PRESIDENT
ENERGY REGULATORY OFFICE
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Warsaw, 5 March 2021

Communiqué [1]
of the President of Energy Regulatory Office
No. 11/2021
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 2022 to 31 December 2022.

1. Introduction

Pursuant to Article 23(2)(11a) of the Energy Law Act, the scope of activity of the President of Energy Regulatory Office[2] (hereinafter referred to as "ERO") includes (...) the performance of duties of the regulatory authority arising from regulations adopted under Articles 8 and 23 of Regulation 715/2009[3], 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.

According to the requirements set out in Article 28(1) of the Tariff Code (applicable since its entry into force), 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,

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[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).

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[4],

regarding 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", to which the Operator acts as the gas transmission system operator, under the decision of 17 November 2010, ref. no. DPE-4720-4(8)/2010/6154/BT.

Pursuant to Article 28(2) of the Tariff Code the above consultations shall be run every tariff period. Whereas tariff period, according to the definition set out in Article 3(23) of the Tariff Code, means the time period during which a particular level of reference price is applicable, which minimum duration is one year and maximum duration is the duration of the regulatory period. As tariffs for gaseous fuel transmission services are approved for a period of 12 months, this consultation shall be held each year.

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

Third consultation[5] 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 to 14 December 2020 and regarded the transmission network owned by the Operator and the transmission network owned by EuRoPol GAZ. In the course of the consultation opinions were received from: PGNiG S.A. and Gas Storage Poland Sp. z o.o.

Provisions of the Communiqué, accounting for the findings of the above consultation, will be applied in the calculation of 2022 tariffs. That year is the last year of the validity of *the 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[6],* hereinafter referred to as „MWCR OGP" *and 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[7].*

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[4] According to the definition set out in Article 2(1)(3) of regulation 715/2009 capacity means the maximum flow, expressed in normal cubic meters per time unit or in energy unit per time unit, to which the network user is entitled in accordance with the provisions of the transport contract.

[5] https://www.ure.gov.pl/pl/biznes/taryfy-zalozenia/mnozniki-wspolczynniki-2/9090,Rynek-gazu-Konsultacje-Prezesa-URE-dotyczace-wskaznikow-do-przesylowych-taryf-ga.html

[6] https://www.ure.gov.pl/pl/biznes/taryfy-zalozenia/wyznaczanie-cen-referen/8186,Kodeks-sieci-dotyczacy-zharmonizowanych-struktur-taryf-przesylowych-dla-gazu.html

[7] https://www.ure.gov.pl/pl/biznes/taryfy-zalozenia/wyznaczanie-cen-referen/8186,Kodeks-sieci-dotyczacy-zharmonizowanych-struktur-taryf-przesylowych-dla-gazu.html

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 2022 till 31 December 2022

2.1. 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 2022 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

The above multipliers fall within the allowable ranges specified in the Tariff Code and will be applied both at interconnection points with EU Member States, interconnection points with third countries[8] and at internal points of the gas transmission system (for E-gas[9] and L-gas[10]).

In Article 13(1) of the Tariff Code, the permissible values of multipliers have been specified 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 duly justified cases, the level of multiplier may be less than 1, but higher than 0, or higher than 3).

The calculated multiplier values are intended to incentivize gas system users to prioritize booking long-term capacity products (yearly and longer) that contribute to generating right signals with respect to directions of transmission system development. At the same time, they are to provide market participants with the possibility of using the transmission system in a flexible way, by adjusting booked capacity over the year due to using short-term products (quarterly, monthly, daily and within-day). The level of multipliers is also intended to reflect a possible risk of lost profits from sales of products shorter than one year in tariffs for short-term capacity products. Considering the need to ensure a balance between facilitating short-term gas trading on the one hand, and ensuring long-term signals for efficient investment in the transmission system on the other, the same values of multipliers as in 2021, i.e. from the higher half of the recommended ranges, referred to in Article 13(1) of the Tariff Code, were adopted for 2022.

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

Pursuant to Article 15(1) of the Tariff Code, seasonal factors will be applied in the calculation of reserve prices of short-term capacity products, along with multipliers.

The levels of seasonal factors for the Operator's tariff for 2022 for particular types of capacity products are presented in Table 2.

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[8] Referred to in Article 2(1) of the Tariff Code, i.e. with Belarus and Ukraine.

[9] E – high methane natural gas – E group.

