Bundesnetzagentur

Ruling Chamber 9

BK9-23/610

DECISION

In the administrative proceedings pursuant to section 29(1) of the Energy Industry Act (EnWG) in conjunction with section 56(1) sentence 1 para 2, sentence 3 and sentence 4 EnWG in conjunction with Article 71(2) point (d) of Regulation (EU) 2024/1789 in conjunction with Article 4(1), (2) and (4), Article 6(4) point (c) and Article 27(4) sentence 1 and Article 27(5) sentence 4 of Regulation (EU) 2017/460

concerning the periodic decision making regarding the reference price methodology and the other points listed in Article 26(1) of Regulation (EU) 2017/460 applicable to all transmission system operators (REGENT 2026)

Ruling Chamber 9 of the Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen, Tulpenfeld 4, 53113 Bonn,

represented by

the Chair	Dr Christian Schütte,
the Vice Chair	Dr Björn Heuser
and the Vice Chair	Roland Naas

decided on 14 May 2025:

1. The reference price methodology to be used by the transmission system operators operating in the German market area for calculating reference prices is determined as being the calculation of non-distance-related entry and exit tariffs. This entails dividing the transmission services revenue by the average contracted non-adjusted capacities at the entry and exit points forecasted for the calendar year (“uniform postage stamp tariffs”).
2. Capacity-based transmission tariffs at entry and exit points at storage facilities for firm and interruptible capacity products and for capacity products with an attached condition shall be discounted by 75% unless and to the extent a storage facility that is connected to more than one transmission or distribution network is used to compete with an interconnection point. Before granting such a discount, the transmission system operator must obtain proof from the storage facility operator that the facility cannot be used to compete with an interconnection point. Further discounts or year-round discounts other than the above-mentioned are not permissible; the provisions of Article 18(1) first subparagraph point (b) and third subparagraph of Regulation (EU) 2024/1789 remain unaffected.
3. A discount may be set for transmission tariffs for conditionally firm, freely allocable capacity (bFZK) and firm, dynamically allocable capacity (DZK). Discounting must not reduce capacity tariffs for bFZK and DZK to below the capacity tariff for the interruptible standard capacity product (uFZK) with the lowest discount at this point. These provisions are also applicable to entry and exit points at storage facilities, although only after application of the discount determined according to operative part 2.
4. Rescaling in accordance with Article 6(4) point (c) of Regulation (EU) 2017/460 at all entry and exit points with the aim of actually being able to collect transmission services revenue shall be carried out by multiplying by a constant.

5.

a) For meter operation at exit points to final customers, which also includes metering, meter operation tariffs are levied using a cost-reflective, non-discriminatory, objective and transparent methodology to be determined by the respective transmission system operator. Meter operation at these points is classified as a non-transmission service. In the event of divergences between the costs of meter operation at exit points to final customers for the calendar year assuming efficient provision of services and the valuations included in the revenue cap in this regard, which result from changes in the number of connection users for whom meter operation is carried out by the network operator, such divergences are balanced using a separate regulatory account.

b) A meter operation tariff reflecting the costs of the respective meter and the costs of metering is also levied for meter operation at internal order points. Meter operation at these points is likewise classified as a non-transmission service.

c) Meter operation at interconnection points, an entry points from LNG facilities, and at entry and exit points at storage facilities is classified as a transmission service.

6. Tariffs are levied for the alternative nomination procedure according to section 15(3) of the Gas Network Access Ordinance (GasNZV) in so far as it is used. The alternative nomination procedure is classified as a non-transmission service.

7. The directives in points 1 to 6 come into effect as of 1 January 2026.

8. Determination BK9-19/610 of 11 September 2020 (“REGENT 2021”) will be revoked as of 31 December 2025.

9. No fees are payable for the decision.

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Rationale

A.

1 The ruling chamber opened own-initiative proceedings for the determination of a reference price methodology and the other points listed in Article 26(1) of Regulation (EU) 2017/460 for all transmission system operators operating in Germany on 30 October 2023.

I. Opening of the proceedings and consultation

2 Notification of the opening of proceedings was given on the Bundesnetzagentur's website on 30 October 2023 and in the Official Gazette 21/2023 of 8 November 2023.

3 The background to these proceedings is the network code on harmonised transmission tariff structures for gas (Regulation (EU) 2017/460), which entered into force on 6 April 2017 and is directly applicable European law yet also requires several implementing acts from the national regulatory authority. These acts need to undergo comprehensive consultation processes.

4 The Bundesnetzagentur informed the regulatory authorities of the federal states of the opening of proceedings on 31 October 2023 in accordance with section 55(1) sentence 2 EnWG.

5 Until 15 April 2024, the Bundesnetzagentur conducted extensive surveys among the transmission system operators regarding all the information required for the cost allocation assessments pursuant to Article 5 of Regulation (EU) 2017/460 and for assessment of the final consultation pursuant to Article 26(1) of Regulation (EU) 2017/460. The plausibility of the data thus obtained was checked in the subsequent months and any errors and implausibilities that became apparent were corrected as necessary up to October 2024 in consultation with the transmission system operators concerned.

6 Based on the submitted reports and data entry forms, the Bundesnetzagentur developed the consultation version of the decision in accordance with Article 27(4) of Regulation (EU) 2017/460.

7 The German version of the draft decision was published on the Bundesnetzagentur website on 13 December 2024 for final consultation within the meaning of Article 26(1) and (2) of Regulation (EU) 2017/460 until 13 February 2025. The consultation was scheduled to last for two months. The Agency within the meaning of Article 1(1) of Regulation (EU) 2019/942 was informed of the start of the consultation on the same day.

8 In accordance with section 58(1) sentence 2 EnWG, on 13 December 2024 the Bundesnetzagentur gave the regulatory authority of the federal states the opportunity to comment on the intended determination. Likewise on 13 December 2024, the

Bundeskartellamt was given the opportunity to state its views on the intended determination in accordance with section 58(1) sentence 2 EnWG.

9 An English version of the consultation documents was published on the Bundesnetzagentur website on 16 January 2025 and they were submitted to the Agency within the meaning of Article 1(1) of Regulation (EU) 2019/942 ("ACER"). Legally authoritative, however, are solely the German versions of the documents.

10 On 12 February 2025, the Bundeskartellamt stated that it did not wish to submit comments on the proceedings.

The Committee of representatives of the federal state regulatory authorities was given the opportunity to comment in accordance with section 60a(2) sentence 1 EnWG on 20 February 2025.

Final consultation

11 The six responses received were published on the Bundesnetzagentur website on 5 March 2025. A summary of the responses in German and English was also published on 5 March 2025 on the Bundesnetzagentur website.

12 The responses received made the following main points:

1. Reference price methodology (operative part 1)

13 The maintaining of the uniform postage stamp tariffs as the reference price methodology, as envisaged in the draft determination, received universal support, with the arguments in favour of it described as still clear and conclusive. The continuation of the postage stamp tariffs has become established over many years and will also provide market participants with planning certainty in the future, it was stated. The market also class it as a sensible and appropriate methodology in comparison to others. It is still the most suitable methodology and best reflects the complexity and meshed structure of the German transmission system even under the changed framework conditions in the gas sector, in particular the changed import situation. Moreover, keeping it will make a significant contribution to holding tariffs as stable as possible and will strengthen shippers' confidence in the German natural gas market. Given the highly meshed nature of the German transmission system, any other methodology would simply lead to the appearance of accuracy while actually providing little transparency.

2. Discounts for renewable and low-carbon gas

14 On this point, it was stated that it was objectively logical to remove the provision on the non-tariffed input of biogas from operative part 1. The reason for this is the provision on discounts

of 100% and 75% respectively for renewable and low-carbon gas at entry points from renewable gas and low-carbon gas production facilities in accordance with Article 18(1) first subparagraph point (a) and second subparagraph of Regulation (EU) 2024/1789. However, concerning the applicability of the discounts from 5 February 2025, there was said to be a need to reword the determination as regards the timeframe for entry points from production facilities and for storage facilities. In accordance with Article 18(1) of Regulation (EU) 2024/1789, the tariff discount applies from the time of "setting tariffs". As the next setting of tariffs does not take place until May 2025 for the 2026 tariffs, it would be preferable for the determination to reference the wording of the Regulation and thus an application of the discounts as of 1 January 2026.

15 A small number of market participants welcomed the fact that the Bundesnetzagentur has continued to leave open the possibility of making use of the derogation set out in Article 18(5) of Regulation (EU) 2024/1789. They took the view that the numerous existing national support measures meant that the legal basis to make use of the derogation provided for in Article 18(5) point (b) of Regulation (EU) 2024/1789 was in place.

3. Discounts at storage facilities (operative part 2)

16 The provisions regarding discounts at entry points from and exit points to storage facilities were largely supported. There were some calls for the discount to be raised to 100% in order to create incentives for the market to store gas in view of the current market situation (summer-winter spread). An industry association took the view that such incentives could limit the role of Trading Hub Europe in reaching the minimum storage level requirements set out in law (currently 80% by 1 October and 90% by 1 November). It would be possible to raise the storage discount to up to 100% under the current European legislative framework, it argued. Some EU Member States already had a 100% discount.

17 An alternative regulation that would make use of deposit accounts for gas volumes was proposed for storage facilities connected to more than one market area. Under the current system, storage customers had to decide at the time when they inject gas into a storage facility whether the gas should in future also be available for withdrawal into a different market area, it was argued. Under the proposal, separate deposit accounts with a certain deposit period could be used to prove that the gas volumes allocated to the accounts had the characteristic of storage and there was thus also a differentiation from the use of the storage facility as an alternative to transporting gas via a cross-border interconnection point. In its practical implementation, this would mean that gas volumes allocated to the deposit accounts could not be withdrawn into a different market area for a defined, minimum period. After the end of this minimum period, the gas volumes could be withdrawn into any connected market area.

18 An alternative regulation for discount settlement was also proposed for storage facilities connected to more than one market area. It was noted that there were different implementation rules in countries such as the Netherlands and Austria and requested that their models be examined to assess whether a more flexible implementation for storage users might be possible. In those countries, users are allowed to wait until their gas is withdrawn to decide whether the storage facility is to be additionally used as an interconnection point and only then must any discount previously received on the gas put into storage be paid back.

4. Firm capacity products to which a condition is attached (operative part 3)

19 Support was expressed for the provisions for the discounting of conditionally firm, freely allocable capacity (bFZK) and firm, dynamically allocable capacity (DZK).

5. Rescaling in accordance with Article 6(4) point (c) of Regulation (EU) 2017/460 (operative part 4)

20 Support was expressed for the provision enabling transmission services revenue to be actually collected by means of multiplying by a constant.

6. Market area conversion charge

21 The decision not to class the market area conversion charge as a non-transmission service, in contrast to the preceding determination, was welcomed, especially as it has no practical consequences. However, it should be clarified that the publication requirement on the booking platform still includes the market area conversion charge.

7. Biogas charge

22 With regard to the decision not to class the biogas charge as a non-transmission service, in contrast to the preceding determination, the determination should include a definitive statement about the permissibility and continuation of the biogas charge, rather than merely declaring the details of the processing of the charge set out in the gas cooperation agreement to be permissible.

23 The fact has not been taken into consideration that the biogas charge – unlike the market area conversion charge – is not secured in the EnWG and that the Gas Network Tariffs Ordinance (GasNEV), which is only in force until 31 December 2027, refers to the provisions of the Gas Network Access Ordinance (GasNZV). The references in section 20b GasNEV will be ineffective from 1 January 2026, so at the moment it is unclear even for existing facilities whether the biogas charge may still be levied. The process for calculating the 2026 biogas charge starts in August 2025 already. It is highly unlikely that the legislature will have decided

on the continuation of the biogas charge by then (for example by including it in the EnWG). Network operators therefore require further explanations about the transition period, at least until the GasNEV ceases to have effect on 31 December 2027.

24 It should be clarified in the REGENT 2026 determination or the GasNEF determination that the reference made in section 20b GasNEV to the GasNZV and the national cost distribution set out therein continues to apply for existing facilities, at least until the GasNEV ceases to have effect. An interim solution is also needed for the costs from the payment of avoided network tariffs, which, in accordance with section 20a GasNEV, have so far been secured for the period of 10 years. This is urgently necessary to be able to continue the cost distribution in a legally secure manner, at least for the existing facilities.

25 It should in addition be clarified that the publication requirement on the booking platform still includes the biogas charge.

8. Meter operation (operative part 5)

26 The provisions regarding meter operation tariffs were described as understandable and welcomed.

9. Meter operation (operative part 6)

27 Classing the tariffs for the alternative nomination procedure as a non-transmission service was described as appropriate.

10. Removal of reporting requirement

28 The removal of the notification and reporting requirements determined in previous versions was supported in light of the established application of the postage stamp as the reference price methodology and the consequent removal of administrative work.

11. Tariff forecast

29 Individual consultation respondents suggested requiring transmission system operators to hold a tariff publication event each year including an explanation of the tariff forecast for the following years.

II. Next steps

30 The Bundesnetzagentur requested updated forecast data for the calculation of the tariff for the 2027 calendar year from the transmission system operators on 24 March 2025. The transmission system operators provided the data requested in early April 2025.

ACER's assessment of the consultation document

31 On 8 April 2025, ACER published its response in accordance with Article 27(2) and (3) of Regulation (EU) 2017/460.

32 ACER confirmed that the information set out in Article 26(1) of Regulation (EU) 2017/460 had been published. The consultation document had been published in English a month after the start of the consultation.

1. Reference price methodology (operative part 1)

33 ACER concluded that the reference price methodology meets the requirements regarding transparency, non-discrimination and volume risk listed under Article 7 of Regulation (EU) 2017/460. However, ACER was unable to conclude on the requirements of cost-reflectivity, prevention of undue cross-subsidisation and non-distortion to cross-border trade, it stated. While the application of a postage stamp methodology was an appropriate choice, given the complexity and meshed nature of the German system, the lack of a sufficient assessment in the consultation document regarding the classification of regional networks prevented ACER from concluding on the reference price methodology's compliance with these requirements.

34 ACER further concluded that the criteria for setting non-transmission tariffs were met for the metering non-transmission services, but the compliance of the alternative nomination procedure non-transmission service could not be assessed.

35 ACER recommended assessing the existence of regional networks in line with the definitions in Article 2(17) and (19) of Directive (EU) 2024/1788. If such an assessment found that regional networks were in place, their costs should be allocated using the reference price methodology, should the proposed methodology prove capable of allocating the costs related to regional networks only to domestic users. Should the allocation of the costs of regional networks to domestic end users not be possible under the proposed RPM, ACER recommended placing regional networks into distribution networks and allocating these costs outside the reference price methodology.

36 ACER also recommended taking into account the effects of repurposing natural gas pipelines for the hydrogen system after clarifying the requirements and technical consequences of repurposing.

2. Discounts at storage facilities (operative part 2)

37 With regard to the consultation responses, ACER took the view that the possibility of applying an ex-post or a more flexible methodology for discounts at storage facilities connected to more

than one market area should be considered. It should be ensured that the mandatory discount applies in all cases where gas does not cross the border, according to ACER.

3. Firm capacity products to which a condition is attached (operative part 3)

38 ACER wished for more clarity on the determining of the tariff level for firm capacity products beyond the range defined for these tariffs. It stated that there was no clarity regarding the way the tariffs of individual firm capacity products were established and what factors influenced the chosen discount level.

4. Transparency

39 ACER additionally recommended greater transparency with a more user-friendly publication format, especially for the calculation of capacity-weighted distance (CWD) tariffs and for the classification of the alternative nomination procedure as a non-transmission service.

III. Other issues

40 These determination proceedings do not cover the question of whether, in derogation of Article 10(1) of Regulation (EU) 2017/460, the reference price methodology is to be applied separately (Article 10(2) point (a) of Regulation (EU) 2017/460), which as a general principle according to Article 10(4) of Regulation (EU) 2017/460 would only be possible within a set time period anyway. No corresponding determination proceedings were initiated by the ruling chamber. The proceedings on the determination of an effective inter-transmission system operator compensation mechanism in the Germany-wide market area (BK9-24/607, “AMELIE 2026”), initiated in parallel again, relate solely to the compensation mechanism to be established when the reference price methodology is applied jointly in accordance with Article 10(3) sentence 1 of Regulation (EU) 2017/460.

41 For further details, reference is made to the content of the file.

B.

42 Through this determination, in accordance with Article 27(4) of Regulation (EU) 2017/460, the Bundesnetzagentur is issuing a motivated decision on all points stated in Article 26(1) of Regulation (EU) 2017/460.

43 The decisions taken fall under the responsibility of the Bundesnetzagentur as provided for by section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentence 3 and sentence 4 EnWG in conjunction with Article 71(2) point (d) of Regulation (EU) 2024/1789 in conjunction with Article 4(1), (2) and (4), Article 6(4) point (c) and Article 27(4) sentence 1 and Article 27(5) sentence 4 of Regulation (EU) 2017/460. The ruling chamber has competence as per section 59(1) sentence 1 EnWG.

44 Pursuant to section 59(3) sentence 3 EnWG, the Grand Ruling Chamber issues nationally applicable determinations on the conditions and methodologies for network access and for determining the tariffs for network access in accordance with sections 20 to 23a, 24 to 24b and 28o(3) EnWG. Although the legal principles of Regulation (EU) 2017/460 cited are not mentioned directly in section 59(3) sentence 3 EnWG, they correspond to the issue of "determining the tariffs for network access" pursuant to section 21(3) sentence 4 para 2a) EnWG (which is mentioned in section 59(3) sentence 3 EnWG), so the Grand Ruling Chamber is responsible for the nationally applicable determination. In an administrative order of 6 February 2024, the Grand Ruling Chamber transferred the REGENT 2026 determination back to Ruling Chamber 9 in accordance with section 59(3) sentence 4 EnWG.

I. Determination of a reference price methodology in accordance with Article 26(1) point (a) of Regulation (EU) 2017/460 (operative part 1)

45 The decision pursuant to operative part 1 on the reference price methodology is based on section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentence 3 and sentence 4 EnWG in conjunction with Article 27(4) sentence 1 and Article 26(1) point (a) of Regulation (EU) 2017/460.

46 Accordingly, it is necessary to establish a reference price methodology to be applied to the part of the transmission services revenue to be recovered from capacity-based transmission tariffs with the aim of deriving reference prices (Article 3 sentence 2 point (2) of Regulation (EU) 2017/460). The reference price is the price for a capacity product for firm capacity with a duration of one year (Article 3 sentence 2 point (1) of Regulation (EU) 2017/460). In principle, the transmission services revenue shall be recovered by capacity-based transmission tariffs (Article 4(3) sentence 1 of Regulation (EU) 2017/460).

1. Description of the reference price methodology according to Article 26(1) point (a) of Regulation (EU) 2017/460

47 Article 26(1) point (a) of Regulation (EU) 2017/460 stipulates that a description of the proposed reference methodology must be provided. This description is derived from the wording of operative part 1. In the case of contracted capacities, it was explicitly clarified that only non-adjusted contracted capacities are relevant because, under the system set out in Regulation (EU) 2017/460, any higher or lower revenues resulting from multipliers and discounts are not part of the reference price methodology but must (in a second step) be taken into account as part of the rescaling according to Article 6(4) point (c) of Regulation (EU) 2017/460.

48 The provision on the non-tariffed input of biogas that was included in operative part 1 of the REGENT 2021 determination has been removed, since the discounts for renewable gas and low-carbon gas regulated in Article 18(1) first subparagraph point (a) and second subparagraph of Regulation (EU) 2024/1789 of 100% and 75% respectively at entry points from renewable gas and low-carbon gas production facilities now apply from the time of application of the next setting of tariffs after 5 February 2025, ie as of 1 January 2026, since the tariffs will next be set in May 2025 for the 2026 tariffs.

