



**PRESIDENT**

Warsaw, 29 March 2019

**ENERGY REGULATORY OFFICE**

DRG.DRG-2.745.3.2019.JDo1

**DECISION**

Pursuant to Article 27(4) of Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (OJ L 72, 17.3.2017, p. 29) and Articles 104 and 108(1) of the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2018, 2096, as amended), in connection with Article 30(1) and Article 23(2)(11a) of the Energy Law Act of 10 April (Journal of Laws of 2018, item 755, as amended),

after conducting administrative proceedings initiated ex officio

on 18 January 2019, towards

**Operator Gazociągów Przesyłowych GAZ-SYSTEM Spółka Akcyjna with its registered office in Warsaw, hereinafter referred to as "the Operator",**

to which the Operator provided letters dated: 21 January 2019 - ref. no: 2019-11810 PF.3113.1.2019.1, 5 February 2019 ref. no: 2019-20341 PF.3113.5.2018.16 and 6 March 2019 ref. no: 2019-38329 PF.3113.5.2018.30

I hereby decide to

- I. approve the *Reference Price Methodology No 1/SGT for the transmission network owned by the energy company System Gazociągów Tranzytowych EuRoPol GAZ S.A. with its registered office in Warsaw for the period **from 1 January 2020 to 31 December 2022***, which constitutes an annex to this Decision,
- II. make the Decision immediately enforceable.

## STATEMENT OF REASONS

On 16 July 2018 the President of the Energy Regulatory Office (hereinafter: "the President of ERO"), by decision No DRG.DRG-2.7129.5.2018.JDo1, appointed the Operator as the entity responsible for the performance of the following obligations set forth in 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: "the Tariff Code" or "TAR NC":

- 1) conducting consultations referred to in Article 26(1) of the Tariff Code, concerning, among others, the methodology for determining reference prices (also referred to as: "RPM Methodology" or "RPM<sup>1</sup>"), including preparation of the consultation paper, its publication and publication of the responses received to such consultations and their summary,
- 2) providing the Agency for the Cooperation of Energy Regulators (hereinafter referred to as "ACER") with consultation papers after the commencement of the above referenced consultations, pursuant to Article 27(1) of the Tariff Code,
- 3) carrying out assessments of cost allocation referred to in Article 5 of the Tariff Code and publishing them as a part of the aforementioned consultations,

in terms of its own transmission network and the transmission network owned by System Gazociągów Tranzytowych EuRoPol GAZ S.A. (hereinafter referred to as "EuRoPol GAZ"), on which Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. performs the function of the operator.

These consultations should last at least two months and include the following information:

(a) a description of the proposed reference price methodology and the following elements:

- the indicative information referred to in Article 30(1)(a) of the Tariff Code, including a justification of the applied parameters related to the technical characteristics of the system and relevant information on their respective values and adopted assumptions,
- the values of the proposed capacity-based transmission tariff adjustments referred to in Article 9 of the Tariff Code,
- the indicative reference prices subject to consultation,
- the results and components of the assessment of the cost allocation referred to in Article 5 of the Tariff Code and details of its components,
- an assessment of the proposed reference price methodology in terms of compliance with Article 7 of the Tariff Code,
- comparison of the proposed reference price methodology with the capacity weighted distance methodology for indicative reference prices if the proposed reference price methodology differs from the capacity weighted distance methodology,

(b) the indicative information referred to in Article 30(1)(b)(i), (iv) and (v) of the Tariff Code,

- (c) the following information on non-transmission tariffs:
- methods of setting the tariffs for the non-transmission services in question,
  - the share of allowed or target revenues to be recovered from such tariffs,
  - the manner in which the associated non-transmission services revenue is reconciled as referred to in Article 17(3) of the Tariff Code,
  - indicative tariffs for non-transmission services provided to network users,
- (d) indicative information referred to in Article 30(2) of the Tariff Code.

The Operator has prepared a relevant consultation paper and from 28 August to 31 October 2018 it conducted the above mentioned consultations with respect to the transmission system owned by EuRoPol GAZ. No comments from transmission system users were received during the consultations.

Pursuant to the provisions of Article 27(3) of the Tariff Code, on 13 December 2018 ACER published and sent to the Operator the conclusions of the analysis of the consultation paper conducted pursuant to item 2 of the above mentioned provision. ACER's conclusions included comments on the consultation paper and recommendations to the Regulator to be taken into account in the final decision on the RPM, that is:

- a) assessment of the modifications applied in the proposed RPM in terms of their compliance with the principles set forth in the Tariff Code and, in the event that they prove to be inconsistent with these principles, ACER recommends the Regulator to adopt a simpler and more transparent distance-based methodology in order to achieve the required compromise between the principles set forth in Article 7 of the Tariff Code and the desired objectives of the regulatory policy,
- b) provision of a detailed description of all stages of the RPM and a comprehensive explanation of how the objectives of the methodology relate to proposed modifications which, in the opinion of ACER, were not within the scope of the adjustments set out in Article 6(4) of the Tariff Code,
- c) provision of a more detailed justification as to the compliance of the proposed RPM with the criteria set out in Article 7 of the Tariff Code, including an assessment of the consistency of the proposed modifications with the principle of cost-reflectivity and the avoidance of excessive cross-subsidisation,
- d) specification of the criteria used to determine the entry/exit split; according to ACER it was not clear whether the proposed split is an entry or exit parameter in the proposed methodology, as it appeared to depend on the volume of capacity reserved at different points in the transmission system and consequently prevented system users from making an appropriate forecast of future reference prices,
- e) specification of the period for which the proposed RPM and parameters are established or presentation of the criteria which will trigger a new consultation process,
- f) publication of a simplified tariff model allowing network users to change assumptions about capacity reservations at specific points in the system and further explanation of the entry/exit split and its impact on reference prices.

---

<sup>1</sup> *Reference price methodology*

Furthermore, in its opinion ACER concluded that the consultation paper was incomplete as it lacked key aspects of the description of the RPM, as indicated in points (b) to (f) above. In the absence of a consistent assessment of the proposed RPM, ACER concluded that the consultation paper did not comply with Article 7 of the Tariff Code, in particular:

- a) the proposed modifications make the role of cost drivers (capacity and distance) unclear, which limits ACER's ability to assess the cost-reflectivity of the RPM as well as the existence of cross-subsidisation and distortion of cross-border trade,
- b) volume risk does not need to be analysed as there are no final customers connected to the network of EuRoPol GAZ and therefore no situation occurs where a much larger volume of gas is transported than it is consumed,
- c) the ability of network users to predict reference prices is hampered by a lack of transparency in the description of the proposed RPM for the period for which the methodology will be applied and in the way the entry/exit split is determined after 2020,
- d) in ACER's opinion, the adoption of the reference price at Mallnow-entry at the same level as Mallnow-exit is inconsistent with the requirements of the Tariff Code and could potentially result in hampering cross-border trade, in particular for gas fed at Mallnow (Germany) and gas offtaken at PWP (Poland), therefore it was recommended to include Mallnow entry point in the flow scenario in case the adjustments applied at this point were inconsistent with the requirements of the Tariff Code.

In the summary of its report, ACER referred to the configuration of the Polish transmission network, which is divided into two entry/exit systems: the national network and the gas pipeline owned by EuRoPol GAZ. As a result, gas supplies to the Polish market via the EuRoPol GAZ pipeline are more expensive than by other entries to the national network. The difference is determined by two additional rates arising from the tariff for the EuRoPol GAZ pipeline:

- gas entered the national network is charged the same rate at entry points resulting from the Operator's tariff (3.517 PLN/MWh/h)<sup>2</sup> for its own network,
- gas delivered to the national network via the EuRoPol GAZ pipeline is charged for entry to this pipeline on the border with Belarus (1.3885 PLN/MWh/h) and for exit to Poland (0.4597 PLN/MWh/h). In total, these rates amount to 1.8482 PLN/MWh/h and the entry rate to the national grid should be added to them. The additional rate for gas supply to the Polish market via the EuRoPol GAZ pipeline constitutes a surplus of 52% compared to standard entry rates charged when gas is fed directly into the national network.

**In consideration thereof, ACER recommended that the regulator should estimate the costs and benefits of the two entry/exit systems merger.**

In accordance with Article 27(5) of the Tariff Code, the procedure including the final consultation on the reference price methodology referred to in Article 26, issuance of a decision on the consulted questions by the President of ERO pursuant to Article 27(4), calculation of the tariff pursuant to that

---

<sup>2</sup> Indicative entry rate resulting from the consultation paper on the Operator's network, assuming a 50/50 entry/exit split. The final version of the RPM for the Operator's network maintains the current entry/exit split of 45/55, resulting in a change in indicative rates.

decision and publication of the tariff, must be completed by **31 May 2019** at the latest. This procedure shall be repeated at least every five years starting on 31 May 2019.