[10] L – low methane natural gas – L group, subgroup L_w.

Table 2. *Seasonal factors – the Operator's tariff.*

Month \ Gas transmission service	Within-day	Daily	Monthly	Quarterly
January	1,19	1,19	1,19	
February	1,12	1,12	1,12	1,14
March	1,11	1,11	1,11	
April	0,97	0,97	0,97	
May	0,90	0,90	0,90	0,90
June	0,83	0,83	0,83	
July	0,85	0,85	0,85	
August	0,86	0,86	0,86	0,86
September	0,86	0,86	0,86	
October	1,00	1,00	1,00	
November	1,08	1,08	1,08	1,07
December	1,14	1,14	1,14	

The arithmetic average of the products of the relevant seasonal factor and the multiplier, calculated in accordance with Article 13(2) of the Tariff Code, falls within the permissible ranges specified in Article 13(1) of the Tariff Code.

The application of seasonal factors aims at fostering efficient use of the transmission system by allowing higher reserve prices in periods with high utilisation rates and lower reserve prices in low-utilisation periods of this system. The differentiation of reserve prices should incentivise transmission system users to shift gas flows away from high system utilisation rates, thus contributing to curbing investment expenses for its development.

The methodology of seasonal factors calculation is set out in Article 15 of the Tariff Code and is based on forecasted flows. The seasonal factors calculation has been performed drew on forecasted gas volumes to be delivered to exit points of E-gas and L-gas transmission systems (excluding gas volumes to be sent to exit points to UGS), estimated based on average flow values over the period 2017-2019. The adoption of tree-year average flows aimed at levelling off the seasonal factors values thereby curbing the influence of flow data from the year that could not be representative.

In case of quarterly capacity products, the option referred to in Article 15(5)(a)(i) of the Tariff Code was adopted (arithmetic mean of individual seasonal factors applied over a period of three months).

Detailed calculations of seasonal factors are presented in annexes 1-3 to the consultation document[11].

The Operator includes in the tariff correction coefficients[12] being the product of the multiplier and the seasonal factor, rounded to two decimal places.

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[11] https://www.ure.gov.pl/pl/biznes/taryfy-zalozenia/mnozniki-wspolczynniki-2/9090,Rynek-gazu-Prezes-URE-rozpoczyna-konsultacje-dotyczace-wskaznikow-do-przesylowyc.html

[12] The concept of the "correction coefficients" has been applied in the TSO tariffs and originated from the Regulation of the Minister of Energy of 15 March 2018 on detailed terms for structuring and calculation of tariffs and billing in trade in gaseous fuels (Journal of Laws of 2018, Item 640, as amended), hereinafter referred to as "Tariff Regulation". Referring this concept to the conceptual framework of the Tariff Code, it should be noted that in practice they are the product of the relevant multipliers and seasonal factors specified in the Tariff Code.

Multipliers and seasonal factors shall not change in case of secondary trading in capacity products.

The adopted multipliers and seasonal factors ensure that the existing balance between the use of short and long-term capacity products by the transmission system users, which positively affects transmission tariffs for all entities using the Polish transmission system and also gives signals for effective investment in this system, will be maintained. The level of seasonal factors was adopted taking into account the need to ensure the economic and efficient use of transmission infrastructure throughout the year and to better reflect costs by transmission tariffs, also bearing in mind the current levels of correction coefficients adopted in the 2021 tariff.

The assumption behind the adopted multiplier values and seasonal factors is to incentivize long-term capacity contracts that secure financial liquidity of the Operator throughout the year. This is due to the specificity of the transmission system operator's activity, in which the transmission of gaseous fuel intensifies during the so-called heating season, whereas the costs of transmission, network maintenance are borne by the Operator throughout the year.

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-gas and L-gas), 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 - 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 [gr[13]/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:

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

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[13] gr=0,01 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].

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

The level of discount on capacity tariffs at the entry point to the Operator's transmission system from LNG facility in the period from 1 January 2022 to 31 December 2022 shall be 100%.

In accordance with Article 9(2) of the Tariff Code, a discount may be applied at entry points from the LNG facility (...) to capacity-based transmission tariffs to enhance security of supply. It should be underlined that the Polish natural gas market is medium-size with a high degree of dependence on supplies from one direction. Until 2017, the main source of imported gas, despite the development of interconnections on the western and southern borders, was the eastern direction. Domestic production of natural gas in 2019[14] accounted for approximately 20% of the national natural gas supply balance. As a consequence, the high level of the Polish market dependence on gas supplies from one direction had a significant impact on the level of gas prices. The physical diversification of gas supply, of which the LNG terminal is a component, should contribute to lowering gas prices in Poland.

