

Warsaw, 6 March 2020

Communiqué¹
of the President of Energy Regulatory Office
No 14/2020
concerning
multipliers, seasonal factors and discounts, referred to in Article 28(1)(a) to (c) of
the Tariff Code, to be taken into account in the calculation of tariffs for gaseous
fuels transmission services
for the period from 1 January 2021 to 31 December 2021.

1. Introduction

Pursuant to Article 23(2)(11a) of the Energy Law Act, the scope of activity of the President of Energy Regulatory Office² (hereinafter referred to as "ERO") includes, among others (...) the performance of duties of the regulatory authority arising from regulations adopted pursuant to Articles 8 and 23 of Regulation 715/2009³, including Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (OJ L 72 of 17.03.2017 p. 29), hereinafter referred to as "the Tariff Code".

The Tariff Code entered into force on 6 April 2017 and has been applicable since that date, with the exception of the provisions of Chapters VI and VIII, which have been applicable since 1 October 2017, and Chapters II, III and IV applicable since 31 May 2019.

Pursuant to the requirements set out in Article 28(1) of the Tariff Code (applicable since its entry into force), every tariff period the President of ERO is obliged to run consultations with the regulatory authorities of all directly connected EU Member States and with relevant stakeholders, on the following issues:

- a) the level of multipliers,
- b) the level of seasonal factors and their calculation as laid down in Article 15 of the Tariff Code,
- c) the levels of discounts specified in Articles 9(2) and 16 of the Tariff Code, that is discounts at the entry points from the LNG terminal and the discounts used to calculate the reserve prices for standard capacity products for interruptible capacity,

with respect to the transmission network owned by Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A., hereinafter referred to as "the Operator or TSO" and the network owned by System Gazociągów Tranzytowych EuRoPol GAZ S.A., hereinafter referred to as "EuRoPol GAZ", on which the Operator acts as the gas transmission system operator, pursuant to the decision of 17 November 2010, ref. no. DPE-4720-4(8)/2010/6154/BT.

After completion of the consultation, in accordance with Article 41(6)(a) of Directive 2009/73/EC, the national regulatory authority shall take a reasoned decision regarding the aspects referred to

¹ English version of the Communiqué is provided for information purposes only. In case of any inconsistencies between the Polish and English version, the Polish version shall prevail.

² Urząd Regulacji Energetyki, www.ure.gov.pl.

³ Regulation (EC) no 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005 (OJ L 211 of 14.08.2009, p. 36).

in points (a) to (c) above, taking into account the views of the regulatory authorities of the directly connected Member States.

First consultation in a above scope was carried out from 31 August till 31 October 2018.

Once the consultations had been completed, pursuant to Article 41(6)(a) of Directive 2009/73/EC, on 29 March 2019 the President of ERO issued and published a reasoned decision (the communiqué)⁴ relating to the aspects referred to in Article 28(a)-(c) of the Tariff Code. The communiqué was included in the calculation of the 2020 tariffs for the Operator and EuRoPol GAZ respectively.

The following, 2nd consultation⁵ on the level of multipliers, the level of seasonal factors, the levels of discounts at entry points from the LNG terminal and discounts applied to calculate the reserve prices for standard capacity products for interruptible capacity was run from 14 October till 14 December 2019 and regarded the transmission network owned by the Operator and the transmission network owned by EuRoPol GAZ.

During the consultation the opinions were received from: the regulatory authority of the directly connected EU Member State, the Operator, a transmission system user and two opinions from industry associations.

Provisions of the Communiqué related to the second consultation will be applied in a calculation of 2021 tariffs.

Pursuant to the provisions of Article 28(2) of the Tariff Code, further consultations will be held in each tariff period starting from the date of this Communiqué. Bearing in mind that currently, both in case of the Operator's tariff and the tariff of EuRoPol GAZ, the tariff period is the same as the calendar year, the consultations referred to in Article 28 of the Tariff Code will be run every year.

2. Multipliers, seasonal factors and discounts referred to in article 28(1)(a) to (c) of the Tariff Code, for the Operator's tariff for gas transmission services for the period from 1 January 2021 till 31 December 2021

2.1. The multipliers referred to in Article 28(1)(a) of the Tariff Code.

The values of multipliers for the Operator's tariff for standard capacity products for 2021 are presented in Table 1.