Pursuant to Article 27(4) of the Tariff Code, the President of ERO, within 5 months of the end of the final consultations (that is by 31 March 2019), is obliged to take and publish a reasoned decision regarding the reference price methodology, including the issues specified in Article 26(1) of the Tariff Code, with respect to the transmission network of the Operator and the network belonged to EuRoPol GAZ. The decisions approving the above methodologies after its publication will be sent to ACER and the European Commission.

Considering the above, on 18 January 2019 the President of ERO informed the Operator about the initiation of an ex officio procedure to approve the reference price methodology, including the elements specified in Article 26(1) of the Tariff Code, with respect to the transmission network owned by EuRoPol GAZ, on which the Operator performs a function of a gas transmission system operator under the Decision of the President of ERO of 17 November 2010, ref. no: DPE-4720-4(8)/2010/6154/BT. On the same day, EuRoPol GAZ received information on the initiation of the above mentioned proceedings towards the Operator, indicating the necessity of direct cooperation with the Operator in this respect in order to comply with the obligations arising from the Tariff Code. On the formal grounds, the basis for such cooperation is Article 9h (11) of the Energy Law Act, which stipulates that the transmission grid owner (...) is obliged to provide the operator, designated in accordance with items 1 or 9, with the information and documents necessary to perform the tasks of the operator and to cooperate with that operator. Such tasks of the Operator include in particular the obligation to develop the reference price methodology.

At the same time, the Operator was requested to submit, within 7 days of the delivery of the notification, the following explanations and supplements with respect to the reference price methodology:

- a) to submit explanations of the Operator regarding the conclusions contained in the ACER analysis<sup>3</sup>,
- b) to provide explanations as to whether the methodology fails to consider the fact that regulated/allowed revenue covers revenue from the provision of ancillary services rendered at the customer's request and revenue from fees for exceeding contracted capacity, pursuant to Article 10 (1) (2) and (3) of the Ordinance of the Minister of Energy of 15 March 2018 on detailed rules for shaping and calculating tariffs and settlements in trade in gaseous fuels (Journal of Laws of 2018, item 640), hereinafter referred to as the "Tariff Ordinance",
- c) provide explanations on the current cost allocation methodology and compare it to the capacity weighted distance methodology (CWD<sup>4</sup>),
- d) provide justification for the creation of PWP,
- e) provide explanations on how the contracted capacities used to calculate the tariff are determined and not to include short-term capacities in the calculation,

---

<sup>3</sup> [https://www.acer.europa.eu/en/Gas/Framework%20guidelines\\_and\\_network%20codes/Pages/Harmonised-transmission-tariff-structures.aspx](https://www.acer.europa.eu/en/Gas/Framework%20guidelines_and_network%20codes/Pages/Harmonised-transmission-tariff-structures.aspx)

<sup>4</sup> Capacity weighted distance – a methodology described in Article 8 of the Tariff Code

- f) provide a description of the services provided by the Operator and EuRoPol GAZ on the transmission network owned by EuRoPol GAZ and the rules of mutual settlements,
- g) to submit a description of the regulatory account and the rules for reconciling it during the methodology validity term, pursuant to the provisions of Articles 17, 18, 19 and 20 of the Tariff Code.

By letter of 21 January 2019 the Operator applied for an extension of the 7-day deadline for responding to the aforementioned call before 5 February 2019, justifying its request with the scope of data necessary to be prepared. In a letter dated 28 January 2019, the President of ERO approved the Operator's request.

On 5 February 2019, a reply was received in which the Operator presented its own explanations with respect to points d, f (in the part concerning the services provided by the Operator) and g, while the remaining part it attached as explanations received from EuRoPol GAZ:

- a) EuRoPol GAZ emphasized that possible deviations from the CWD benchmark methodology are allowed by law and therefore any other RPM could be proposed provided that it meets the conditions set out in Article 7 of the Tariff Code and therefore EuRoPol GAZ did not share the concerns of ACER set out in paragraph 4.1.1(21) of the opinion that "the proposed modifications do not entail any adjustments provided for in Article 6 (4) of the TAR NC". It referred to Article 6(4)(a) of the Tariff Code, which allows the RPM to be adapted to all exit and entry points on the basis of a benchmarking carried out by the national regulatory authority, whereby reference prices at the entry or exit point are to be adjusted so that the values obtained correspond to a competitive level of reference prices. It underlined that the proposed RPM assumes the alignment of reference prices at entries to the system (that is Kondratki and Mallnow points) by adjusting the entry/exit split (50/50). From a mathematical point of view, this correction is described by the formula:

$$\text{Ratio}_{\text{En}} = W_{c \text{ Mallnow}} * \text{CAP}_{\text{Kondratki}} / (2 * \text{CAP}_{\text{Mallnow}})$$

$$\text{Ratio}_{\text{Ex}} = 100\% - \text{Ratio}_{\text{En}}$$

where:

$\text{Ratio}_{\text{En}}$  – revenue share at entry [%],

$\text{Ratio}_{\text{Ex}}$  – revenue share at exit [%],

$W_{c \text{ Mallnow}}$  – cost weight for Mallnow exit point before adjustment,

$\text{CAP}_{\text{Kondratki}}$  – contracted capacity at Kondratki entry point,

$\text{CAP}_{\text{Mallnow}}$  - contracted capacity at Mallnow exit point.

- b) as regards the proposed modification of the cost weights allocated to particular entry/exit points, according to EuRoPol GAZ, it aimed at harmonising for each customer the total fee for entry/exit into the transmission system converted per unit of contracted capacity and per unit of distance between the respective entry/exit points (expressed in PLN/MWh/100 km). Such an approach was aimed at eliminating discrimination against customers using gas transmission services over a shorter distance. The above weight adjustment is presented in the formula:

$$W'_{c, \text{Ex}} = W_{c, \text{Ex}} - (\text{CAP}_{\text{Ex}} / \text{CAP}_{\Sigma \text{Ex}} - W_{c, \text{Ex}}) \times R_{\Sigma \text{En}} / R_{\Sigma \text{Ex}}$$

where:



$W'_{c,Ex}$  – adjusted cost weight for a specific exit point (PWP or Mallnow),

$W_{c,Ex}$  – cost weight for a specific exit point,

$CAP_{Ex}$  – contracted capacity at a specific exit point,

$CAP_{\Sigma Ex}$  – contracted capacity at all exit points,

$R_{\Sigma En}$  – revenues recovered at entry points,

$R_{\Sigma Ex}$  – revenues recovered at exit points.

- c) EuRoPol GAZ did not share ACER's concerns about the exclusion of the Mallnow entry point from the RPM because it considered it to have been the result of the assumption that the indicative contracted capacity at that point was zero. Indeed, it should be noted that under the assumed gas flow scenario for the gas pipeline of EuRoPol GAZ, the proposed RPM does not provide at this entry point into the transmission system for transmission services for which the reference price is the price for a firm capacity product with a duration of one year (in line with the TAR NC reference price definition). The indicative forecast at the Mallnow entry point assumes revenue generation for services based on virtual reverse flow capacity - for which, in accordance with the applicable national regulations, the reserve price constitutes 20% of the reference price,
- d) with regard to the lack of sufficient description of the RPM, EuRoPol GAZ indicated that during the consultations, at the request of ACER, it provided the Operator with explanations to the consultation paper along with a complete calculation of reference prices according to the proposed methodology, including formulas describing modifications to the CWD methodology, which was confirmed in point 4.1.1. line 20 of the ACER opinion; the updated simplified tariff model was also provided,
- e) with regard to ACER's comment on the higher costs (52%) associated with the supply of gas to the Polish market by the EuRoPol GAZ pipeline, as compared to standard entry charges levied when gas is fed directly into the national network, EuRoPol GAZ indicated that charges for the use of the gas pipeline owned by it do not constitute an unjustified 'mark-up' but cover justified costs incurred in maintaining and operating the transmission network and result from tariffs calculated on the basis of a single charge per unit of contracted capacity and per unit of distance per user (PLN/MWh/100km),
- f) as regards the inclusion in the calculation of the tariff of revenues from the ancillary services referred to in Article 10 of the Tariff Ordinance, EuRoPol GAZ stated that it does not earn such revenues and that the only service provided sporadically is the pressure booster service, the provision of which depends on the pressure of gas supplied to the entry point, and in 2018 it did not earn revenues therefrom, and that it has no information on capacity overruns,
- g) EuRoPol GAZ provided explanations concerning the currently applied RPM, the manner of determining the volume of contracted capacity used to calculate the tariff (annual annexes to the concluded agreements) and the method of settlements with the Operator, while with respect to the regulatory account, it referred to the expertise of the Operator,
- h) The Operator explained that the Interconnection Point was established in 2013 by connecting two physical points (Włocławek and Lwówek) connecting the national transmission system with the transmission system of EuRoPol GAZ, which resulted mainly from the implementation of the

European regulations on capacity allocation rules<sup>5</sup>. In addition, the creation of this point simplified the use of the transmission system by network users by participating in one auction instead of two, and consequently by submitting one nomination/renomination. It was also important to eliminate technical limitations due to e.g. repair or maintenance works carried out at one of the physical points,

- i) the Operator has indicated that it provides services to EuRoPol GAZ under two contracts:
  - contract for the provision of maintenance services for the line part of the SGT pipeline dated 29 January 2019, and
  - contract for entrusting the obligations of the Operator on the Polish section of the Yamal - Europe Transit Gas Pipeline System dated 25 October 2010, pursuant to which the Operator also provides commercial services to system users using transmission services (not used by the so-called historical contracts) in the reverse and basic direction and performs settlements (including settlements for the virtual reverse flow service),
- j) as regards the regulatory account, the Operator pointed to the existence of several possible solutions and declared its readiness to cooperate with the Regulator in this respect; it also stressed that as part of work on amending the Tariff Ordinance, it proposed that the balance of the regulatory account should be settled for the first time when determining the regulated income for 2021.