The LNG Terminal as an alternative source of supplies is to support the processes of competition development on the gas market. The launch of the LNG Terminal in Świnoujście created the conditions for entering the Polish gas market by entities operating on the global LNG market. Increased competition on the gas suppliers side aim at improving the negotiating position of gas trading companies in Poland.

In connection with the above, in case of the entry point to the transmission system from the LNG terminal in Świnoujście, from the start of regasification, that is since June 2016, a discount of 100% has been applied. This solution was introduced mainly for the sake of key importance of the LNG terminal for:

- increasing the security of gas supplies to Poland through the diversification of directions of supplies and ensuring access to the global gas market - fully independent of perturbations on the local and regional market,

- competition development on the domestic gas market through the possibility of obtaining gas by domestic suppliers 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 2022 for all 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

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[14] The President of ERO Activity Report 2019, p. 185.

Code will be applied in settlements of standard capacity products for interruptible capacity[15] (as in 2021).

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.

In 2022 for interruptible capacity, including conditionally firm interruptible capacity, but except for virtual backhaul capacity, the following level of *ex-ante* discount will be applied:

- **6%** for annual, quarterly, monthly, daily and within-day standard capacity products for E-gas, offered at interconnection points with EU countries[16] 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 points [17].

The probability of transmission service interruption was estimated based on data concerning capacity bookings in the period from 1 January 2019 to 30 June 2020, with the usage of the TSO technical staff's expertise, due to the occurrence of only one interruption of standard capacity product for conditionally firm interruptible capacity during that period.

The adjustment factor A equal 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.

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

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

where:

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

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,

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.

The Pro factor was 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:

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

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[15] Interruptible capacity may be interrupted by the TSO up to 100% of booked interruptible capacity.

[16] Including a PWP interconnection point.

[17] Including UGS.

where:

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

$D_{int.}$ - 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,

$CAP_{av.\ int.}$ - 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.

2.6. Application of *ex-ante* discount for a short-term interruptible capacity, including conditionally firm interruptible capacity, but except for virtual backhaul capacity.

The charge for short-term interruptible and short-term conditionally firm interruptible gas transmission service will be calculated according to the following formula, except as provided for in section 2.7.:

$$Op = (100\% – Di_{ex\text{-}ante})* Mn * Ws * Ss * Mu * T$$

where:

Op - charge for a short-term interruptible, including short-term conditionally firm interruptible gas transmission service (quarterly, monthly, daily or within-day), but except for virtual backhaul capacity,

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

Mn – a multiplier,

Ws – a seasonal factor,

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

Mu – a contracted capacity [kWh/h],

T – a number of hours in which the short-term service was provided [h].

The application of an *ex-ante* discount excludes the possibility of applying an additional discount in the event of interruption occurrence.

2.7. Virtual backhaul capacity.

Virtual backhaul transmission service is defined in § 2(24) of Tariff Regulation as a service rendered by an energy enterprise dealing with gaseous fuels transmission, whereby gaseous fuels are contractually transported in the opposite direction to their physical flow in physical entry points to transmission network or physical exit points from this network.

In case of virtual backhaul transmission service (long- and short-term), pursuant to § 14 of Tariff Regulation, a 0,2 factor is applied to reserve prices, which means granting a 80% discount on that prices. Due to the above, for settlements of these services an *ex-ante* discount, referred to in point 2.5., is not applied. However, in conjunction to Article 16 of the Tariff Code, this factor (and therefore the 80% discount) can only be applied to interruptible capacity products.

For calculation of the reserve price for short-term virtual backhaul transmission service the multipliers and seasonal factors, referred to in points 2.1. and 2.2.. of this document, shall be applied.

The charge for short-term virtual backhaul transmission service is calculated according to the following formula:

$$Op = 0,2 * Mn * Ws * Ss * Mu * T$$

where:

Op - charge for a short-term virtual backhaul gas transmission service (quarterly, monthly, daily or within-day),

Mn – a multiplier,

Ws – a seasonal factor,

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

Mu – a contracted capacity [kWh/h],

T – a number of hours in which the short-term service was provided [h].