49 Regulation (EU) 2024/1789 is binding in its entirety and directly applicable in all Member States. The possibility of making a decision under Article 18(5) of Regulation (EU) 2024/1789 is unaffected by this determination.

2. Parameters for the reference price methodology in accordance with Article 26(1) point (a)(i) of Regulation (EU) 2017/460

50 According to Article 26(1) point (a)(i)(1) and (2) of Regulation (EU) 2017/460, a description is required of the indicative information set out in Article 30(1) point (a) of Regulation (EU) 2017/460, ie the parameters used in the reference price methodology relating to the technical characteristics of the transmission system.

a) Description of the capacity

51 If the uniform postage stamp method pursuant to operative part 1 is applied, this description only comprises the forecasted contracted capacity at the entry and exit points and the associated assumptions (Article 30(1) point (a)(ii) of Regulation (EU) 2017/460).

52 In order to fulfil this requirement, the Bundesnetzagentur conducted a survey on the average contracted, non-adjusted capacity forecasted for the calendar year 2026 at all entry and exit points of the transmission system operators.

53 The total of the reported capacity is shown in Annex 1. Pursuant to Article 26(1) point (a)(i)(1) of Regulation (EU) 2017/460, justification for using this parameter must be provided. The justification is that the booked or ordered capacity in each case is a significant cost driver, which means that, pursuant to Article 3 sentence 2 point 18 of Regulation (EU) 2017/460, it is a key determinant of the transmission system operator's activity which is correlated to the costs of that transmission system operator. The transport service of the transmission system operators is marketed via the capacity. This parameter facilitates appropriate, pro-rata allocation of the costs caused by the reservation of the entire transmission system to the users of the transmission system. Article 5(1) point (a)(ii) of Regulation (EU) 2017/460 explicitly lists the forecasted contracted capacity as a possible cost driver and, likewise, the capacity weighted distance reference price methodology described in Article 8 of Regulation (EU) 2017/460 recognises forecasted capacity as a cost driver. Detailed justifications of suitability as a cost driver and also of the rejection of distance as a complementary cost driver given the complexity and the meshed structure of the German gas transmission networks can be found in section B.I.5.b).

54 The ruling chamber does not, however, generally consider technical capacity (within the meaning of Article 2(1) point 19 of Regulation (EU) 2024/1789 the maximum firm capacity that can be offered to the network users, taking account of system integrity and the operational requirements of the transmission system operator or, where applicable, the distribution system operator, or the hydrogen network operator) to be a suitable cost driver. Using technical capacity merely results in an abstract consideration of the capability of the individual entry and exit points with no reference to the distribution of costs during a given tariff period among the likely transport requests of network users, whose booking behaviour (and hence the booked or ordered capacity in each case) is a key factor in determining the extent to which the existing costs should be apportioned to the network users. However, the ruling chamber used technical capacity to calculate the degree of utilisation of various point types (see section B.I.5.b)(2)(ii)).

55 The transmission system operators also, with the help of economically reasonable measures, offer the market additional long-term bookable, firm, freely allocable capacity beyond that exclusively provided by the network assets (see the determination proceedings ANIKA of Ruling Chamber 7, BK7-23-043, decision of 21 March 2024 and the explanations of the effects in section B.I.5.b)(1)(vii)). Furthermore, additional short-term bookable capacity is marketed by the transmission system operators based on the re-nomination restrictions on the previous day (see the determination proceedings KARLA GAS 1.1 of Ruling Chamber 7, BK7-15-001, decision of 14 August 2015).

56 In addition to the relevant indicative information, pursuant to Article 26(1) point (a)(i)(2) of Regulation (EU) 2017/460 the assumptions applied are also subject to consultation. In

advance of this decision, the transmission system operators were required to estimate the capacity forecasts for 2026, among other things. The transmission system operators forecast capacity by extrapolating the booked or ordered capacity from the previous years using estimates. The capacity forecasts were generally based on the tariff model for 2024 unless higher bookings for 2026 were already available. Foreseeable developments or clear shifts in bookings were also taken into account. With regard to the ordered capacity, expected slight reductions were made in some cases based on the order from 2024 or the long-term forecast of the distribution system operators.

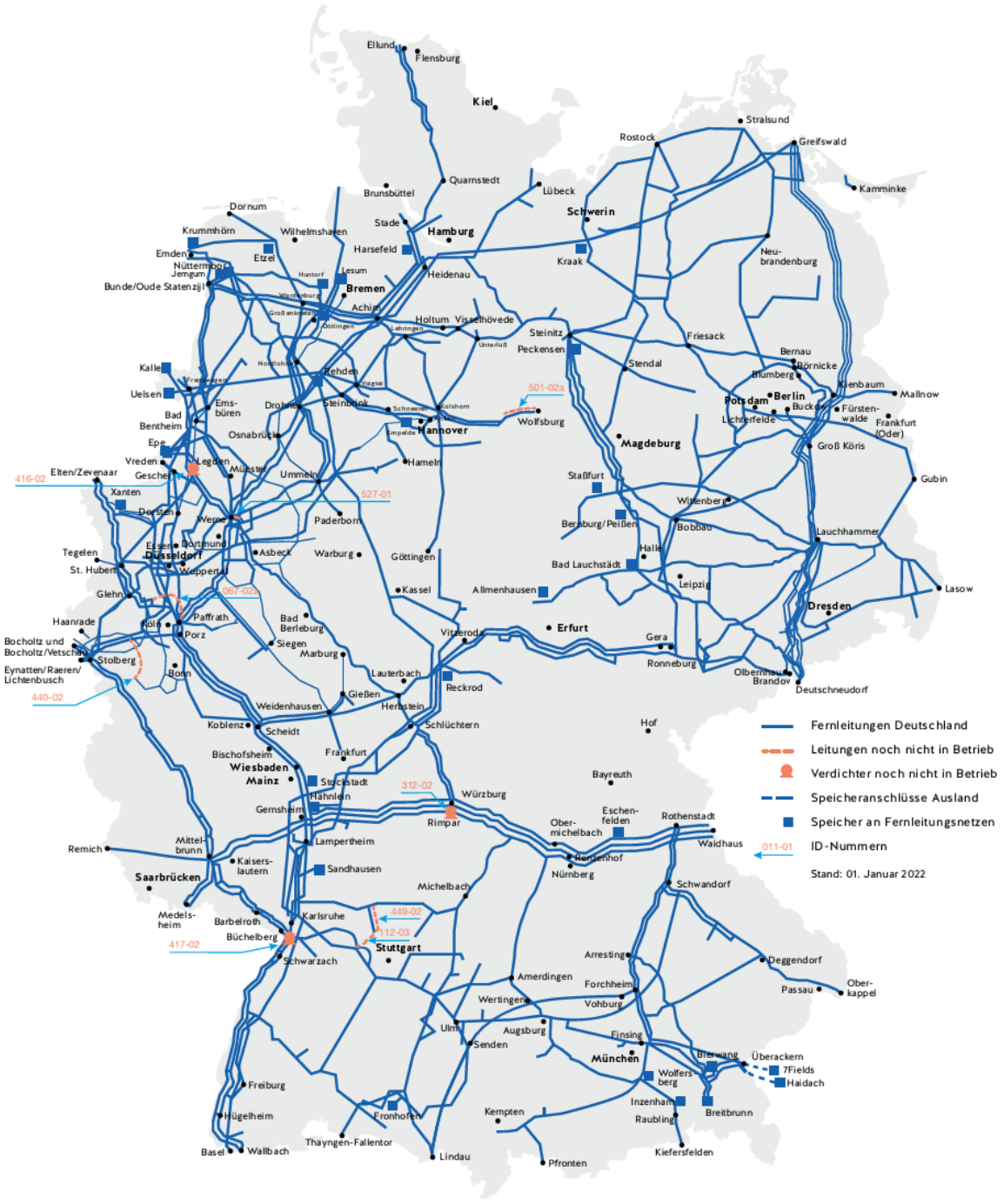
57 The ruling chamber made the following adjustments to the forecasted data reported by the transmission system operators in March and April 2024. Individual transmission system operators also submitted corrected booking forecasts in response to specific queries from the ruling chamber about unusual figures of technical capacity. These corrections were mostly at virtual interconnection points (VIPs) where capacity of several transmission system operators is brought together and marketed via the VIP. The corrections were checked for plausibility by the ruling chamber and accepted.

58 The transmission system operator bayernets submitted booking forecasts with a direct possibility of use at the virtual trading point (VTP) and booking forecasts with possibilities of use at the Haidach storage facility, taking account of a benchmarking tariff. However, since this determination no longer provides for a benchmarking tariff (see III.2), these figures were amended on the basis of explanations by the network operator.

b) Description of the transmission network structure

59 Insofar as Article 26(1) point (a)(i) of Regulation (EU) 2017/460 refers to Article 30(1) point (a)(iv) of Regulation (EU) 2017/460, it must be noted that a structural representation of the transmission network with an appropriate level of detail is not a parameter used in the reference price methodology and thus is not subject to formal consultation nor does it form a mandatory part of this decision. However, for reasons of transparency and because it will need to be addressed in the context of stating the level of complexity of the transmission network within the meaning of Article 7 sentence 2 point (b) of Regulation (EU) 2017/460, the ruling chamber nevertheless includes a representation of the transmission network below. To this end, it adopts relevant outline maps from the Gas Network Development Plan 2022-2032, which present an overview of the entire German transmission network showing both gas qualities:

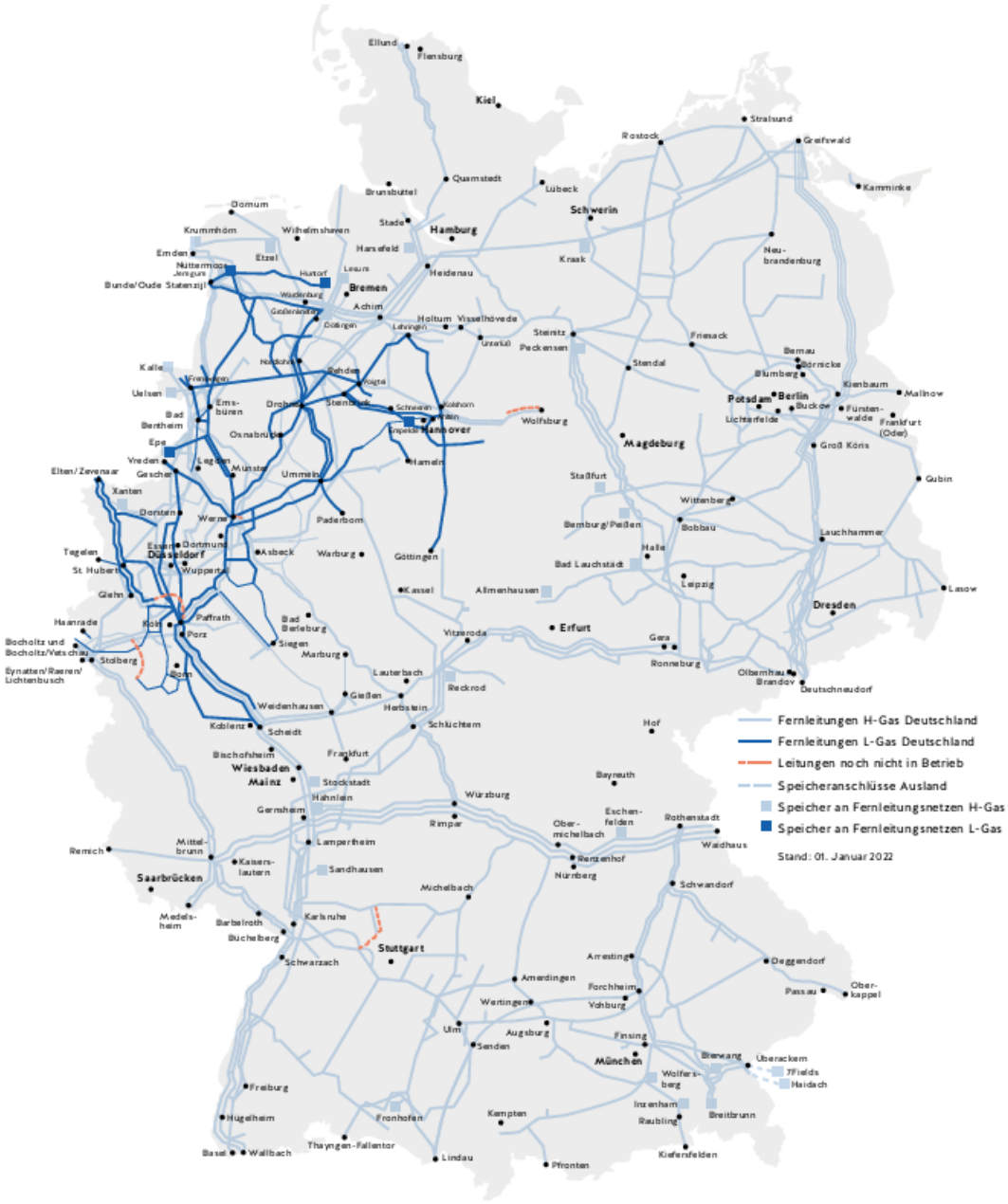
60 *Figure 1: Start network for modelling the Gas Network Development Plan 2022-2032 as of 1 January 2022, source: transmission system operators, Gas Network Development Plan 2022-2032 of 20 March 2024, page 77.*



Quelle: Fernleitungsnetzbetreiber, schematische Darstellung

61 Complementing the above, the figure below presents an overview of the corresponding H-gas and L-gas structures. This is important insofar as the reference price methodology to be determined here is to be applied to a cross-quality market area. The cross-quality nature of the market area is relevant because it results in increased complexity.

62 *Figure 2: H-gas and L-gas transport network, source: transmission system operators, Gas Network Development Plan 2022-2032 of 20 March 2024, page 73.*



Quelle: Fernleitungsnetzbetreiber, schematische Darstellung

3. Indicative reference prices according to Article 26(1) point (a)(iii) of Regulation (EU) 2017/460

63 According to Article 26(1) point (a)(iii) of Regulation (EU) 2017/460, the indicative reference prices are subject to consultation. The indicative reference price for the reference price methodology to be applied jointly by all transmission system operators within one entry-exit system in accordance with Article 10(1) of Regulation (EU) 2017/460 is shown in Annex 1 for the reference price methodology pursuant to operative part 1 (uniform postage stamp method). Annex 1 shows the indicative reference price before and after rescaling pursuant to Article 6(4)

point (c) of Regulation (EU) 2017/460. The price before rescaling does not take into account that, depending on the booking behaviour of the network users, the forecasted contracted capacities may result in different revenues due to multipliers and discounts. Rescaling with the indicative factor shown in Annex 1 enables the transmission system operators to actually recover the transmission services revenue. Based on the information from the network operators on forecasted capacity and indicative transmission services revenue, the ruling chamber calculated the indicative reference price itself.

64 In calculating the reference price after rescaling pursuant to Article 6(4) point (c) of Regulation (EU) 2017/460, the ruling chamber took account of all findings on the input parameters available up to the time the decision was made. With respect to the allowed transmission services revenue, the figures requested from the transmission system operators were used. Since an assessment by the ruling chamber showed that the total indicative revenue did not correspond to the total allowed transmission services revenue, the ruling chamber raised the indicative reference price of €5.97/kWh/h/a given by the transmission system operators, initially to €6.11/kWh/h/a. In addition, the ruling chamber took account of the consequences of the final version of the MARGIT 2025 determination (BK9-23/612, decision of 28 May 2024) and the final version of the BEATE 2.1 determination (BK9-24/608, decision of 28 August 2024). These determinations reduced the discount for interruptible capacity products at H-gas points. At the same time, the ruling chamber also reduced the discount for bFKZ and DZK products at H-gas points where necessary in accordance with the individually applied discount system of the individual transmission system operators. The ruling chamber further took into account the capacity forecasts updated/corrected by the ruling chamber. This results in a reduction of the reference price after rescaling from €6.11/kWh/h/a to €6.06/kWh/h/a. The indicative reference price before rescaling calculated by the ruling chamber of €5.64/kWh/h/a is also given in Annex 1.

65 In the course of the consultation, there was some criticism of the different tariff forecasts published for 2026. The information published by the transmission system operators in early December 2024 in accordance with Article 30(2) of Regulation (EU) 2017/460 shows an indicative reference price of €7.07/kWh/h/a for 2026. This forecast is based on different data and a simplified tariff model. For the forecasted contracted capacity, in this simplified model the capacity volume for the calculation of the reference price for 2025 is transferred to 2026 with regard to the adjusted booked capacity. The forecasted adjusted capacity volume updated for 2026 is 473,991,868 kWh/h/a, whereas the more detailed forecasted adjusted capacity volume in these proceedings is 529,195,879 kWh/h/a. Regarding the estimated allowed transmission services revenue, in the simplified tariff model the transmission system operators merely adjusted the allowed revenue from 2025 of €3,179,012,442 using an inflation index of 5.9% less a general sectoral productivity factor of 0.49%, resulting in an estimated allowed

revenue of €3,350,997,015 for 2026. These proceedings assume estimated revenue of €3,206,927,026.

66 Furthermore, the ruling chamber points out that the indicative reference price in Annex 1 also represents a non-binding forecast for a period of 12 months. The specific reference price for 2026 will be calculated by the transmission system operators in May 2025 and then published.

4. Cost allocation assessment according to Article 26(1) point (a)(iv) of Regulation (EU) 2017/460

67 Article 26(1) point (a)(iv) of Regulation (EU) 2017/460 stipulates that the results and components of the cost allocation assessments set out in Article 5 of Regulation (EU) 2017/460 and the details of these components are subject to consultation.

68 The cost allocation assessment must indicate the degree of cross-subsidisation between intra-system and cross-system network use based on the proposed reference price methodology (Article 5(2) of Regulation (EU) 2017/460). Intra-system network use, as defined in Article 3 sentence 2 point 8 of Regulation (EU) 2017/460, means transporting gas within an entry-exit system to customers connected to that same entry-exit system. Cross-system network use, as defined in Article 3 sentence 2 point 9 of Regulation (EU) 2017/460, means transporting gas within an entry-exit system to customers connected to another entry-exit system.

69 According to Article 5(1) of Regulation (EU) 2017/460, the cost allocation assessment relating to transmission services revenue must be based exclusively on the cost drivers of technical capacity, forecasted contracted capacity, technical capacity and distance or forecasted contracted capacity and distance. Because the only cost driver included in the uniform postage stamp reference price methodology is the forecasted contracted capacity and because, in accordance with Article 5(2) of Regulation (EU) 2017/460, the basis of the cost allocation assessment must be the proposed reference price methodology, the ruling chamber carried out the cost allocation assessment in accordance with Article 5(1) point (a)(ii) of Regulation (EU) 2017/460 based on the forecasted contracted capacity.

70 Annex 2 lists the following, itemised by type of entry and exit point (for information purposes): the individual technical capacity, the forecasted contracted capacity (which, due to interruptible capacity, may in individual cases be greater than the technical capacity) and the revenues generated by intra-system and cross-system network use. The adjusted capacities – that is capacities weighted using discounts and mark-ups on the reference price (multipliers and discounts) – are also listed.

71 The following types of entry point are specified:

NKP (GÜP) – cross-border interconnection point

NAP (Erzeugung) – connection of domestic production facilities

NAP (LNG) – connection of LNG terminals

NAP (Sp) – storage

NAP (Bio) – biogas input

NAP (PtG) – power-to-gas

72 The following types of exit points are specified:

NKP (GÜP) – cross-border interconnection point

NKP (iB) – connection point of downstream distribution system operator (internal order)

NAP (Sp) – storage

NAP (Lv) – final customer connection

73 The totals of these data constitute the components of the cost allocation assessment; the respective individual values constitute the details of these components (see Article 26(1) point (a)(iv) of Regulation (EU) 2017/460). The ruling chamber has received a further breakdown of the data. However, some of the data are trade and business secrets concerning, for example, final customers, and will therefore not be made available to the public in full. Capacity forecasts at specific points may also be considered the trade and business secrets of transmission system operators because they are internal assessments of customer behaviour.