After analysing the evidence gathered during the proceedings, including the above mentioned information, on 22 February 2019 the Operator was sent another request for explanations and additional information about the RPM for the transmission network owned by EuRoPol GAZ:

- a) to submit a draft RPM for the period from 1 January 2020 to 31 December 2022, covering the elements specified in Article 26(1) of the Tariff Code and taking into account the conclusions of the ACER analysis, in a layout consistent with the attached template, with the proviso that the above draft method should contain only data that does not constitute the Operator's confidential information ,
- b) to submit a description of the gas transmission system owned by EuRoPol GAZ as an annex to that method, including a simplified scheme for that system,
- c) to provide information on the parameters to be met by gas entered the EuRoPol GAZ transmission network and on the fees, if any, levied in the event of non-compliance in 2017 and 2018,
- d) to provide an explanation of how capacity is allocated to the different points of the EuRoPol GAZ transmission system and, if using the GSA platform<sup>6</sup>, information on costs incurred in 2017 and 2018,
- e) to complete the information on technical and contracted capacities for particular months in 2017 and 2018,

---

<sup>5</sup> Pursuant to Article 19(9) of Commission Regulation (EU) No 984/2013 of 14 October 2013 establishing a network code on capacity allocation mechanisms in gas transmission systems and supplementing Regulation (EC) No 715/2009 of the European Parliament and of the Council (OJ L 273, 15.10.2013, p. 5), hereinafter 'Regulation 984', where two or more interconnection points connect the same two adjacent entry/exit systems, the adjacent transmission system operators concerned shall offer the available capacities at the interconnection points at one virtual interconnection point.

<sup>6</sup> Gas-System Auctions - an IT platform established in July 2014 in connection with the requirements of Regulation 984 (see footnote no 5)



- f) to consider changing the proposed RPM (modified CWD methodology) to that used to calculate the tariffs already approved, with a view to meeting the requirements set out in Article 7 of the Tariff Code and the recommendations made in ACER's opinion suggesting, among others, the adoption of a simplified revenue allocation method;  
In the request it was noted that in the previous method, the division of revenues into entry-exit was result-based, assuming the condition of a uniform level of unit cost of gas transport related to power and distance (PLN/MWh/100 km) for the main network users, which did not require adjustment of reference prices that ACER questioned as inconsistent with the Tariff Code. The recommendation included on page 2 of the analysis of the consultation paper prepared by ACER was also referred to: "...to adopt a simpler and more transparent methodology based on distance in order to reach a compromise between the principles set out in Article 7 of the TAR NC and the desired objectives of the regulatory policy".
- g) To supplement the explanatory notes on virtual reverse flow services in the following extent:
- submit information on the revenues generated from the provision of these services and the capacities ordered at the entrance of Mallnow and the exit PWP in 2017 and 2018,
  - explain, bearing in mind the definition of virtual reverse transmission contained in Article 2 (24) of the Tariff Ordinance and the provisions of Article 14 of the Ordinance, whether in the case of provision of this service the Operator applies a coefficient of 0.2 both to the entry rate at Mallnow and exit rate at PWP,
  - present an analysis of unit costs of gas transport within the reverse (PLN/MWh/100 km) and compare them with the costs for the basic direction,
- h) to supplement the explanations concerning the non-application of correction factors for short-term gas transmission services provided through the EuRoPol GAZ network, presented in the letter of 8 February 2019, ref. no: 2019-22467 PF.3113.5.2018.19, bearing in mind the applicable provisions of law,
- i) to submit an analysis of transmission and non-transmission services provided by the Operator, bearing in mind their definitions contained in Article 3(12) and (15) of the Tariff Code, as well as services provided under non-regulated activities and an appropriate supplement to the draft RPM.  
In addition, EuRoPol GAZ was requested to submit the calculation of rates for non-transmission services provided (e.g. gas compression) in accordance with the requirements of Article 4(4) of the Tariff Code,
- j) to take into account in the RPM the fact that regulated /allowed revenue covers revenue from the provision of services rendered at the additional request of the system user, revenue from fees for exceeding contracted capacity and for system balancing and congestion management, pursuant to Article 10(1)(2), (3) and (5) and (3) of the Tariff Ordinance,
- k) to submit calculations of the entry/exit split range for the RPM validity term, depending on the volatility of contracted capacity, for two options:
- including revenues from reverse services,
  - not including the above mentioned revenues,
- l) to submit of a tariff model referred to in Article 30(2)(b) of the Tariff Code fulfilling the requirements of ACER (in the form of an xlsx file),
- m) to submit an assessment of the cost allocation referred to in Article 5 of the Tariff Code, treating gas transmission through the interconnection point (PWP) as an intra-system use of the transmission network.

On 6 March 2019, the Operator's response to the request was received and the draft RPM for the transmission network owned by EuRoPol GAZ for the period from 1 January 2020 to 31 December 2022 was attached to it. In addition, the Operator:

- (a) submitted a description of the transmission system of EuRoPol GAZ, including a simplified scheme,
- (b) submitted a list of parameters which should be met by gas fed into the network, and declared that in 2017 and 2018 it did not charge any fees for failure to ensure the quality parameters of the fuel transmitted through the EuRoPol GAZ network,
- (c) with respect to capacity allocation, the Operator indicated that the capacity obtained under the entrustment agreement to perform the operator's obligations with respect to annual, quarterly, monthly and daily products within the available capacity on a firm and interruptible basis, as well as within-day products within the available capacity on a firm basis at physical entry points and physical exit points and the interconnection point, takes place under the auction procedure (in accordance with point 8.6 of the EuRoPol GAZ TNC approved by the President of ERO), due to the fact that all these points are treated as inter-system connection points.

The allocation of capacity, which is dispatched by EuRoPol GAZ, is based on the provisions of the so-called historical contracts, however, the Operator does not have detailed knowledge on this subject.

- (d) submitted information regarding the technical and contracted capacities of the EuRoPol GAZ transmission network,
- (e) took into account the change of the RPM from the modified CWD methodology, as adopted in the consultation paper, to the contracted capacity and distance-based methodology used in the calculation of the tariffs already approved,
- (f) submitted information on the revenue at the Mallnow entry point and, in this respect, at the exit interconnection point, generated from the provision of virtual reverse flow services in 2017 and 2018 and explained that the coefficient of 0.2 (80% discount) applies to both the rate for Mallnow entry point and the rate for PWP, in the extent of utilisation of the Mallnow entry point,
- (g) supplemented the explanations concerning the non-application of correction factors for short-term gas transmission services provided through the EuRoPol GAZ network, presented in the letter of 8 February 2019, ref. no: 2019-22467 PF.3113.5.2018.19:

- pursuant to Article 8, point (a) of NC CAM, capacity of at least 10% of the existing technical capacity at each intersystem connection point shall be offered no earlier than at the time of the annual auction of quarterly capacity, held in accordance with the auction calendar during the gas year preceding the start of the relevant gas year. Under the entrustment agreement to perform the operator's duties, the Operator may offer only 4% of the technical capacity of the EuRoPol GAZ network in the basic direction (Kondratki-Mallnow), which means that all capacity at its disposal can only be made available through short-term products. The network user entering the auction procedure at the Kondratki entry point and Mallnow exit point was therefore not able to purchase contracted capacity on a long-term basis. Therefore, the Operator adopted a rule for settlements according to which a user purchasing 4 consecutive quarterly products (12 months in total) during the same auction procedure will be settled according to the rules provided for annual products - that is without the application of correction factors for short-term contracts;