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 3.

Table 3. *Multipliers for standard capacity products for the EuRoPol GAZ's transmission network for 2022.*

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

Multipliers shall 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. The above multipliers fall within the permissible ranges specified in Article 13(1) of the Tariff Code.

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 - 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 - 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].

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.

3.3.1. For interruptible services provided in the transmission system owned by EuRoPol GAZ the *ex-post* discount will be applied, except as provided for in paragraph 3.3.2.

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, the compensation shall be equal to three times the reserve price (tariff) for daily standard capacity products for firm capacity and shall be paid for each day in which an interruption occurred.

3.3.2. If virtual backhaul transmission service is offered, both long- and short-term, pursuant to § 14 of Tariff Regulation, a 0,2 factor is applied to reserve prices (which means a discount of 80%). Nevertheless, in conjunction to Article 16 of the Tariff Code, this factor (and therefore the 80% discount) can only be applied to interruptible capacity products.

For calculation of the reserve price for short-term virtual backhaul transmission service the multipliers and seasonal factors, referred to in point 3.1. of this document, shall be applied.

The application of a discount pursuant to Article 14 of Tariff Regulation excludes the possibility of applying an *ex-post* discount, referred to in paragraph 3.3.1.

4. Comments from transmission system users received during the consultation process[18]

The comments received in response to consultation on the Operator's own network regarded to:

a) lowering the level of multipliers/short-term coefficients for the summer period, due to their low attractiveness for entities using gas transmission services in that period, when due to the seasonality of gas demand, the gas pipeline capacity is not fully used;

moreover, the System User pointed out that as regards the export tariff, the detailed structure of seasonal adjustment coefficients, as well as the basic tariff itself, should undergo benchmarking in such a way that the final cost of gas transmission in particular periods relates in a competitive manner to alternative natural gas export routs for Ukraine (volumetrically larger than Poland): Slovakia, Hungary and the southern gas mains point from Romania and Moldova, bearing in mind the possibility of using benchmarking adjustment, provided for in Article 6(4)(a) of the Tariff Code,

b) lowering /adjusting the seasonal factors at the GCP-GS/UA[19] point during summer, when the demand for natural gas on Ukraine is significantly lower compared to the winter period, to the levels applied by the Hungarian Operator, which will foster the promotion of the use of infrastructure in this part of Europe while complying with Article 6(4)(a) of the Tariff Code,

c) changing the approach to determining the levels of discounts, applied in situations of firm and interruptible service interruption, to conditionally firm capacities;

The System User pointed out that for interruptible capacity of interconnectors an *ex-ante* discount was proposed at the level of 6%, and for conditionally firm interruptible capacity (e.g. at entry to the gas transmission system from UA direction) - at the level of 3%.

In his opinion, the use of *ex-ante* discounts should not affect the fact that in a situation of interruptible service interruption, the user is exempted from incurring the cost in terms of time and amount of interrupted capacity.

At the same time, it is not advisable to apply a high *ex-post* discount on interruptible service. Additionally, the operator should be obliged to maximize the volume of services offered, including interruptible services, and the discount for conditionally firm interruptible capacities should be the same as for interruptible capacities. The User does not share the justification set out in point 4.7.3. of the consultation document, where it is indicated that in connection with being informed by the Operator about the conditions necessary to ensure the firmness of a conditionally firm interruptible service, a System User is able to effectively prevent its interruption. For this reason, the discount for conditionally firm interruptible services is reduced by half (to 3%) compared to other interconnectors (6%).

d) clarification of the conditions for making capacity available under medium and long-term products at the GCP-GS/UA point, in terms of the former Drozdowicze point; currently, the Operator offers capacity under monthly, quarterly and annual products, corresponding

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[18] After the consultation were completed, the President of the ERO, in a letter of 23 December 2020, requested the Operator to present its position on the comments submitted within the consultation. The Operator's position was received on 18 January 2021.