Table 1. *Multipliers - the Operator's tariff.*

Gas transmission service	Within-day	Daily	Monthly	Quarterly
Multiplier	2,20	2,20	1,45	1,27

2.2. Seasonal factors referred to in Article 28(1)(b) and Article 15 of the Tariff Code.

The levels of seasonal factors of the Operator's tariff for 2021 for particular types of capacity products are presented in Table 2.

⁴ <https://www.ure.gov.pl/pl/biznes/taryfy-zalozenia/konsultacje-art-28-nc-t/7848,Konsultacje-w-zakresie-rabatow-mnozownikow-i-wspolczynnikow-sezonowych-do-taryf-na.html>.

⁵ <https://www.ure.gov.pl/pl/biznes/taryfy-zalozenia/-2019/8439,Konsultacje-w-zakresie-rabatow-mnozownikow-i-wspolczynnikow-sezonowych-do-taryf-na.html>.

Table 2. Seasonal factors – the Operator's tariff

Month \Product type	Within-day	Daily	Monthly	Quarterly
October	0,97	0,97	0,97	1,07
November	1,08	1,08	1,08	
December	1,16	1,16	1,16	
January	1,18	1,18	1,18	1,17
February	1,16	1,16	1,16	
March	1,18	1,18	1,18	
April	0,91	0,91	0,91	0,87
May	0,86	0,86	0,86	
June	0,83	0,83	0,83	
July	0,84	0,84	0,84	0,85
August	0,87	0,87	0,87	
September	0,84	0,84	0,84	

2.3. Application of multipliers and seasonal factors.

The calculated multipliers and seasonal factors will be applied at interconnection points with EU Member States, interconnection points with third countries and at internal points of the gas transmission system (for E-gas⁶ and L-gas⁷), including entry/exit points to/from underground gas storage, for settlements of services provided on a short-term basis.

The charge for a short-term gas transmission service will be calculated according to the following formula:

$$Op = Mn * Ws * Ss * Mu * T/100$$

where:

Op - the payment for a short-term gas transmission service (quarterly, monthly, daily or within-day) in [PLN],

Mn – a multiplier,

Ws – a seasonal factor,

Ss – a transmission tariff, respectively for entry/exit [gr⁸/kWh/h per h or gr/kWh/day per day],

Mu – a contracted capacity [kWh/h or kWh/day],

T – a number of hours or days in which the short-term service has been provided [h or day].

or

$$Op = Mn * Ws * Ss * Mu * T$$

where:

⁶ E – high-methane natural gas – E group.

⁷ L – nitrogen-rich natural gas –L group, subgroup Lw.

⁸ gr=0,01 PLN.

Op - the payment for a short-term gas transmission service (quarterly, monthly, daily or within-day) in [PLN],

Mn – a multiplier,

Ws – a seasonal factor,

Ss – a transmission tariff, respectively for entry/exit [PLN/MWh/day per day],

Mu – a contracted capacity [MWh/day],

T – a number of days in which the short-term service has been provided [day].

The Operator includes in the tariff correction coefficients being the product of the multiplier and the seasonal factor, rounded to two decimal places.

In case of providing virtual backhaul capacity, both on a long- and a short-term basis, to the charge calculated according to the above formula additionally a coefficient of 0,2 is applied (80% discount), pursuant to § 14 of the Regulation of the Minister of Energy of 15 March 2018 on detailed terms for structuring and calculation of tariffs and settlements in trade in gaseous fuels (Journal of Laws of 2018, item 640, as amended), hereafter referred to as “the tariff regulation”. Hence for virtual backhaul capacity an ex-ante discount foreseen for interruptible services is not applied.

2.4. The level of discounts at the entry point to the transmission system from LNG facilities - Article 28(1)(c) and Article 9(2) of the Tariff Code.

The level of discount for tariffs based on capacity at the entry points to the Operator's transmission system from LNG facility in the period from 1 January 2021 till 31 December 2021 shall be 100%. It should be underlined that so-called socialization of LNG terminal costs is not applied.