- as regards the settlement of the virtual reverse flow service, EuRoPol GAZ pointed out that due to appeal proceedings against the decisions of the President of ERO approving the tariffs for 2018 and 2019, the 2017 tariff is currently applied (that is the tariff approved by the President of ERO decision of 16 December 2016 ref. no. RG.DRG-2.4212.57.2016.IRŚ, amended by the decision of 29 September 2017 ref. no. DRG-2.4212.53.2017.IRŚ), which does not provide for the application of correction factors for short-term virtual reverse transmission services,
- (h) explained that non-transmission services are not provided on the transmission network of EuRoPol GAZ,
- (i) with respect to the inclusion in the RPM of the fact that regulated /allowed revenue from the provision of services rendered at the additional request of the customer, revenue from fees for exceeding contracted capacity and for system balancing and congestion management, the Operator noted that pursuant to Article 26 of the Tariff Code, periodic consultations describe the reference price methodology. In its opinion, these provisions do not refer to the method of regulated revenue calculation and individual elements constituting the total amount of such revenue, but rather to the method of its division among transmission system points,
- (j) EuRoPol GAZ did not submit an assessment of the cost allocation referred to in Article 5 of the Tariff Code, explaining that PWP is a point of inter-system connection, as defined in Article 3 of Regulation 459<sup>7</sup>. Therefore, there are no intra-system points in the EuRoPol GAZ network and there is no intra-system utilisation of the network. Consequently, the provisions of Article 5 of the Tariff Code concerning the assessment of cost allocation do not apply.

The Operator attached the transmission system scheme to the above explanations.

In a letter dated 25 March 2019, ref. no. DRG.DRG-2.745.3.2019.JDo1, the President of ERO notified the Operator about the termination of the administrative proceedings and about the possibility to become acquainted with the evidence gathered in this case by 27 March 2019. On 25 March 2019, the company received the notice of termination of the evidence procedure and did not exercise its right.

**In the course of these proceedings, the President of ERO noted the following:**

The Operator holds a licence for the transmission of gaseous fuels within the territory of the Republic of Poland, granted by the decision of the President of ERO of 30 June 2004, ref. no: PPG/95/6154/W/2/2004/MS (as amended). EuRoPol GAZ holds a licence for the transmission of gaseous fuels within the territory of the Republic of Poland until 31 December 2025, granted by the decision of the President of ERO dated 18 July 2008, ref. no: PPG/102/3863/W/2/2008/BP.

By decision of 23 June 2006, ref. no: DPE-47-4(2)/6154/2006/BT, as amended by decision of 18 December 2006, ref. no: DPE-47-10(5)/6154/2006/MW, by decision of 9 December 2009, ref. no: DPE-47-109(2)/6154/2009/BP, by decision of 13 October 2010, ref. no: DPE-4720-3(7)/6154/2010/BT, and by decision of 6 December 2018, ref. no: DRG.DRG-1.4720.1.2018.KL, the President of ERO appointed OGP Gaz-System S.A. as the operator of the gas transmission system on the territory of the Republic of Poland on the networks owned by it for the period ending on 6 December 2068. In addition, by decision of 17 November 2010, ref. no: DPE-4720-

---

<sup>7</sup> Commission Regulation (EU) No 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (OJ L 72 of 17.03.2017, p. 1)

4(8)/2010/6154/JL, the President of ERO appointed OGP Gaz-System S.A. as the operator of the gas transmission system on the section of the Yamal - Western Europe gas pipeline located on the territory of the Republic of Poland, owned by the SGT EuRoPol GAZ S.A, for the period until 31 December 2025.

By decision of 22 September 2014, ref. no: DRG-4720-1(13)/2014/6154/KF, the President of ERO granted the Operator the certificate of independence referred to in Article 9h1 (1) of the Energy Law Act, in connection with the performance of the function of a transmission system operator on its own networks. On the other hand, by decision of 19 May 2015, ref.no: DRG-4720-2(28)/2014/2015/6154/KF, the President of ERO granted the Operator a certificate of meeting the independence criteria in connection with the performance of the function of a transmission system operator under the ISO formula, on the transmission network owned by the SGT EuRoPol GAZ S.A.

Pursuant to Article 47(1) of the Energy Law Act, energy companies holding licences set tariffs for gaseous fuels, which are subject to approval by the President of ERO, and propose their term of validity.

Pursuant to Article 23(2)(11a) of the Energy Law Act, the scope of activity of the President of ERO includes, among others, (...) the performance of duties of the regulatory authority arising from ordinances adopted pursuant to Article 8 and Article 23 of Regulation 715/2009 (including the Tariff Code).

The Tariff Code entered into force on 6 April 2017, except for the provisions of Chapters VI and VIII, which have been applicable since 1 October 2017, and Chapters II, III and IV, which shall apply as of 31 May 2019. The Tariff Code is binding in its entirety and directly applicable in all EU Member States.

Pursuant to Article 27(4) of the Tariff Code (Chapter VII applicable as of the date of entry into force), the President of ERO is obliged to take and publish a reasoned decision regarding the RPM, including the elements specified in Article 26(1) of the Tariff Code, within 5 months of the completion of the final consultations (that is by 31 March 2019) with respect to the transmission network owned by EuRoPol GAZ. This decision, once published, will be sent to ACER and the European Commission.

As already indicated, the consultation paper on the reference price methodology for networks owned by EuRoPol GAZ, in connection to Article 27(3) of the Tariff Code, was analysed by ACER. ACER published this opinion on 13 December 2018. The opinion formulated a number of ACER's comments and recommendations for the regulator - these recommendations are set out on pages 3 and 4 of this Decision.

Referring to these comments, formulated on the basis of the provisions of the Tariff Code, the President of ERO additionally points out that the principles of determining tariffs in the case of the network subject to this procedure do not fully reflect the principles arising from the Tariff Code. This is due to the fact that in the case of networks owned by EuRoPol GAZ, the tariff is calculated not only based on the principles of the Tariff Code. The current manner of operation of part of the transmission system owned by EuRoPol GAZ is also affected by the acquired rights related to the so-called historical contracts and the intergovernmental agreement between the Republic of Poland and the Russian Federation.

In particular, Article 4 of the Additional Protocol to the Agreement between the Government of the Republic of Poland and the Government of the Russian Federation on the Construction of a Gas Pipeline System for the Transit of Russian Gas through the Territory of the Republic of Poland and

the Supply of Russian Gas to the Republic of Poland of 25 August 1993. (M.P. of 2011, No. 46, item 516) stipulates that the calculation of the tariff rate for:

- transmission of natural gas through the territory of the Republic of Poland and for the purpose of supplying it to customers in the Republic of Poland, which is approved by the decision of the President of the Energy Regulatory Office of the Republic of Poland or by another regulatory body of the state authority of the Republic of Poland authorised to take decisions on the approval of tariff rates, (hereinafter referred to as the Regulatory Authority) shall be carried out in such a manner as to ensure, among others, target annual net profit of EuRoPol Gaz spółka akcyjna at PLN 21 million, indexed with the average annual consumer price index published in the communiqué of the President of the Central Statistical Office in the calendar year preceding the year in which the tariff application was submitted. If the actual annual net profit of EuRoPol Gaz spółka akcyjna differs from the target level, the difference between the actual and target net profit shall be taken into account when calculating the tariff rate for the following year;
- services of EuRoPol Gaz spółka akcyjna and submitting an application for its approval to the regulatory authority during the term of the transmission contracts is performed by EuRoPol Gaz spółka akcyjna.

The applicability of historical contracts is regulated by the Act of 26 July 2013 amending the Energy Law Act and certain other acts (Journal of Laws of 2013, item 984) - hereinafter referred to as the "Amending Act". Pursuant to Article 22(1) of the Amending Act, energy companies which as at 3 September 2009 were owners of the transmission network retained the right to perform contracts for the provision of gas transmission services, concluded before that date, until their expiry without the possibility to extend them. At the same time, Article 23 of the Act stipulates that the agreements on entrusting the performance of duties of gas transmission system operator, concluded before the date of entry into force of the Amending Act, are subject to the existing provisions until the expiry of the contracts referred to in Article 22 of the Act (the so-called historical contracts). The need to introduce such rules stemmed from the necessity to protect acquired rights. This solution was accepted in the process of Operator's certification by the European Commission.

As a result, in connection with the provisions of the Tariff Code, the Operator is a party to the present proceedings; it performs its tasks both on its own transmission network and on the network owned by EuRoPol GAZ, while during the transition period (that is during the period of validity of historical gas transmission contracts, that is until 31 December 2022), EuRoPol GAZ calculates a separate tariff for its own transmission network, taking into account the conditions arising from the aforementioned intergovernmental agreements and historical contracts, and submits it to the President of ERO for approval. It should be added that in connection with the provisions of the aforementioned Protocol, in the case of EuRoPol GAZ the tariff is calculated at a level lower than it would follow from the application of the Tariff Code without limitations arising from the aforementioned historical conditions (limitation of the amount of annual net profit resulting from the aforementioned Protocol).