[19] Virtual bidirectional gas interconnection point on the border with Ukraine, also known as GCP GAZ-SYSTEM/UA TSO.

to the technical capacities at the Hermanowice point, and the capacities corresponding to the level of Drozdowicze point are offered irregularly under the daily product,

e) maintaining an 80% discount for virtual backhaul capacity (so-called virtual reverse) at GCP-GS/UA point (ID 102437); in view of the special nature of these services depending on gas import, the discount of 80% for the virtual reverse capacity, earlier applied, should be maintained at that point, whereas in the absence of such an option, wheeling services should be introduced for the new GCP-GS/UA point with preferential tariff for users booking capacity in both directions;

f) the introduction of a virtual reverse service at the PWP Reverse exit points (ID 102434), Cieszyn point (ID 300001) and GCP-GS/UA point (ID 102437), due to the inability of natural gas to flow out at these points; additionally, at the auction stage, the user should have information about what type of products he acquires (interruptible capacity or virtual reverse capacity), as this has a huge impact on the export strategy planning and booking transmission capacity by system users,

g) restoring the settlement of interruptible services on an *ex-post* basis or increasing the level of discounts while maintaining the *ex-ante* approach;

According to the System User, the mechanism for calculating the reserve prices of standard interruptible capacity products should be based on an *ex-post* approach which allows the service to be settled taking into account the actual interruption. This will reflect the actual capacity interruption, which is the most objective and cost-neutral settlement.

In the absence of acceptance of the above proposal, the proposed level of *ex-ante* discounts should be reviewed taking into account the arrangements in force on the European market.

According to the System User, the European market analyses, which are also reflected in the ACER document[20], indicate that transmission system operators in EU countries applying an *ex-ante* approach, set a discount for interruptible services at a higher level than in Poland, e.g. Belgium - 20%, France - 50% for entry point, Germany - 10% (20% from 1.10.2021) and Italy – 15%. Taking into account the above, the level of *ex-ante* discount in Poland should be increased.

At the same time, the System User has stipulated that position presented refers to the state where the level of discounts for the reference price applied at interconnection points of transmission system and gas storage facilities will be maintained at the current level i.e. the discount other than 100%.

In view of the similar importance of UGS and LNG terminals for ensuring the security of supply, the User has indicated that it is appropriate to apply to storage facilities a discount similar to that of an LNG Terminal, i.e. 100%.

The 100% discount at interconnection points of transmission system and storage facilities is an approach used in several European countries, as confirmed by the ACER document cited.

Furthermore, in view of the advantages that underground gas storage facilities bring to the transmission system, the European TSOs' practice and the pursuit to increase the price

[20] https://acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/The%20internal%20gas%20market%20in%20Europe_The%20role%20of%20transmission%20tariffs.pdf oraz analizy stron internetowych operatorów.

competitiveness of Polish UGS and to avoid the so-called double charging, the System User has proposed to increase the discount referred to in Article 9(1) of the Tariff Code to 100%.

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

Ad a)

First of all, it should be pointed out that in the Operator's tariffs the concept of "correction coefficients" is used, which resulted from the provisions of the Tariff Regulation, applicable until 30 May 2019, while according to the conceptual framework of the Tariff Code, these coefficients are the product of the relevant multipliers and seasonal factors, applicable from 31 May 2019.

According to the definition set out in Article 3(16) of the Tariff Code a multiplier means the factor applied to the respective proportion of the reference price in order to calculate the reserve price for a non-yearly standard capacity product and has a constant value during the year. Whereas seasonal factor is defined in paragraph 21 as the factor reflecting the variation of demand within the year which may be applied in combination with the relevant multiplier (*vide* table no 1 and 2). The values of multipliers for 2022 did not change compared to the multipliers applied in 2021 and seasonal factors were calculated pursuant to Article 15 of the Tariff Code on the basis of the forecasted flows. In order to level off the seasonal factors values the calculation was performed drew on forecasted gas volumes to be delivered to exit points of E-gas and L-gas transmission systems (excluding gas volumes to be sent to exit points to UGS), estimated on their average values during the period 2017-2019.

Thus, the change in the level of correction coefficients (which are the product of the multiplier and seasonal factor) to which the System User referred, is solely due to a change in seasonal factors caused by objective circumstances, i.e. changes in the volume of gas outflow each month. For the same reason, the possibilities for reducing them over the summer are also limited. It should also be stressed that the solution adopted for multipliers and seasonal factors does not provide for the differentiation of their value at different points of the transmission system.

As for the proposal to make the transmission tariff at the system exit point on the border with Ukraine more competitive by applying benchmarking, referred to in Article 6(4)(a) of the Tariff Code, it should be pointed out that the MWCR OGP for 2020-2022 does not provide for the possibility to apply benchmarking for selected transmission system points.

