA), in accordance with Article 41 (6) (a) of Directive 2009/73/EC, must adopt a reasoned decision on a number of points to be specified later. Article 41 (6) (a) of the Directive has been implemented in, inter alia, Section 12 of the Dutch Gas Act. Pursuant to Section 1 (2) of the Dutch Gas Act, ACM is the national regulatory authority. ACM is therefore authorized to implement the NC-TAR with its power to set the tariff structures and conditions on the basis of Section 12 of the Dutch Gas Act. In these explanatory notes, we refer to this as the NC-TAR decision.

5. The NC-TAR has an extensive preparatory procedure. Article 26 of the NC-TAR stipulates that one or more consultations must be carried out by the national regulatory authority or by the transmission system operator(s), depending on the decision of the NRA. By its decision of 17 October 2017, ACM decided to carry out the consultations as referred to here as well as in Article 27 and 28 of the NC-TAR.[2] In the period from 6 April 2023 to 28 August 2023, market participants were consulted in six consultation sessions on the NC-TAR and on thereto-related topics and choices. These consultations resulted in arrangements regarding the NC-TAR decision to be taken by ACM. These arrangements were laid down in writing in an agreement dated 16 October 2023, and have been incorporated into the definitive NC-TAR decision.

6. On 15 September 2023, ACM adopted the draft code amendment decision. ACM sent this to the joint system operators and the representative organizations. ACM has decided to apply the uniform public preparatory procedure as referred to in section 3.4 of the General Administrative Law Act (in Dutch: 'Algemene wet bestuursrecht') (further: Awb). On the basis of Section 3:15, second paragraph of the Awb, ACM gave each person the opportunity to express their opinion on the draft.

7. As part of the uniform public preparatory procedure, ACM on 21 September 2023 published for consultation on its website the draft decision and the thereto-related documents. The publication for consultation was announced in the Dutch Government Gazette of 21 September 2023. ACM published all written opinions on its website. In Chapter 5 of this Decision, ACM gives its response

[1] Dutch Government Gazette. 2018,72671.
[2] https://www.acm.nl/sites/default/files/documents/2017-11/taakverdelingsbesluit-acm-gts-nctar.pdf

to these opinions. If an opinion has led to any changes to the draft decision, ACM has clearly indicated this. In addition, ACM has made, where necessary, non-substantive, textual changes to the draft code amendment decision.

8. On 1 November 2023, ACM sent the draft decision to the Agency as referred to in Article 27 of the NC-TAR, which is the German regulator (BNetzA) and the Belgian regulator (CREG).

9. Article 26 of the NC-TAR stipulates that, in addition to rules (e.g. on the reference price methodology to be applied), any explanatory or indicative information must also be consulted and recorded in writing in the 'consultation document' as referred to in Article 27 of the NC-TAR. In so far it concerns information that does not contain any rules (generally binding ones), ACM has included this information in the explanatory notes or in the additional information, Chapter 4, to this decision.

10. ACM is of the opinion that the proposal does not contain any technical regulations within the meaning of Directive 2015/1535. For this reason, the conditions set out in this decision have not been submitted in draft for notification.

3. Explanatory notes to the decision

11. In this chapter, the code amendment decision is presented and explained in broad strokes.

Introduction

12. The purpose of the code amendment decision is to comply with the obligation laid down in Article 27 (5) of the NC-TAR. By decision of 10 December 2018, ACM implemented the NC-TAR following an extensive market consultation regarding the choices to be made about the gas tariff structures.[3] Pursuant to Article 27 (5) of the NC-TAR, this process must be repeated at least every five years. The code amendment decision at hand describes what changes are made to the decision of 10 December 2018.[4]

13. In short, the NC-TAR regulates and imposes requirements on how entry and exit tariffs are derived from the allowed revenues of a transmission system operator. The allowed revenues are the revenues determined by ACM on the basis of the method decisions for the transmission system operator for natural gas and the x-factor decisions, which are based on those method decisions, and which are ultimately determined definitively in the annual tariff decision.

14. This code amendment decision reconsiders, in coordination with market participants, several elements of the NC-TAR, such as the reference price methodology, multipliers, and seasonal factors, gas storage discounts, interruptible capacity, and entry points from LNG facilities.

15. The reference price methodology determines how the allowed revenues are to be allocated to the entry and exit points. The application of the reference price methodology leads to a single reference price for each entry and exit point. All tariffs applicable to a single entry or exit point are subsequently derived from the reference price. The reference price methodology thus determines whether, how much, and why the prices for entry and exit capacity differ per entry and exit point.

16. In addition, the NC-TAR offers a number of opportunities (or obligations) to adjust those reference prices, for example, by setting discounts and rescaling the reference price.

17. In addition, with regard to interconnection points, NC-TAR stipulates that reserve prices are determined by applying multipliers or seasonal factors to the reference price. The multiplier determines the price difference between a contract with a duration of one year and durations other

[3] Dutch Government Gazette. 2018,72671.
[4] Dutch Government Gazette. 2018,72671.

than one year. The seasonal factors determine the price difference between contracts with similar durations in different periods of the year.

18. On 16 October 2023, ACM and a large number of market participants, including representative organizations, agreed on the above-mentioned NC-TAR topics, such as the reference price methodology, rescaling, multipliers, and the allocation of allowed revenues to entry and exit capacity have remained unchanged compared with the decision of 10 December 2018[5]. However, the seasonal factors, the gas storage discount, the discount for entry points from LNG facilities and the discount for interruptible capacity have changed compared with the decision of 10 December 2018. Another change is that a discount is no longer applied to GTS entry and exit tariffs for gas storage facilities competing with an interconnection point, unless the gas stored from the TTF market area in such a gas storage facility (which is directly connected to two market areas) is also retransmitted to the TTF market area. In so far as its elements have not been amended, the decision (and its explanatory notes) of 10 December 2018 applies in full[6]. In this context, ACM notes that the decision at hand does not introduce a shorthaul tariff, but this has been discussed during the consultations regarding this decision. GTS may, at a later date, table a code amendment proposal to reintroduce a shorthaul product. This possibility is another change compared with the decision of 10 December 2018.

3.1 Unaltered parts of the NC-TAR decision

19. As explained above in the explanatory notes, the decision of 10 December 2018 has remained largely unchanged. This concerns elements such as, but not limited to, the reference price methodology (the stamp method), multipliers, discount for wheeling and rescaling. ACM discussed all elements extensively with market participants, including representative organizations, at various consultation meetings. These discussions revealed that market participants still support the fundamental choices that were made as part of the implementation of NC-TAR in 2018. Therefore, the implementation of most of the NC-TAR components is supported by a broad section of the market.