In the context of ACER's comments and the attached tariff methodology, it should be added that the historical contracts also provide for the assumption used in the calculation of the EuRoPol GAZ tariff



- the same level of unit costs of gas transmission related to its quantity and distance for the parties to two historical contracts in this network.

With regard to the clarification of the period for which RPM and parameters are set, recommended by ACER, it should be noted that this Decision sets the validity term of the RPM for the period from 1 January 2020 to 31 December 2022. This period is shorter than the maximum permitted five-year term laid down in Article 27(5) of the Tariff Code, but in fixing this period account has been taken of the fact that the last of the two historical contracts for natural gas transmission expires on 31 December 2022. As regards the second contract (expiring on 17 May 2020), for the purpose of calculating the indicative reference prices under the RPM, continuation of reservation of capacity covered by this contract was assumed.

The RPM, drawn up in accordance with the requirements of the Tariff Code, including compliance with the conditions set out in Article 7, is set out in the annex to this Decision. This document, as suggested by ACER, takes into account and describes in detail a simpler RPM based on cost drivers of the contracted capacity and distance, that - taking into account the above considerations:

- does not require adjustments to the cost weights allocated to PWP exit point and the Mallnow exit point, which raised doubts as to their compliance with the adjustments provided for in Article 6(4) of the Tariff Code,
- guarantees meeting the condition of equal level of unit costs of gas transmission related to its quantity and distance (expressed in PLN/MWh/100km) for the parties to two historical contracts in this network,
- due to a negligible share of revenues from virtual reverse services (approx. 1.3%), a simplified approach was applied, according to which revenues generated on this account decrease the revenue adopted for calculation of transmission rates, thus reducing fee rates for users using the transmission network of EuRoPol GAZ in the basic direction - in accordance with the assumed flow scenario in the proposed RPM. The Mallnow entry rate was set at a level equal to the entry rate at Kondratki. It should be stressed that due to the application (pursuant to Article 14 of the Tariff Ordinance) at the Mallnow entry point and in this respect of PWP exit point of coefficient of 0.2 (meaning a discount of 80%)<sup>8</sup> in the case of the virtual reverse flow, this solution does not hinder cross-border trade in any way, but on the contrary, constitutes an incentive for its development,
- the final entry/exit split is result-based and depends on the planned capacity reservation.

A simplified tariff model enabling network users to forecast changes in reference prices by changing assumptions concerning capacity reservations at particular points of the system and revenue will be published on the Operator's website.

Referring to the merger of the two exit/entry systems existing in Poland: those owned by the Operator and those owned by SGT EuRoPol GAZ S.A., as suggested by ACER, it should be borne in mind that, as stated above - in the case of the transmission system owned by EuRoPol GAZ S.A., the transitional period set by the date after which the transmission contracts concluded by the owner before 3 September 2009 (the so-called historical contracts) will expire on 31 December 2022. It is

---

<sup>8</sup> Pursuant to Article 14 of the Tariff Ordinance, the fixed rate for virtual reverse transmission services is the product of the fixed rate set in the tariff and the factor of 0.2.



also important that the Operator is currently carrying out a number of investments, within its own transmission system, which will significantly affect the operation of this grid (the transmission system owned by it). Putting into service the major part of the transmission system components resulting from these investments is planned for the end of 2022.

In the light of the above, it seems justified that the relevant analyses (in order to ensure the reliability of their results) should be performed after the clarification of the situation concerning, on the one hand, the boundary conditions for the operation of the transmission system of the Operator and, on the other hand, after the clarification of the situation of potential capacity orders currently used under the so-called historical contracts.

With reference to immediate enforceability applied to the decision, it should be noted that pursuant to Article 108 § 1 of the Code of Administrative Procedure, the decision against which the appeal may be lodged may be made immediately enforceable when it is necessary for the protection of human health or life or to protect national economy from serious losses or for other social or exceptionally important interests of the party.

It is argued in the legal doctrine that the basic criterion for giving the decision an order for immediate enforceability is the "necessity" of the immediate implementation of the decision. The need for immediate action "may arise in a case in which it is impossible at a given time and under the existing circumstances to proceed without exercising the rights or obligations stipulated in the decision, because a delay in their exercise threatens the protected goods referred to in Article 108(1) of the Code of Administrative Procedure. This threat must be of a real nature and not only theoretically probable." (see B. Adamiak, J. Borkowski, Code of Administrative Procedure, Commentary, Warsaw 2009, p. 420). The above view is approved by the jurisprudence (see judgment of the National Administrative Court of 19 February 1998, ref. no V SA 686/97 LEX No 34040, NAC judgment of 28 April 1998, ref. no V SA 677/97 LEX No 59221, NAC judgment of 30 June 2006, ref. no I OSK 116/06 LEX No 266225).

One of the reasons justifying the immediate enforceability of the decision is the protection of the good in the form of "other social interest". The literature indicates that "there is no permanent, constant definition of social interest, and the content of this concept must be determined on a case-by-case basis" (see M. Wyrzykowski, Pojęcie interesu społecznego w prawie administracyjnym, [Social interest in administrative law] Warsaw 1986, p. 209). Therefore, it is an indefinite concept, the content of which is given by the adjudicating authority (Ibidem). It should be noted that social interest is subject to special care and protection of state bodies, which in the process of law application determine and precise it. Social interest should be identified with public interest, collective interest or general interest (see the justification of the Constitutional Tribunal judgment of 12 March 2007, ref. no K.54/05 LEX no 257765, CT judgment of 31 March 2005, ref. no SK 26/02 LEX no 149944, judgment of Administrative Court in Warsaw of 3 August 2004, ref. no V SA 5175/03 Lex Polonica no 370990).

Analysing the rights and obligations arising from this Decision in the context of the premises indicated in Article 108 § 1 of the Code of Administrative Procedure, it should be highlighted that the purpose of the regulation of Article 27(4) of the Tariff Code is to increase the transparency of transmission tariff structures and procedures for their determination through, among others, publication of information on determination of revenues of transmission system operators and determination of such tariffs. These requirements are to enable network users to better understand the tariffs set for transmission and non-transmission services and to understand the changes

introduced in these tariffs, the manner in which they are set and the possibility of changing them, as well as to improve the opportunities for competition development. As regards procedures, the Tariff Code also contains regulations concerning deadlines for consultations and publication of tariffs and other data selected so that transmission network users may use these networks on equal, transparent and non-discriminatory terms. In this context, it is important that in the light of item 5 of the aforementioned provision, the issuance of the first decision by the national regulator after the entry into force of the Tariff Code, in accordance with item 4, the calculation of tariffs on the basis of this decision and the publication of tariffs (...) must be completed by 31 May 2019 at the latest. This is due to the fact that, pursuant to Article 32(a) of the Tariff Code, the publication of the approved tariff must take place no later than 30 days before the annual auction of annual capacity (normally held on the first Monday of July of each year).

This implies that immediate submission of the tariff calculated on the basis of this methodology and its publication it by 31 May 2019 is in the interest of transmission system users and that any delay in this respect would be detrimental to the public interest.

The President of ERO, as a public administration body, is obliged to uphold the rule of law, thus implementing the fundamental principle of the rule of law, stipulated in Article 7 of the Constitution of the Republic of Poland and repeated in Article 6 of the Code of Administrative Procedure, according to which public authorities act under the rule of law and within the limits of the law. Therefore, the President of ERO is obliged to undertake all actions aimed at meeting the deadlines enabling transmission network users to exercise their rights guaranteed by the Tariff Code.

Considering the schedule arising under the deadlines set out in the Tariff Code, it should be noted that EuRoPol GAZ is obliged to calculate the 2020 tariff on the basis of the reference price methodology attached as an annex to this Decision and immediately submit an application for its approval to the President of ERO.

Thus, the need to ensure that the rights of transmission system users are exercised, that competition can develop and that the Operator's tasks under the Tariff Code are performed is a prerequisite both necessary and sufficient to make this decision immediately enforceable. It is necessary to undertake immediate action, as referred to above, due to the need to protect the public interest and care for the development of competition.

In consideration thereof, I hereby resolve as stated in the operative part.

## **INSTRUCTION**

1. This decision may be appealed against to the District Court in Warsaw - Competition and Consumer Protection Court (CCPC), through my agency, within two weeks of its delivery (Article 30(2) and (3) of the Energy Law Act in conjunction with Article 479<sup>46</sup>(1) et seq. of the Energy Law Act in conjunction with Article 479<sup>46</sup>(1) et seq. of the Code of Civil Procedure - Journal of Laws of 2018, item 155, as amended). The appeal should be sent to the address of the Energy Regulatory Office, Al. Jerozolimskie 181, 02-222 Warsaw.
2. An appeal against a decision should satisfy the requirements prescribed for a pleading and contain a description of the appealed decision and the value of the subject matter of the

dispute, statement of objections, concise justification thereof, indication of evidence and a motion for revocation or amendment of the decision in whole or in part (Article 479<sup>49</sup> of the Code of Civil Procedure).