74 The derivation of the forecasted capacities has already been explained in the context of Article 26(1) point (a)(i) of Regulation (EU) 2017/460. The key factor for the cost allocation assessment in accordance with Article 5 of Regulation (EU) 2017/460 is the split of forecasted revenue between intra-system and cross-system network use.

75 The transmission system operators had to notify the ruling chamber of their total revenues, taking into account any adjustments resulting from, for example, multipliers, discounts and seasonal factors and adjustments pursuant to Article 6(4) points (a) to (c) of Regulation (EU) 2017/460. Annex 2 also shows a cost allocation in accordance with Article 5 of Regulation (EU) 2017/460 in which the adjusted, rather than the unadjusted, capacity is used as the cost driver. This allows the test to show the clear effect of the reference price methodologies and, in particular, the effect of the different distances (by equalising the effects of the multipliers and discounts). This calculation, in conjunction with a capacity-weighted entry-exit split, results in a comparison index of 0%. Any divergences from this by taking account of a discount, for example at storage facilities, or multipliers have no significance in the assessment of cross-subsidisation between intra-system and cross-system network use. In any case, this line of thought shows that, with a postage stamp as the reference price

methodology and resultant uniform reference prices, the cost allocation assessment according to Article 5 of Regulation (EU) 2017/460 does not provide any information with regard to the reference price methodology. All that is assessed is merely whether factors beyond the reference price methodology – such as multipliers or discounts for interruptible capacity – lead to higher or lower reserve prices for intra-system or cross-system network use. The cost allocation assessment is still carried out, however, for reasons of transparency.

76 Intra-system network use refers to the transport of gas within an entry-exit system to customers connected to that same entry-exit system (Article 3 sentence 2 point 8 of Regulation (EU) 2017/460). Cross-system network use refers to the transport of gas within an entry-exit system to customers connected to another entry-exit system (Article 3 sentence 2 point 9 of Regulation (EU) 2017/460). The revenue at exit points to downstream distribution system operators and to final customers is always allocable to intra-system network use. The transmission system operators considered the revenue at exit points at storage facilities (putting gas into storage) to be intra-system network use. It is not possible to give an unequivocal answer to the question of how to classify revenue at storage facilities, firstly because an exit point at a storage facility is located within the entry-exit system and can be treated in the same way as a customer that is connected to the entry-exit system. This would justify attributing the revenue to intra-system network use. On the other hand, putting gas into storage enables gas to be taken out of storage at a later date, which in turn can be apportioned (pro rata) to both intra-system and cross-system network use, as the calculation logic set out in Article 5(5) of Regulation (EU) 2017/460 generally shows for entry points.

77 Consequently, in order to cover all possibilities, the ruling chamber carried out multiple cost allocation assessments and allocated the revenue at the exit points at storage facilities using the variants shown in Annex 2

- only to intra-system network use (as in the assessment of the transmission system operators),
- pro rata according to the ratio between the forecasted contracted capacities at exit points that clearly serve either intra-system or cross-system network use (see above: therefore around 12% allocated to cross-system network use),
- equally, 50% to intra-system and 50% to cross-system network use,
- only to cross-system network use.

78 The question of the extent to which the revenue at entry points should be allocated to intra-system or cross-system network use is also unclear. The provisions set out in Article 5(5) of Regulation (EU) 2017/460 provide for equal distribution. Accordingly, by analogy, the proportion of cross-system exit capacity divided by the total capacity at the entry points yields the relevant ratio for splitting the revenue at the entry points.

79 Annex 2 shows the result of the cost allocation assessment based on the calculation steps set out in Article 5(2), (3) and (5) of Regulation (EU) 2017/460. An index of 15.1% is obtained only in the variant where the revenue and capacity at exit points to storage facilities are fully allocated to cross-system network use. In the other variants, the comparison index is below 10%. However, fully allocating the revenue and capacities at exit points to storage facilities to cross-system network use is not at all appropriate and is also a somewhat theoretical situation. What does seem appropriate is the pro-rata allocation of approximately 12% to cross-system network use (this corresponds to the ratio between the forecasted contracted capacities at exit points that clearly serve either intra-system or cross-system network use).

80 The ruling chamber also carried out the test for the capacity weighted distance reference price methodology in different variants. With respect to this, reference is made to section B.I.5.e).

5. Assessment of the reference price methodology according to Article 26(1) point (a)(v) of Regulation (EU) 2017/460

81 According to Article 26(1) point (a)(v) of Regulation (EU) 2017/460, it is necessary to consult on and determine the assessment of the proposed reference price methodology in accordance with Article 7 of Regulation (EU) 2017/460. In addition, in accordance with Article 26(1) point (a)(vi) of Regulation (EU) 2017/460, as the proposed reference price methodology is other than the capacity weighted distance reference price methodology detailed in Article 8 of Regulation (EU) 2017/460, a comparison against the latter must be carried out together with a comparison of the respective reference prices.

82 Moreover, the provision of Article 17(5) of Regulation (EU) 2024/1789 now applies in addition and at a higher level, in accordance with which Member States with more than one interconnected entry-exit system, or more than one network operator within one entry-exit system, may implement a uniform network tariff with the aim of creating a level playing field for network users, provided that a network plan has been approved and a compensation mechanism between the network operators is implemented. The prerequisites for a uniform network tariff, that is, a postage stamp reference price methodology, are fulfilled. The Germany-wide market area, THE, comprises 15 transmission system operators. The network plan is approved in the form of the regular approval of scenario frameworks and network development plans (see section 15a et seq EnWG, most recently the Gas Network Development Plan 2022-2032). The AMELIE determination creates an effective inter-transmission system operator compensation mechanism. Finally, the postage stamp reference price methodology creates, in particular, a level playing field for all market participants (see

explanations under (4)). Given this new regulation, it is clearly indicated that a postage stamp can be determined as an appropriate reference price methodology.

83 Article 7 of Regulation (EU) 2017/460 stipulates that the reference price methodology must comply with Article 13 of Regulation (EC) No 715/2009 (now Article 17 of Regulation (EU) 2024/1789) and aim at enabling network users to reproduce the calculation of reference prices and their accurate forecast; taking into account the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network; ensuring non-discrimination and preventing undue cross-subsidisation including by taking into account the cost allocation assessments set out in Article 5 of Regulation (EU) 2017/460; ensuring that significant volume risk related particularly to the transport of gas across an entry-exit system is not assigned to final customers within that entry-exit system; and ensuring that the resulting reference prices do not distort cross-border trade.

84 Article 17(1) of Regulation (EU) 2024/1789 stipulates that approved tariffs, or the methodologies used to calculate them, must be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments. The tariffs, or the methodologies used to calculate them, must be applied in a non-discriminatory manner. They must facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks. Tariffs for network users must be non-discriminatory and set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodologies regarding entry and exit points must be approved by the national regulatory authorities. Moreover, network tariffs may not be calculated on the basis of contract paths. Article 17(2) of Regulation (EU) 2024/1789 stipulates that tariffs for network access may neither restrict market liquidity nor distort trade across borders of different transmission systems.

85 Some of the requirements set out in Article 7 sentence 2 of Regulation (EU) 2017/460 correspond to those set out in Article 17 of Regulation (EU) 2024/1789 or are only marginally different, while other requirements are mentioned exclusively in Article 7 sentence 2 of Regulation (EU) 2017/460 or exclusively in Article 17 of Regulation (EU) 2024/1789. The specific requirements and the compatibility of the reference price methodology with these requirements are set out below. As Article 26(1) point (a)(vi) of Regulation (EU) 2017/460 prescribes that the proposed methodology must be compared against the capacity weighted distance reference price methodology detailed in Article 8 of Regulation (EU) 2017/460, a comparison of the methodologies is made with respect to each of the requirements set out in

Article 7 sentence 2 of Regulation (EU) 2017/460 and Article 17 of Regulation (EU) 2024/1789. The reference price methodologies proposed by some network operators in the REGENT 2021 proceedings, those of the postage stamp per type of network point and the function-specific postage stamp on the basis of explicit cost allocation according to transport tasks, are assessed in the comparison using the above criteria. Reference is made to the REGENT 2021 determination for the descriptions and assessments of these methodologies. In this regard, the ruling chamber maintains that these methodologies would have led to probably massive distortions amid the developments in the gas markets caused by the crises in recent years and would thus have led to large leaps in the costs of cross-system transport. These methodologies would not have been able to reflect the significant reduction in transit volumes and shifts in flows in a way that would have provided a stable and reliable tariff system, because a much smaller group would have had to bear a large proportion of the costs, which could have led to spiralling tariffs. On the other hand, the point types of the intra-system network use would not have been affected by these fluctuations and increases because utilisation remained high and stable. The recalculation carried out in accordance with determination BK9-22/615 was able to take account of these effects with the uniform postage stamp reference price methodology, since all points were burdened equally with the effects of cost increases and volume decreases even though the volume decreases were largely due to cross-system network use (see the explanations in (2) on the quantitative analysis and on the cross-subsidisation between intra-system and cross-system network use).

86 With respect to the weighting of the criteria, no priority is given to, for instance, the criterion of cost-reflectivity as referred to in Article 7 sentence 2 point (b) of Regulation (EU) 2017/460. This follows from Article 7 sentence 2 point (b) of Regulation (EU) 2017/460 itself, which stipulates that the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network must (merely) be taken into account. The wording does not specify a level of cost-reflectivity beyond the degree of “taking into account”. This is supported by the wording of recital 3 of Regulation (EU) 2017/460, which states that a reasonable level of cost-reflectivity must be ensured in an entry-exit system.

87 In addition, recital 2 of Regulation (EU) 2017/460 shows that the criterion of transparency is highly relevant. It states that a crucial step in reaching the objectives of Regulation (EC) No 715/2009 (today Regulation (EU) 2024/1789) is to increase the transparency of transmission tariff structures and procedures towards setting them. The rules referred to in recital 1 of Regulation (EU) 2017/460 are to contribute to market integration, enhance security of supply and promote the interconnection between gas networks. Against this background, a reference price methodology must also meet the transparency requirements of Article 7 sentence 2 point (a) of Regulation (EU) 2017/460.

88 Specifically:

a) Article 7 sentence 2 point (a) of Regulation (EU) 2017/460

89 Pursuant to Article 7 sentence 2 point (a) of Regulation (EU) 2017/460, the reference price methodology must have the objective of enabling network users to reproduce the calculation of reference prices and their forecast. This sets out in more concrete terms the general requirement in Article 17(1) of Regulation (EU) 2024/1789 for transparency of tariffs or the methodologies used to calculate them.

(1) The uniform postage stamp reference price methodology

90 The uniform postage stamp reference price methodology meets this requirement. The calculation is carried out by dividing the transmission services revenue by the forecasted contracted capacities, ensuring maximum transparency for all market participants. In addition, if adjustments are made to the estimate of the two input parameters, the effects on the reference prices are directly evident. Furthermore, Article 30(1) point (a) of Regulation (EU) 2017/460 stipulates that these parameters must be published, thus ensuring maximum transparency over time in this regard as well.

(2) Capacity weighted distance reference price methodology

91 Compared to the above, the capacity weighted distance reference price methodology detailed in Article 8 of Regulation (EU) 2017/460 does not meet the requirements set out in Article 7 sentence 2 point (a) of Regulation (EU) 2017/460 given the complexity of the relevant market area here. In order to calculate and ensure the transparency of the reference prices pursuant to Article 8 of Regulation (EU) 2017/460, extensive knowledge of internal information about the transmission system operators is necessary, which market participants cannot have because some of it constitutes trade and business secrets relating to third-party companies (such as capacity forecasts of final customers) or includes security-related information such as the exact locations of energy supply facilities and their importance with respect to capacity. Necessary flow scenarios as defined in Article 3 sentence 2 point 20 of Regulation (EU) 2017/460 are also internal information that cannot simply be made transparent for or modelled by market participants. Although the use of clusters (Article 3 sentence 2 point 19 of Regulation (EU) 2017/460) for the purpose of simplifying the calculation of the reference price methodology in accordance with Article 8 of Regulation (EU) 2017/460 facilitates the calculation, in effect the results obtained are to a degree only seemingly accurate.

92 Furthermore, the capacity weighted distance reference price methodology described in Article 8 of Regulation (EU) 2017/460 has a low error tolerance. As the methodology is highly

complex, errors cannot be ruled out and, moreover, may remain undetected as a result of the lack of transparency. This methodology further disregards cost drivers such as the age of the assets, design parameters, gas quality at the entry points and the difference between inlet and outlet pressure. This carries the risk of overemphasising distance as a cost driver as compared to other cost drivers.

93 In addition, the transmission system operators were unanimous in pointing out that further details in modelling are absolutely necessary for an application of the capacity weighted distance reference price methodology, as the results of the capacity weighted distance reference price methodology are largely dependent on the basic assumptions and input parameters chosen. Even small alterations to the assumptions, such as whether interconnection points are uni-directional or bi-directional or the connection of the H-gas and L-gas systems, lead to completely different tariffs. In many cases, a clear preference for one assumption or another will hardly be appropriately possible in the highly complex German network access system.

94 The forecast quality is also significantly higher with the uniform postage stamp reference price methodology, the reason being that because of the cumulation of values and subsequent calculation of averages, point-specific capacity forecasts do not influence the (point-specific) results as much as they do in the case of the capacity weighted distance reference price methodology. With the postage stamp method, the forecast quality is dependent only on how accurate the forecast development of overall capacity proves to be. In contrast to the capacity weighted distance reference price methodology detailed in Article 8 of Regulation (EU) 2017/460, using the postage stamp reference price methodology does not result in volatile tariffs when new points are introduced or flows are relocated, because taken together the prices have a lower variability.

95 The application of capacity weighted distance also brings the risk of significant fluctuations in tariffs and consequently major volume risks that would have to be borne by final customers. A distortion of cross-border trade could not be ruled out either, owing to the volatility of tariffs.

96 The forecasted transmission services revenue is taken into account to the same extent in every reference price methodology and is therefore irrelevant to the comparative assessment of reference price methodologies.

(3) The postage stamp per type of network point reference price methodology

97 In principle, the postage stamp per type of network point reference price methodology proposed in the REGENT 2021 proceedings also meets the requirements set out in Article 7 sentence 2 point (a) of Regulation (EU) 2017/460, although transparency is somewhat reduced on account of its greater complexity compared to the uniform postage stamp

reference price methodology. Furthermore, the proposal from the REGENT 2021 proceedings leaves certain questions about the actual calculation unanswered. For instance, revenue can be allocated to the individual point types either on the basis of capacities weighted according to duration of use and proportional value or on the basis of non-weighted capacities. Both variants were put forward for discussion in the course of earlier consultation proceedings. Using non-weighted capacities leads to the follow-up question of whether the reference prices per type of network point should be adjusted as a whole according to Article 6(4) point (c) of Regulation (EU) 2017/460 or whether the appropriate solution would be to adjust them for each point type. If adjustment is carried out as a whole and also if the adjusted capacities are used in the first step, discounts such as for conditional firm capacity products in the form of DZK would have to be borne by other point types. This may be appropriate at storage points where discounting is mandatory, but otherwise needs to be explored in more detail with respect to Article 7 sentence 2 point (b) of Regulation (EU) 2017/460. In any case, these necessary intermediate steps increase the complexity and susceptibility to errors of the methodology.

(4) The function-specific postage stamp reference price methodology

98 The function-specific postage stamp reference price methodology, by contrast, hardly meets the criterion of transparency, or meets it to a significantly lesser extent. Contrary to what was stated by the supporters of this methodology in the REGENT 2021 proceedings, the decisive factor in this case is not a comparison with the degree of transparency of the capacity weighted distance, because this comparison merely corresponds to the question of whether a reference price methodology should be supplemented with distance as an additional cost driver (which would increase the complexity of any method). In fact, the results of the consultation in the REGENT 2021 proceedings and the ruling chamber's consequent assessments suggest that the large number of individual questions associated with this method would lead to a high degree of non-transparency.

(i) Transparency with respect to technical differentiation criteria

99 Even given an extremely simple differentiation criterion of, for example, a 700 mm pipeline diameter to separate the network functions, numerous counter-examples were put forward in the consultation for the REGENT 2021 proceedings that could make a different assessment necessary. With respect to points such as storage facilities and gas-fired power plants, an assessment deviating from the technical connection criteria was also put forward by market participants in the consultation for the REGENT 2021 proceedings. Such special rules would increase the complexity and non-transparency of the methodology.

100 The transparency of the methodology for the network users is greatly reduced by the increasing complexity of the calculation. Moreover, the quantity of input data required is additionally extended by certain structural parameters. The ruling chamber has already had the experience in several proceedings concerning benchmarking that the collection, plausibility checking and validation of structural data often involve complications, data errors and the need for extensive corrections and follow-up data collections. Carrying out a data collection of this nature on an annual basis to determine the current reference prices at the time, something that furthermore would have to be organised by the transmission system operators themselves acting cooperatively without the participation of the ruling chamber and within a relatively short period of time, appears at the least to be demanding and subject to considerable uncertainties. It is questionable whether such an approach could provide a sufficient degree of transparency for the market. In this case, too, a small alteration to the mandatory assumptions would lead to completely different tariffs.

(ii) Transparency with respect to the differentiation of costs

101 The supplementary expert opinion from DNV GL that was submitted in the consultation for the REGENT 2021 proceedings also showed that the decisive issue of cost allocation would involve individual decisions that would be difficult for third parties to understand. Specifically, assessments were made of the extent to which network assets, capital costs and operating costs can be allocated directly or using a common cost key. With respect to network assets, the view was that natural gas compressors and pipelines/house connection pipes can be allocated directly, while general assets, gas tanks, and measuring, regulating and metering stations would need to be allocated partly directly and partly using a common cost key. Telecontrol systems could only be allocated using a key. With respect to the components of the imputed return on equity, operating assets I, operating capital I and imputed trade tax could be allocated directly, while operating assets II, operating capital II and interest on borrowings would need to be allocated partly directly and partly using a common cost key. Non-interest-bearing liabilities would, by contrast, only be able to be allocated using a key.

102 However, it is unclear why operating assets I and operating capital I can be fully allocated directly to the network functions if, as stated before in the expert opinion, network assets, which account for a significant part of operating assets I and operating capital I in the form of imputed tangible fixed assets, cannot be fully allocated directly. With respect to telecontrol systems, for example, the view was taken that this asset group can only be allocated using a common cost key. This approach is obviously inconsistent.

103 The more the expert opinion deals with calculating the imputed costs, the greater the inconsistencies become. The view was taken in the expert opinion that operating assets II and

operating capital II can be allocated partly directly and partly using a common cost key. The only difference between operating assets I and II and operating capital I and II, however, is how the value of the same tangible fixed assets is adjusted proportionally to current values. It is not clear why operating assets I and operating capital I can be allocated directly while operating assets II and operating capital II can be allocated only partly directly.

104 By contrast, the view in the expert opinion was that imputed trade tax can be allocated directly. Here again it is not clear why, because the view was taken that operating capital II, which together with the consequent expected return on equity provides the basis for calculating the imputed trade tax, could be allocated only partly directly.

105 According to the expert opinion, possible keys that meet the criterion of a high degree of accuracy could be residual values of the allocable assets, gas pipeline purchase/production costs, indicators such as network length or full-time equivalents of staff and expert estimates or arbitrary splits. However, the expert opinion only includes general theoretical comments on these possible keys and does not demonstrate the suitability of the keys to guarantee an appropriate and sufficiently accurate allocation of costs for the German system. This host of questions about differentiation clearly illustrates the lack of transparency of the proposed function-specific postage stamp methodology.