20. During the consultation sessions, the 40/60 split (40% of the cost is allocated to entry points, 60% is allocated to exit points) was discussed extensively. Some parties argue in favor of a 0/100 split or a 30/70 split. This would mean that all or most of the system operation costs would be borne by customers. ACM does not agree with this. According to ACM, the allocation of costs must be cost-reflective. Costs are incurred for both buyers and electricity feeders, so it is reasonable to charge both groups a part of these tariffs. This prevents the emergence of undesirable incentives for electricity feeders or buyers, such as the hoarding of (unused) capacity. There are various ways to define cost-reflectivity. In the previous NC-TAR decision, it was decided to use a 40/60 split, roughly based on the assumption that the costs for the regional transmission network (RTL) are allocated to the exit points and the costs of the main transmission network (HTL) are split 50/50 between entry and exit points. If, on the basis of this distribution, the total costs are divided between entry and exit, approximately 40% of the total cost is allocated to entry points and 60% to exit points. ACM still considers this to be a reasonable definition of cost-reflectivity. ACM therefore sees no reason to change the entry/exit split. ACM has agreed with representative organizations and the transmission system operator for natural gas that a 40/60 split will be applied.

21. ACM sees no reason to modify the elements discussed above either. According to ACM, maintaining as much as possible the current gas tariff structure promotes stability and predictability for system users and GTS.

3.2 Altered parts of the NC-TAR decision

[5] Dutch Government Gazette 2018,72671.
[6] Dutch Government Gazette 2018,72671.

Gas storage discount

22. The NC-TAR offers opportunities to adjust the reference price. The gas storage discount as referred to in Article 9(1) NC-TAR is one of those opportunities. ACM previously adopted a gas storage discount of 60% by decision of 10 December 2018 in consultation with market participants. ACM is convinced of the essential role of gas storage facilities for the supply of gas in the Netherlands. The developments in 2022 in connection with the security of supply of natural gas underlined the importance of gas storage facilities. On 16 October 2023, ACM and a large number of market participants, including representative organizations, agreed to change the gas storage discount from 60% to 75%. The agreement entails that the gas storage discount on the capacity-based transmission tariffs at entry points from and exit points to storage facilities is set at 75%.

Discount for entry points from LNG facilities

23. The NC-TAR additionally offers the opportunity to set a discount for entry points from LNG facilities.[7] By decision of 10 December 2018, ACM did not set an LNG discount. This discount can be applied to increase the security of supply of natural gas. In 2018, ACM did not see sufficient reason to set a discount rate for LNG.

24. During the consultation sessions, several market participants (including GATE and VLNG) indicated that a discount for LNG terminals has a positive impact on the security of supply. In that context, ACM considers the following.

25. Following the outbreak of the war between Russia and Ukraine in early 2022, gas flows from Russia to Northwestern Europe came to a halt. The security of supply of natural gas was thus at issue. LNG offsets a large part of the lost gas flows, and has become significantly more important for the Netherlands and the West and North-West European gas markets. This has also been recognized by the European Union. This is one of the reasons why the European Union included in Article 13 (3) of Regulation (EC) No 715/2009 (hereinafter: Gas Regulation) that a 100% discount *can* be applied to entry points from LNG facilities.

26. However, the GTS entry tariffs play a marginal role in attracting LNG. The ratio of those transport costs to the wholesale price of LNG is marginal. In ACM's view, a discount for entry points from LNG facilities therefore has limited decisive influence on attracting LNG vessels to the Netherlands. That is highly dependent on the wholesale price. If there were a discount of 100%, it would lead to a significant increase in tariffs at other entry and exit points. Therefore, although the NC-TAR seeks to ensure security of supply, ACM does not consider a discount of 100% to be the right way to do so. ACM also considers that a 100% discount is not proportionate to the users who do not use LNG entry points.

27. On the other hand, an LNG discount may increase the physical load and usage hours of an LNG terminal. The fact that the GTS entry tariffs play a marginal role does not mean that they do not play any role at all. The European Commission encourages Member States to reduce barriers to attracting LNG and filling LNG storage facilities. According to ACM, setting an LNG discount is one way not to create a barrier, if any at all. A reduction in transport costs for LNG may be an incentive (possibly a limited one) to transport LNG to the Netherlands.

28. In view of the above, a similar reasoning applies to the LNG discount as to the gas storage discount. In the context of the security of supply, ACM sees an important role for LNG, as for gas storage facilities, and this can be seen as an argument in favor of applying a discount. However, one significant difference between gas storage facilities and LNG is the time factor. Gas storages are generally filled in summer, while gas is extracted in winter. If an exogenous shock creates a shortage of gas in winter, both gas storages and LNG need to step in, but gas storages would have to be filled already in the summer (prior to the exogenous shock). LNG ships are more flexible than gas storages. If the exogenous shock creates scarcity and rising prices, LNG ships can, to a limited

[7] Article 9 (2) of the NC-TAR.

extent, change course and react flexibly to price signals. Overall, this reduces the need for LNG discounts in periods of relative instability: the supply of LNG is able to respond more flexibly than can the supply of gas storages. ACM therefore does not treat LNG and gas storages in the same way.

29. In view of the above, ACM and a large number of market participants agreed on 16 October 2023 to set a 20% LNG discount for the year 2025. For 2026, ACM seeks not to change the level of the LNG discount. For the subsequent years, ACM will follow the following procedure:

    a. Prior to finalizing the tariff decisions for 2027, 2028 and 2029, ACM will carry out two calculations;

    b. ACM will calculate the relative share of the total amount of natural gas fed in at entry points of LNG facilities compared with the total amount of natural gas fed in at all GTS entry points of production points and physical border points, including BBL, for the preceding calendar year. In order to calculate this percentage share of LNG imports compared with the total origin of natural gas fed into the GTS transport network, ACM can rely on the accuracy of the information submitted by GTS to ACM for the preceding calendar year;

    c. ACM will calculate the average of all daily neutral gas prices (NGP) realized over the previous calendar year. The neutral gas price (NGP) is defined in Article 4.1.6.4 of the transport code for natural gas LNB (see also https://www.gasunietransportservices.nl/shippers/voorwaarden-en-contracten/neutrale-gasprijs). ACM will round this average price in EUR/MWh to one decimal place;

    d. If the percentage share as calculated in subparagraph b is 25% (twenty-five percent) or more, and the average neutral gas price as calculated in subparagraph c is EUR 37.5/MWh or more, ACM will set the discount for the following calendar year at 20 percent for entry points from LNG facilities;

    e. If the percentage share as calculated in subparagraph b is lower than 25 percent and/or the average neutral gas price as calculated in subparagraph c is lower than EUR 37.5/MWh, ACM will set the discount for the following calendar year at zero for entry points from LNG facilities.

