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Draft explanatory note on Article 3 „Tariffs for access to the networks“ of Regulation 1775/2005

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Overview

★ Tariffs in the 2nd IGM Directive

⇒ Non-discrimination

⇒ Tariff setting

⇒ Cost base of tariffs

★ Tariffs in Regulation 1775/2005

⇒ Cost basis

⇒ Benchmarking as tariff setting principle

⇒ Tariffs and competition

⇒ Other qualitative requirements





Tariffs in the 2nd IGM Directive: non-discrimination

★ **Core provision: Article 18(1) including the reference to Article 25(1) of the Directive**

⇒ **Ex ante approval and publication of tariffs or their methodologies**

⇒ **System users must be able to anticipate the cost of enjoying a transportation service**

★ **Article 18(1) excludes any discrimination accruing from the application of tariffs**

⇒ **Neither size, nor relation to TSO, nor portfolio considerations must affect the tariffs**

⇒ **Avoiding a discriminatory impact through the portfolio effect requires entry-exit systems for tariffs**



Tariffs in the 2nd IGM Directive: Tariff setting

- ★ **Two ways of tariff setting:**
 - ↪ **Ex ante approval of tariffs by the regulatory authorities**
 - ↪ **Ex ante approval of methodologies to calculate the tariffs by the regulatory authorities**
- ★ **In either case, mandatory ex ante approval**
- ★ **Effective and efficient solutions to avoid pancaking**



Tariffs in the 2nd IGM Directive: Cost base of tariffs

- ★ In order to comply with the requirement of non-discrimination, tariffs have to be cost-reflective
- ★ Directive aims at providing „efficient and non-discriminatory access to the system“
 - ⇒ Tariffs must not be unduely high, but reflect the underlying costs
- ★ This is also required in the light of „objective application“ of tariffs
- ★ Only cost-based or cost-reflective tariffs would exclude competitive advantages of incumbent supply companies belonging to the same holding company as the network operator



Regulation 1775/2005: cost base of tariffs

★ Cost base of tariffs:

⇒ Article 3 requires tariffs to reflect actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator

★ Cost transparency

⇒ Publication of at least the main summary economic data of the networks

⇒ Which costs and which cost allocations

★ Tariffs to include an appropriate return on investments





Benchmarking as tariff setting principle

- ★ **Regulation allows**

- ↪ „...where appropriate taking account of the benchmarking of tariffs by the regulatory authorities“

- ↪ Benchmarking is restricted to certain circumstances

- ★ **Application of benchmarking in the light of Recital 7, which spells out where „benchmarking“ of tariffs is a „relevant consideration“**

- ★ **„effective pipeline-to-pipeline competition“ to be identified by the regulatory authorities**

- ★ **Benchmarking is a complementary element to the cost-based tariff setting approach**



Tariffs and Competition

- ★ **The Regulation acknowledges the role attributed to tariffs and methodologies used to calculate them with respect to competition**
 - ↪ They shall facilitate efficient gas trade and competition
 - ↪ Avoid cross-subsidies between network users
- ★ **These requirements would be best met by entry-exit tariff systems**



Some other qualitative requirements of tariffs

★ Transparency

- From the point of view of the user in order to allow him to establish the costs he incurs by enjoying the service

★ System integrity

- Costs to maintain a well functioning system
- Investments improving the overall performance by eliminating physical bottlenecks

★ Interoperability

- Costs accruing from the elimination of interoperability problems may be taken into account
- Regulators to safeguard reasonable cost-benefit ratio

★ Liquidity

- Incentives for TSO to offer the maximum level of capacity to the market



Further procedure

- ★ **Commission invites stakeholders to submit final comments by end of June**
- ★ **On the basis of the discussion today and the final comments, the Commission intends to issue the final explanatory note**