(5) Assessment of the transparency of the reference price methodologies

106 In conclusion, the uniform postage stamp reference price methodology meets the requirements set out in Article 7 sentence 2 point (a) of Regulation (EU) 2017/460 because it enables network users to reproduce the calculation of reference prices and their accurate forecast. The capacity weighted distance reference price methodology set out in Article 8 of Regulation (EU) 2017/460 does not satisfy these requirements nearly as well. The postage stamp per type of network point reference price methodology proposed in REGENT 2021 also meets these requirements, if not to the same extent as the postage stamp reference price methodology. In addition, some questions as to the specific design of this methodology remain unanswered, as shown above. By contrast, the function-specific postage stamp reference price methodology proposed in REGENT 2021 hardly meets the criterion and does not meet the requirements of Article 7 sentence 2 point (a) of Regulation (EU) 2017/460.

b) Article 7 sentence 2 point (b) of Regulation (EU) 2017/460

107 Article 7 sentence 2 point (b) of Regulation (EU) 2017/460 stipulates that the reference price methodology must aim at taking into account the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network. This sets out in more concrete terms the requirement in Article 17 of Regulation (EU) 2024/1789

that the approved tariffs, or methodologies used to calculate them, must reflect the actual costs incurred (insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments).

108 The qualifying adjunct to the actual costs in Article 17 of Regulation (EU) 2024/1789 is sufficiently satisfied by the provisions of the GasNEV and the Incentive Regulation Ordinance (ARegV; from 1 January 2028 sections 21 and 21a EnWG in conjunction with corresponding determinations) and is relevant only to the question of the level of the revenue caps and therefore also the level of transmission services revenue, but not to the methodological assessment of reference price methodologies. However, this does not mean that the reference price methodology could be determined independently of actual costs. On the contrary, the degree of cost-reflectivity is a key element in ensuring that the reference price methodology is appropriate.

(1) Complexity of the transmission system

109 The postage stamp reference price methodology meets this requirement against the background of the complexity of the German market area.

(i) Basic technical characteristics of the transmission network

110 The German market area is a highly complex system consisting of 15 transmission system operators, which cooperate in all matters. They operate a pipeline network with a length of about 40,000 km with 334 physical entry points and 3,596 physical exit points. The network includes 180 compressors and about 1,100 gas-pressure regulating and metering stations. A total of 116 bookable entry points and 1,170 bookable or orderable exit points can be counted from the data entry forms submitted by the transmission system operators. Within this context, facilities that are common property or are held by jointly operating pipeline companies are taken into account twice because of the greater complexity of joint use and joint maintenance. This complexity is also apparent from the large number of branches (7429) and mesh points (890). The data on which this information is based come from the transmission system operator benchmarking for the fourth regulatory period.

111 The ruling chamber is of the opinion that, even compared to other European countries, the German market area is an extremely complex transmission system. An indication of this complexity, apart from the above-mentioned metrics, is the extensive flexibility of the system. Thanks to further upgrades, the network is now able to transport gas on a firm basis from every neighbouring country, including France and Switzerland. Consequently, gas flow and demand for capacity are dependent on price differences between market areas, political developments and even the weather. Furthermore, for topological reasons the German market area is an

important location for interim gas storage. These fundamental considerations in themselves demonstrate that the German market area is highly meshed and flexibly designed. These considerations were confirmed in the crisis situation of the last few years, in which the complex network was able to respond flexibly to the new flow requirements. It was possible to transport the largely shifted entry flows to a very great extent without noteworthy interruptions.

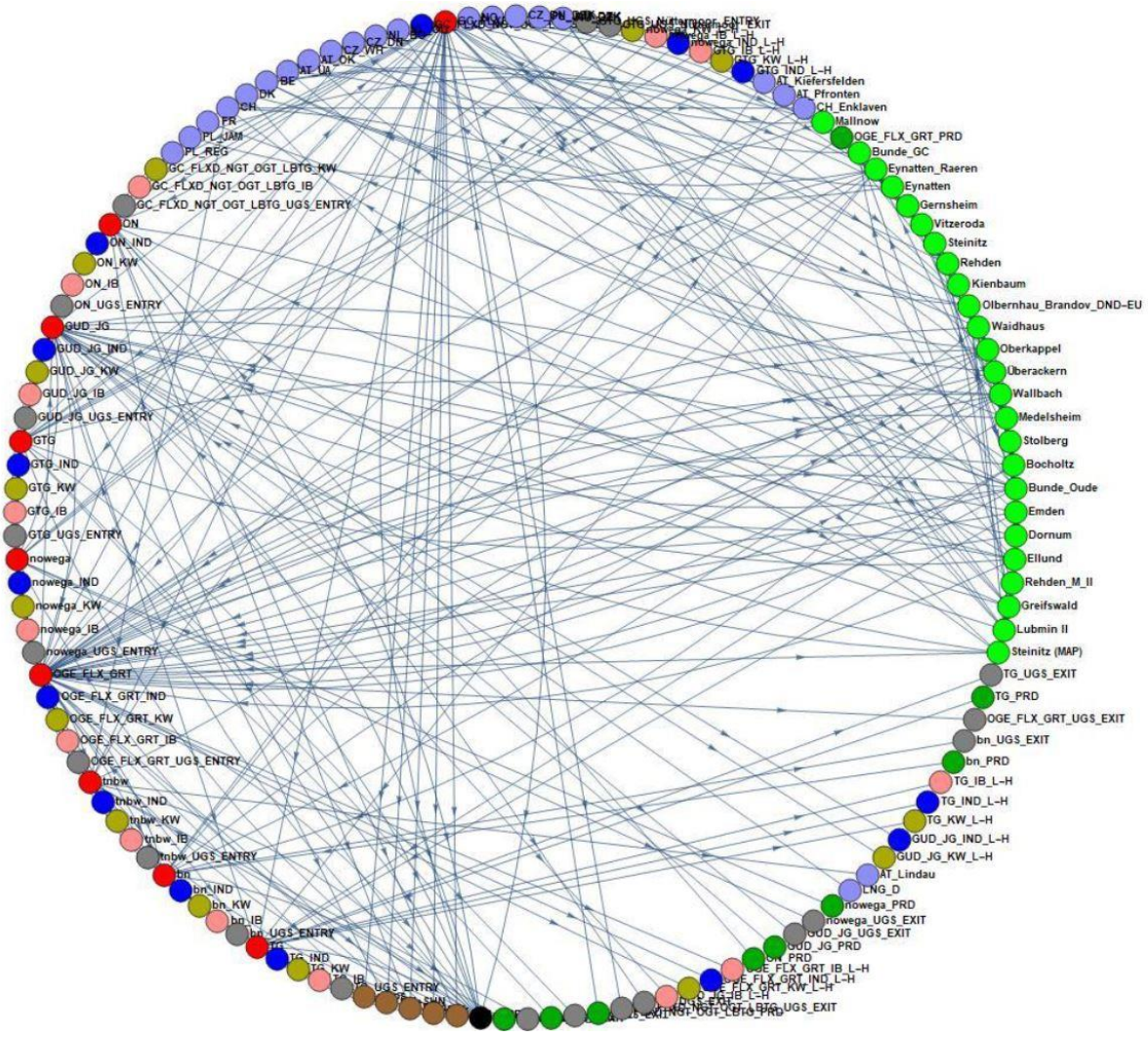
(ii) Combinations of entry and exit points

112 The number of possible combinations of entry and exit points can also be used as a measure for the complexity of the system. According to information from the transmission system operators, there were 116,281 possible combinations in the GASPOOL market area in 2009 and 380,397 possible combinations in the NCG market area in 2011. The merger of these two market areas, which took place on 1 October 2021, increased the number of possible combinations to 948,780.[1] The large number of possible combinations in each case demonstrates that there is a sufficiently complex system. Ahead of the market area merger, the complexity of the German transmission system posed particular challenges for the transmission system operators in determining the basic future framework of the capacity structure. The node-edge model, for example, which was used to describe the network topology in this context across a number of different scenarios, yielded around 60-70mn results to be analysed, according to the transmission system operators.[2]

113 The underlying node-edge model is illustrated by the transmission system operators' graphical representation shown below.[3] The main striking feature is the large number of edges originating from the various nodes, while the large number of edges originating from nodes depicted in red stands out in particular. The model uses the colour red to signify node points that can be attributed to more than one transmission system operator. This clearly demonstrates the complexity of the German transmission system as a whole and also the high degree of meshing between individual transmission system operators.

[1] Presentation by the transmission system operators on the market dialogue during the E-world energy & water trade fair on 6 February 2019 in Essen, available at: http://www.marktgebietszusammenlegung.de/wp-content/uploads/Praesentation_eworld_2019_02_06_DE.pdf, slide 26, date of download: 13/02/2019.
[2] Ibid.
[3] Ibid.

114 *Figure 3: Node-edge model:*



115 The node-edge model shows clearly that a large amount of capacity is interchangeable between cross-system and intra-system points because the entry points regularly have edges to both groups of points. This very interchangeability was explained using the node-edge model in discussions with the transmission system operators about the calculation and distribution of capacity in the single market area. This high degree of interchangeability of the capacity with either more at cross-system points or more at intra-system points demonstrates the high degree of flexibility of the system as a whole. This ultimately means that it is difficult to reasonably divide costs between these two groups.

(iii) Cooperation between transmission system operators with respect to market area mergers

116 From a capacity standpoint, this situation demands a high level of cooperation between transmission system operators. From the perspective of access to the transmission systems,

although market areas have gradually been merged since the start of regulation thanks to cooperation between the transmission system operators, thus creating highly liquid markets, there were no corresponding arrangements in place that would have led to pricing of the relevant essential services between the transmission system operators.

117 From the perspective of tariffs – in spite of the market area mergers – prices were still determined separately even though it is indisputable that, in some cases, the respective transmission system operator is only able to offer the capacities identified in the merged market area by using the infrastructure of other network operators.

118 The mergers of the market areas within Germany have resulted in a successive decrease in the number of inter-transmission system operator market area interconnection points bookable by network users. Following each market area merger, the interconnection points concerned are subject to mutual cooperation between the transmission system operators as regards flows and capacity at the points. These reciprocal services constitute one key element, if not the only element, of the cooperation between the transmission system operators.

119 The ruling chamber has been deliberating over this issue for a period of several years and, with the involvement of all market actors, has tried to arrive at an appropriate tariff system, which ultimately failed due to legal and technical obstacles. It is necessary to describe these processes in order to understand the deliberations of the ruling chamber, leading ultimately to a uniform tariff derivation:

120 In 2009 the ruling chamber contacted the transmission system operators to discuss the issue of horizontal cost allocation with them. In response, the transmission system operators stated that they considered it appropriate not to price capacities made available to another market area partner at network interconnection points within a market area. Given the fact that the market area mergers had not yet been concluded, the ruling chamber at first accepted this approach while announcing even at the time that it would re-examine whether the procedure was appropriate if and when the ruling chamber found that there were indications that the action of the transmission system operators created false incentives on the market.

121 After the experience of the first regulatory period (2009 to 2012), the ruling chamber came to the conclusion that the existing system was such that the booking behaviour of network users forced the network operators to deviate more and more from an appropriate cost allocation and instead to place a greater burden on captive customers. It was also to be assumed that, because of the merger of the market areas, appropriate allocation of costs was doubtful in the existing system.

122 For this reason, in a letter dated 26 July 2013, Ruling Chamber 9 informed the affected transmission system operators of its intention to issue a determination on horizontal cost

distribution among transmission system operators. The same letter included an invitation to the affected transmission system operators to take part in an initial consultation event for the purpose of a joint discussion on the deliberations.

123 Over the following months the ruling chamber held various bilateral talks with the market participants discussing different methodological approaches to horizontal cost distribution. These various approaches were presented to the affected transmission system operators and discussed with them at another consultation event on 25 November 2014 in Bonn. During the discussions, the ruling chamber made it clear that its preference was the methodology that proposed a type of cost distribution analogous to vertical cost distribution.

124 Gas industry actors raised objections, stating among other things that this approach threatened the current market area cooperation. They argued that the planned cost distribution method would also further distort cost-reflectivity because the preferred model only took account of the gas goods or services provided by the transmission system operator supplying the gas, whereas gas transport from the transfer point was also a gas service for which the service provider should be reimbursed in the same way.

125 Subsequently, the ruling chamber examined the so-called “forward and reverse allocation” methodology. In this approach, both the transmission system operator providing the capacity – in terms of flow mechanics upstream – and the network operator receiving the gas – in terms of flow mechanics downstream – would each have had to pay for the gas services provided by the other. Consequently, both the transmission system operator providing the gas and making the capacity available at the network interconnection point within the market area and also the transmission system operator accepting the gas and transporting the gas from this point would be paid a fee for the gas goods and services they provided. Likewise, tariffs would also have been set for capacity used jointly by different transmission system operators within the same pipeline company.

126 Some gas industry actors raised objections to this, claiming that it was impossible to determine which gas services were provided in view of the fact that capacities within pipeline companies were interruptible or made available to the best of their abilities.

127 The ruling chamber subsequently conducted a survey to collect data on the gas services described above. After evaluating the submitted data, the ruling chamber concluded that the contractual arrangements relating to the maximum amount of firm capacity offered at physical interconnection points between transmission system operators within a market area do not constitute a sufficiently strong basis for price setting.

128 In order to explore and discuss the problems that had arisen and the intended further proceedings, the ruling chamber invited the transmission system operators and associations

to another consultation event, which took place in Bonn on 19 November 2015. At this event, the issues surrounding the contractual arrangements were discussed in detail but no new potential solutions emerged. For this reason the ruling chamber indicated that it would examine whether pricing of the actual flows could constitute an appropriate and cost-reflective alternative to contractually agreed capacities. Against this background, the transmission system operators were promised another survey to collect data on flows.

129 In a letter dated 1 December 2015, the ruling chamber asked the transmission system operators to submit all hourly flow values measured at every physical interconnection point between transmission system operators and/or to submit the allocated values at all entry and exit points from and to pipeline companies for the last three calendar years. The submitted data were evaluated and the findings obtained were assessed, from which the ruling chamber established that actual flows at interconnection points did not constitute a sufficiently strong basis for pricing either, particularly in view of the fact that joint schedule management in a given market area makes precise allocation of gas flows impossible in some cases, especially at interconnection points to and within pipeline companies.

130 For this reason, the Ruling Chamber refrained from using the intended “forward and reverse allocation” approach. Subsequently, an easy to implement method to manage cost allocation between transmission system operators was developed. This methodology would specify a capacity weighted entry-exit split for every transmission system operator. The costs assigned to the entry side would then be allocated to all entry points in the respective market area, which would have resulted in a consistent entry tariff for a firm, freely allocable yearly capacity within a given market area. These provisions were to be implemented by 1 January 2018 as set out in determination BK9-13/607 of 22 June 2016. However, a complaint was filed against this determination. During a hearing at the Higher Regional Court of Düsseldorf on 11 October 2017, the Bundesnetzagentur revoked the determination, the main reason being doubts about whether there was an appropriate enabling provision. This meant that after that, tariffs continued to be set separately without a compensation mechanism; however, according to Article 10(3) sentence 2 of Regulation (EU) 2017/460, such a mechanism would be mandatory as of 1 January 2020 in the event of any reference price methodology being applied separately.

131 This timeline demonstrates two distinct issues: firstly, in the highly complex German market and with the web of interest-driven interaction between the transmission system operators, it is impossible to arrive at a consensus on the specific design of an effective compensation mechanism where the reference price methodology is applied separately and which, in the opinion of the ruling chamber and of other market participants, has to take account of the gas services between the transmission system operators. Secondly, issuing an administrative

order for a mechanism of this nature is extremely difficult and there is only a very slight possibility or, given the available data, no possibility at all of determining the actual value of the gas services provided mutually between the transmission system operators.

132 These findings are connected to aspects of the complexity of the transmission systems and to the cost-reflectivity of reference price methodologies insofar as some gas industry actors claimed that separate tariff setting, for instance in 2019, constituted an unrestrictedly cost-reflective approach.

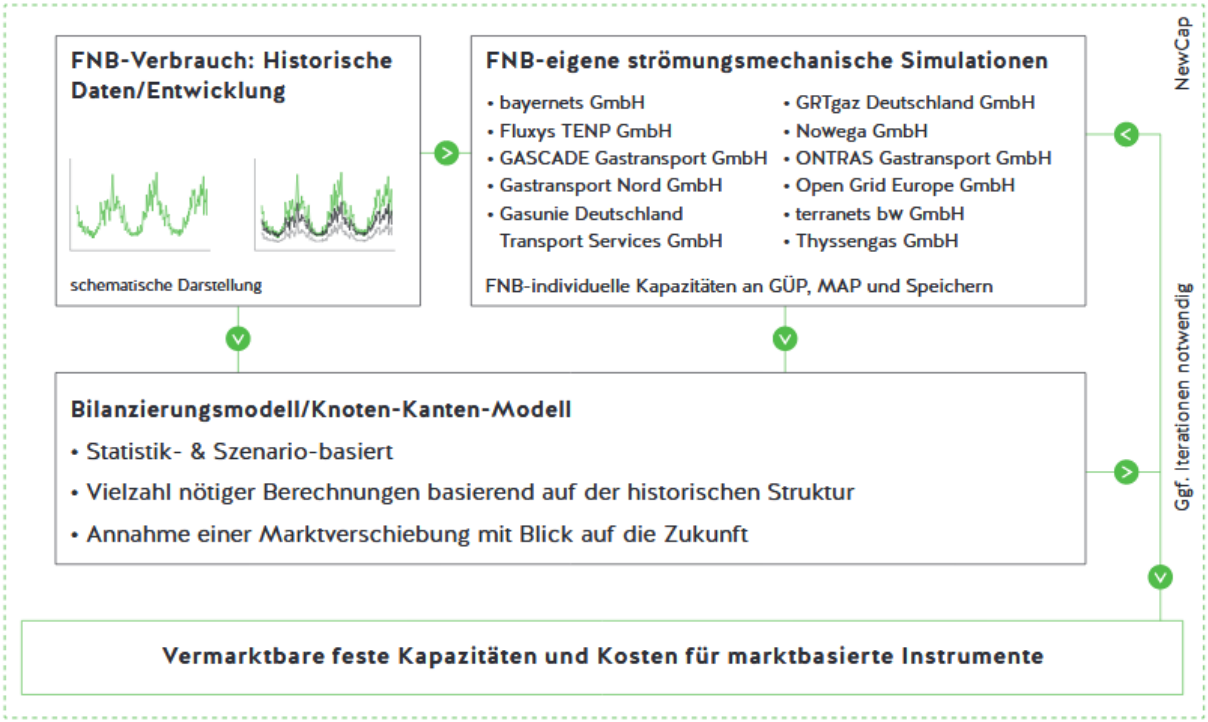
133 The shortcomings of this assessment against the background of the previous tariff setting methodology are set out below, preceded by additional details of the complexity of the market area.

(iv) Joint calculation of the capacity framework as an expression of cooperation

134 The joint determination of the capacity framework in the market area is a clear expression of the cooperation between the transmission system operators. Section 9(1) sentence 1 of the Gas Network Access Ordinance (GasNZV) requires the transmission system operators to determine the technical capacity within the meaning of section 8(2) GasNZV. Section 9(1) sentence 2 GasNZV requires the transmission system operators to do this by determining the entry capacity for each entry point and the exit capacity for each exit point. Section 9(2) GasNZV requires the entry and exit capacity in a market area to be calculated on the basis of state-of-the-art flow simulations that also take account of cross-network and cross-market area flows. No other distinction is made between different functions.

135 The iterative method used by the transmission system operators to model the capacity in the single market area is illustrated below.