No discount on gas storages that are used as interconnection points

30. The NC-TAR stipulates in the first paragraph of Article 9, in conjunction with recital 4 of the preamble, that, if a gas storage facility is connected to multiple transmission or distribution networks and is used to compete with an interconnection point, no gas storage discount should be given. By decision of 10 December 2018, ACM previously did not establish any competition between gas storage facilities and interconnection points, and therefore did not see any reason to make use of the option at the time.

31. An analysis of entry and exit flows between 2020 and 2022 shows that several gas storage facilities connected to both the Dutch (TTF) market area and the German (THE) market area are used as interconnection points. As a result, ACM considers it necessary to lay down further rules regarding the application of a gas storage discount to the entry and exit tariffs to and from gas storage facilities directly connected to more than one transmission or distribution system. In that context, ACM establishes the following:

    a. If a gas storage facility is directly connected to more than one transmission or distribution system and can therefore be used to transport natural gas from the Dutch transmission system to a directly connected transmission or distribution system located in another Member State, thereby making it possible that the gas storage facility is used to compete with an interconnection point, no gas storage discount is applied, and the reference prices, T_{EN}^{NLNG} T_{EX}^{NG} as set out in Article 3.5, first paragraph, must be paid.

b. In derogation of the foregoing, the operator of the gas storage facility in question may enter into an agreement with the transmission system operator for natural gas in which arrangements are made to ensure that only a gas storage discount is applied in so far as the gas storage facility is used as gas storage, meaning there is no transfer of gas between directly connected systems within the meaning of recital 4 in the preamble and Article 9 of the NC-TAR. A gas storage facility is used as gas storage in the case that the gas volume fed from the TTF market area is also sent to the TTF market area.

c. If the gas storage facility operator and transmission system operator for natural gas have concluded such an agreement and in so far the gas storage facility is used as gas storage, shippers are entitled to a discount on transport capacity to and from the gas storage facility.

d. In the envisaged agreement, the gas storage facility operator undertakes, in any event, to monitor on an hourly basis per shipper to and from which market area (such as TTF or THE) the gas has been fed in the gas storage facility and has been transmitted, and to share this information with the transmission system operator.

Interruptible-capacity discount

32. On the basis of Article 16 of the NC-TAR, the reserve price for standard capacity products for interruptible capacity may be adjusted using an ex-ante discount or an ex post discount. By decision of 10 December 2018, ACM, in consultation with market parties, previously set an ex-ante discount for interruptible capacity. This was a single discount for all entry and exit points.

33. Following various trends and developments on the gas market, a need for flexibility emerged for setting discount rates for interruptible capacity at the various entry and exit points. In the summer of 2022, demand for gas transport from west to east spiked as most gas flows from Russia stopped. This created a large spread between, on the one hand, trading platforms in Belgium and the United Kingdom and, on the other hand, trading platforms in the Netherlands (TTF) and Germany. As a result, it became attractive for gas traders in the summer of 2022 to book a lot of interruptible entry capacity on the virtual interconnection point BENE. As a result, both the booked interruptible capacity and the number of interruptions increased sharply in the gas year 2022, resulting in a high discount rate for interruptible capacity on *all* points (domestic and interconnection). On thirteen network points other than VIP-BENE, interruptions also took place between October 2022 and October 2023. The number of interruptions and the duration of these interruptions vary greatly from one network point to another. This means that the probability of interruptions between different network points differs significantly, while the discount rate for all points would be the same if a single discount rate were set.

34. In ACM's view, the abovementioned situation shows that the use of a single discount rate for interruptible capacity is undesirable. The discount on a given network point must reflect the interruption probability on that specific point. If a single discount is maintained, users get too low a discount on some network points. Users on other points where GTS offers interruptible capacity are given a high discount, while the interruption probability is zero. This leads to undesirable market effects. The NC-TAR offers the opportunity to set different discount rates on different points.[8]

35. On the basis of the above, ACM and market participants agreed on 16 October 2023 on the ability of setting more than one percentage discount for interruptible capacity each year starting from the next tariff decision (2025). The discount percentage for interruptible capacity will be set for each point on the basis of the calculated interruption probability. In addition, it has been additionally decided, where the realized interruptions give reason to do so, to differentiate between discounts for interruptible entry and interruptible exit capacity products, for a number of network points.

[8] Article 12 (1) of the NC-TAR.

36. At the moment, specific discount rates are set for 14 network points. For six network points, VIP TTF-THE-L, OUDE STATENZIJL (ETZEL-CRYSTAL-H), OUDE STATEZIJL (ASTORA JENGUM), BERGERMEER (TAQA-UGS), ZUIDWENDING (UGS), and HILVARENBEEK (FLUXYS), the distinction in interruption probability between entry and exit affects the calculation of the interruptible capacity. In addition, interruptions have taken place at eight other network points, without the need to distinguish between entry and exit capacity. These are the network points: VIP BENE-L, VIP BENE, EWE JENGUM, ETZEL FREYA H, ETZEL EKB H, ROTTERDAM GATE, NORG NAM UGS, and GRIJPSKERK NAM-UGS.

37. On all other points, no interruptible capacity was sold and/or interrupted.

38. The level of the discount for interruptible capacity on entry and exit points will be calculated on the basis of the formula set out in Article 16 (2) of the NC-TAR. The discount is based on the probability of interruption (Pro) and the adjustment factor (A), which reflects the economic value of the interruptible product.

39. In Article 16 (3) of the NC-TAR, a formula is used to calculate the interruption probability (Pro). That formula is as follows:

$$Pro = \frac{N \times D_{int}}{D} \times \frac{CAP_{av.int}}{CAP}$$

Where:

N	is the expected number of interruptions during D;
D_{int}	is the average duration of the expected interruptions expressed in hours;
D	is the total duration of the respective type of standard capacity product for interruptible capacity expressed in hours;
$CAP_{av.int}$	is the expected average amount of interrupted capacity for each interruption where such an amount is related to the respective type of standard capacity product for interruptible capacity; and
CAP	is the expected total amount of interrupted capacity for the respective type of standard capacity product for interruptible capacity.

