Autoriteit
Consument & Markt

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Draft Decision

Our reference   ACM/UIT/607170
Case number   ACM/23/181941
Date

Decision of the Netherlands Authority for Consumers and Markets of ==[date of signature]==, ref. ==ACM/UIT/607170 amending== the tariff structures and conditions as referred to in Articles 12a and 12b of the Dutch Gas Act on the implementation of Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a Network Code on Harmonised 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:

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 non-adjusted reference prices applicable to an entry point of a LNG facility and applying a discount to the non-adjusted reference prices applicable to an entry point from or an exit point to a storage facility and by rescaling the non-adjusted reference prices applicable to all entry and exit points. These adjustments are subject to the following formulae:

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

Equation 1: This equation represents the loss of revenue resulting from the discount on the unadjusted reference prices applicable to an entry point of an LNG facility and resulting from the discount on the unadjusted reference prices applicable at an entry point to a storage facility.

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

Equation 2: This equation calculates the constant factor for the rescaling of unadjusted reference prices.

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

Equation 3: This equation calculates the reference price without discount applicable to all entry points, not being the entry points of an gas storage- or LNG facility.

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

Equation 4: This equation calculates the reference price including LNG discount applicable to an entry point of a LNG facility.

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

Equation 5: This equation calculates the reference price including the gas storage discount applicable to an entry point of a storage facility, to which paragraph 4 does not apply.

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

Equation 6: This equation calculates the reference price without discount applicable to all exit points other than an exit point to a storage facility.

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

Equation 7: This equation calculates the reference price including gas storage discount applicable from an exit point to a storage facility, to which paragraph 4 does not apply

Where:

ΔTI	is the loss of revenue resulting from the discount on unadjusted reference prices applicable to entry points of 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}	the percentage discount on the non-adjusted reference prices applies to entry points of an LNG facility, as laid down 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 to which paragraph 4 does not apply;

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CAP_i	is the forecasted contracted capacity at an entry point 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 authorized revenue of the system operator of the national gas transmission network expressed in euros;
T_{EN}^{NLNG}	is the reference price without a discount, applicable to all entry points other than the entry points for which the tariff T_{EN}^{LNG} or rate T_{EN}^{opslag} applies in euro/kWh/hour/year;
T_{EN}^{LNG}	the reference price including LNG discount applicable to an entry point of an LNG facility expressed in euro/kWh/hour/year;
T_{EN}^{opslag}	the reference price including gas-storage discount applicable to an entry point of a storage facility, to which paragraph 4 does not apply, expressed in euro/kWh/hour/year;
T_{EX}^{NG}	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}	the reference price including gas storage 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 is 75%.

3. The percentage discount on the non-adjusted reference prices applicable to entry points of an LNG facility as referred to in paragraph 1 is 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 gas from the Dutch transmission system to a directly connected transmission or distribution system located in another Member State, thereby allowing the storage facility to be used to compete with an interconnection point, this storage facility is not subject to a discount, and the full tariff has to 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. By way of derogation from the preceding paragraph, the gas storage discount may be granted if the relevant operator of the gas storage facility has entered into an agreement with the transmission system operator for natural gas on arrangements that stipulate that a gas storage discount is granted only to the extent that the gas storage facility is used for gas storage, and that there is therefore no transport of gas between directly connected systems as referred to in recital 4 and Article 9 of the NC-TAR.

B.

In Article 3.7, fourth paragraph, the following changes are made:

Replace "1.553" by "…".
Replace "0.712" by "…"
Replace "0.552" by "…"
Replace "1.183" by "…"

C.

In Article 3.7, fifth paragraph, the following changes are made:

Replace "1.877" by "…"
Replace "1.753" by "…"
Replace "1.269" by "…"

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Replace "0.903" by "..."
Replace "0.711" by "..."
Replace "0.631" by "..."
Replace "0.583" by "..."
Replace "0.555" by "..."
Replace "0.604" by "..."
Replace "0.784" by "..."
Replace "1.269" by "..."
Replace "1.677" by "..."
Replace "1.785" by "..."
Replace "1.667" by "..."
Replace "1.207" by "..."
Replace "0.859" by "..."
Replace "0.676" by "..."
Replace "0.600" by "..."
Replace "0.555" by "..."
Replace "0.528" by "..."
Replace "0.574" by "..."
Replace "0.745" by "..."
Replace "1.207" by "..."
Replace "1.595" by "..."

D.