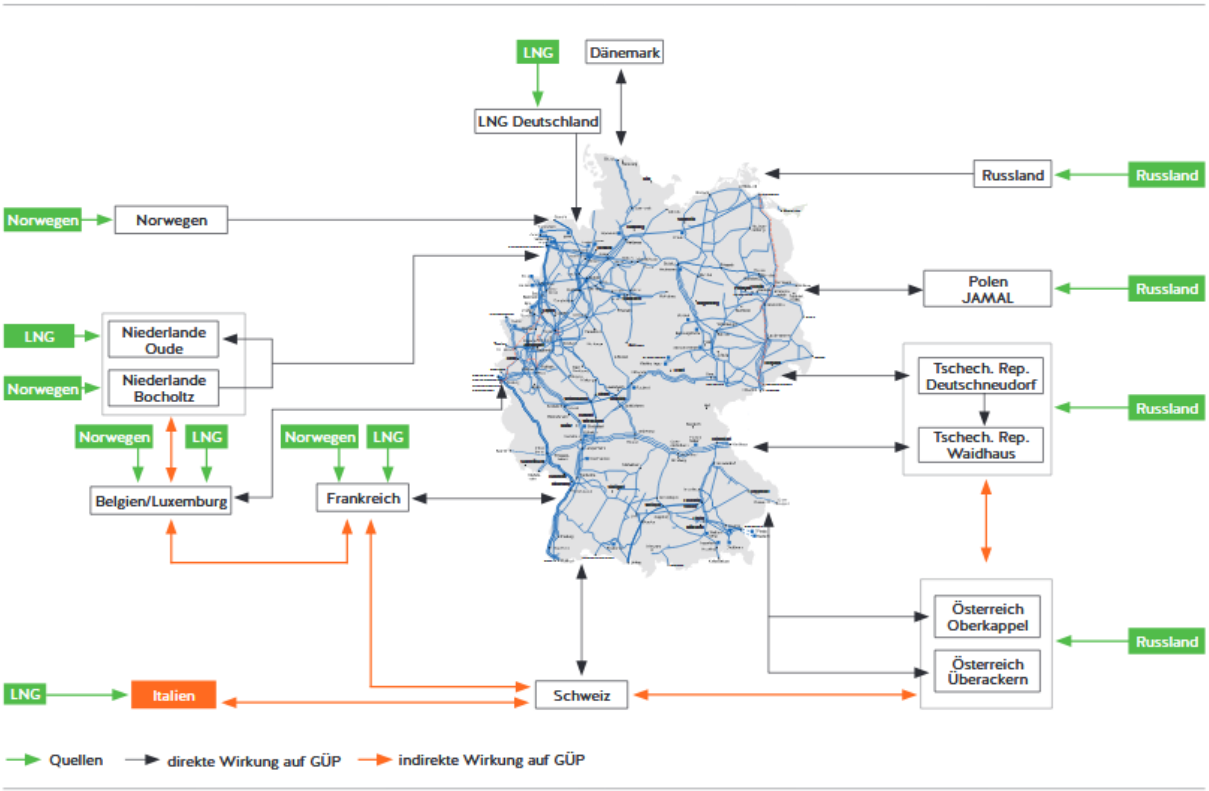
136 *Figure 4: "NewCap" capacity model, as presented by the transmission system operators in the "Gas Network Development Plan 2020-2030" consultation document, page 45:*



137 The flow scenarios used for the capacity calculation are extremely complex. A large number of flow scenarios need to be computed before the marketable firm capacity can be determined. It is not possible to use one definitive flow scenario that, in a less complex system, can be used for a more clear-cut allocation of costs.

138 The various options with respect to the supply of gas to the German market area are illustrated below.

139 *Figure 5: Options for the supply of gas to the German market area – input and offtake at cross-border interconnection points, as presented by the transmission system operators in the "Gas Network Development Plan 2020-2030" consultation document, page 47:*



140 The only historical data available that can be used are data on temperature-dependent exit quantities at temperature-dependent exit points (generally exit points to downstream networks and individual final customers). There are no fixed data available that can be used for the other booking points (cross-border interconnection points, storage points, production points and non-temperature-dependent final customers such as gas-fired power plants). The capacity calculation with a large number of flow calculations (considerably more than one hundred) therefore involves examining where there is congestion that cannot be relieved and how much capacity is actually available using worst-case assumptions. There is no one flow scenario that is generally applicable and could be used for other purposes. The tests determine only whether all the flow scenarios are actually physically possible and not which specific pipelines could actually be used for the flows.

141 Furthermore, a distinction cannot be made between domestic supply and cross-border transport flows, particularly as neither the shippers nor the tested flow scenarios make this distinction on the entry side. As the use of, for example, cross-border interconnection points by shippers is uncertain, it is necessary to calculate flow scenarios both with transit flows (relevant for determining the exit capacity) and without transit flows (relevant for determining the entry capacity). This alone shows why it is not generally possible to clearly allocate

pipelines to either transit or national supply on the basis of the different flow scenarios. Moreover, various different entry points can be used for the same exit flows (national supply and, if applicable, cross-border transport), and vice versa. This results in various different transit flows, with the same pipelines sometimes being used more for transit flows and sometimes more for national supply.

142 These considerations are therefore not only relevant to the abstract question of complexity; they also show the difficulties in allocating pipeline structures to intra-system or cross-system network use that arise from the complexity.

(v) Complexity against the background of dispatching

143 The innumerable, complex simulations of gas flows through the connected systems of all the transmission system operators, which at market area level are calculated using computer algorithms and controlled by the dispatcher's decisions, do not make a distinction between upstream and downstream network segments. The gas is transported flexibly to accommodate the capacity bookings from many different customers and the actual resulting gas flows. No bookings are made for market area interconnection points between two transmission system operators in the same market area. Rather, the flows at these points are subject to the general cooperation obligation of the transmission system operators, who flexibly withdraw or input gas quantities on the basis of various flow scenarios independent of bookings.

144 The aim of these considerations is not just to see if specific cost effects are associated with these forms of cooperation. What is more important is that they are an expression of a joint system control in the market area in which many activities can no longer be attributed to individual network users or network operators and specific gas flows can only be described virtually and no longer physically.

145 When, for example, the dispatching identifies and balances surplus and short supplies in various regions of the overall market area, the fact that it is impossible to allocate the dispatching costs (such as personnel and IT infrastructure costs) is a problem in itself. The fact that it is no longer possible to usefully answer the question of the physical route of a quantity of gas through the overall network is even more problematic with respect to determining specific transport costs and thus making general statements about the costs of different forms of network use. When a customer's transport order is fulfilled, the dispatcher looks at all the entry and exit requests from all the customers in their entirety at market area level. At the same time, network sectors with a shortage are supplied with additional gas by adjacent systems while network sectors with a surplus are relieved of gas by adjacent systems. Also at the same time, the shortest physical connection between the points booked by the

customer is also used for numerous other transport bookings in various directions and/or for dispatching measures.

(vi) Assessment of the complexity of the networks in benchmarking

146 The ruling chamber is well aware of the complexity of the market area, also from other processes. For instance, the Bundesnetzagentur recently carried out benchmarking of the transmission systems operators for the fourth regulatory period. In the course of data collection and plausibility checking of the comparison parameters for this procedure and during the resulting process of developing comparison parameters, the complexity of the network structures was discussed on several occasions, including deliberations on how this complexity could be reflected in numerically quantifiable parameters. Additional parameters were thus developed to reflect the network-related flexibility and complexity requirements. Assuming that each branch increases the pipe friction factor (in particular because regulators, valves etc are often installed at branches) and that, furthermore, the complexity of system control and the general need for system flexibility increases with the number of branches and mesh points, data were collected on the number of branches per network operator and the number of independent mesh points.

147 As mentioned above, the numbers for these parameters are high: 7,429 branches and 890 mesh points.

148 Moreover, it is in no way contradictory if certain technical parameters are taken as reliable cost drivers in the benchmarking while the complexity is seen as an obstacle to setting a more exact reference price methodology. Benchmarking as part of the incentive regulation scheme has a completely different function than setting the reference price methodology. Incentive regulation does not look at the market area as a whole but at individual system operators, their individual cost structures and the actual physical gas flows. There is no question that the characteristics of the infrastructure operated by a transmission system operator are an important factor in the operator's individual costs. However, it is not each individual transmission system operator's costs that count here at all because gas is transported in the market area using more than just one individual transmission system operator's infrastructure. Furthermore, the benchmarking takes into account the technical parameters of pipeline volume, area, compressor capacity and the number of entry and exit points and therefore parameters that are not directly associated with bookings at points.

(vii) Complexity against the background of the market area merger on 1 October 2021

149 The above aspects, in conjunction with the Bundesnetzagentur's experience of the processes involved in the merger of market areas, lead to the conclusion that the single German market

area is characterised by a meshed structure and that the degree of meshing is so high that the uniform postage stamp reference price methodology constitutes the best possible approach to cost allocation and is justified in principle. These circumstances in particular show that distance as a cost driver and a function-specific assessment are not suitable as a means of allocating costs to individual entry and exit points, as a stable gas flow scenario would be required for that to be the case. The reality, however, is characterised by many different gas flow scenarios, which must be mastered with the aid of the complex market area.

150 The concluded administrative proceedings BK7-23/043 (ANIKA, decision of 21 March 2024) and BK9-23/606 (KOMBI 2.0, decision of 8 May 2024) indicate that the allocation of transport services and transport infrastructure, and the costs connected with those, is fundamentally impossible, especially under the conditions of a united market area. These proceedings established a system as of 1 October 2024 with which capacity-increasing measures can be taken to increase the offer of firm, freely allocable capacity. Ahead of capacity marketing, these include flow commitments and the offer of capacity with allocation conditions. In addition, market-based instruments (MBIs) can be used to secure already marketed capacity in the event of congestion. Intended MBIs are a spread product, third-party network use and VIP wheeling. As a last resort, a capacity buy-back is also possible.

151 In accordance with the ANIKA determination, the capacity-increasing measures in the form of MBIs are carried out jointly by the transmission system operators. Any capacity buy-back would also be carried out jointly by the transmission system operators.

152 With regard to this, in the proceedings for the preceding KAP+ determination, the transmission system operators stated: “The MBIs have a market area-wide impact, ie they also affect TSO networks where they were not contracted. The demand for MBIs is created by congestion between today’s GASPOOL and NCG market areas. These congestion situations are exogenous for the TSOs and cannot be controlled individually. This exogeneity is due to the fact that the congestion is caused by consumption or trade-driven factors. The congestions cannot be attributed to a single network operator, but occur systematically at the borders between today’s German market areas, so consequently the costs associated with the procurement of MBIs cannot be assigned to one or several TSOs according to the principle of causation.”

153 This decoupling of marketable capacity (enabled and secured through MBIs) and technical capacity enabled and secured through the infrastructure illustrates particularly clearly that it is not possible to make statements about the specific costs of a transmission service in a complex market area. This is true particularly in view of the fact that the costs of the individual MBIs are to be shared between all the transmission system operators, using each operator’s share of the total allowed revenue as a general key.

(viii) Establishment of virtual interconnection points

154 Another aspect that illustrates the complexity of the market area is virtual interconnection points (VIPs). If two or more interconnection points connect the same two adjacent market areas, according to Article 19 sentence 1 point (9) of Regulation (EU) 2017/459, the transmission system operators concerned must offer their available capacities there at a single VIP. This even applies if multiple transmission system operators of a market area are jointly affected by this at the same border, which is the case at various German external borders. This virtual merger of booking points, too, can only be resolved on the tariff side if the idea of a direct connection between a certain transmission service tariff and the costs of a quite specific physical transport path or the revenue cap of an individual participating transmission system operator is abandoned.

(ix) Joint venture pipelines of the transmission system operators

155 Transmission system operators' joint venture pipelines are further evidence of both the limited informational value of individual transmission system operators' cost structures and the high degree of complexity of pipeline structures. The mere fact that in the past the same transport service at the same entry and exit points – assuming allocability between bookings and transport paths – was subject to different prices, depending on the operator from which the capacity was acquired, shows that the tariffs did not provide a reliable indication of actual transport costs. However, the way in which joint venture pipelines are operated also makes it impossible to allocate costs more accurately. Since the transmission system operators can use the shares of the other pipeline operators but the extent of this shared use is not recorded and – as established by the ruling chamber in the course of the proceedings concerning the rules for implementing appropriate (horizontal) cost allocation between transmission system operators and appropriate allocation of costs to entry and exit tariffs (BK9-13/607) – cannot be recorded, it is effectively impossible to determine the actual costs of transport using these pipelines. At the very least, the costs of the transmission system operator responsible for the capacity in each case, which are reflected in the operator's revenue cap, have no true informational value.

156 The fact that these differentiation problems can be solved in the benchmarking is irrelevant here. The benchmarking aims solely to set individual revenue caps on the basis of individual costs. That is possible because it is possible to determine the individual costs of each transmission system operator. However, it does not alter the fact that an operator's costs do not necessarily correspond to the costs of the capacity marketed by the operator. This problem has been solved in the benchmarking by essentially taking physical flows – if necessary estimated flows – and not bookings as the basis.

(x) Assessment of complexity

157 Regarding the further assessment of complexity, reference is made to the explanations in the REGENT 2021 proceedings (systematic analyses of the networks of the German transmission system operators using the following parameters for all bookable and orderable points: technical capacity; pipeline diameter (at each point); pressure (volume-weighted operating pressure); and distance (using the capacity weighted distance prices as an indicator for the distances)).

158 For the REGENT 2026 proceedings, an update of the analysis was only carried out for the shares of bookings and the degree of utilisation at various point types, as no significant change in the other, purely technical, parameters is to be expected.

(2) Quantitative analysis of the German transmission system operators' networks

159 The analysis takes account of both entry and exit points grouped into the following point types, with a distinction also being made between interconnection points ("NKP") and network connection points ("NAP"):

160 cross-border interconnection points ("GÜP", entry and exit)

161 generation ("Erzeugung", entry only)

162 LNG terminals ("LNG", entry only)

163 storage ("Sp", entry and exit)

164 final customers ("LV", exit only)

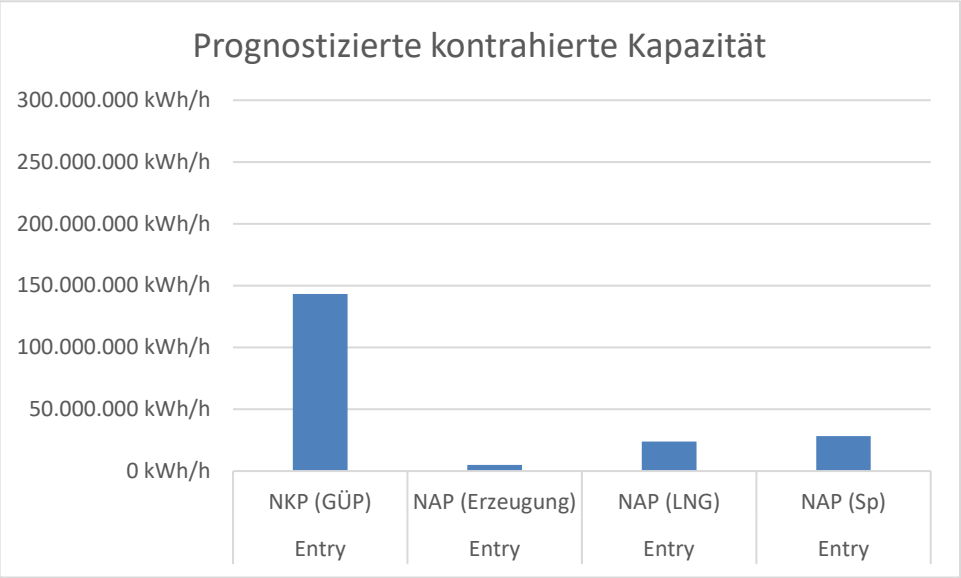
165 internal orders ("iB", exit only).

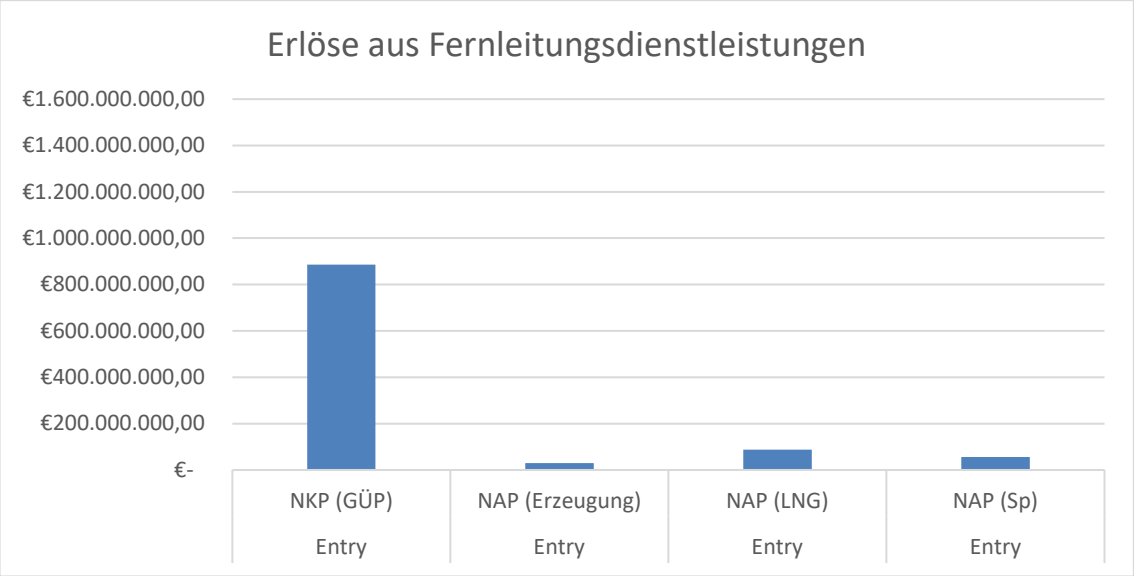
166 Entry points at biogas or power-to-gas plants are not taken into account in the analysis because no network tariffs are payable at these points and because they account for only a marginal proportion of the total capacity of the transmission system (see section B.I.5.e)).

(i) Distribution of bookings and revenue to individual point types

167 The charts below show, first, the revenue-covering bookings for each point type and, second, the revenue resulting from the uniform postage stamp reference price methodology for each point type. The sum of the revenue at the entry and exit points corresponds to the transmission services revenue of all German TSOs. Figures 6 and 7 show the data for the entry points and figures 8 and 9 the data for the exit points.