40. The interruption probability (Pro) is calculated on the basis of interruptions in the last three gas years (1 October 2020 to 30 September 2023). According to ACM, a three-year reference period is representative and sufficiently robust. An interruption in a given year may be an exception, which is why ACM believes that a multi-year reference period is appropriate.[9] ACM considers data on the previous three years to be representative. In that context, ACM uses gas years in order to be able to use the most recent data. ACM plans to launch the consultation in October each year pursuant to Article 28 of the NC-TAR. On 1 October, a new gas year starts, and ACM can include the data from the previous gas year as one of the three gas years in its consultation. ACM does not alter the adjustment factor (A), and sets it at 1.

41. On the basis of the above, the discount rates for interruptible capacity for 14 network points are set at different percentages[10], and the discount for the remaining entry and exit points is set at 0.01%.

Seasonal factors

[9] See code amendment decision of 27 February 2020, ref. ACM/UIT/527373.
[10] See Section D of this Decision.

42. The NC-TAR allows seasonal factors to be applied to the reference price. By decision of 10 December 2018, ACM decided to set seasonal factors. This is because the use of the gas transmission network is much higher in the winter months, and the gas transmission network was built before this peak load. The application of seasonal factors thus contributes to the cost-reflectivity of transmission tariffs. The code amendment decision at hand does not deviate from this previously made choice. However, the following amendment will be implemented.

43. Article 15 of the NC-TAR prescribes the method of calculating the seasonal factors. One element is the determination of forecast flows as referred to in Article 15 (3) (a). By decision of 10 December 2018, ACM based its determination of those forecasted flows on the allocations of the years 2008-2017. In the code amendment decision at hand, ACM uses the allocations for the years 2013-2022, as the allocations from 2013 to 2022 are known by now, and ACM can therefore use more recent data, which provide a more representative forecast of flows. This has led to other values of seasonal factors than those included in the decision of 10 December 2018. The seasonal factors are again rounded to 3 decimal places. ACM applies the seasonal factors to all entry and exit points.

4. Indicative information referred to in Article 26 of NC-TAR

4.1 Detailed analysis of comparison of stamp method with the CWD method

44. Below, ACM sets out the minimum and maximum of the reference prices on the basis of both the stamp method and the CWD method. ACM calculates what the tariffs would have been in 2018 on the basis of the stamp method in this decision. During the extended consultation period, ACM published these values for all individual entry and exit points on its website.[11]

45. The spread of the reference prices under the stamp method is caused solely by the discount for gas storage points and LNG installations. The spread of the reference prices under the CWD method is caused by the inclusion of distance as a cost factor and by the discount for the gas storage points. By including distance as a cost factor, the reference prices depend on the location of the entry or exit point.

Minimum and maximum and reference price (after adjustments) based on the stamp method

	Entry	**Exit**	**Unit**
Minimum reference price	0.387	0.536	EUR/kWh/hour/year, 2018 prices
Maximum reference price	1.549	2.145	EUR/kWh/hour/year, 2018 prices

Minimum and maximum and reference price (after adjustments) under the CWD method

	Entry	**Exit**	**Unit**
Minimum reference price	0.959	0.46	EUR/kWh/hour/year, 2018 prices
Maximum reference price	2.109	8.373	EUR/kWh/hour/year, 2018 prices

Percentage difference between minimum and maximum (after adjustments) based on the stamp method compared with the reference price under the CWD method

	Entry	**Exit**	**Unit**
Minimum reference price	-59.6	16.6	%
Maximum reference price	-26.6	-74.4	%

[11] Extension of consultation NC-TAR | ACM.nl (in Dutch)

4.2 Value of the parameters of the RPM

46. The values of the parameters of the RPM vary each year, and which ACM publishes each year in the information document it publishes alongside its tariff decision.

4.3 Cost allocation assessments

47. The cost allocation assessment described in Article 5 of the NC-TAR analyzes the level of cross-subsidization between system-internal and cross-system network use. The application of the cost allocation assessment leads to an index reflecting the level of cross-subsidization. If this index is higher than 10%, ACM must provide a justification for this result. ACM explains below how it carried out this cost allocation assessment.

48. The cost allocation assessment works as follows. For both system-internal and cross-system network use, the revenues collected through such network use must be divided by the cost factors allocated to that network use. This results in a system-internal network use ratio and a cross-system use ratio. Next, the index for comparison is calculated by dividing twice the absolute difference between the ratios by the sum of the ratios.

49. In order to perform these calculations, it is necessary to determine the values of the following parameters:

    - The revenues from system-internal network use;
    - The revenues from cross-system network use;
    - The cost factors allocated to system-internal network use; and
    - The cost factors allocated to cross-system network use.

50. The NC-TAR provides the following definitions of system-internal and cross-system network use:

    - System-internal network use is ‘the transport of gas within an entry-exit system to buyers connected to the same entry-exit system’; and
    - Cross-system network use is ‘the transport of gas within an entry-exit system to buyers connected to another entry-exit system’.

51. ACM concludes from the above that exit points are to be classified as either cross-system network use (all border points) or system-internal network use (all other exit points). The revenues expected to be earned through these points are calculated by multiplying the reference price applicable on the exit point by the forecasted contracted capacity of the exit point. The cost factors to be allocated to these exit points can also be determined unequivocally. The reference price methodology proposed by ACM uses forecasted contracted capacity as a cost factor. Therefore, ACM attributes the forecasted contracted capacity on exit points at the border to cross-system network use and the forecasted contracted capacity on other exit points to system-internal network use.

52. For entry points, such a distinction is not clear. Natural gas fed into the gas transmission network at a border point can be withdrawn again at a border point (cross-system network use), but can also be withdrawn at a domestic exit point (system-internal network use). Article 5 (5) of the NC-TAR therefore stipulates how ACM is to make this distinction. The forecasted contracted entry capacity to be allocated to cross-system network use must be equal to the forecasted contracted exit capacity allocated to cross-system network use. Therefore, the rationale of ‘in = out’ applies to cross-system network use. The remaining part of the forecasted contracted entry capacity must be allocated to system-internal network use.

53. After determining the forecasted contracted entry capacity to be allocated to system-internal and cross-system network use respectively, ACM can easily determine the cost factors to be allocated

to that network use. This is because they are equal to the forecasted contracted capacity. Finally, the revenues of entry points are allocated to internal and cross-system network use in the same proportion as the forecasted contracted entry capacity.