The first paragraph of Article 3.9 is replaced by 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 to be payable by a grid user on the relevant entry and exit point for the contracting of fixed entry or exit capacity; and

b. Applying the set discount percentage to the tariff from (a) for that point on the basis of the calculated interruption probability. The following discount percentages have been set:
- For VIP-BENE, a discount percentage of "..." applies.
- For all other entry and exit points, a discount percentage of "..." applies.

Article II
The tariffs and services of the transmission system operator for natural gas from before the 2025 tariff period are governed by the code provisions as they stood before this decision came into effect. This Decision applies to the tariff periods from 2025 to 2029.

Article III
The ACM sets this decision taking into account the interests, rules and requirements within the meaning of Section 12 of the Dutch Gas Act.

This decision will enter into force on the day after the date of issue of the Dutch Government Gazette in which it will be published.

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

The Hague,
Date:

The Netherlands Authority for Consumers and Markets,

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on behalf of it,

M.R. Leijten
Member of the Board

Anyone whose interest is directly affected by this decision can file an appeal against this decision with the Dutch Trade and Industry Appeals Tribunal (CBb). The appeal must be sent to the following address: Dutch Trade and Industry Appeals Tribunal (CBb), P.O. Box 20021, 2500 EA, THE HAGUE, THE NETHERLANDS. The notice of appeal must have been received within six weeks after the publication date of this decision The notice of appeal must be signed, and should at least include the name and address of the applicant, the date on which the appeal was written, a description of the decision against which the appeal is filed, as well as the reasons for the appeal. Please enclose a copy of the disputed decision with your appeal.

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Explanatory notes

1   Summary

1. With this decision, the Netherlands Authority for Consumers and Markets (hereinafter: the ACM), in short, sets rules and requirements regarding the way in which entry and exit tariffs are derived from the allowed revenues of a transmission system operator. This code amendment decision reconsiders several elements of the NC-TAR, such as the multipliers and seasonal factors, the discounts for gas storage facilities, interruptible capacity, and entry points of LNG facilities, in consultation with market participants.

2   Background and procedure followed

2. By decision of 16 March 2017, the European Commission adopted Regulation (EU) 2017/460 on 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 natural gas and to establish Union-wide rules with which the objectives are pursued for contributing to market integration, increasing the security of supply of natural gas, and promoting the interconnection of gas networks.

3. By decision of 10 December 2018, the 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. The ACM is competent to take this decision. Article 27 (4) of the NC-TAR stipulates that the national regulatory authority (also: the NRA), in accordance with Article 41 (6) (a) of Directive 2009/73/EC, must adopt a reasoned decision on a number of specified points. Article 41 (6) (a) of the Directive has been implemented inter alia in Section 12f of the Dutch Gas Act. Under Section 1a (2) of the Dutch Gas Act, the ACM is the national regulatory authority. The ACM is therefore competent to implement the NC-TAR through its power to set the tariff structures and conditions on the basis of Section 12f of the Dutch Gas Act. In these explanatory notes, we refer to this as the NC-TAR decision.

5. NC-TAR has a comprehensive preparation procedure. Article 26 of the NC-TAR stipulates that one or more consultations are carried out by the national regulatory authority or by the transmission system operator(s), depending on the NRA's decision. By decision of 17 October 2017, the ACM decided to carry out the consultations as referred to 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 through six consultation sessions on the NC-TAR and the thereto-related topics and choices. These consultations led to arrangements regarding the NC-TAR decision to be taken by the ACM. These arrangements have been laid down in writing in an agreement dated [date], and have been incorporated into the definitive NC-TAR decision.

6. On [date], the ACM adopted the draft code amendment decision. It forwarded it to the joint system operators and to the representative organizations. The ACM has decided to apply the uniform public preparation procedure within the meaning of section 3.4 of the Dutch General Administrative Law Act (hereinafter: Awb). On the basis of section 3:15, second paragraph of the Awb, the ACM gave everyone the opportunity to share their opinions on the draft.

7. As part of the uniform public preparation procedure, the ACM made the draft decision and the related documents available for the public, and published these on its website on [date]. The publication was announced in the Dutch Government Gazette ("Staatscourant") of [date]. The ACM

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

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has published all written opinion on this website. In addition, the ACM published an English summary of the opinions it received. In Chapter [...] of this decision, the ACM shares its response to the opinions. If an opinion has led to changes to the draft decision, the ACM has clearly indicated so. In addition, the ACM has made, where necessary, non-substantive, textual changes compared with the draft code amendment decision.