3. The appeal against the decision of the President of ERO is subject to a fixed fee of PLN 100 (Article 32(3) in connection with Article 3(2)(9) of the Act of 28 July 2005 on court fees in civil cases - Journal of Laws of 2018, item 300, as amended). The fee shall be paid to the bank account of the District Court in Warsaw, XVII Division of Competition and Consumer Protection. A party may apply for exemption from court fees pursuant to Article 101 et seq. of the Act on court fees in civil cases and for legal assistance to be granted by appointing a lawyer, pursuant to Article 117 of the Code of Civil Procedure.
4. In the course of the time limit for lodging an appeal, a party may waive the right to lodge an appeal with the CCPC against the President of ERO (Article 127a § 1 of the Code of Administrative Procedure). As of the date of delivery of the statement on waiving the right to appeal by the party to the public administration authority, the decision becomes final and binding (Article 127a § 2 of the Code of Administrative Procedure).
5. The decision is enforceable before the expiry of the time limit for appeal if it complies with the request of all parties or if all parties have waived the right to appeal (Article 130 § 4 of the Code of Administrative Procedure).
6. Pursuant to Article 27(4) of the Tariff Code, this Decision will be sent for publication in the 'Bulletin of the Energy Regulatory Office - Gaseous Fuels'.

President  
Energy Regulatory Office

*Maciej Bando*

**Addressees:**

**1. Operator Gazociągów Przesyłowych  
GAZ-SYSTEM S.A.**

ul. Mszczonowska 4, 02-336 Warsaw

**2. For our files**

**Attn:**

**1. European Commission**

**DG Energy**

24-26, rue Jean-André de Mot

B-1049 Bruxelles/Brussel

Belgique /Belgium

**2. Agency for the Cooperation of Energy Regulators**

Trg republike 3

1000 Ljubljana, Slovenia

**3. System Gazociągów Tranzytowych**

**EuRoPol GAZ S.A.**

ul. Topiel 12

00-342 Warsaw

**Reference Price Methodology no 1/SGT**  
**For transmission network owned by energy company System**  
**Gazociągów Tranzytowych EuRoPol GAZ S.A. with its registered**  
**office in Warsaw**  
**From 1 January 2020 to 31 December 2022**

Warsaw, March 2019

**Table of contents:**

<b>1. Preliminary information .....</b>	<b>3</b>
<b>2. RPM validity term.....</b>	<b>3</b>
<b>3. Description of the reference price methodology (Article 26 (1) (a) of the Tariff Code)</b>	<b>4</b>
<b>3.1. Indicative information referred to in Article 30(1)(a) to be used in the RPM (Article 26(1)(a)(i) of the Tariff Code) .....</b>	<b>7</b>
<b>3.2. Indicative information referred to in Article 30(1)(a) to be used for the CWD-methodology.....</b>	<b>7</b>
<b>3.3. Indicative reference prices (Article 26(1)(a)(iii) of the Tariff Code .....</b>	<b>7</b>
<b>3.4. Comparison of the indicative reference prices for 2020 resulting from the application of this methodology with the indicative prices calculated using the Capacity Weighted Distance (CWD) methodology (Article 26(1)(a)(vi) of the Tariff Code) .....</b>	<b>8</b>
<b>3.5. Results and components of the assessment of the cost allocation referred to in Article 5 and details of these components (Article 26(1)(a)(iv) of the Tariff Code) .....</b>	<b>9</b>
<b>3.6. Assessment of the reference price methodology for compliance with Article 7 of the Tariff Code (Article 26(1)(a)(v) of the Tariff Code) .....</b>	<b>9</b>
<b>4. Indicative information referred to in Article 30(1)(b)(i), (iv) and (v) of the Tariff Code (Article 26(1)(b) of the Tariff Code).....</b>	<b>10</b>
<b>4.1. Allowed revenue of the transmission system operator (Article 30(1)(b)(i) of the Tariff Code) .....</b>	<b>10</b>
<b>4.2. Revenues from transmission services (Article 30(1)(b)(iv) of the Tariff Code) .....</b>	<b>10</b>
<b>4.3. Allocation of entry/exit revenues (Article 30(1)(b)(v)(2) of the Tariff Code) .....</b>	<b>11</b>
<b>5. Indicative information referred to in Article 30(2) of the Tariff Code (Article 26(1)(d) of the Tariff Code).....</b>	<b>11</b>
<b>6. Description of the EuRoPol GAZ transmission system.....</b>	<b>11</b>

## 1. Preliminary information

The Reference Price Methodology (RPM<sup>1</sup>) is applied by the energy company System Gazociągów Tranzytowych EuRoPol GAZ S.A. with its registered office in Warsaw, hereinafter referred to as "EuRoPol GAZ", to calculate reference prices for the transmission network owned by it.

EuRoPol GAZ holds a licence for the transmission of gaseous fuels within the territory of the Republic of Poland until 31 December 2025, granted by the decision of the President of ERO dated 18 July 2008, ref. no: PPG/102/3863/W/2/2008/BP. On the transmission network owned by EuRoPol GAZ, Operator Gazociągów Przesyłowych Gaz-System S.A. with its registered office in Warsaw, hereinafter referred to as "the Operator", performs operator's tasks pursuant to the decision of the President of the Energy Regulatory Office of 17 November 2010, ref. no: DPE-4720-4(8)/2010/6154/BT.

The decision of the ERO President concerning the issues referred to in Article 28(1)(a) to (c) of the Tariff Code, taking into account the results of consultations held from 31 August to 31 October 2018, concerning, among others, multipliers and seasonal factors for short-term gas transmission services and discounts used to calculate base prices of standard interruptible capacity products, is published independently of the decision on the reference price methodology referred to in Article 27(4) of the Tariff Code, to which this study is attached.

Legal disclaimer on the indicative character of the data and the results of the calculations contained in this document:

- all figures for 2020 presented in this document (e.g. regulated revenue, contracted capacities, reference prices) are indicative and are intended only to illustrate the impact of the adopted RPM on the level of transmission fees.
- the data do not constitute the basis for tariff calculation in the RPM validity term.
- in case of discrepancies between the Polish and English versions of this document, the document drawn up in the Polish language shall prevail.

## 2. RPM validity term

Pursuant to Article 27(5) of the Tariff Code, the procedure including final consultation on RPM, issuance of a decision on RPM by the national regulatory authority, calculation of the tariff on the basis of that decision and publication thereof should be repeated at least every five years starting on 31 May 2019.

The validity term of this RPM is set at **3 years, that is from 1 January 2020 to 31 December 2022**. It stems from the duration of gas transmission contracts referred to in Article 22 of the Act of 26 July 2013 amending the Energy Law Act (Journal of Laws of 2013, item 984).

Based on the applicable regulations and this methodology, EuRoPol GAZ calculates the tariff and submits it together with a justification to the President of the Energy Regulatory Office for approval.

As a rule, the tariff period is the same as the calendar year.

---

<sup>1</sup> *Reference price methodology*



### **3. Description of the reference price methodology (Article 26 (1) (a) of the Tariff Code)**

Reference prices are calculated on the basis of an entry/exit model using a reference price methodology based on the cost driver of the planned capacity and distance. Only fixed rates related to contracted capacity (PLN/MWh/day/day or PLN/MWh/h)<sup>2</sup> for entry and exit points to and from the transmission system are calculated.

The methodology takes into account the condition of equal level of unit costs of gas transmission related to its quantity and distance (expressed in PLN/MWh/100km) for the parties to historical contracts<sup>3</sup>.

The application of variable rates based on fuel volumes referred to in Article 26(1)(c)(i) and Article 4(3)(a) and (b) of the Tariff Code is not envisaged.

The Operator does not plan to provide non-transmission services and therefore the RPM does not take into account the principles of calculating rates for non-transmission services referred to in Article 26(1)(c)(ii) of the Tariff Code.

The fixed payable price approach referred to in Article 26(1)(e) and Article 24(b) of the Tariff Code shall not be applied. The floating payable price approach referred to in Article 24(a) of the Tariff Code shall be applied.

Capacity-based transmission tariff adjustments, as referred to in Article 9 of the Tariff Code (Article 26(1)(a)(ii) of the Tariff Code), shall not apply.

In accordance with Article 6(2) of the Tariff Code, as a result of the method applied a reference price is obtained. According to the definition contained in Article 3 of the Tariff Code, a reference price means the price for a firm capacity product with a duration of one year, which applies at entry and exit points and which is used to determine capacity-based transmission tariffs (i.e. rates for transmission services rendered).