54. On the basis of the above, ACM determined the values of the parameters, and carried out the cost allocation assessment. ACM has carried out this calculation using both the parameters from the previous Tariff Code and the modified parameters set out in this decision.

55. ACM published these calculations on its website.[12] The calculation gives an index of 6.0% for the new parameters. This rate is below 10%, which means that there is no high level of cross-subsidization between internal and cross-system network use. The table below shows the relevant parameters.

Table of relevant parameters for calculating the cost allocation assessment based on discount percentages in the period 2020-2024

Forecasted contracted capacity for system-internal	258,000,000	kWh/hour/year
Forecasted contracted capacity for cross-system	192,000,000	kWh/hour/year
Revenue from system-internal	373,595,481	EUR, p 2024
Revenue from cross-system	476,371,213	EUR, p 2024
System-internal ratio	1.85	#
Cross-system ratio	1.95	#
Index	5.2	%

Table of relevant parameters for calculating the cost allocation assessment based on discount rates in this decision

Forecasted contracted capacity for system-internal	258,000,000	kWh/hour/year
Forecasted contracted capacity for cross-system	192,000,000	kWh/hour/year
Revenue from system-internal	375,195,826	EUR, p 2024
Revenue from cross-system	474,770,868	EUR, p 2024
System-internal ratio	1.84	#
Cross-system ratio	1.95	#
Index	6.0	%

30 Information as referred to in Article 30 (1) (b) (i), (iv) (v) of NC-TAR

[12] Extension of consultation NC-TAR | ACM.nl

30 (1) (b) (i) – Allowed revenues

Allowed revenues 2024	849,966,694	EUR, p 2024

30 (1) (b) (iv) – Revenues from transmission services

Revenues from transmission services 2024	849,966,694	EUR, p 2024

30 (1) (b) (v) (1) – Capacity-commodity distribution

Revenues from capacity-based transmission tariffs	100	%
Revenues from commodity-based transmission tariffs	0	%

30 (1) (b) (v) (2) – Entry-exit distribution before adjustments

Revenues from capacity-based transmission tariffs on all entry points	40.0	%
Revenues from capacity-based transmission tariffs on all exit points	60.0	%

30 (1) (b) (v) (2) – Entry-exit distribution after adjustments

Revenues from capacity-based transmission tariffs on all entry points	32.6	%
Revenues from capacity-based transmission tariffs on all exit points	67.4	%

30 (1) (b) (v) (3) – System-internal/cross-system distribution after adjustments

Revenues from system-internal network use	55.9	%
Revenues from cross-system network use	44.1	%

4.5 Tariff model

56. ACM published on its website (www.acm.nl) the Excel file 'Annex 2 Tariff model', accompanied by an explanation of how it should be used, which allows network users to calculate the applicable tariffs for the applicable tariff period, and to project the possible developments after that tariff period.

4.6 Calculation of seasonal factors

57. ACM published on its website (www.acm.nl) the Excel file 'Annex 3 Calculation of seasonal factors', which contains the calculation of the seasonal factors.

4.7 Indicative reference prices

Category	Rate	Unit
Reference price for entry non-gas storage non-LNG	2.382	EUR/kWh/hour/year, pp year
Reference price for exit non-gas storage	2.328	EUR/kWh/hour/year, pp year
Reference price for entry gas storage	0.596	EUR/kWh/hour/year, pp year
Reference price for exit gas storage	0.582	EUR/kWh/hour/year, pp year
Reference price for entry LNG	1.906	EUR/kWh/hour/year, pp year

5. Responses to opinions received

Introduction and reader's guide

58. In this section of the explanatory notes, ACM responds to the opinions received.

59. ACM points out that, on the basis of the second paragraph of Section 3: 15 of the Awb, ACM gave everyone the opportunity to express their opinions on the draft. ACM will respond to each opinion.

5.1 SEFE Marketing & Trading Limited (SM&T)

Summary:

60. SEFE Marketing & Trading Limited (hereinafter: SM&T) supports the fact that ACM has chosen to increase the gas storage discount. It also supports the choice not to set a discount in the case that a gas storage facility is connected to multiple transmission or distribution networks and thus competes with an interconnection point. SM&T considers that the above is in line with how other Member States (such as Germany and France) have implemented the gas storage discount.

61. SM&T, however, argues that recognized balance-responsible parties (BRPs) using the storage facilities to inject gas from the Netherlands and extract gas to the Netherlands, i.e. without using the cross-border element, should still have access to the gas storage discount by default. According to SM&T, recognized BRPs have already booked capacity on cross-border gas storage locations for 2025. If they do not have access to the gas storage discount when they want to serve the Dutch market directly (and not wish to use cross-border gas flows), this may have a negative

impact on the security of supply in the Netherlands. That is why SM&T wants to see that injection and off-take on the Dutch gas market automatically carry a gas storage discount, and that they not be subject to additional reporting obligations on which market the gas is injected and withdrawn.

62. SM&T is also of the opinion that the application of a discount on entry tariffs for LNG terminals, where capacity has already been contracted, will have a very limited impact on attracting LNG to the Netherlands. According to SM&T, the majority of capacity at GATE and EET has already been contracted for 2025/2026 (around 80%). Therefore, the entry tariff for LNG terminals will be seen as sunk costs and, as a result, have little to no impact on the destination of the LNG loads. SM&T argues that it is much more likely that other factors, such as wholesale tariffs, transport costs and transport distance, will determine whether a load of LNG is unloaded at one of the LNG terminals in the Netherlands.

63. In its opinion, SM&T also argues that a discount on entry tariffs for LNG injection discourages supply from other sources, as their tariffs go up in order to absorb the LNG discount on this existing capacity. Given the importance of supplies from cross-border points, such as Norway, Belgium and the United Kingdom, SM&T wonders whether a discount on the already contracted capacity at LNG points for 2025 and 2026 is appropriate.

64. Finally, SM&T believes that, with regard to the procedure for determining whether an LNG discount is applicable, the historical data is not an appropriate indicator for future deliveries. SM&T argues that the historical level of LNG supply and the average wholesale gas price, over a period of at least 12 months ago, do not provide an accurate forecast for the period ahead. That is why SM&T recommends using forward-looking forecasts to determine whether a possible discount on LNG entry tariffs is appropriate.