8. On [date], the ACM sent the draft decision to the Agency as referred to in Article 27 of NC-TAR, the German regulator (BNetzA) and the Belgian regulator (CREG).

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

10. The ACM considers that the draft does not contain any technical requirements within the meaning of Directive 2015/1535. That is why the conditions in this decision have not been presented for notification in the draft phase.

3   Explanatory notes to the decision

11. This section presents and explains the broad strokes of the code amendment decision.

Introduction

12. The code amendment decision at hand serves to comply with the obligation laid down in Article 27 (5) of the NC-TAR. By decision of 10 December 2018, the ACM implemented the NC-TAR following an extensive consultation with the market on the choices to be made on 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 presents the changes made to the decision of 10 December 2018.[4]

13. In short, NC-TAR sets rules and requirements on how entry and exit tariffs are derived from the allowed revenues of a transmission system operator. The allowed revenues are the revenues that the ACM sets on the basis of the method decisions for the national transmission system operator for natural gas as well as on the so-called x-factor decisions based on those method decisions, and which the ACM definitively sets in the annual tariff decision.

14. In this code amendment decision, several components of NC-TAR, such as the reference price methodology, multipliers and seasonal factors, the discounts for gas storages, interruptible capacity and entry points of LNG facilities are reconsidered in consultation with market participants.

15. The reference price methodology determines in what way the allowed revenues are to be allocated to entry and exit points. The application of the reference price methodology results in 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 tariffs for entry and exit capacity vary between entry and exit points.

16. NC-TAR also offers several options (or obligations) to adjust those reference prices, for example, by setting discounts and re-scaling the reference price.

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

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17. In addition, for interconnection points, NC-TAR determines that reserve prices are determined by applying multipliers or seasonal factors to the reference price. The multiplier determines the price difference between a one-year contract and a contract with a duration other than one year. The seasonal factors determine the price difference between contracts with the same contract duration during different periods in a year.

18. On [date], the 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 the allowed revenues between entry and exit capacity have remained unchanged compared with the decision of 10 December 2018[5]. However, the seasonal factors, gas storage discount, the discount for entry points of LNG facilities, and the discount for interruptible capacity have changed compared with the decision of 10 December 2018. Another amendment was that discounts are 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 (directly connected to two market areas) is also re-dispatched to the TTF market area. Insofar the elements have not been amended, the decision (and the accompanying explanatory notes) of 10 December 2018 applies in full[6]. In this context, the ACM notes that, in the decision at hand, no shorthaul tariff is introduced, but that this has been discussed in the consultations regarding this decision. At a later date, GTS may table another code amendment proposal related to the reintroduction of a shorthaul product. This possibility is also a change compared with the decision of 10 December 2018.

Unamended elements of the NC-TAR decision

19. As indicated above in these explanatory notes, the decision of 10 December 2018 has remained largely unamended. This applies to elements such as, but not limited to, the reference price methodology (the postal stamp method), multipliers, discount for wheeling and re-scaling. The ACM discussed all elements extensively with market participants, including representative organizations, at various consultation meetings. These conversations revealed that market participants still support the fundamental choices that were made as part of the implementation of NC-TAR in 2018. The implementation of the majority of the elements of NC-TAR thus enjoys broad support.

20. In the consultation sessions, the 40/60 split was discussed extensively (40% of the costs are allocated to entry points, 60% allocated to exit points). Some of the market participants argue for a 0/100 split or a 30/70 split. This would mean that all or most of the system operation costs are paid by buyers. The ACM does not follow this. After all, the allocation of costs, according to the ACM, must be cost-reflective. Costs are incurred for both feeders and buyers, so it is reasonable to have both feeders and buyers pay part of the tariffs. This will prevent undesirable incentives from emerging for feeders or buyers such as the "hoarding" of capacity (unused or otherwise). There are different ways to define cost reflectivity. In the previous NC-TAR decision, it was decided to use a 40/60 split, which is, roughly speaking, based on the assumption that the costs of the regional transmission network (RTL) are allocated to exit points, and the costs of the main transmission network (HTL) 50/50 are shared between entry points and exit points. If the total costs are divided between entry and exit on the basis of this distribution, approximately 40% of the total costs is allocated to entry points and 60% to exit points. The ACM still considers this to be a reasonable definition of cost reflectivity. The ACM therefore sees no reason to change the entry/exit split. The ACM has agreed with representative organizations and the transmission system operator for natural gas that a 40/60 split will be used.