Reserve prices (rates calculated on the basis of a reference price) for short-term and interruptible services shall be calculated in accordance with Articles 14 and 16 of the Tariff Code, respectively. In case of provision of virtual reverse transmission services, referred to in Article 1 (24) of the Ordinance of the Minister of Energy of 15 March 2018 on detailed principles of shaping and calculating tariffs and settlements in gaseous fuels trade (Journal of Laws of 2018, item 640), hereinafter referred to as the "Tariff Ordinance", the fixed rate for these services is the product of the reference price (calculated using the formula in Article 3), and the coefficient which value is 0.2.

The RPM applied in the best possible way reflects the actual distribution of costs necessary to ensure adequate transmission capacities at individual entry/exit points for customers using the EuRoPol GAZ network, taking into account the conditions resulting from historical contracts. This method shall be adapted to the characteristics (structure) of the SGT network, which is a high

---

<sup>2</sup> Detailed principles of tariff calculation are set forth in the Ordinance of the Minister of Energy of 15 March 2018 on detailed principles of shaping and calculating tariffs and settlements in trade in gaseous fuels (Journal of Laws of 2018, item 640). The reference price units are the same as the units specified in Article 15 of the Ordinance.

<sup>3</sup> This issue was presented in more detail in the decision of the President of ERO ref. no DRG.DRG-2.745.3.2019.JDo1

pressure gas pipeline designed for (cross-system) gas transport. The system is characterized by linearity (one pipeline) with a very limited number of entry or exit points.

In the reference price methodology applied, the cost driver referred to in Article 5 of the Tariff Code is the product of:

- a) the anticipated capacity contracted at the entry or exit point in question,
- b) the distances between the relevant points in the system.

For the determination of these distances, the points are connected in pairs (in accordance with Article 8(1)(c) of the Tariff Code). In the gas flow scenarios adopted in the RPM (basic east-west transmission), the following pairs of points are distinguished (the distances between entry and exit points are given in brackets):

- Kondratki entry point - Interconnection Exit Point PWP (455.16 km)<sup>4</sup>;
- Kondratki entry point - Mallnow exit point (683.90 km).

PWP is a virtual point of interconnection (referred to in Article 22 (1) of the Tariff Code), which consists of two physical locations (Włocławek and Lwówek). The actual distances of these points from the entry point in Kondratki are taken into account in the calculation of the reference price. In addition, the above physical points are assigned an appropriate (as in the existing tariffs) part of the expected capacity contracted at the exit point PWP. This is shown in the table below:

Data on PWP	Physical exit points making up PWP		Total
	Włocławek entry point	Lwówek exit point	
Projected contracted capacity (MWh/year)	17 850 000	12 390 000	30 240 000
Distance from Kondratki entry point (km)	367.40	581.60	x
Weighted average distance from Kondratki entry point to PWP (km)	455.16		x

Calculation stages:

- 1) Planned calculation revenue (the basis for rates calculation) is divided into individual pairs of entry-exit points (referred to above), according to the proportion presented in the table below (based on current data). These proportions are determined by the ratio of products of the predicted contracted capacity and the distance assigned to a given pair of entry/exit points to the sum of these products for all pairs of points:

<sup>4</sup> In the case of PWP, the distance from the exit point to the entry point shall be equal to the weighted average distance by the contracted capacities allocated to both physical points (in accordance with Article 8(2)(a)(i) of the Tariff Code).

Points pair		Revenue split
Entry point	Exit point	
Kondratki	<b>Interconnection point (PWP)</b>	<b>6.00%</b>
	<i>including:</i>	
	<i>Włocławek</i>	2.86%
	<i>Lwówek</i>	3.14%
<b>Kondratki</b>	<b>Mallnow</b>	<b>94.00%</b>

2) The amounts of calculation revenue assigned to particular pairs of entry/exit points are divided into entry and exit in the following manner:

- a) Revenues assigned to the Kondratki-Mallnow pair of points (determined in accordance with point 1 as above), are divided using the initial entry/exit split equal to 50/50 - 50% of the above revenue is allocated to the Kondratki point and 50% to the Mallnow point. Then, dividing the obtained amounts by the projected contracted capacity (expressed in MWh/year) assigned to the given point (from the pair of points under transmission contracts Kondratki-Mallnow), one obtains tariff rates (reference prices) at the Kondratki entry point and the Mallnow exit point (see formula in point 3 below). These rates are equal.
- b) Multiplying the reference price calculated for the Kondratki entry point by the projected contracted capacity at PWP (expressed in MWh/year), the part of the revenue assigned to the Kondratki - PWP pair is calculated, which is allocated to the Kondratki point. The remaining part of the revenue (the difference between the total revenue for the Kondratki-PWP pair and the part of this revenue to be covered in Kondratki point) is allocated to PWP.
- c) The amount of revenue allocated to PWP is divided by the planned contracted capacity (expressed in MWh/year) assigned to that point (see formula in point 3). The result is the tariff rate (reference price) at the PWP.

3) Formula for calculating reference prices (fee rates) at entry or exit points:

$$S_{we/wy} = \frac{P_{pkt}}{Mz_{pkt}}$$

where:

$S_{we/wy}$  – reference price at a given point of the EuRoPol GAZ network (entry or exit rate), for each hour or day of the settlement period [PLN/MWh/h/h or PLN/MWh/day/day];

$P_{pkt}$  – Calculation revenue - the basis for calculation of the reference price in a given point of the EuRoPol GAZ network expressed in [PLN];

$Mz_{pkt}$  – projected contracted capacity (ordered capacity) for the tariff year at the given point of the EuRoPol GAZ network expressed in [MWh/year].

Due to the negligible share of revenues from virtual reverse services (approx. 1.3%), a simplified approach was applied, according to which revenues generated on this account decrease revenues used to calculate reference prices, thus reducing fee rates for users of the EuRoPol GAZ transmission network in the basic direction (according to the flow scenario assumed in the RPM). The reference price at the Mallnow entry point was determined taking into account the possibilities arising from the provisions of Article 6(4)(a) of the Tariff Code at the level equal to the price at the Kondratki entry point, which at the same time guarantees non-discrimination against users feeding gas into the EuRoPol GAZ network. In the case of virtual reverse services, pursuant to Article 14 of the Tariff Ordinance, the reference prices at Mallnow-entry point and Interconnection Exit Point (see table in point 3.3.) are subject to a coefficient of 0.2 (discount of 80%).

### 3.1. Indicative information referred to in Article 30(1)(a) to be used in the RPM (Article 26(1)(a)(i) of the Tariff Code)

For the calculation of the tariff for 2019 (non-final decision) and for the calculation of the indicative reference prices for 2020, the following parameters were assumed:

Entry/exit points	Unit	Forecasted contracted capacity <sup>5</sup>	
		2019 (tariff application)	2020 (indicative data)
Entry points <i>including:</i> Kondratki entry point	MWh/year	345 711 726	345 711 726
	MWh/year	345 711 726	345 711 726
Exit points <i>including:</i> PWP exit point	MWh/year	345 711 726	345 711 726
Mallnow exit point	MWh/year	30 240 000	30 240 000
	MWh/year	315 471 726	315 471 726

### 3.2. Indicative information referred to in Article 30(1)(a) to be used for the CWD-methodology

The CWD methodology, as the comparative method, uses the same indicative information as the RPM.

### 3.3. Indicative reference prices (Article 26(1)(a)(iii) of the Tariff Code)

The table below presents tariff rates for 2019 (non-final decision) and indicative reference prices (indicative rates) for 2020, calculated in accordance with this RPM, for entry-exit points:

<sup>5</sup> The projected contracted capacity includes short-term capacity.

Natural gas transmission network:	Indicative reference prices [PLN/MWh/day/day] or [PLN/MWh/h/h]	2019	2020	Change %
		Tariff application <sup>6</sup>	RPM	
High-methane gas (E)	Kondratki-entry point	1.3885	1.3885	0%
	PWP exit point	0.4597	0.4597	0%
	Mallnow-exit point	1.3885	1.3885	0%
	Mallnow-reverse entry point <sup>7</sup>	0.2777	0.2777	0%
	PWP reverse exit point <sup>8</sup>	0.0919	0.0919	0%

### 3.4. Comparison of the indicative reference prices for 2020 resulting from the application of this methodology with the indicative prices calculated using the Capacity Weighted Distance (CWD) methodology (Article 26(1)(a)(vi) of the Tariff Code)

	Unit	RPM (51,51/48,49)	CWD (50/50)	Change [%]
Kondratki entry point	PLN/MWh / day/day	<b>1.3885</b>	<b>1.3479</b>	<b>-2.9%</b>
PWP exit point	PLN /MWh/ day / day	<b>0.4597</b>	<b>0.9241</b>	<b>101.0%</b>
Mallnow exit point	PLN /MWh/ day / day	<b>1.3885</b>	<b>1.3885</b>	<b>0%</b>
Average unit cost of gas transmission [PLN/MWh/km]				
- Kondratki-Interconnection point	<b>PLN /MWh/ 100km</b>	<b>0.4060</b>	<b>0.4992</b>	<b>22.9%</b>
- Kondratki-Mallnow		<b>0.4060</b>	<b>0.4001</b>	<b>-1.5%</b>
- Mallnow- PWP reverse point		<b>0.1616</b>	<b>0.1987</b>	<b>25.1%</b>

For the RPM, the unit cost of gas transmission for system users using transmission services in the basic direction is the same - one of the conditions for tariff calculation is met.