Response:

65. ACM can follow SM&T's opinion, and has taken it into account when working out the discount on gas storages that can also be used as interconnection points. Under the proposed system, users are, in principle, granted discounts on their tariffs. Only if it appears from the records of the storage system operator that the gas (or a part thereof) originally comes from another market area, an subsequent fee is charged for that gas for the remaining 75% of the tariffs. ACM assumes that this meets the concerns expressed in SM&T's opinion.

66. With regard to the LNG discount, ACM considers the following. Article 9 (2) of the NC-TAR stipulates:

> *"At entry points from LNG facilities, and at entry points from and exit points to infrastructure developed with the purpose of ending the isolation of Member States in respect of their gas transmission systems, a discount may be applied to the respective capacity-based transmission tariffs for the purposes of increasing security of supply.*"

According to ACM, this Article allows for a discount to be applied to the reference prices applicable to entry points from LNG terminals. ACM *may* apply a discount with the aim of increasing security of supply. ACM can, to a certain extent, follow SM&T's argument that the application of a discount will have a limited impact on attracting LNG to the Netherlands. When setting the discount for LNG entry points, ACM, in consultation with market participants, took this point into account in its assessment. ACM considers the likelihood of an LNG discount having a significant impact on attracting LNG to the Netherlands in the case of severe shortages to be small, as this will mainly depend on the commodity prices that will emerge on the TTF at that point. However, under normal market conditions, an LNG discount can have a positive impact on security of supply. A combination of a gas storage discount, in this case 75%, and an LNG discount could make LNG injection and storage in the Netherlands more appealing to market participants. This may result in an increase in security of supply. In addition, national regulators are encouraged by the European Commission to lower barriers to increasing security of supply. ACM believes that an LNG discount meets this desire.

67. With regard to the use of historical data for setting the LNG discount for the years 2027, 2028 and 2029, ACM notes the following. On the basis of Article 28 (2) of the NC-TAR, ACM is required to consult each year the discount for entry points from LNG facilities and subsequently take a decision supported with reasons. For the year 2026, ACM seeks not to change the level of the LNG discount. For the years 2027, 2028 and 2029, ACM will, on the basis of the procedure set out in paragraph 29, determine whether the discount for entry points from LNG facilities is set at zero or twenty percent. ACM, in consultation with market participants, decided to use historical data instead of forward-looking forecasts. Both approaches have their pros and cons. For example, historical data cannot provide an accurate indication for the future in all cases. Forward-looking forecasts can also deviate from the realizations. In the end, ACM chose to use historical data, as these data can be objectively established. A forward-looking forecast is usually based on assumptions (often well-considered ones). What assumptions and methods must then be used to draw up these forecasts is a choice that needs to be made. This carries the risk of using subjective estimates. In order to give market participants as much clarity and predictability as possible, ACM has decided to set the average neutral gas price and the percentage of fed LNG compared with the total amount of gas on the basis of historical data.

5.2 ENI S.p.A.

Summary:

68. ENI S.p.A. (hereinafter: ENI) disagrees with an unconditional increase of the gas storage discount, as this discount should be subject to a quantitative assessment demonstrating the benefits for the market.

69. ENI also disagrees with ACM's decision to set an LNG discount. According to ENI, an LNG discount discriminates against imports of natural gas from production pipes and pipelines that also contribute to safeguarding the security of supply of natural gas.

Response

70. With regard to ENI's comments about the gas storage discount, ACM considers the following. Under Article 13 (3) of the Gas Regulation, there is an upper limit of 100% on the gas storage discount. Article 9 (1) of the NC-TAR stipulates that a reduction of at least 50% must be set. This floor has – in the interest of cost-reflectivity – been set to prevent transmission costs to and from storage facilities from being charged twice, thus recognizing the overall contribution of gas storage infrastructure to system flexibility and security of supply. Besides the need to take into account storage facilities connected to more than one transmission or distribution network and that are used to compete with an interconnection point, no other requirements have been set for setting a gas storage discount. Therefore, calculating a gas storage discount on the basis of a quantitative assessment, as advocated by ENI, is not a statutory requirement (European or otherwise). The gas storage discount is set by ACM on the basis of an assessment of interests, taking into account in particular cost-reflectivity and security of supply.

71. In ACM's view, gas storages greatly contribute towards security of supply and system flexibility. In certain situations with higher demand or low supply, for example during cold periods or during winter months, gas storages can compensate the limitations in the supply of gas. The gas reserves stored in storage facilities can be made available to the system when demand is high and cannot be met in other ways.

72. In consultation with market participants, ACM has set a gas storage discount of 75%. According to ACM, a 75% discount takes into account the principle of cost-reflectivity and, at the same time, properly reflects the overall contribution of gas storages to security of supply and system flexibility. In addition, a 75% discount further increases the appeal of using storage facilities, which supports the security of supply. With regard to ENI's opinion, ACM sees no reason to decide on a different gas storage discount.

73. With regard to ENI's opinion that an LNG discount is discriminatory in relation to imports of gas from production pipes and pipelines, ACM considers the following. ACM cannot follow ENI's argument. ENI wrongly assumes that any LNG discount would discriminate against imports of gas from production pipes and pipelines. According to ACM, Article 9 (2) of the NC-TAR offers a basis for applying a discount to the reference prices applicable to entry points from LNG terminals in order to increase security of supply. For imports of gas from production pipes and pipelines, no basis for a discount has been included in the NC-TAR. The European Commission thus established a distinction between LNG entry points and entry points for production pipes and pipelines (domestic or otherwise).

74. In ACM's view, both LNG supply and gas imports through production pipes and pipelines (domestic or otherwise) help safeguard security of supply in the Netherlands. ACM agrees with ENI that, with an eye to national consumption and the significant transit of natural gas in the Netherlands, it is necessary to ensure that imports of gas from production pipes and pipelines from sources other than LNG are not disproportionately burdened by the granted LNG discount. However, ACM is of the opinion that a 20% LNG discount for the years 2025 and 2026, and possibly also for the years 2027, 2028 and 2029, is proportionate. ACM explains this in more detail below.

75. In ACM's view, there is a difference in flexibility in terms of meeting demand for natural gas. Parties involved in the transport of LNG are not bound by a fixed route to get natural gas from A to B. LNG tankers can even change ports at very short notice. Unlike traditional production pipe systems, there is thus a risk that little or no LNG is transported to a terminal in the Netherlands. If gas injection is more attractive elsewhere in the world, LNG will be delivered to that place.[13]

76. With regard to pipeline gas imports, the flexibility is a fraction higher than with imports of gas through production lines. After all, the gas can, for example, be transported from Norway via Germany to the rest of Europe rather than via the Netherlands. However, ACM deems the flexibility in responding to demand for LNG to be significantly higher.