168 *Figures 6 and 7:*

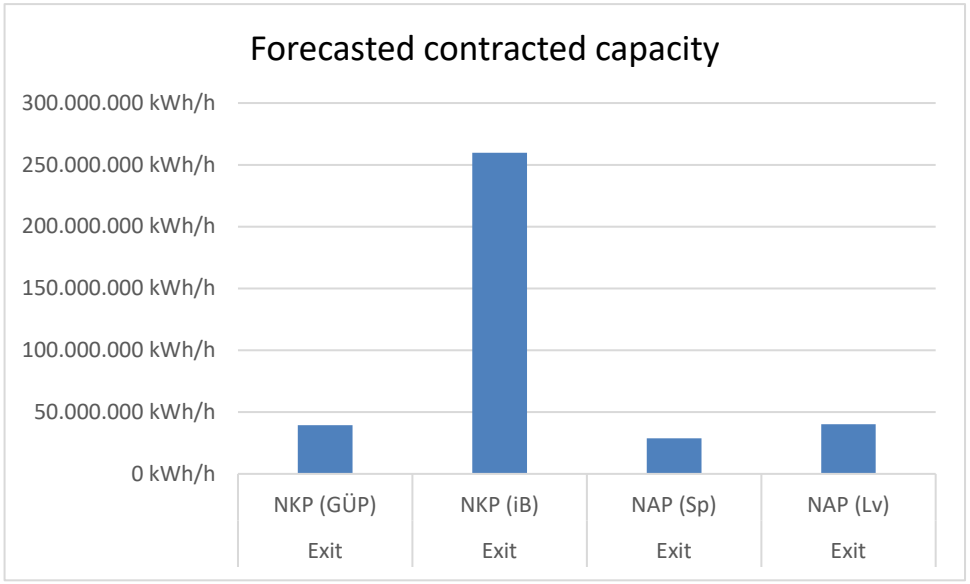


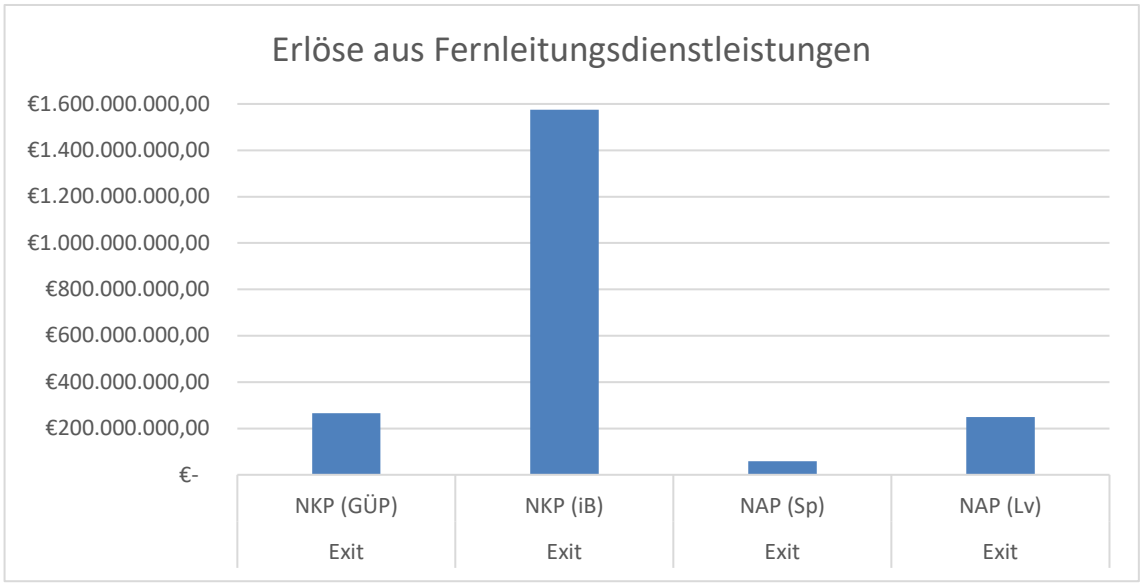


169 The cross-border interconnection points account for the vast majority of bookings at entry points. A 75% discount is applicable to entry points at storage facilities, resulting in a corresponding reduction in revenue. A 40% discount is applicable to entry points at LNG facilities for longer-term bookings (quarterly and yearly products), resulting in a corresponding reduction in revenue.

170 In general, it is not possible to differentiate between bookings on the entry side because it is not possible to reasonably allocate bookings to either cross-system or intra-system network use.

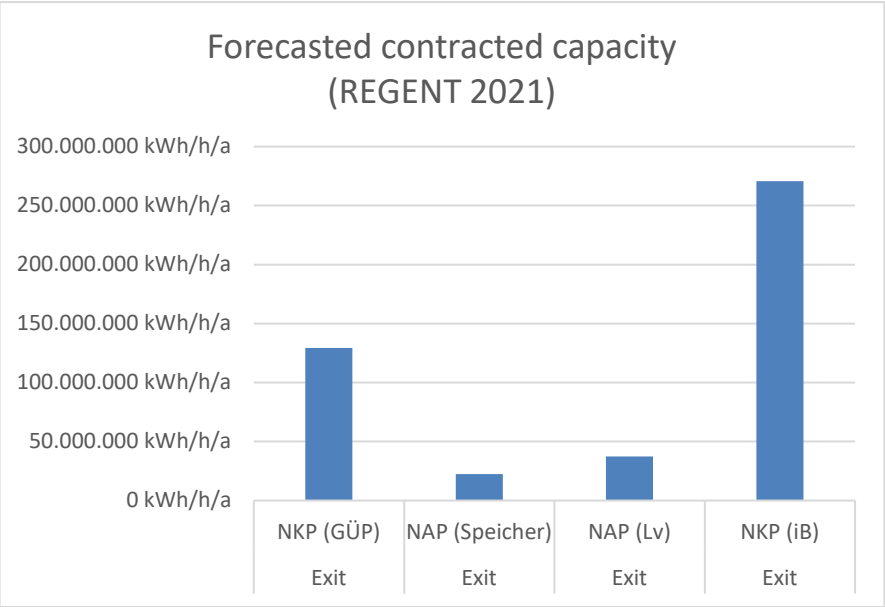
171 *Figures 8 and 9:*





172 The situation on the exit side is more differentiated. Bookings and revenue are dominated by internal orders to downstream network operators. Cross-border interconnection points, final customers and storage facilities account for only a small proportion of bookings and revenue. In addition, there is a clear reduction in revenue at storage facilities owing to the 75% discount. Bookings at cross-border interconnection points on the exit side have also declined massively and are now an even smaller proportion than that of bookings of final customers.

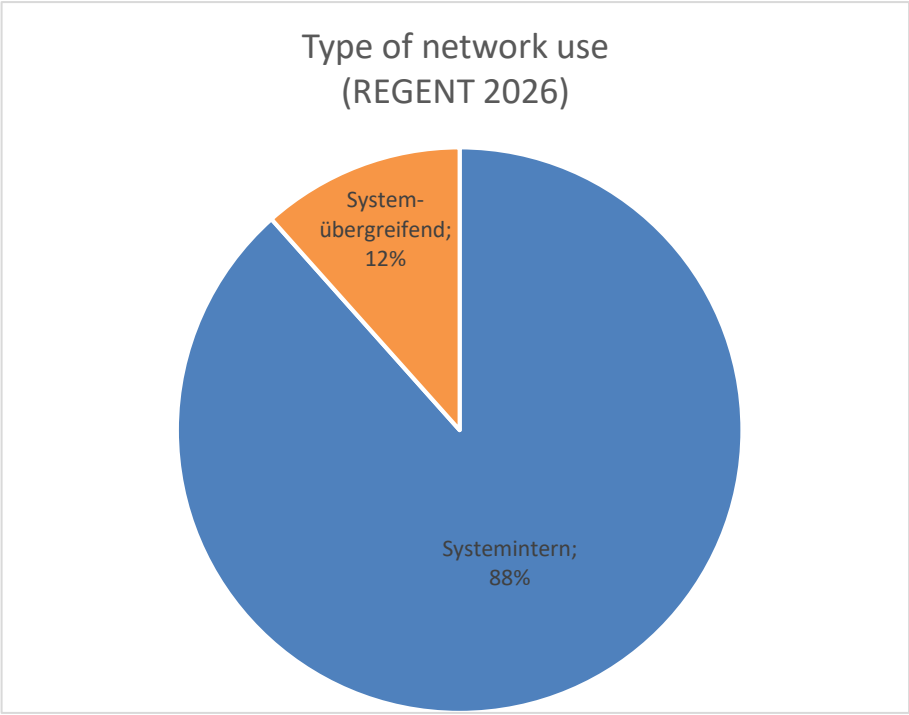
173 *Figure 10: Forecasted exit bookings from the REGENT 2021 proceedings:*



174 While the bookings of final customers and at internal order points to downstream networks only went down slightly, bookings at cross-border interconnection points fell from about 130,000,000 kWh/h to about 40,000,000 kWh/h/a, a decline of about 69%.

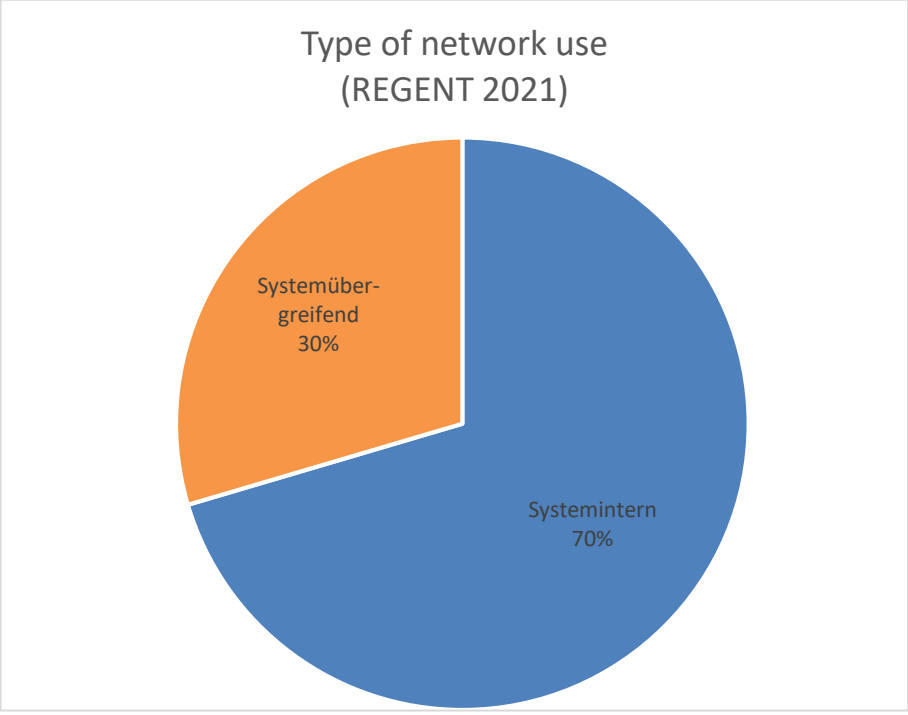
175 The division into intra-system and cross-system network use shows that intra-system use now accounts for an even higher proportion of 88% (see figure 11). Intra-system network use is taken to comprise internal orders and final customers, while cross-system network use corresponds to exit bookings at cross-border interconnection points. Allocation of the storage facilities is not relevant in this analysis because approximately the same ratio (88:12) would apply.

176 *Figure 11:*



177 The breakdown of types of network use in the REGENT 2021 proceedings is shown here for comparison:

178 *Figure 12:*



179 The fact that intra-system network use accounts for an even greater majority of bookings on the exit side explains why a higher proportion of the costs is allocated to intra-system use. Whereas in the REGENT 2021 proceedings it was found that the proportions of gas transported for transit and for domestic supply were more or less the same and, despite this, the system was around two-thirds financed by intra-system network use, the financing proportions have now approached those of actual network use. The latest available annual figures, on the 2024 gas balance, show a share of export of about 10% and a share of national consumption of about 90%. These proportions are therefore closer to the shares of bookings by type of network use (12% and 88% respectively). Against this background, the result of the analysis of the distribution of bookings and revenues is essentially neutral. The absolute cost attribution of 84% for intra-system network use and 16% for cross-system network use has also aligned (share of revenue as per the cost allocations in accordance with Article 5 of Regulation (EU) 2017/460).

(ii) Analysis of the technical capacity and the degree of utilisation

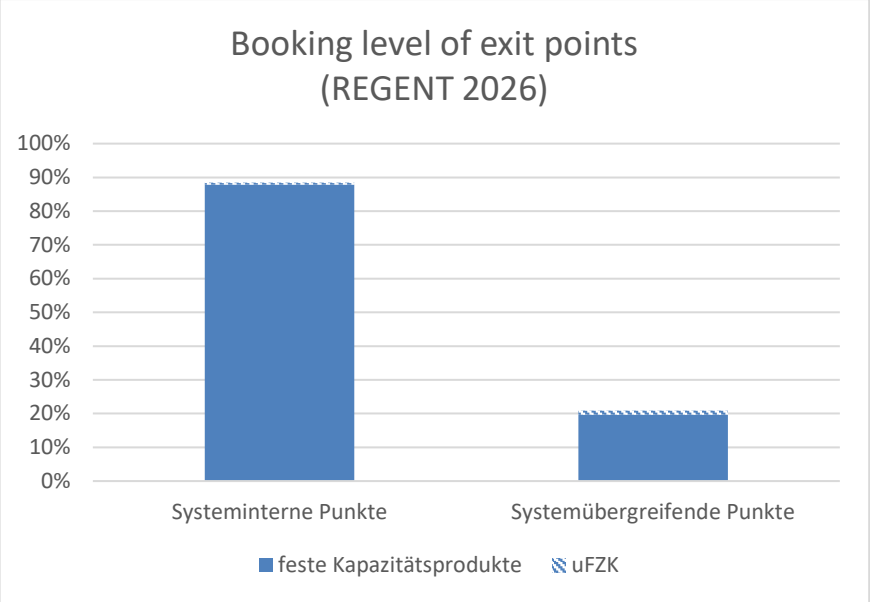
180 Discussions on the reference price methodology mostly assume booked capacity as the cost driver. The analyses below also look at the technical capacity and degree of utilisation at the individual point types and show the changes as part of the shifts since the REGENT 2021 proceedings.

181 Here, the technical capacity is taken to correspond to the maximum possible bookable capacity. This applies to all types of capacity, including conditional capacity products but excluding interruptible capacity products (uFZK). If transport using firm capacity products is not possible, (an “infinite” amount of) uFZK is marketed and, if necessary, interrupted in addition to the technical capacity.

182 The approximate booking level can be derived from the ratio of the total forecasted booked capacity to the technical capacity. A booking level of 100% means that the booked capacity equals the technical capacity or is greater than the technical capacity if uFZK is also marketed. The proportions for uFZK are therefore shown separately.

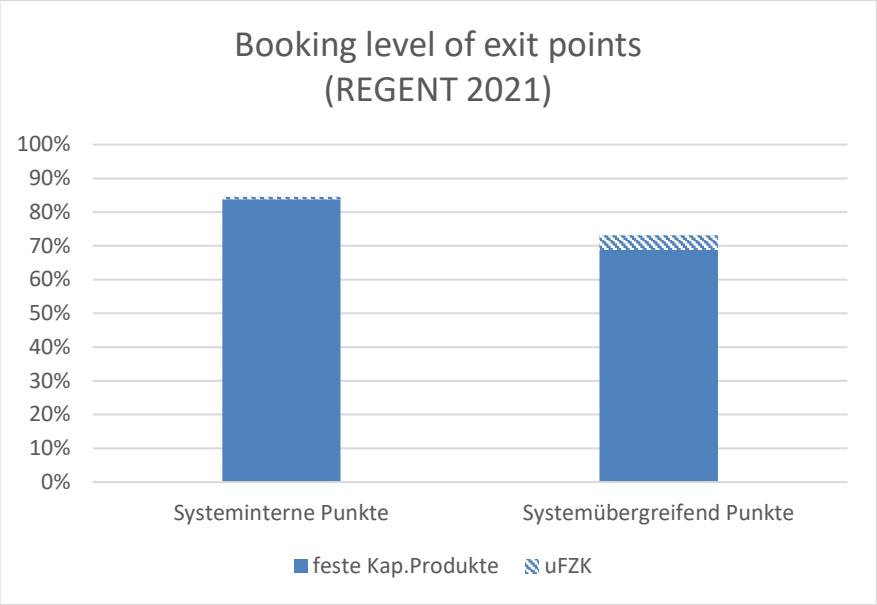
183 The following chart shows the booking level for the exit side calculated as described above. Storage facilities were not taken into account because they are used seasonally to the benefit of all network users.

184 *Figure 13:*



185 The booking level of exit points in the REGENT 2021 determination is shown for comparison.

186 *Figure 14:*



187 The most recent chart shows a far lower degree of utilisation for exit points associated with cross-system transport against a higher degree of utilisation for points associated with intra-system transport. These findings indicate systematic cross-subsidisation of cross-system bookings in contrast with a system in which cost allocation is based on the technical capacity. In a tariff system in which cost allocation was based on the technical capacity and not on forecasted bookings, very much higher tariffs would have to be paid for the under-utilised

points. Based on the different degrees of under-utilisation shown above, a significantly higher tariff would be payable for the cross-border interconnection points. Such a model would be possible, particularly since Article 5(1) point (a) of Regulation (EU) 2017/460 specifies technical capacity as a potential cost driver.

188 Since the data for the REGENT 2026 determination show a considerable alignment of the absolute network use (transport) to the network use by capacity booking, the remaining effects of under-utilisation and cost attribution can be shown even more clearly.

189 The approximate level of cross-subsidisation can be determined by comparing the revenue proportions for each point type given a uniform postage stamp (based on only the forecasted capacity bookings) with those based on the ratio of the technical capacity for each point type to the total technical capacity. In the case of the latter, the total transmission services revenue would be allocated to the individual point types using the ratio of the technical capacity for each point type to the total technical capacity. The comparative calculation for intra-system and cross-system network use was made using the cost allocation assessment method in accordance with Article 5 of Regulation (EU) 2017/460. Accordingly, the figures for all entry bookings and for exit bookings at storage facilities were based on the proportion of clearly allocable exit bookings.

190 If the technical capacity were used as the cost driver, the costs allocated to cross-system network use would be approximately €322mn higher than those allocated using the uniform postage stamp reference price methodology. A sum of €81mn was calculated for this in the REGENT 2021 determination. This sum has thus risen considerably owing to the steep drop in the degree of utilisation of cross-system network use (although part of the increase is due to the higher transmission services revenue in 2026 compared to 2021). This becomes particularly clear in light of the very low booking level for cross-system points, shown above, compared with the booking level for intra-system points. Consequently, if the technical capacity were used as the cost driver, the individual risk of vacancy would be allocated more accurately. With the uniform postage stamp, by contrast, the vacancy costs of the cross-system points are borne by internal orders and final customers, even though they have a much lower level of vacancies.

191 This aspect suggests that at least overall, say together with other effects such as taking account of distance as the cost driver (see the technical analysis of the distances under REGENT 2021), there is no undue cross-subsidisation to the detriment of cross-system network use, or any such cross-subsidisation due to other aspects is well compensated for in total.

(iii) Analysis of pipeline diameters, pressures and distances

192 Reference is made to the explanations in the REGENT 2021 proceedings for the analysis of pipeline diameters, pressures and distances. New findings for these technical analyses are not to be expected.

(iv) Overall assessment of the quantitative analysis

193 The analysis indicated several key aspects that still speak for a uniform postage stamp.

194 The results of the partially repeated analysis suggest that applying the uniform postage stamp would not result in an unreasonable proportion of the costs being allocated to cross-system network use. Thus it is not appropriate to differentiate between networks using the criteria proposed in the REGENT 2021 proceedings.

- Intra-system network use is already allocated around 84% of the total costs while, as of 2024, around 90% of the gas injected is for national consumption.
- Intra-system network use is allocated a disproportionately high share of the vacancy costs with a uniform postage stamp. The cross-subsidisation amounts to around €322mn.
- Reference is made to the REGENT 2021 proceedings for the analysis of pipeline diameters, pressures and distances. The much higher cross-subsidisation when looking at the vacancy levels shows that, if these analyses by pipeline diameter and pressure did partly provide arguments for a greater attribution of the costs to intra-system network use, this would be very clearly outweighed by the cross-subsidisation shown.
- By contrast, the analyses by distance already showed in the REGENT 2021 proceedings that, with this cost driver, cross-system network use would have to bear a greater burden than intra-system network use owing to the greater distances.

195 On the basis of these findings and the findings of the REGENT 2021 proceedings, the ruling chamber still considers the uniform postage stamp reference price methodology to be appropriate.

(3) Regional networks

196 ACER recommends further analysis of “regional networks”, which do not have a more precise definition. ACER last proposed a “provisional” definition for them in 2020, but this did not filter down to the amended Gas Directive or Gas Regulation. ACER cites the definitions set out in Article 2 points (17) and (19) of Directive (EU) 2024/1788 in its analysis, but these do not provide a clear delimitation of “regional networks” either.