Nor is this issue the subject to the consultations referred to in Article 28 of the Tariff Code, but of consultations on the reference price methodology. The methodology for the next period starting in 2023 will be consulted in 2021 in the scope of the consultations referred to in Article 26 of the Tariff Code.

Ad b)

As regards the proposal to adjust the level of seasonal factors on the border with Ukraine to the level applied by the Hungarian Operator, it is necessary to indicate the explanations presented in point a) and to emphasize the fact that the OGP MWCR for 2020-2022, which was the subject to consultations with transmission system users, does not provide for the possibility of applying benchmarking, referred to in Article 6(4)(a) of the Tariff Code, for selected points of the transmission system, in particular for determining the values of seasonal factors.

Ad c)

The reserve prices for standard capacity products for interruptible capacity, including conditionally firm interruptible capacity, shall be set according to the rules presented in point 2.5 of this Communiqué, 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 discount results from the probability of transmission service interruption that was estimated based on data concerning capacity bookings in the 1 January 2019 to 30 June 2020 period.

Moreover, it should be emphasized that neither the consultations carried out nor this Communiqué concern the determination of compensation applicable in the event of interruption of gas transmission services offered on a firm basis.

However, in the case of interruptible services, it should be noted that it is not possible to apply an *ex-ante* discount and an *ex-post* discount for the same product at the same time, which seems to follow from the comment submitted by the System User.

Ad d), e) and f)

The issues raised by the System User in points d), e) and f) are not subject to consultations referred to in Article 28 of the Tariff Code. Detailed rules for the provision of gas transmission services, including those relating to the capacity bookings and the types of capacity products offered, are regulated in the applicable IRiESP[21]. The transmission system user has the opportunity to present his position on these issues within the consultations regarding IRiESP.

Ad g)

Referring to the proposal of the System User to restore the *ex-post* methodology, it should be noted that the analysis of the provisions of Article 16 of the Tariff Code shows that the preferred methodology of determining the reserve prices for standard products for interruptible capacity is the *ex-ante* discount. This approach also results from the provision of Article 14(1)(b) of Regulation 715/2009, according to which TSOs provide both firm and interruptible third party access services and the price for interruptible capacity reflects the probability of interruptions.

Due to the above the reserve prices for standard capacity products for interruptible capacity in 2022, shall be set according to the rules set out in point 2.5 of this Communiqué, 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 discount results from the probability of transmission service interruption that was estimated based on data concerning capacity bookings in the period from 1 January 2019 to 30 June 2020. Therefore, the possibilities of increasing the *ex-ante* discount are also limited.

The continued use of the *ex-ante* methodology in 2022 is also supported by the fact that in April 2020 the service provided on an interruptible basis at the Drozdowicze point was interrupted, which excludes the possibility of applying the *ex-post* discount at this point. Pursuant to Article 16(4) of the Tariff Code, the *ex-post* discount may only be applied at interconnection points where in the previous gas year there was no capacity interruption due to physical congestion. Moreover, it should be emphasized that the level of the *ex-post* discount, calculated in accordance with Article 16(4) of the Tariff Code, does not reflect the probability of service interruption.

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[21] The Transmission Network Code for TSO's own transmission network, approved by the President of URE decision of 26 March 2019 r. ref. no.: DRR.WRG.4322.1.2019.AK1.

Regarding the User's proposal to increase the discount to 100% for gas transmission services rendered at interconnection points with storage facilities, it should be noted that this issue is not subject to consultations referred to in Article 28 of the Tariff Code. This issue will be embraced by the consultations referred to in Article 26 of the Tariff Code concerning the reference price methodology for the next period, starting in 2023. These consultations are planned for the second half of 2021. Then the System User will have the opportunity to present his opinion.

Considering the Operator's estimated probability of interruption of conditionally firm interruptible services and the uncertainty regarding the possibility of limiting this probability by the user, a discount of 6% is adopted for such services at interconnection points with EU countries, and with third countries and at the PWP point.

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 multiplier values established 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 and the relevant multiplier 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 revenue, 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 incurs the same charge for short-term products regardless of gas 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 tariff calculation, the established level of multipliers and seasonal factors will not affect the recovery of revenue by the Operator and EuRoPol GAZ.

Rafał Gawin
President of Energy Regulatory Office

/electronically signed/