77. In this context, ACM further notes that, in general, the construction and use of LNG infrastructure go hand in hand with higher costs as a result of, among other reasons, costs for the conversion and transport by ship, compared with imports of gas from existing production pipes and pipelines.

78. Considering the above, ACM sees no risk of market distortion in the case of a 20% LNG discount, and ACM is of the opinion that a level playing field for all sources of gas supply will remain in place, both LNG and production pipes and pipelines (domestic or otherwise). According to ACM, there is therefore no discrimination. ENI's opinion has not led to any changes to the code amendment decision compared with the draft decision.

5.3 The European Federation of Energy Traders (EFET)

Summary:

79. The European Federation of Energy Traders (hereinafter: EFET) argues that, if ACM sets a gas storage discount, this reduction must be applied to all volumes that remain within the TTF market area, even if the storage facility also allows cross-border transport. According to EFET, a level playing field between all gas storage facilities can be achieved by granting a discount to natural gas that does not leave the market area.

Response:

80. ACM can follow EFET's response, and has taken it into account in the determination of the discount on gas storage facilities that can also be used as interconnection points. Under the

[13] This is not just a theoretical risk. Despite the fact that prices quadrupled in the second half of 2021 compared with 2019, the LNG terminals in Northwestern Europe were, on average, only half full. This means that, over a period of several months, despite prices being four times higher than in 2019, LNG was not supplied to Europe but to other regions in the world.

proposed system, users are, in principle, granted discounts on their tariffs. Only if the records of the storage system operator show that the gas (or a part thereof) originally comes from another market area, an additional charge will be levied for that gas for the remaining 75% of the tariffs. ACM assumes that this will meet EFET's opinion.

5.4 Opinion of the Agency for the Cooperation of Energy Regulators (ACER)

Summary:

81. Article 27 (1) of the NC-TAR requires ACM to send the consultation document to ACER when launching the consultation. In accordance with Article 27 of the NC-TAR, ACER analyzed[14] ACM's consultation document and sent ACM the conclusion of this analysis. In addition to sending the draft decision and its annexes, ACM also sat down with ACER and replied to ACER's questions in writing.

82. In its conclusion, ACER offers four recommendations. ACM will discuss these individually.

83. First, although ACER notes that the stamp method is an established and transparent method, ACER argues that, on the basis of the available information, it cannot completely follow the analysis of that methodology. In that context, ACER fails to provide the following items:

    a. An up-to-date comparison between the stamp method and an updated capacity weighted distance method (CWD method).

    b. An explanation of how the network has changed structurally.

    c. An estimate of the forecasted contracted capacity until at least 2025. A breakdown of this estimate should be given for interconnection points, storage, LNG entry points and domestic entry and exit points.

    d. A description of the indicative reference prices at each entry and exit point.

    e. A comparison of the cost allocation assessment with and without the discounts applied.

    f. A comparison of the rates between the current period and the coming period.

84. Second, ACER requests further clarification regarding the proposed discount on LNG points. In that context, ACER asks how this discount increases the security of supply, how ACM reflects on the current high utilization rate of the terminals and on that fact that long-term capacity has been booked on the terminals, to what extent the discount goes hand in hand with negotiated third-party access, and whether this discount cannot be abused by the terminals.

85. Third, ACER reiterates that it believes that the peak delivery task should fall under the NC-TAR.

86. Lastly, ACER believes that, with the loss of the Julianadorp entry point, cost reflectivity cannot be guaranteed, in which context ACER refers in particular to Article 13 of the Gas Regulation as regards the prevention of cross-subsidization and market distortions. According to ACER, the proposed stamp method only meets the requirements of Article 7 of the NC-TAR if ACM provides a solution to this problem.

Response

87. With regard to the choice of a stamp tariff, ACM refers to recitals 42 et seq. of the NC-TAR decision of 10 December 2018[15], in which the choice of a stamp tariff was made for the first time. In short,

[14] Draft decision and its annexes.
[15] Decision of the Netherlands Authority for Consumers and Markets of 10 December 2018, reference ACM/UIT/503577 amending the tariff structures and conditions as referred to in Sections 12a and 12b of the Dutch Gas Act concerning the

when choosing the stamp model at the time, ACM took into account the assessment framework laid down in Article 7 of the NC-TAR. On that basis, ACM concluded that the requirements basically amounted to the requirements of cost-reflectivity, predictability, and reproducibility. In ACM's view, a stamp method meets each of these requirements.

88. Both a stamp method and the CWD method can, in theory, meet these requirements. However, a CWD method has several drawbacks. Many more input parameters need to be used, some of which are confidential. This makes this method less predictable and reproducible. In addition, ACM also believes that it is difficult to determine on a complex and granular gas network such as that of GTS's over what routes the gas flows through the network to arrive at a specific entry or exit point. The large number of entry and exit points, combined with the fact that gas can often reach the same destination via different routes, means that a CWD method would require a significant amount of data and uncertain assumptions. This is another argument in favor of using a method in which distance does not play a role.

89. At the first consultation session, ACM presented to market participants the choice for a stamp method, where it was agreed that the aforementioned arguments in favor of a stamp method are still valid, and that there is no reason to deviate from the choice for a stamp method. ACM then chose not to create a completely new CWD method as counterfactual.

90. Yet, in order to comply as much as possible with the information obligations under the NC-TAR, ACM did publish a comparison with the 2018 tariffs. This comparison has significant shortcomings, primarily because the network and the use of the network have changed significantly since 2018. The biggest changes are a sharp cutback in gas production in the Netherlands, a drop in demand for natural gas in the Netherlands, and a strong increase in the role of LNG in the system. In 2018, a lot of natural gas came from Groningen, with transit flows primarily from east to west. From Germany, natural gas from Russia entered the country, which was transported primarily via Belgium to the south-west. Gas flows have changed since the Russian invasion of Ukraine and subsequent sanctions. More LNG came to the Netherlands (to Rotterdam and the new LNG terminal in Eemshaven). Imports are mainly from Belgium and the UK, while exports are now directed primarily to Germany. Indeed, these changing gas flows make the CWD method from 2018 imperfect. ACM acknowledges the limitations of this analysis, but believes that the arguments in recitals 88 through 90 are sufficient reason to choose a stamp method. Preserving the stamp method is also part of ACM's agreement with market participants.