In accordance with Article 9(2) of the Tariff Code, a discount may be applied at the entry points from the LNG facility (...) to capacity-based transmission tariffs to enhance security of supply. The Polish natural gas market belongs to a group of medium sized markets with a high degree of dependence on supplies from one direction. Domestic production of natural gas in 2018 accounted for approximately 20% of the national natural gas supply balance. Until 2018, the main source of imported gas, despite the development of interconnections on the western and southern borders, was the eastern direction. The high level of dependence of the Polish market on gas supplies from one direction had a significant impact on the level of gas prices. Therefore, as an alternative source of supply, the LNG Terminal is intended to support the development of competition on the gas market. The launch of the LNG Terminal in Świnoujście created the conditions for entities operating on the global LNG market to enter the Polish gas market. Increased competition between gas suppliers serves to improve the negotiating power of gas trading companies in Poland.

Due to the above, 100% discount has been applied at the entry point to the transmission system from the LNG Terminal in Świnoujście since the commencement of regasification, that is as of June 2016. This solution was introduced mainly due to the key importance of the LNG terminal for:

- increasing the security of gas supply to Poland through diversification of the supply directions and ensuring access to the global gas market - fully independent from perturbations on the local and regional market,
- development of competition on the domestic gas market by creating opportunities for the domestic suppliers to obtain gas from a new source.

2.5. The level of discounts used to calculate the reserve prices for standard capacity products for interruptible capacity - Article 28(1)(c) and Article 16 of the Tariff Code.

In 2021 for interconnection points with EU countries and with third countries, as well as for internal entry/exit points, the *ex-ante* methodology referred to in Article 16(1)-(3) of the Tariff Code will be applied in settlements of standard capacity products for interruptible capacity.

The reserve prices for standard capacity products for interruptible capacity shall be calculated by multiplying the reserve prices for the respective standard capacity products for firm capacity by the difference between 100 % and the level of an *ex-ante* discount.

The following level of *ex-ante* discount will be applied in 2021:

- **6%** for annual, quarterly, monthly, daily and within-day standard capacity products for E-gas, offered at interconnection points with EU countries⁹ and with third countries,
- **2%** for annual, quarterly, monthly, daily and within-day standard capacity products for E-gas and L-gas offered at internal entry/exit points¹⁰, excluding the exit points to final consumers¹¹.

The *ex-ante* discount is calculated in accordance with the methodology set out in Article 16(2)-(3) of the Tariff Code, using the following formula:

$$D_{\text{ex-ante}} = \text{Pro} \times A \times 100 \%$$

where:

$D_{\text{ex-ante}}$ - the level of an *ex-ante* discount,

Pro - the probability of interruption which is set or approved in accordance with Article 41(6)(a) of Directive 2009/73/EC pursuant to Article 28, and which refers to the type of standard capacity product for interruptible capacity,

A - the adjustment factor which is set or approved in accordance with Article 41(6)(a) of Directive 2009/73/EC pursuant to Article 28, applied to reflect the estimated economic value of the type of standard capacity product for interruptible capacity, calculated for each, some or all interconnection points, which shall be no less than 1.

The Pro factor is calculated for given entry/exit points of the transmission system per type of standard capacity product for interruptible capacity offered in accordance with the following formula on the basis of forecasted information related to the components of this formula:

⁹ Including a PWP interconnection point.

¹⁰ Including UGS.

¹¹ The Operator not offer standard capacity products for interruptible capacity at internal exit points to final customers, both for E-gas and L-gas.

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

Where:

N - the expectation of the number of interruptions over D,

$D_{\text{int.}}$ - the average duration of the expected interruptions expressed in hours,

D - the total duration of the respective type of standard capacity product for interruptible capacity expressed in hours,

$\text{CAP}_{\text{av.int.}}$ - 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,

CAP - the total amount of interruptible capacity for the respective type of standard capacity product for interruptible capacity.

The probability of transmission service interruption was estimated based on data concerning capacity bookings in the period from 1 October 2017 to 31 December 2019.

The adjustment factor A amounted to 1 was adopted for all standard capacity products for interruptible capacity. The influence of the probability of those services interruption on their market value was not identified to the extent that the need for an additional adjustment in the form of the factor A would be justified.