21. The ACM also sees no reason to change the abovementioned elements. According to the ACM, maintaining as much as possible the current tariff structure for natural gas will promote stability and predictability for users and GTS.

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

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Amended elements of the NC-TAR decision

Discount for gas storages

22. NC-TAR offers possibilities for adjusting the reference price. The gas storage discount as referred to in Article 9 (1) of the NC-TAR is one of those possibilities. By decision of 10 December 2018, the ACM in consultation with market participants previously set a gas storage discount of 60%. The ACM is convinced of the essential role of gas storages for the supply of gas in the Netherlands. Developments surrounding the security of gas supply in 2022 underscored the importance of gas storages. On [date], the ACM and a large number of market participants, including representative organizations, agreed on changing the gas storage discount from 60% to 75%. This arrangement means that the gas storage discount on the capability-based transmission tariffs at entry points from and exit points to storage facilities has been set at 75%.

Discount for entry points of LNG facilities

23. NC-TAR also offers the possibility to set a discount for entry points of LNG facilities.[7] By decision of 10 December 2018, no LNG discount was previously set by the ACM. This discount may be applied to increase the security of gas supply. In 2018, the ACM did not see sufficient reason for setting a discount percentage for LNG.

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

25. Following the Russian invastion of Ukraine in early 2022, gas flows from Russia to North-Western Europe have disappeared. As a result, security of gas supply has been compromised. LNG compensates a large share of lost gas flows, and has therefore become significantly more important to the Netherlands and the North-Western and Western European gas markets. This has also been recognized by the European Union. As a result, the European Union included in Article 13 (3) of Regulation (EC) No 715/2009 (hereinafter: Gas Regulation) that a discount of 100% can be applied to entry points of LNG facilities.

26. However, GTS's entry tariffs play a marginal role in attracting LNG. The ratio of these transport costs compared with the wholesale price of LNG is marginal. In the ACM's view, a discount for entry points of LNG facilities therefore has a limited decisive influence over attracting LNG vessels to the Netherlands. This depends heavily on the wholesale price. If there were a 100% discount, it would lead to a significant increase in tariffs at other entry and exit points. Although security of supply is sought by NC-TAR, the ACM therefore does not consider a discount of 100% to be the right instrument for achieving this. In addition, the ACM believes that a 100% discount is also not proportionate vis-à-vis the users that do not use LNG entry points.

27. On the other hand, an LNG discount may increase the physical load and hours of use of an LNG terminal. The fact that GTS's 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 the ACM, the setting of an LNG discount is a way not to create an impediment, if any. Indeed, a reduction in transport costs for LNG can be an incentive (limited or otherwise) to transport LNG to the Netherlands.

28. In view of the above, a similar line of reasoning as that for the discount for gas storages applies to the LNG discount. In the context of security of supply, the ACM sees an important role for LNG as for gas storages, and this can be seen as an argument for applying a discount. However, one important difference between gas storages and LNG is time. Gas storages are generally filled in summer, while natural gas is extracted in winter. If there is a shortage (sudden or otherwise) of gas in winter due to an exogenous shock, both gas storages and LNG will have to step in, but that means that the gas storages will already have to be filled by summer (prior to the exogenous

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

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shock). LNG ships are more flexible than gas storages. If the exogenous shock creates scarcity and prices rise, LNG vessels can, to a limited extent, change course and respond flexibly to price signals. All in all, this reduces the need for an LNG discount in periods of relative instability: LNG supply can respond more flexibly than the supply of gas storages. The ACM therefore does not treat LNG and gas storages in the same way.

29. In view of the above, the ACM and a large number of market participants on [date] agreed to set a LNG discount of 20% for 2025. For the year 2026, the ACM will make an effort not to change the level of the LNG discount. For the years after 2026, the ACM will follow the following procedure:

    a. In the first quarter, prior to the adoption of the tariff decisions for the years 2027, 2028 and 2029, the ACM will carry out two calculations;

    b. The ACM will calculate the percentage share of the total amount of natural gas entering at entry points of LNG facilities to the total amount of natural gas fed at all GTS entry points of production and physical border points, including BBL, over the previous calendar year. For the calculation of this percentage share of LNG import in relation to the total origin of gas fed into the GTS transport network, the ACM will be allowed to rely on the accuracy of the information made available to the ACM by GTS for the preceding calendar year;

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

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

    e. If the percentage share calculated in (b) is lower than twenty-five percent and/or the average neutral gas price calculated in (c) is lower than EUR 37.5/MWh, the ACM will set the discount for the following calendar year at zero percent for entry points of LNG facilities.