91. ACM did not expand the cost allocation assessment to include a hypothetical situation without any discounts, as it believes that a method without any discounts would be at odds with the European NC-TAR Regulation. In fact, it contains a requirement of a storage discount of at least 50%. ACM is therefore of the opinion that this analysis serves no purpose, nor does ACM find it necessary to carry out the analysis for years where we do not yet have information for the contracted capacity.

92. ACER also lacks an estimate of future contracted capacity. In that context, ACM emphasizes that this always contains significant uncertainties. The same applies to future tariffs. On the basis of public information, ACM is able to make an informed estimate (albeit a rough one), but obviously cannot provide certainty about the future.

93. In any event, ACM expects a decrease in contracted volumes for the coming years. For 2025, ACM expects a very significant decrease in volumes (based on GTS estimates). ACM expects a lighter decrease for 2026. ACM expects a further decrease for the subsequent years, but this has not been quantified. The level of aggregation of this estimate is not exactly the same as ACER's request, as ACM does not have this data at its disposal. This estimate does include all the parameters necessary to estimate the rates for the coming years.

Forecasted contracted capacity in million kWh/hour/year according to GTS

implementation of Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonized transmission tariff structures for gas.

Category	**2024**	**2025**	**2026**
Entry storage	74	48	48
Entry LNG	103	32	33
Entry other		59	56
Exit storage	38	28	28
Exit other	235	208	195

94. Making a forecast of the allowed revenues is even more difficult. For 2025, ACM expects roughly EUR 1.067 million in allowed revenues including corrections. The corrections for 2026 are not yet known, but with an x-factor of 3.18% and a projected inflation of 1.7%, ACM expects allowed revenues excluding corrections to be 1.042 million euro. For subsequent years, a new method decision will apply, which is yet to be adopted. ACM cannot run ahead of that new method decision, and is therefore unable to estimate the expected allowed revenues.

95. If they so wish, the parties can enter the above values in the simplified tariff model published by ACM, from which the tariffs for that period will also follow. In this tariff model, the parties can also make a comparison with the previous NC-TAR period.

96. ACM has added the indicative reference prices in this decision under section 4.7.

97. As regards the justification of the LNG discount, ACM stresses that it can follow ACER's concerns. The impact of a discount on the security of supply is inherently uncertain. Security of supply depends on many different factors, of which the entry tariff is just one of many. During the consultation session, plausible arguments both in favor of a discount and against a discount were raised by market participants.

98. The importance of liquefied natural gas (LNG) for the security of supply in the Netherlands is not under discussion. Since Russia's invasion of Ukraine and the subsequent energy crisis in particular, the Netherlands can no longer meet demand for natural gas without LNG imports. The presence of LNG, and certainty over LNG, therefore clearly increase the security of supply of the Netherlands. However, the question is whether a discount also increases the security of supply.

99. In order to answer that question, it is necessary to know whether a discount will affect the behavior of LNG shippers. In times of urgent crisis with extreme prices, a discount is likely to make little difference. However, in times of more stable prices, a discount on the margin may play a role in shippers' choices whether or not to bring LNG to the Netherlands. ACM expects market participants to have an incentive to enter into more long-term contracts on the Dutch market and to be incentivized to supply more gas to the Netherlands in the filling period.

100. ACM cannot state with certainty that a discount will have a material impact on the volume of LNG to be supplied in the Netherlands. However, it is plausible that a discount can have a positive effect. This dilemma was discussed extensively during the various consultation sessions with various market participants. Eventually, all parties reached agreement on a limited, conditional discount. As long as gas prices and the importance of LNG remain high, ACM will introduce a limited discount just to be sure.

101. With regard to the current high utilization rate of LNG terminals, ACM points out that the utilization rate of LNG terminals has been significantly below 100% for several months. Although market participants did conclude long-term contracts with the terminal, they are not required to use them as well. In the meantime, GTS also argues that security of supply in the Netherlands cannot be guaranteed. The importance of receiving sufficient LNG thus remains considerable. ACM cannot

guarantee that a temporary and conditional reduction will have a positive effect on this, but does consider it to be plausible.

102. Terminals in the Netherlands are exempted from regulated third-party access.[16] This means that they are free to set their own tariffs. Whether and, if so, how they take into account the LNG discount is, in principle, up to the LNG system operators. In that context, LNG system operators must take into account the fact that they operate in an international market with various competitors. This competitive pressure stimulates these system operators to limit unreasonable profits.

103. With regard to the peak supply task, ACM understands ACER's position. However, ACM is bound by Dutch laws and regulations. The peak task follows from the Decree on security of supply in connection with the Dutch Gas Act (in Dutch: Besluit leveringszekerheid Gaswet). This decree not only stipulates how GTS should fulfil this task, but also how the costs of this task should be distributed among specific user groups. These provisions leave no room for ACM to include these costs in the NC-TAR decision.

104. With regard to the cross-subsidy resulting from the loss of the Julianadorp entry point, ACM shares ACER's analysis. ACM agrees with ACER that this is a case of cross-subsidization and has therefore committed in an agreement with market participants that it intends to impose an ITC to resolve this situation. ACM plans to take this decision in 2024 still, so that the tariff structure for gas is in line with European laws and regulations.

5.5 Opinions of neighboring countries

105. Article 28 (1) of the NC-TAR mandates ACM to consult the directly connected Member States and relevant stakeholders on the level of the multipliers, on the level of seasonal factors and calculations as laid down in Article 15, and on the level of discounts as set out in Article 9 (2) and Article 16.

106. On 1 November 2023, ACM sent the draft code amendment decision to the German regulator (BNetzA) and the Belgian regulator (CREG).

107. ACM did not receive any responses from these regulators. In short, the results of this consultation do not give any reason for changes to the decision-making (or for considering any such changes).

6. Signing

108. ACM adopts this decision taking into account the interests, rules and requirements as referred to in Section 12 of the Dutch Gas Act.

The Hague,
Date: 11 April 2024

The Netherlands Authority for Consumers and Markets,
On its behalf,

M.R. Leijten
Member of the Board

[16] Exemption to GATE for LNG facility: 13 November 2006, exemption to EemsEnergy Terminal for LNG facility: 30 June 2022 Decree on exemption under Section 18 of the Dutch Gas Act for Gate Terminal B.V.: 31 May 2023