197 With regard to the possible existence of “regional networks”, the ruling chamber points to the analysis of pipeline diameters and pressures in the transmission systems in the REGENT 2021

proceedings . No clear differentiating criterion was found in this intensive technical analysis of the transmission systems indicating the existence of “regional networks” in the German transmission system. It is not to be expected that repeating these analyses would deliver different findings.

198 The ruling chamber thus comes to the conclusion that there are no clearly distinguishable “regional networks or sub-networks” in the German transmission system. Given the lack of “regional networks or sub-networks” in the German transmission system, there is no need for the cost allocation to domestic end-users as recommended by ACER. Even if there were, in fact, isolated examples of “regional sub-networks”, their costs would be appropriately allocated to intra-system network use in the reference price methodology applied, which is primarily paid by the downstream networks. The transmission services revenue for the internal order points is €1.6bn, representing the overwhelming majority of the total transmission services revenue. Moreover, intra-system network use (booking level 85%) bears a disproportionate amount of the vacancy costs in the uniform postage stamp compared to cross-system use (booking level 73%).

(4) The uniform postage stamp reference price methodology

199 Against the background of the determinations in points (1) and (2), the reference price methodology of the uniform postage stamp is to be assessed in comparison to other reference price methodologies.

(i) Significance of the entry-exit system

200 It must firstly be noted that, within the existing entry-exit system, network tariffs must not be calculated on the basis of contract paths (see Article 17 of Regulation (EU) 2024/1789). According to recital 3 of Regulation (EU) 2017/460, following the introduction of the concept of the entry-exit system by Regulation (EC) No 715/2009, transmission costs are no longer directly associated to one specific route as entry and exit capacities can be contracted separately, and network users can have gas transported from any entry point to any exit point. Under this framework, the transmission system operator decides the most efficient way of flowing gas through the system. As a result of the virtual trading point (VTP) being constantly available in the case of non-conditional capacity products, bookings are abstracted from actual network operation. It is therefore not correct that Regulation (EU) 2017/460 does not attach any importance to the VTP. While it is true that the use of the VTP is not mandatory, the availability of the VTP is the essence of FZK, upon the tariffs of which the reference price methodology has a direct effect.

201 In the ruling chamber's view, the reference price methodology should pick up on these aspects of the market area, strengthen and by no means counteract them. On the one hand, the postage stamp reference price methodology is able to establish a certain degree of cost fairness by using the recognised cost driver of the capacities that are expected to be booked which, in the main, mirrors the network contingency costs. On the other hand, the methodology acknowledges the abstraction of contract paths by disregarding distances and specific routes, and thus ultimately it prices entering and/or exiting the market area. For the shipper, the service is the main concern and not the actual physical transport of gas, such that in principle there is no direct connection between a booking and the use of specific infrastructure. Exceptions to this are possible, such as in the case of conditions for firm capacity products, as is the case for products with limited allocability. However, pursuant to Article 4(2) of Regulation (EU) 2017/460, it is not necessary to include such exceptional cases in the reference price methodology itself; they only have to be taken into account when setting transmission tariffs (and not reference prices), if required.

202 No differences arise for the liquidity of the markets from different points on the entry and exit side. If gas is taken off, it is no longer in the market area. It makes no difference where it exits to. The consequences for balancing are similar whether the use is intra-system or cross-system and are in both cases subject to the balancing rules (GABi Gas). Intra-system and cross-system use are not treated differently in the balancing system either. As well as final customers and retail customers in the transmission and distribution network areas, the balancing rules are also aimed at cross-system users when withdrawing gas at cross-border interconnection points. Ultimately all network users benefit from liquidity at the VTP, regardless of how they are using the capacity products in any specific case. As far as the exit side is concerned, there is a guaranteed right to procure gas at the liquid VTP if required for products directly affected by the reference price methodology.

(ii) More detailed cost allocation

203 On the other hand, a more detailed cost allocation, such as allocating individual pipelines to specific bookings, is not possible due to the complexity and meshed structure of the Germany-wide market area. In this respect, the postage stamp per type of network point reference price methodology also does not attempt to allocate costs to individual pipelines. Instead, it uses a more general approach based on the transmission system operators' revenue caps and their respective shares of bookings among the various groups of network points. The proposal of this reference price methodology makes it plain that this form of allocation is ruled out, particularly on the entry side, since it is not possible to differentiate unequivocally between intra-system and cross-system network use. Allocation on the exit side is also not carried out on the basis of concrete cost structures but only in an abstracted form on the basis of the

shares of capacity bookings. Therefore costs are not allocated more accurately than they would be with a uniform postage stamp, merely in a different way, which only appears to be accurate. The allocation attempts of the postage stamp per type of network point and the function-specific postage stamp are discussed in sections B.I.5.b)(5) and B.I.5.b)(6).

204 In contrast, the capacity weighted distance reference price methodology is based on the cost driver of distance as well as the cost driver of capacity. In linear systems, for example, this can be an appropriate further differentiation resulting in greater cost fairness. The more complex the system, however, the lower the probability that using an inflexible combination of capacity and distance will result in a tariff that is actually cost-reflective. As discussed above, the complexity and meshed structure of the German gas transmission networks prevent distance from being considered an appropriate cost driver. This also applies against the backdrop of the full integration of the H-gas and L-gas networks in balancing, where as a rule there is no physical connection at all that could be used to calculate a distance.

205 As a general rule, it can be stated that calculating average prices at least rules out (open or hidden) arbitrary cost allocation. Another key factor ensuring sufficient cost-reflectivity is multipliers as detailed in Article 13 of Regulation (EU) 2017/460, by means of which in the case of non-yearly capacity bookings it is guaranteed that an appropriate proportion of the transmission network contingency costs incurred throughout the year will be borne. Another aspect giving rise to greater cost-reflectivity is the consideration of conditions for firm capacity products, Article 4(2) of Regulation (EU) 2017/460. If, for example, the accessibility of the VTP cannot be guaranteed with a capacity product, it is appropriate to reduce the relevant tariff accordingly. Although such aspects are not within the scope of the reference price methodology, they demonstrate that the issue of cost-reflectivity is addressed in the overall system of tariff setting even with a postage stamp tariff applicable to all network operators.

206 A possible objection to the postage stamp reference price methodology may be that it does not even try to allocate costs directly. On the other hand, this prevents the inappropriate, non-transparent allocation of costs within a complex methodology in a manner that is not easily apparent to market participants. For example, taking distance into account as a cost driver does not necessarily lead to the particularities of the transmission networks being mapped more precisely. It should be noted that the capacity weighted distance methodology disregards other key cost drivers such as the difference between inlet and outlet pressure. This carries the risk of overemphasising distance as a cost driver as compared to other potential cost drivers.

207 In particular when considering trade via the VTP, it becomes apparent that the capacity weighted distance methodology detailed in Article 8 of Regulation (EU) 2017/460 has weaknesses because it disregards this issue, whereas with the postage stamp reference price

methodology a uniform price for access to the VTP is guaranteed. In the opinion of the ruling chamber, the notion that there would have to be different tariffs for access to the VTP is not a general counter-argument against this aspect. It may be appropriate in transmission systems where stable gas flows and transparent supply sources make it possible to approximate the location of a VTP. This happens in Austria, for instance, where the nature of the network and the gas flows make it possible to define the interconnection point Baumgarten as a virtual reference point. By contrast, the meshed and complex structure of the German transmission systems rules out such an approach. Against this background, the ruling chamber is of the opinion that it cannot be argued that a particular point or, more generally, a particular type of point (eg interconnection points or points to final customers) enables access to the VTP at lower or higher cost.

208 Ultimately, the provisions in Article 8 of Regulation (EU) 2017/460 do not take account of the particularities of a complex, dual-quality market area incorporating a large number of transmission system operators. Different assumptions or a different design of the connection for the H-gas and L-gas networks would result in different tariffs without there being compelling reasons for this in the interests of cost-reflectivity when setting tariffs.

(iii) Cost attribution between intra-system and cross-system network use

209 The general cost attribution of intra-system and cross-system network users was an issue explored in light of the proportions of bookings and gas volumes. The fact is that the transit share is much lower than in the past and the share of domestic consumption now makes up around 90% of the total gas transport via the German transmission system by gas volumes (not by capacity bookings); in the REGENT 2021 determination it was around 50%. Equivalently, 84% (by costs) or 88% (by bookings) of the single German transmission system is now financed by domestic customers (intra-system network use).

210 The average specific tariff for cross-system network use has also clearly aligned to that of intra-system network use, as can be seen from the “ratio intra cap” and “ratio cross cap” data in Annex 2. These figures show the relevant average tariffs per kWh/h/a (reserve prices) with the discount at storage facilities, among other things, already allocated in accordance with the different variants (see section B.I.4). Regarding the issue of pro rata cost attribution, the aspect of cross-subsidisation has gained an added significance owing to the respective vacancies. This aspect is a clear argument against an inappropriate cost attribution burdening cross-system network use.

(iv) Assessment of the uniform postage stamp reference price methodology

211 In conclusion, it can be stated that the postage stamp reference price methodology takes account of the actual costs incurred for the provision of transmission services and the great complexity of the German transmission system is taken into consideration. This is confirmed by the quantitative analysis in section B.I.5.b)(2), which shows that a different assessment on the basis of the lower unit costs for greater pipeline diameters and pressures presented in the REGENT 2021 proceedings is not justified against the backdrop of the other effects analysed, eg with regard to distances and, in particular, vacancy costs. Although the capacity weighted distance reference price methodology detailed in Article 8 of Regulation (EU) 2017/460 is a considerably more complex methodology, it does not achieve greater cost-reflectivity given the circumstances of the German market area. On the contrary, the greater focus on one individual cost driver (in this case distance) while disregarding other cost drivers such as the age of the assets, design parameters, gas quality at the entry points and the difference between inlet and outlet pressure rather creates a misleading appearance of cost-reflectivity.

(5) The postage stamp per type of network point reference price methodology

212 The postage stamp per type of network point reference price methodology proposed in REGENT 2021 was an attempt to better reflect the actual costs of capacity bookings considering the level of complexity of the transmission system by using a differentiated approach. This approach assumed that cross-system network use incurs lower costs and accordingly should, in principle, be priced at a lower level than intra-system network use. The main assumption was that lower-cost pipelines are relevant to cross-system flows.

213 Reference is made here to the considerations in the REGENT 2021 decision. In addition, these very pipelines – assuming they were separable as discussed – now mostly have much higher vacancies and thus would have to be more highly priced.

214 In light of the deliberations set out above, the ruling chamber considers the proposed postage stamp per type of network point reference price methodology not to be preferable over the postage stamp reference price methodology in respect of aspects of cost-reflectivity, taking account of the complexity of the transmission networks.

(6) Function-specific postage stamp on the basis of explicit cost allocation according to transport tasks

215 The function-specific postage stamp on the basis of explicit cost allocation according to transport tasks reference price methodology, which was proposed in the REGENT 2021 proceedings, represents an attempt to eliminate the shortcomings of the postage stamp per type of network point reference price methodology with regard to its lack of cost allocation in

that it links in a somewhat more differentiated manner to different components of the revenue caps of the individual transmission system operators in order to attribute the corresponding costs in a supposedly focused way to intra-system or cross-system network use. However, as in the case of the postage stamp per type of network point, the question arises here, too, of whether such a distinct separation between intra-system and cross-system network use is even possible. Cost allocation to the two forms of use – assuming that they can be clearly distinguished – is also by no means unambiguous. All proposed variants of the split operate with a blanket approach that is intended to allocate the entire cost base to the transmission system operators on the basis of a single indicator. It is questionable whether reliable information about the share of cross-system use can be derived from the proposed indicators. Reference is made to the considerations in the REGENT 2021 proceedings (on the basic assumptions; the separability of costs with regard to intra-system and cross-system network use; the consideration of distances and degrees of utilisation; the significance of intra-system network use for the overarching network; the capacity framework for the overarching network; the categorisation of storage facilities and gas-fired power plants; and the final assessment with regard to cost-reflectivity). In addition, the mostly much higher vacancy costs of cross-system network use would need to be allocated to it/borne by it for the function-specific postage stamp, too.

216 The ruling chamber is thus convinced that the function-specific postage stamp reference price methodology is not preferable to the uniform postage stamp.

(7) Other reference price methodologies

217 In addition to the uniform postage stamp, postage stamp per type of network point, function-specific postage stamp on the basis of explicit cost allocation according to transport tasks and capacity weighted distance reference price methodologies, within the framework of the proceedings for the preceding decisions BK9-18/610-NCG and BK9-18/611-GP ACER put forward the matrix reference price methodology, stating that this should be discussed if the uniform postage stamp reference price methodology proved not to be cost-reflective following closer assessment.

218 Firstly, the ruling chamber is convinced that the cost-reflectivity of the uniform postage stamp reference price methodology can be demonstrated, especially against the background of the complexity of the transmission networks. Secondly, the matrix reference price methodology does not constitute a practicable methodology for Germany’s transmission networks. To begin with, this reference price methodology requires a host of input parameters: the length, capacity and construction costs must be known for each individual pipeline section, based on full cartographic details of the entire network being held on file. Furthermore, the corresponding

pipeline sections must be allocated for all combinations of entry and exit points. Realistically, this can only be achieved if the transmission network exhibits a stable, typical flow. However, in a meshed network with the possibility of being supplied from various sides, no such allocation can be carried out properly. Moreover, the recent massive shift in flows is a distinct argument against the creation of such paths. A corresponding matrix would thus have almost one million values for the German market area.

219 Besides, a methodology of this type would be highly opaque for network users and in many respects, in terms of results, would be dependent on assumptions that would have to be made during the calculation steps. Here, too, small changes to the assumptions would often lead to completely different tariffs.

c) Article 7 sentence 2 point (c) of regulation (EU) 2017/460

220 According to Article 7 sentence 2 point (c) of Regulation (EU) 2017/460, the reference price methodology must aim at ensuring non-discrimination and prevent undue cross-subsidisation including by taking into account the cost allocation assessments set out in Article 5 of Regulation (EU) 2017/460. This specifies the requirement set out in Article 17 of Regulation (EU) 2024/1789 that the approved tariffs, or the methodologies used to calculate them, must be non-discriminatory and that cross-subsidies between network users must be avoided.

221 The postage stamp reference price methodology fulfils these requirements because, on the basis of the equal treatment of all forecasted capacity bookings, it guarantees the equal treatment of all network users and thus non-discrimination. The necessary splitting of revenues at entry and exit points (entry-exit split) is carried out in a non-discriminatory manner solely on the basis of the forecasted booked capacities for cost-reflective cost allocation. Individual network users or groups of network users neither gain an advantage nor suffer a disadvantage in this process, as equal services are priced identically. In particular, the reference price for accessing the VTP is always identical.

222 In this context, it should also be noted that the proportions of intra-system and cross-system network use in the transported volumes of natural gas, the capacity bookings and the cost attribution have largely aligned. In conjunction with the clearly higher vacancy costs for cross-system network use, discrimination of cross-system network use seems remote, as supported by the systematic analyses under B.I.5.b)(2).

223 The results of the cost allocation assessment pursuant to Article 5 of Regulation (EU) 2017/460 described in section B.I.4 also make it clear that there is no undue cross-subsidisation of cross-system network use.

224 The capacity weighted distance reference price methodology set out in Article 8 of Regulation (EU) 2017/460, however, does not satisfy these requirements to the same extent. The rigid approach of a 50/50 entry-exit split in accordance with Article 8(1) point (e) of Regulation (EU) 2017/460 prevents costs or revenues from being allocated to the entry and exit points in an appropriate manner tailored to individual circumstances. The access to the VTP is priced differently, for which there is no objective justification arising from the distance in a meshed transmission network, and this issue is not covered in the detailed provisions of Article 8 of Regulation (EU) 2017/460. For further details of the cost allocation assessment under the capacity weighted distance reference price methodology, refer to sections B.I.5.e) and B.I.6.

225 The postage stamp per type of network point and function-specific postage stamp reference price methodologies proposed in the REGENT 2021 proceedings do not meet these requirements to the same extent either. Although setting higher prices at exit points to final customers and downstream network operators could be justified in that these points entail higher costs compared with exit points in the form of cross-border interconnection points, even this assumption is subject to doubt (see explanations in section B.I.5.b)). Moreover, the detailed analyses showed that there would be systematic unequal treatment of intra-system network use in comparison to cross-border interconnection points although the technical connection situation is largely the same. This is not just the case for exit points to final customers and downstream networks located near the border or near cross-border interconnection points but for all exit points located near larger pipeline structures (see the more detailed analysis in section B.I.5.b)(2)(iii)).

226 In light of these considerations, the ruling chamber considers neither the proposed postage stamp per type of network point reference price methodology nor the function-specific postage stamp reference price methodology to be preferable to the uniform postage stamp reference price methodology with regard to the need to ensure non-discrimination and the prevention of undue cross-subsidisation taking into account the cost allocation assessments set out in Article 5 of Regulation (EU) 2017/460.

d) Article 7 sentence 2 point (d) of Regulation (EU) 2017/460

227 Article 7 sentence 2 point (d) of Regulation (EU) 2017/460 states that the reference price methodology must aim at ensuring that significant volume risk related particularly to transports across an entry-exit system is not assigned to final customers within that entry-exit system. There are no directly corresponding provisions in Article 17 of Regulation (EU) 2024/1789.

228 Recital 6 of Regulation (EU) 2017/460 states that transmission system operators in certain entry-exit systems transport significantly more gas into other systems than for consumption

into their own entry-exit system. Consequently, reference price methodologies should include safeguards required to protect such captive customers from risks related to large transit flows.

229 However, within the German entry-exit system it is not the case that significantly more gas is transported into other systems than for consumption in the country's own entry-exit system: on the contrary, it is now considerably less. This remains the case regardless of whether the assessment is made on the basis of booked capacity or actual gas flow. It is therefore already questionable whether the above requirement detailed in Article 7 sentence 2 point (d) of Regulation (EU) 2017/460 is at all relevant for the reference price methodology established for the German entry-exit system.

230 It is also questionable whether the associated risk of a significant reduction in capacity demand for cross-market-area network use can be addressed at all by the reference price methodology. The reference price methodology system (in the case of a revenue-cap regulatory regime in accordance with section 21a EnWG; see also Article 3 sentence 2 point 3 of Regulation (EU) 2017/460) takes as its starting point certain revenue that can be recovered from transmission tariffs. Tariffs and revenue always relate to a tariff period; see Article 3 sentence 2 point 23 of Regulation (EU) 2017/460. If the volume risk addressed here materialises, reconciliation can be achieved using the regulatory account in accordance with Article 17 et seq of Regulation (EU) 2017/460 in future. With respect to the ongoing tariff period, only as precise a forecast as possible of the booked capacities can be used as the basis for setting tariffs.

231 The postage stamp reference price methodology at least offers the advantage that, because of averaging, there are only minor fluctuations in the event of individual shifts in flow or load or if they drop out altogether. This methodology is therefore not dependent on a point-specific capacity forecast being as accurate as possible. Because of the averaging and non-discriminatory tariff setting, irrespective of the typification of entry and exit points, the volume risk is borne equally by all (future) network users.

232 Further-reaching solutions, for example in the form of switching the regulatory system to a price cap regime (Article 3 sentence 2 point 17 of Regulation (EU) 2017/460), are not relevant in the context of the assessment of the reference price methodology on the basis of the criteria detailed in Article 7 of Regulation (EU) 2017/460. With regard to the regulatory account, Article 19(4) of Regulation (EU) 2017/460 prescribes that only one regulatory account may be used, thus ruling out, for example, separate regulatory accounts for cross-system and intra-system system network use. Any remaining volume risks are counteracted by the transmission system operators providing as precise a forecast as possible of the booked capacities. The quality of the forecast cannot be determined in the abstract, however.