Interruptible conditionally firm capacity has been defined in point 2.18. of the tariff as the contracted capacity provided at physical exit points specified in the capacity allocation (PP), which may be reduced by the Operator, subject to the terms and conditions specified in the TNC¹², in case of the failure to deliver gaseous fuel at the specific physical entry points.

The ex-ante discount is not applied when an interruption of the interruptible conditionally firm capacity results from non-compliance with the condition for firmness of contractual capacity.

When an interruption of the interruptible conditionally firm capacity does not result from non-compliance with the condition for firmness of contractual capacity, the ex-ante discount is applied. If the Operator offers conditionally firm capacity products in 2021, the points to which such service referrers to will be listed in the tariff.

In case of virtual backhaul transmission services to which a factor of 0,2 (80% discount) is applied to reserve prices, pursuant to § 14 of the Tariff Regulation, the *ex-ante* discount is not applied.

¹² Transmission Network Code (IRiESP).

3. Multipliers, seasonal factors and discounts referred to in Article 28(1)(a) to (c) of the Tariff Code for the tariff for gas transmission services of EuRoPol GAZ

3.1. Multipliers referred to in Article 28(1)(a) of the Tariff Code.

The level of multipliers for short-term products is shown in Table 5.

Tabela nr 5. *Multipliers for short-term capacity products adjusting tariffs for entry/exit to/from the transmission network of EuRoPol GAZ in 2021.*

Gas transmission service	Within-day	Daily	Monthly	Quarterly
Multiplier	1,95	1,95	1,30	1,10

The multipliers will be applied at all entry and exit points to/from the gas transmission system owned by EuRoPol GAZ for settlements of services provided on a short-term basis.

Considering the provisions of Article 13(2) of the Tariff Code, no seasonal factors referred to in Article 15 of the Tariff Code are set for the tariff of EuRoPol GAZ.

3.2. Application of multipliers.

The charge for a short-term gas transmission service will be calculated according to the following formula:

$$Op = Mn * Ss * Mu * T/100$$

where:

Op - the payment for a short-term gas transmission service (quarterly, monthly, daily or within-day) in [PLN],

Mn – a multiplier,

Ss – a transmission tariff, respectively for entry/exit [gr/kWh/h per h or gr/kWh/day per day],

Mu – a contracted capacity [kWh/h or kWh/day],

T – a number of hours or days in which the short-term service has been provided [h or day].

or

$$Op = Mn * Ss * Mu * T$$

where:

Op - the payment for a short-term gas transmission service (quarterly, monthly, daily or within-day) in [PLN],

Mn – a multiplier,

Ss – a transmission tariff, respectively for entry/exit [PLN/MWh/day per day],

Mu – a contracted capacity [MWh/day],

T – a number of days in which the short-term service has been provided [day].

In case of providing virtual backhaul capacity, both on a long- and a short-term basis, to the charge calculated according to the above formula additionally a coefficient of 0,2 is applied (80%

discount), pursuant to § 14 of the Tariff Regulation. For this reason for virtual backhaul capacity an ex-post discount foreseen for interruptible services is not applied.

3.3. Level of discounts to be used for calculating the reserve prices for standard capacity products for interruptible capacity - Articles 28(1)(c) and 16 of the Tariff Code.

For interruptible services provided in the transmission system owned by EuRoPol GAZ the ex-post discount will be applied.

Taking into account data from previous years which showed that no interruption of interruptible services has been observed, discounting of reserve prices of standard capacity products for interruptible capacity after interruption of the transmission service occurrence is justified. In accordance with Article 16(4) of the Tariff Code, this compensation shall be equal to three times the reserve price (rate) for daily standard capacity products for firm capacity and shall be paid for each day in which an interruption occurred.