<sup>6</sup> Due to appeal proceedings against the decision of the President of the Energy Regulatory Office approving the tariff for 2019, the rates presented in the table are not applied, and currently the 2017 tariff is applied, approved by the decision of the President of ERO of 16 December 2016, ref. no: DRG.DRG-2.4212.57.2016.IRŚ and extended by the decision of 29 September 2017, ref. no. DRG-2.4212.53.2017.IRŚ.

<sup>7</sup> Rates for virtual reverse services calculated on the basis of reference prices with an 80% discount.

<sup>8</sup> Rates for virtual reverse services calculated on the basis of reference prices with an 80% discount.

### **3.5. Results and components of the assessment of the cost allocation referred to in Article 5 and details of these components (Article 26(1)(a)(iv) of the Tariff Code)**

There are no intra-system points in the EuRoPol GAZ network and therefore there is no obligation to assess the cost allocation referred to in Article 5 of the Tariff Code (no intra-system revenues).

### **3.6. Assessment of the reference price methodology for compliance with Article 7 of the Tariff Code (Article 26(1)(a)(v) of the Tariff Code)**

Pursuant to Article 7 of the Tariff Code, the reference price methodology must comply with Article 13 of Regulation (EC) No 715/2009 and with the following requirements.

This method should:

- a) enable network users to reproduce the calculation of the reference prices and provide their accurate forecast;
- b) take into account actual costs incurred in providing transmission services, taking into account the complexity of the transmission network;
- c) ensure non-discrimination and prevent undue cross-subsidisation, including by taking into account cost allocation assessments as set out in Article 5;
- d) ensure that significant volume risk associated in particular with transmission through a given entry-exit system is not assigned to final customers under that entry-exit system;
- e) ensure that the reference prices received do not distort cross-border trade.

The RPM meets the above requirements and takes into account the rights acquired under historical contracts.

3.6.1. The simplified tariff model (available on the Operator's website) shall enable network users to reconstruct the reference prices calculations and their forecast. The accuracy of this forecast is limited to the tariff validity term due to uncertainty in estimates of revenue changes and capacity orders after this term. In the RPM, regulated revenue is determined annually in the tariff approval procedure.

3.6.2. The RPM takes into account actual costs incurred in relation to the provision of transmission services. Based on actual costs of providing transmission services disclosed in the audited financial statements, forecasts of justified costs for tariff calculation are made.

The applied reference price method ensures that the condition of a uniform level of unit costs of gas transmission related to its quantity and distance (expressed in PLN/MWh/100km) for system users using transmission services in the basic direction is met.

In addition, the uncomplicated character and transparency of the method applied should be emphasized, while taking into account the conditions arising from historical contracts. Transmission system users can reproduce the calculation of reference prices and estimate their future changes.

3.6.3. The applied methodology ensures non-discrimination of system users feeding gas into the transmission system of EuRoPol GAZ (Rate at the Kondratki entry point = rate at the



Mallnow entry point). In addition, the condition of uniform unit costs of gas transmission related to its quantity and distance (expressed in PLN/MWh/100km) for system users using transmission services in the basic direction is fulfilled. Consequently, there is no cross-subsidization.

- 3.6.4. Due to the lack of end users connected to the transmission network of EuRoPol GAZ, there is no risk of allocation of increased costs resulting from the lack of capacity orders by the users of interconnection services (volume risk) to these end users.
- 3.6.5. Reference prices do not interfere with cross-border trade, as there is no discrimination against individual transmission network users or cross-subsidisation, as mentioned in point 3.6.3. and the rights acquired under historical contracts are respected.

#### **4. Indicative information referred to in Article 30(1)(b)(i), (iv) and (v) of the Tariff Code (Article 26(1)(b) of the Tariff Code)**

##### **4.1. Allowed revenue of the transmission system operator (Article 30(1)(b)(i) of the Tariff Code)**

Regulated revenue approved by the President of ERO is the sum of forecast justified operating costs related to regulated activity for a given tariff year and return on capital employed, taking into account the specificity resulting from intergovernmental agreements/contracts.

Regulated revenue is determined for a period of 12 months in administrative proceedings on approving the tariff.

Pursuant to Article 10 (1), (2) and (3) of the Tariff Ordinance, regulated revenue is covered by revenue earned from:

(a) transmission rates,

(b) fees for exceeding contracted capacity achieved during the year preceding the year in which the tariff is submitted for approval,

(c) fees for services performed at the additional demand of the customer (the quality testing of gaseous fuels supplied, interruption or resumption of the supply of gaseous fuels) achieved during the year preceding the year in which the tariff was submitted for approval,

Due to the fact that the Tariff Code does not include detailed rules for determining regulated revenue, this issue will be explained in more detail in proceedings on approving the tariff.

##### **4.2. Revenues from transmission services (Article 30(1)(b)(iv) of the Tariff Code)**

The total indicative regulated income of EuRoPol GAZ amounts to PLN 943,840 thousand.

#### 4.3. Allocation of entry/exit revenues (Article 30(1)(b)(v)(2) of the Tariff Code)

In the period of application of this reference price methodology, the division of revenues between entry and exit points is a resultant value and for the indicative data referred to in point 5, it amounts to 51.51/48.49%<sup>9</sup>.

#### 5. Indicative information referred to in Article 30(2) of the Tariff Code (Article 26(1)(d) of the Tariff Code)

Calculation (tariff model)

Natural gas transmission network	Unit	2019	2020
		Tariff application	Indicative data
Indicative calculation revenue <sup>10</sup>	PLN thousand	931 944	931 944
Capacity at Kondratki entry point	MWh/year	345 711 726	345 711 726
Capacity at PWP exit point	MWh/ year	30 240 000	30 240 000
Capacity at Mallnow exit point	MWh/ year	315 471 726	315 471 726
Capacity at Mallnow entry point	MWh/ year	0	0
Kondratki-PWP distance (weighted average)	km	455.16	455.16
Kondratki-Mallnow distance	km	683.90	683.90
Rate at Kondratki	PLN/MWh/day or PLN /MWh/h	1.3885	1.3885
Rate at PWP	PLN /MWh/day or PLN /MWh/h	0.4597	0.4597
Rate at Mallnow	PLN /MWh/day or PLN /MWh/h	1.3885	1.3885
EN/EX revenue split	%	51.51/48.49	51.51/48.49

#### 6. Description of the EuRoPol GAZ transmission system.

The SGT System on the territory of the Republic of Poland is part of a 4,000 km long gas pipeline running from Russia through Belarus and Poland to Western Europe.

The transmission pipeline runs on the territory of Poland latitudinally, from east to west, from the Polish-Belarussian border in the vicinity of the village of Kondratki to the Polish-German border in the area of the village of Górzycza.

The gas pipeline route runs through the following administrative units of the country:

- 5 voivodships (podlaskie, mazowieckie, kujawsko-pomorskie, wielkopolskie and lubuskie)
- 27 poviats (counties)

<sup>9</sup> Determined without taking into account revenues from short-term and interrupted services, including reverse services.

<sup>10</sup> Indicative regulated income less, among others, revenues from transmission services as part of the virtual reverse.

- 69 gminas (municipalities).

Basic technical parameters of the Polish section of the transit gas pipeline:

- working pressure - 8.4 MPa
- length - 683,9 km
- gas pipeline diameter - DN1400
- 1 physical entry point - Kondratki
- 3 physical exit points - Mallnow, PWP (which consists of two physical points: Lwówek, Włocławek)
- 5 compressor stations with a total capacity of 400 MW - TG Kondratki, TG Zambrów, TG Ciechanów, TG Włocławek, TG Szamotuły

With respect to the development of the transmission network of EuRoPol GAZ, no investments are planned which - in the validity term of this methodology (that is until 31 December 2022) - would affect transmission capacities, the scope of gaseous fuel transmission services offered or the establishment of new connections. The planned investment projects are aimed at maintaining full technical efficiency and reliability of the operation of the TGPS.

The simplified scheme of the transmission network of EuRoPol GAZ is presented below.

# TRANSIT GAS PIPELINE SCHEMA