<u>No discount on gas storages used as interconnection points</u>

30. In the first paragraph in Article 9 NC-TAR, in conjunction with consideration 4, NC-TAR states that, in case 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 must be granted. Previously, the ACM, by decision of 10 December 2018, did not establish any competition between the gas storage facilities and interconnection points, and, at the time, therefore did not see any reason to take advantage of the opportunity offered.

31. An analysis of the entry and exit flows between 2020 and 2022 shows that a number of 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, the ACM now does consider it necessary to set more detailed rules regarding the application of gas storage discounts on entry and exit tariffs to and from gas storage facilities that are directly connected to more than one transmission or distribution system. In that context, the 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 allowing the gas storage facility to be used to compete with an interconnection point, no gas storage discount applies, and the reference prices, T_{EN}^{NLNG} and T_{EX}^{NG} as set in Article 3.5, first paragraph, must be paid.

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b. By way of derogation from the foregoing, the relevant operator of the gas storage facility may enter into an agreement with the transmission system operator for natural gas, in which arrangements are made that ensure that gas storage discounts are only given insofar the gas storage facility is used for gas storage and that therefore no natural gas is transported between directly connected systems within the meaning of consideration 4 and Article 9 of the NC-TAR. A gas storage facility is used for gas storage if the volume of gas fed from the TTF market area is also transported to the TTF market area.

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

d. In the planned agreement, the operator of the gas storage facility commits itself, in any case, to keeping a record, per shipper on an hourly basis, of the natural gas that is fed into and is transported from and to what market area (such as TTF or THE), and to sharing this information with the transmission system operator for natural gas.

Interruptible-capacity discount

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

33. As a result of various developments on the gas market, there is a need for flexibility in setting discount percentages for interruptible capacity at the different entry and exit points. In the summer of 2022, as the gas flows from Russia largely disappeared, a substantial need for gas transports from west to east emerged. This created a large spread between the trading platforms in Belgium and the United Kingdom on the one hand, and the trading platforms in the Netherlands (TTF) and Germany on the other. As a result, it became attractive in the summer of 2022 for gas traders to book a large volume of interruptible entry capacity at 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 percentage for interruptible capacity at *all* points (domestic points and interconnection points). At all points other than VIP-BENE, no or little interruptible capacity was sold and/or interrupted. This means that the probability of interruption differs significantly between different points, whereas the discount percentage is the same for all points.

34. According to the ACM, the above situation shows that it is undesirable to use a single discount percentage for interruptible capacity. The discount at a particular point must reflect the probability of interruption at that particular point. If a single discount is retained, the users at, in this case, VIP-BENE will receive too low a discount percentage. Users at all other points where GTS offers interruptible capacity receive a high discount whereas the probability of interruption is zero. This leads to undesirable market effects. NC-TAR allows for different discount percentages to be set at different points.[8]

35. On the basis of the above, the ACM and market participants on [date] agreed on the opportunity to set more than one discount percentage for interruptible capacity each year starting with the upcoming tariff decision (2025). The discount percentage for interruptible capacity will be determined per point on the basis of the estimated probability of interruption. Two discount percentages are currently set, namely a discount percentage for VIP-BENE and another for the other entry and exit points. This is because the probability of interruption on VIP-BENE differs significantly from the probability of interruption at the other entry and exit points. It was also agreed

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

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that the ACM would annually review both the number as well as the level of the discount percentages for interruptible capacity.

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

37. Article 16 (3) of the NC-TAR contains a formula with which the probability of interruption is calculated (Pro). That formula is as follows:

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

Equation 8: This equation calculates the probability of interruption (Pro).

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 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.

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

39. [Number of interruptions during the measurement period]

40. On the basis of the above, the discount for the interruptible capacity for VIP BENE is [PM], and the discount for all other entry and exit points is [PM].

Seasonal factors

41. NC-TAR allows seasonal factors to be applied to the reference price. By decision of 10 December 2018, the ACM decided to set seasonal factors. This is because the use of the gas transport

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[9] See the code amendment decision of 27 February 2020, ref. ACM/UIT/527373

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network is much higher in the winter months, and the gas transport network has been built for this peak load. The application of seasonal factors thus contributes towards the cost reflectivity of the transmission tariffs. The code amendment decision at hand does not deviate from this previous choice. However, the following amendment will be made.

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

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

43. [PM]

5 Response to opinions received

44. [PM]

The Hague,
Date:

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

M.R. Leijten
Member of the Board of ACM