4. Comments from transmission system users received during the consultation process

The comments received in response to consultation regarded to:

- a) the reduction of the multipliers values proposed for 2021, referred to in Article 28(1)(a) of the Tariff Code, by a percentage resulting from the change in the value of multipliers in 2020 compared to 2019, i.e. by around 2%, as it diverges from the level of much more developed markets in European countries, such as Germany,
- b) the reduction of gas transmission tariffs by revenues from additional charges for short-term products,
- c) the separation of multipliers for internal entry/exit points and for interconnection points with the EU Member States, interconnection points with third countries and interconnection points between SGT network and the national network, and adopting the following values for those points:
 - Quarterly: 1,1
 - Monthly: 1,25
 - Daily: 1,4
 - Within-day: 1,8
- d) the separation of seasonal factors for internal entry/exit points and for interconnection points with the EU Member States, interconnection points with third countries and interconnection points between SGT network and the national network, and adopting the proposed values for those points:
 - Winter/summer quarters: 1,05/0,85
 - Winter/summer months: 1,1/0,85
 - Day and Within-day Winter/Summer: 1,1or completely abandon using these factors,
- e) the separation of multipliers catalogue at level 1 for gas power stations or gas heat plants due to the need to ensure the reliability and safety of the national electricity system (regulatory units),

- f) the reduction of the level of the discount at entry point to the transmission system from the LNG facility, referred to in Article 28(1)(c) and Article 9(2) of the Tariff Code, from the current level of 100% and planned for 2021 – down to 80%,
- g) the implementation for interruptible conditionally firm transmission services of an ex-ante factor of 0,9 to 0,95, which would reflect the risk of service interruption,
- h) the separation of multipliers for SGT network for internal entry/exit points and for interconnection points with the EU Member States, interconnection points with third countries and interconnection points between a SGT network and the national network, and adopting the following values for these points:
 - Quarterly: 1,1
 - Monthly: 1,2
 - Daily: 1,4
 - Within-day: 1,8.

With regard to the comments made, I state the following:

Ad. a)

The level of multipliers proposed for 2021 has not changed compared to the level adopted in the Operator's tariff no. 13 (for 2020) and it aims at encouraging transmission system users to book long-term capacity products, while ensuring availability of short-term products at the same time. The use of long-term capacity products signals efficient investment in the development of the transmission system, whereas the offer of short-term capacity products allows market participants to flexibly structure their supply portfolio through the possibility of ongoing response to changing market conditions. The level of adopted multipliers is also intended to reflect, in the prices of short-term capacity products, the Operator's possible risks related to the costs of lost profits from the sale of shorter than one year capacity products. The multipliers adopted for 2021, on the one hand, enable the use of short-term transmission services and, on the other hand, enable significant investments in the transmission system planned till 2022.

Furthermore, the summary of the level of multipliers in the sample European countries, prepared by one of stakeholders taking part in the consultation, indicates that countries which have similarly developed markets as Poland (e.g. Lithuania, Slovakia) use multipliers at a similar level to the Polish one or higher. Thus comparing the Polish market to more developed markets is currently unjustified.

Poland is currently in the implementation phase of measures aimed at ensuring the diversification of natural gas supply sources, including the expansion of the transmission system (Baltic Pipe Project, North-South corridor, Poland-Lithuania interconnection), that will result in the infrastructure required for the gas market development.

The multipliers values proposed for 2021 fall within the limits set out in the Tariff Code and will be applied both at the interconnection points with EU countries, with third countries¹³ and at the internal points of the transmission system (for E-gas and L-gas), thereby reducing the risk of cross-subsidisation between transmission system users booking capacity at the specific points.

¹³ Referred to in Article 2(1) of the Tariff Code, i.e. Belarus and Ukraine.

Furthermore, the provisions of the Tariff Code do not require that multiplier values applied on both sides of the interconnection point have the same values.

Taking into account that in 2019 more than 60% increase in the use of short-term capacity products occurred compared to 2018 and the scope of investments in the transmission system, no adjustments were made to the value of multipliers.

Ad. b)

In accordance with the provisions of point 4.1. of *Reference price methodology No. 1/OGP for the own transmission network of Gas Transmission Operator Gaz-System S.A. for the period: from 1 January 2020 to 31 December 2022*, approved by the decision of the President of ERO ref. no. DRG.DRG-2.745.1.2019.JDo1 of 29 March 2019, the Operator's tariff calculation shall take into account the level of short-term capacity (offered on a firm and interruptible basis) realised in the calendar year preceding the year in which the application for a tariff approval was submitted.

The amount of booked capacity underlying the calculation of reference prices for a "n+1" tariff year is the sum of the planned booked capacity under standard annual firm and interruptible capacity products for a gas year in "n" year and the level of short-term capacity under quarterly, monthly and daily standard firm and interruptible capacity products, realised in a "n-1" calendar year preceding the year in which the application for tariff approval was submitted. Hence, the statement that the revenue from the provision of short-term services constitutes additional revenue of the Operator is unreasonable.

In addition, it should be stressed that the revenues actually achieved by the Operator in a given tariff year from the sale of short-term capacity products are a component of the revenue actually achieved, which is recorded on the so-called regulatory account¹⁴ and compared with the revenue planned for this year. Pursuant to the provisions of Article 18(1) of the Tariff Code, under or over-recovery of transmission revenue represents, for a given tariff period, the difference between the value of the actual revenues collected in connection with the provision of transmission services during that period and the planned value of revenue from the transmission services included in the tariff calculation for the period in question.

Positive value of the above difference means over-recovery of transmission revenues for a given year and will reduce the revenue used to calculate the tariff in subsequent years, while the negative one means that there is under-recovery of the revenues and will result in an increase in the revenue adopted for the calculation of future tariffs, as part of the regulatory account reconciliation referred to in Article 20 of the Tariff Code.

Ad. c) i h)

The separation of multipliers for internal entry/exit points and for the interconnection points with the EU Member States, the interconnection points with third countries and the interconnection points between SGT network and the national network, is not advisable as it could result in the risk of cross-subsidisation between the intra-system and cross-system use of the transmission network. Therefore, the proposed changes do not merit to be taken into account, both in the case of the Operator's own network and the network owned by EuRoPol GAZ.

¹⁴ The solution introduced by the Tariff Code, applied from 31 May 2019, in which the difference between the planned revenue and realized one for the year in question will be taken into account in the calculation of tariffs for subsequent years.

Furthermore, it should be noted that the level of multipliers does not limit the possibility of transmitting amounts of natural gas adjusted to current demand, as there is no obligation to use the ordered capacity in 100%. On the other hand, the level of multipliers may affect the cost-effectiveness of cross-border trade in the absence of the availability of annual capacity products.

Ad. d)

Applying a differentiated level of seasonal factors to internal entry/exit points and to the interconnection points with the EU Member States, the interconnection points with third countries and the interconnection points between SGT network and the national network would contribute to the risk of cross-subsidisation between the cross-system and intra-system use of the transmission network.

Taking into account the seasonality of gaseous fuel demand on the Polish gas market, in order to increase the optimisation of the system usage by creating incentives to use the transmission network during periods of decreased demand for the capacity reported by the system users, it is necessary to apply seasonal factors.

The main objective of the applied tariff model is to incentivise long-term contracts and to structure tariffs mainly on the basis of the long-term capacity bookings, unchanged during the year. This is due to the specificity of the transmission system operator's activities, in which the gaseous fuel transmission increases in the so-called "heating season", while the costs of storage, transmission, network maintenance are borne by the Operator throughout the year. This means that the Operator should have a stable inflow of funds secured evenly throughout the year.

The seasonal factors have been calculated in accordance with the methodology set out in Article 15 of the Tariff Code based on gas volumes delivered in 2018 to exit points of E-gas and L-gas transmission systems (excluding gas volumes transported to exit points to UGS). The used parameters have been selected in such a way that the products of the multiplier and the corresponding seasonal factor give values similar to the correction factors applied so far. Additionally the arithmetic average of the products of the relevant seasonal factor and the multiplier, calculated in accordance with Article 13 item 2 of the Tariff Code, falls within the permissible ranges specified in Article 13(1) thereof.

Ad. e)

Currently, capacity booking in the Operator's transmission system is based on a connection agreement, a transmission agreement, capacity allocation and agreements referred to in items 3.8.11, 3.8.12, 3.9 or 3.10 of TNC, that is in line with § 2(4) of the System Regulation¹⁵, wherein the booked capacity of the gas system is defined as "the capacity of the gas transmission system or the gas distribution system that was booked in connection with the contracts concluded by the gas transmission system operator for the provision of a service for the gaseous fuels transmission or their distribution and contracts for connection to the gas network, unless the deadline for the conclusion of the contract, under which the supply of gaseous fuels was to be realised, has expired".

¹⁵ Regulation of the Minister of the Economy of 2 July 2010 on detailed terms of operation of the gas system (Journal of Laws of 2018, No 1158, as amended).

Gas power stations and gas heating plants should not rely on short-term gas transmission services with a view to ensure the safety and reliability of the national electricity system. In case of short-term services, there is no guarantee that the capacity ordered for shorter time than one year will be available at the time when the electricity/heat generator will be submitting nominations. The risk of capacity shortage increases for daily and within-day capacity products, which are realised by the Operator in the last order, and which products are of the main interest of electricity industry entities. Taking into consideration high demand for peak capacity, these entities should base their capacity bookings on long-term transmission services that will guarantee stability and supply of gaseous fuel continuity.

Ad. f)

Currently a 100% discount at the entry point to transmission system from the LNG terminal is justified for reasons of crucial importance of diversified gas supply directions and access to the global gas market. Furthermore, it should be stressed that the adopted approach does not foresee a so-called socialization of LNG terminal costs, which is quite common in other EU countries.

Furthermore, the analyses of ERO on the competitiveness of gas imported from various sources indicate that it is still justified to maintain the discount for the LNG entry point on the current level, i.e. 100%. Possible change in the discount at the entry point to transmission system from the LNG terminal will be considered at the completion of the diversification projects.

Ad. g)

Regarding the requests of transmission system users and the Operator, an ex-ante discount will be applied for interruptible conditionally firm capacity products if an interruption of the interruptible conditionally firm capacity does not result from non-compliance with the condition for firmness of contractual capacity. On the other hand, where the interruption of the service was due to the failure to fulfil the condition for firmness of contractual capacity, there is no justification for granting the discount¹⁶. This approach will ensure equal treatment of all transmission system users.

¹⁶ ENTSOE presented a similar view on page 89 of *TAR NC Implementation Document – Second Edition September 2017*.

5. Consideration of aspects referred to in Article 28 (3) of the Tariff Code

Pursuant to the provisions of Article 28(3) of the Tariff Code, the President of ERO, when taking a decision on the issues listed in section 1 of this provision, shall take into account the responses received during the consultation and the following aspects:

(a) with regard to the multipliers:

- the balance between facilitating short-term gas trading and providing long-term signals for efficient investment in the transmission system,
- the impact on revenues from transmission services and their recovery,
- the need to avoid cross-subsidisation between network users and to increase cost reflectivity of reserve prices,
- situations of physical and contractual congestion,
- the impact on cross-border flows,

(b) with regard to seasonal factors:

- the impact on facilitating the economic and efficient use of the infrastructure,
- the need to improve the cost-reflectivity of reserve prices.

The analysis of these issues has been presented in the consultation paper.

In addition, it should be highlighted that Article 13(1) of the Tariff Code sets out limits of multipliers values for the following capacity products:

- quarterly and monthly standard capacity products - not less than 1 and not more than 1,5;
- daily and within-day standard capacity products - not less than 1 and not more than 3 (in justified cases the multiplier value may be less than 1 but more than 0 and more than 3).

The established multiplier values in this Communiqué, both for the Operator's tariff and for the tariff of EuRoPol GAZ, fall within the permissible limits set out in the Tariff Code and will be applied at both interconnection points and internal transmission system points. Also the arithmetic average of the products of the seasonal factor (Table 2) and the relevant multiplier (Table 1) determined for the Operator's tariff, calculated in accordance with Article 13(2) of the Tariff Code, falls within the permissible ranges specified in Article 13(1) thereof.

The multiplier level allows the Operator to maintain an appropriate proportion between long-term products ensuring the stability of its revenues, and thus the possibility to carry out investments, and short-term products that enable network users to optimize their purchase portfolios.

Since the multipliers and seasonal factors applied to short-term products are established at the same level for all entry and exit points, each network user pays the same charge for short-term products regardless of their transmission routes. Given the above, multipliers or seasonal factors have no impact on the level of cross-subsidisation between network users or on cross-border flows. In addition, seasonal factors are set at a level reflecting transmission system gas outflows depending on the market profile of demand for gaseous fuel and will not have a negative impact on the efficient use of the transmission infrastructure.

Due to the fact that capacity for short-term services is included in the calculation of the tariff, the established level of multipliers and seasonal factors will not affect the recovery of revenue by the Operator and EuRoPol GAZ.