233 Compared to the postage stamp reference price methodology, the capacity weighted distance reference price methodology detailed in Article 8 of Regulation (EU) 2017/460 does not meet the criterion set out in Article 7 sentence 2 point (d) of Regulation (EU) 2017/460 to the same extent due to the poorer quality of the forecast. The latter methodology results in tariffs that diverge relatively widely on a point-specific basis and thus makes forecasting the behaviour of traders significantly more difficult than with the postage stamp reference price methodology. With the capacity weighted distance reference price methodology as detailed in Article 8 of Regulation (EU) 2017/460, therefore, there may potentially be a tendency for higher amounts to appear in the regulatory account, which would exacerbate the problem of passing on the volume risk to end users of the entry-exit system.

234 In conclusion it can be stated that, because of its lower susceptibility to forecasting errors, the postage stamp reference price methodology is at least superior in terms of satisfying the requirements detailed in Article 7 sentence 2 point (d) of Regulation (EU) 2017/460 than the capacity weighted distance reference price methodology set out in Article 8 of Regulation (EU) 2017/460.

235 In the course of the REGENT 2021 proceedings, the fear was expressed to the ruling chamber that there could be a general decline in cross-system network use and thus a tendency for tariffs to rise on account of the loss of corresponding bearers of costs. This was another reason why the postage stamp per type of network point and function-specific postage stamp reference price methodologies were proposed. It should be noted that no such effect was observed up to 2022. Only when gas deliveries from Russia were halted did shifts in the gas market as a whole occur and these would have happened in a similar fashion with any other reference price methodology as well. As has been shown, the postage stamp reference price methodology was able to capture these effects very well and even account for those transmission system operators that operate pipelines that are necessary for security of supply but no longer have any of their own bookings.

236 In light of the deliberations set out above, the ruling chamber does not consider the postage stamp per type of network point reference price methodology or the function-specific postage stamp reference price methodology to be preferable over the postage stamp reference price methodology in respect of the volume risk.

e) Article 7 sentence 2 point (e) of Regulation (EU) 2017/460

237 Article 7 sentence 2 point (e) of Regulation (EU) 2017/460 stipulates that the reference price methodology must aim at ensuring that the resulting reference prices do not distort cross-border trade. Article 17(1) of Regulation (EU) 2024/1789 adds another requirement by stipulating that the approved tariffs, or the methodologies used to calculate them, must

facilitate efficient gas trade and competition. Article 17(2) of Regulation (EU) 2024/1789 stipulates that tariffs for network access may neither restrict market liquidity nor distort trade across borders of different transmission systems.

238 The wording gives rise to different requirements for the reference price methodology for various aspects. Article 7 sentence 2 point (e) of Regulation (EU) 2017/460 merely states that it is sufficient for the resulting reference prices not to distort cross-border trade. This requirement is also included in Article 17(2) of Regulation (EU) 2024/1789, although here it applies to borders between different transmission systems. Whereas cross-border trade pursuant to Article 7 sentence 2 point (e) of Regulation (EU) 2017/460 within the context of the internal gas market signifies trade across borders of more than one Member State, the wording of Article 17(2) of Regulation (EU) 2024/1789 is different because it refers to the borders between transmission systems. The word “borders” in the latter case may signify not only borders between entry and exit systems but also borders between transmission system operators operating within one and the same entry-exit system. However, in the above-mentioned European context it can be assumed that, after the introduction of the entry-exit system concept, the wording signifies trade across more than one entry and exit system.

239 Given these assumptions, the question therefore arises of whether the reference price methodology and the associated setting of tariffs at cross-border interconnection points leads to a distortion of cross-border trade. Ultimately this comes down to whether a cost-reflective tariff is set at these points. It has already been explained that the uniform postage stamp reference price methodology aims at taking into account the actual costs incurred for the provision of transmission services considering the level of complexity of the transmission network (Article 7 sentence 2 point (b) of Regulation (EU) 2017/460). It is not appropriate to facilitate cross-border trade over and above this by means of cross-subsidisation to the detriment of intra-system network use. In exceptional cases, such cross-subsidisation may be justified and permissible within the meaning of Article 7 sentence 2 point (c) of Regulation (EU) 2017/460, such as in the case of determining multipliers with a value of between 0 and 1 for daily standard capacity products and for within-day standard capacity products with the aim of promoting short-term trading in duly justified cases (Article 13(1) point (b) sentence 2 of Regulation (EU) 2017/460). But in any case, it cannot be mandatory to determine a reference price methodology that uses cross-subsidisation to facilitate cross-border gas trade. This would also contradict the basic assumptions for the cost allocation assessment in accordance with Article 7 sentence 2 point (c) in conjunction with Article 5 of Regulation (EU) 2017/460, because it would always be necessary to justify the result of the assessment in cases of excessive facilitation of cross-border trade (see Article 5(6) of Regulation (EU) 2017/460).

240 There are no indications that the postage stamp reference price methodology does not facilitate efficient gas trade and competition (Article 17(1) of Regulation (EU) 2024/1789). The determined reference price methodology is a simple, transparent methodology that makes it easier for network users to calculate tariffs and forecast future tariffs and reduces transaction costs compared with a more complex reference price methodology. The same applies to a potential restriction of market liquidity pursuant to Article 17(2) of Regulation (EU) 2024/1789.

241 Lastly, the result of the cost allocation assessment can also be used to analyse whether the reference price methodology distorts cross-border trade. The results of the calculations conducted pursuant to Article 5 of Regulation (EU) 2017/460 suggest no disadvantage arises for cross-system network use.

242 Based on the information from the transmission system operators on point-specific reference prices determined using the capacity weighted distance reference price methodology pursuant to Article 8 of Regulation (EU) 2017/460 and the capacity forecasts, the ruling chamber calculated the expected revenue at the individual points and used these figures to carry out the cost allocation assessment on an indicative basis for the capacity weighted distance reference price methodology. The ruling chamber carried out these calculations using both the unadjusted forecasted capacities and the adjusted forecasted capacities as a cost driver in order, with the latter, to illustrate the effect of the distance weighting alone. For illustrative purposes, the calculation with adjusted capacities as a cost driver is also shown in Annex 2 for the uniform postage stamp reference price methodology, even though by definition this calculation results in a comparison index of 0%. In these assessments the entry-exit split of 33/67 was taken into account in order to ensure comparability. Moreover, the storage facilities were allocated to cross-system and intra-system network use using the adjusted capacities, showing a slight deviation from the allocation using the unadjusted capacities (13% with the adjusted and 12% with the unadjusted capacities).

243 It can be seen that the distance effect leads on average to more costs being borne by cross-system network use (comparison index of 26.2%). This clearly demonstrates that, because of the larger average distances in cross-system network use (evidently as a result of geographical circumstances), precisely these points are subject to higher tariffs under the capacity weighted distance reference price methodology. This does not necessarily constitute a distortion of cross-border trade, for instance if the blanket unconditional approach of using distance as a cost driver actually ensured greater cost-reflectivity (which, in light of the complexity of the transmission networks, is at best questionable; see the explanation in section B.I.5.b)). However, there is at least the risk of distorting cross-border trade when using the capacity weighted distance reference price methodology, to the extent that this methodology

satisfies the criterion detailed in Article 7 sentence 2 point (e) of Regulation (EU) 2017/460 less well than the postage stamp reference price methodology.

244 In some cases the increases in the reference prices are considerable in comparison with the capacity weighted distance reference price methodology. In this respect reference is made to the explanations given in section B.I.6.

245 In this connection the ruling chamber adheres to the principle of performing the cost allocation assessment without distance as a cost driver. In the case of the capacity weighted distance reference price methodology, too, statements could only be made about matters beyond the scope of the reference price methodology, such as storage discounts etc, provided that the cost drivers for the cost assessment (in this case the capacity weighted average distance per point) such as capacity and revenue as set out in Article 5(5) of Regulation (EU) 2017/460 were weighted and a capacity weighted entry-exit split used. If the cost drivers are weighted differently, for example at entry points separately according to intra-system and cross-system network use, arithmetically the results obtained would be different. However, this would merely bring to light the fact that Articles 5 and 8 of Regulation (EU) 2017/460 provide for different methods of calculation. In other words, in the case of the cost allocation assessment it would simply be established that Article 8 of Regulation (EU) 2017/460 allocates a reference price to each entry point and during booking no distinction is made as to whether the purpose of the booking is intra-system or cross-system (which is in fact not even possible in an entry and exit system and when booking freely allocable capacity).

246 With regard to the postage stamp per type of network point and function-specific postage stamp reference price methodologies proposed in the REGENT 2021 proceedings, it may be the case that a general rise in costs at domestic exit points (compared with the uniform postage stamp) and the associated reduction in tariffs at exit points to neighbouring entry and exit systems would facilitate cross-border trade as a result of subsidisation of this nature. The associated questions relating to cost-reflectivity, non-discrimination and the volume risk have already been discussed in sections B.I.5.b) to B.I.5.d). As shown, these deliberations do not lead to the conclusion that facilitation of cross-border trade is appropriate. The postage stamp reference price methodology, on the other hand, precisely meets the criteria set out in Article 7 sentence 2 point (e) of Regulation (EU) 2017/460 because it does not distort cross-border trade through equal treatment.

f) Interim result for Article 7 sentence 2 point (a) to point (e) of Regulation (EU) 2017/460

247 Taking an overall view of the criteria listed in Article 7 sentence 2 point (a) to point (e) of Regulation (EU) 2017/460, the uniform postage stamp reference price methodology meets all the requirements and is superior to the capacity weighted distance reference price

methodology set out in Article 8 of Regulation (EU) 2017/460. Any lower degree of cost-reflectivity as a result of average tariffs is offset by significantly greater transparency and better forecasting quality. The uniform postage stamp reference price methodology guarantees a high degree of non-discrimination with respect to tariff setting. Access to the VTP is also uniformly priced in an appropriate manner by the postage stamp reference price methodology, without an adjustment in accordance with Article 6(4) point (b) of Regulation (EU) 2017/460 having to be carried out. As discussed, there are no compelling reasons to determine the postage stamp per type of network point or function-specific postage stamp reference price methodology proposed in the REGENT 2021 proceedings instead of the uniform postage stamp methodology.

g) Article 17(1) of Regulation (EU) 2024/1789

248 Other criteria for the assessment of the reference price methodology which are not already specified in detail by Article 7 sentence 2 point (a) to point (e) of Regulation (EU) 2017/460 derive from the reference in Article 7 sentence 1 of Regulation (EU) 2017/460 to Article 17(1) of Regulation (EU) 2024/1789. Namely, Article 17(1) of Regulation (EU) 2024/1789 stipulates that the approved tariffs, or the methodologies used to calculate them, must, in addition, take into account the need for system integrity and its improvement and provide incentives for investment and maintaining or creating interoperability for transmission networks.

249 In the opinion of the ruling chamber, a transparent and easily understandable reference price methodology such as the uniform postage stamp is particularly suited to contributing to the interoperability of the transmission networks and is better at achieving this than the capacity weighted distance reference price methodology pursuant to Article 8 of Regulation (EU) 2017/460 or the function-specific postage stamp reference price methodology, which need difficult agreements between the transmission system operators for their calculation. It is particularly the case that tariff setting at virtual interconnection points in accordance with Article 22 of Regulation (EU) 2017/460, which requires agreement between the transmission system operators concerned, is significantly facilitated by uniform pricing anyway. This applies especially in cases where the only reason why multiple transmission system operators offer the corresponding interconnection points is because of their involvement in pipeline companies and discrepancies have arisen in the past between the fundamental capacity rights and the marketed capacities. The proposed postage stamp per type of network point reference price methodology may also satisfy this criterion. However, aspects of system integrity and of incentives for investments are not affected by an abstract reference price methodology, in the opinion of the ruling chamber. These are adequately addressed by the provisions of sections 21 and 21a EnWG.

h) Principle of energy solidarity

250 During court proceedings against the preceding decisions, BK9-18/610-NCG and BK9-18/611-GP, the argument was put forward that the uniform postage stamp reference price methodology breaches the principle of energy solidarity laid down in EU primary law (Article 194(1) of the Treaty on the Functioning of the European Union, TFEU). It was said that possible tariff and price increases in Member States bordering Germany or indirectly supplied via German transit routes had not been weighed up against Germany's interest in the application of a fully uniform postage stamp methodology.

251 It is already questionable whether the principle of energy solidarity applies in these circumstances, in which no EU institution is acting. In any case, Article 7 of Regulation (EU) 2017/460 makes some aspects of energy solidarity a direct part of the legally required assessment. For example, in accordance with Article 7 sentence 2 point (e) of Regulation (EU) 2017/460, it must be ensured that the reference prices resulting from the determined reference price methodology do not distort cross-border trade. Article 7 sentence 2 point (c) of Regulation (EU) 2017/460 further requires ensuring non-discrimination and preventing undue cross-subsidisation. The consideration of network users, who must not be discriminated against, thus covers the interests of those gas traders supplying natural gas via Germany to final customers in other Member States; in fact, in conjunction with point (e), there is a particular emphasis on them. As the network tariffs paid by these network users have a direct effect on consumer prices in other countries, there is no separation between the interests of the Member States and their network users. It is therefore not evident which aspects of the principle of energy solidarity should be examined in addition to the requirements of the assessment set out in Article 7 of Regulation (EU) 2017/460.

252 The ruling chamber has examined in detail whether the tariffs resulting from the determination are appropriate for the network users active in the market area, including and in particular the ones that are active across borders (see in particular the explanations in sections B.I.5.b), B.I.5.c) and B.I.5.e)).

i) Proportionality of the uniform postage stamp reference price methodology

253 The determined uniform postage stamp reference price methodology that is to be applied jointly by the transmission system operators in accordance with Article 10(1) of the Regulation is also proportionate.

254 The legitimate public purpose of the reference price methodology is not, as sometimes assumed in the earlier proceedings, to cross-subsidise a group of network users, but rather to determine a method of calculating reference prices that is in particular transparent, cost-reflective and non-discriminatory. As explained in detail in sections B.I.2, B.I.4, and B.I.5.a) to

B.I.5.g), the uniform postage stamp reference price methodology is suited to meeting these requirements.

255 There are no other reference price methodologies that meet these purposes to the same degree, thus the uniform postage stamp reference price methodology is also necessary. Separate tariff setting would already be legally impermissible in the absence of a compensation mechanism. The determination of a compensation mechanism for use with a separately applicable reference price methodology is not the object of this decision and, as explained in section B.I.5.b)(1)(iii), would be associated with significant legal and practical difficulties. Furthermore, the possibility could not be ruled out that a compensation mechanism of this type would lead to compensation payments comparable to those arising with a reference price methodology to be applied jointly. Other reference price methodologies such as the postage stamp tariff per type of network point and the function-specific postage stamp do not meet the requirements to the same extent, as shown.

256 The uniform postage stamp reference price methodology is also presented as being appropriate. If it leads to higher and lower revenues for certain transmission system operators and this results in corresponding compensation payments, this is an inherent element of an entry and exit system with multiple transmission system operators. Whichever reference price methodology is used, there will be payers and recipients in this configuration. That would also apply fully to the capacity weighted distance reference price methodology, the postage stamp per type of network point reference price methodology and the function-specific postage stamp reference price methodology. However, a reference price methodology pursuant to Article 7 of Regulation (EU) 2017/460 should not be measured against this criterion but against the question as to whether the methodology is in particular transparent, cost-reflective and non-discriminatory for the system as a whole. That said, these criteria are not met per se by determining a reference price methodology that has the aim of minimal compensation payments between the transmission system operators. Neither, therefore, can it ultimately be a matter of which transmission system operators obtain lower revenues and which transmission system operators obtain higher revenues following the joint application of a reference price methodology, provided that this methodology is in particular transparent, cost-reflective and non-discriminatory for the specific entry and exit system. For this reason, the ruling chamber is explicitly not basing its argument in the REGENT 2026 proceedings on the fact that transmission system operators that previously argued against the postage stamp reference price methodology have now become net receivers due to shifts in flows. It may be that, under the postage stamp per type of network point and function-specific postage stamp reference price methodologies, the additional revenue would be lower for some transmission system operators so they would have to pay lower compensation payments accordingly. Conversely, however, this situation means that other transmission system operators would be

subject to an additional burden with this methodology compared with that of a uniform postage stamp. Furthermore, it is hardly possible to speak of a specific burden because each transmission system operator may generate its revenue cap regardless of the reference price methodology. Any additional risks on account of the obligation to generate additional revenue compared with the status quo are reflected by the determination of an effective compensation mechanism in accordance with Article 10(3) sentence 1 of Regulation (EU) 2017/460.

257 Furthermore, the provisions of Regulation (EU) 2017/460 legally require that there are official regulations to determine the tariffs for transmission services and non-transmission services. In this respect, the transmission system operators no longer have the freedom to use the infrastructure in their ownership (Article 14(1) of the German Basic Law, GG) or to set tariffs for their services (Article 12(1) sentence 2 GG) in any case. As these provisions are transparent, cost-reflective and non-discriminatory, the ruling chamber considers them to be appropriate.

6. Comparison with the capacity weighted distance reference price methodology, including indicative reference prices, in accordance with Article 26(1) point (a)(vi) of Regulation (EU) 2017/460

258 According to Article 26(1) point (a)(vi) of Regulation (EU) 2017/460, in addition to the comparison of the proposed reference price methodology with the capacity weighted distance reference price methodology pursuant to Article 8 of Regulation (EU) 2017/460, a comparison of the respective indicative reference prices must be carried out, Article 26(1) point (a)(iii) of Regulation (EU) 2017/460.

259 The transmission system operators have applied the capacity weighted distance reference price methodology jointly and in a uniform manner. To do this, each transmission system operator first determined the shortest pipeline connection between all entry and all exit points in its network that can be combined with each other in flow scenarios. In some cases, exit points to downstream network operators (internal order) and to final customers directly connected to the transmission systems were combined in clusters. For the virtual interconnection points, the individual booking forecast at the original physical interconnection points of the transmission system operators was used. The unmarketable connection points between transmission system operators in a market area (market area interconnection points, MAP), with their respective physical restrictions, were also taken into account.

260 Dijkstra’s algorithm was used by all transmission system operators to determine the shortest transport distance from all entry to all exit points in the market area. The internal orders and capacity bookings per marketable point were used to forecast for 2026. As the last input parameter, the allowed transmission services revenue for 2026 was forecast, which was

added up across all transmission system operators for the application of the CWD method in the market area. The entry-exit split was set at 50/50 in accordance with Article 8(1) point (e) of Regulation (EU) 2017/460. The rest of the calculation algorithm was carried out as set out in Article 8(2) of Regulation (EU) 2017/460. The weighting of the individual distances to calculate the average distance per entry/exit point was carried out using the simple capacity forecast. To attain the allowed transmission services revenue, the tariffs were rescaled using the adjusted capacity forecasts in line with Article 6(4) point (c) of Regulation (EU) 2017/460.

261 Annex 3 shows the point-specific reference prices calculated using the capacity weighted distance reference price methodology pursuant to Article 8 of Regulation (EU) 2017/460 for an entry-exit split of 50/50 and 33/67 (each after rescaling in accordance with Article 6(4) point (c) of Regulation (EU) 2017/460). In addition, the average reference prices under the capacity weighted distance reference price methodology (weighted with the forecasted contracted capacity) and the price differences compared to the postage stamp reference price methodology are shown in Annex 2 for each type of point. Changes to the proposed reference price methodology arise not only from taking account of distance but also because of the 50/50 entry-exit split referred to in Article 8(1) point (e) of Regulation (EU) 2017/460.

262 Annex 2 also contains average reference prices in accordance with the capacity weighted distance reference price methodology that would result with an entry-exit split in accordance with the uniform postage stamp.

263 When the differences are evaluated, it becomes apparent that a capacity weighted distance reference price methodology leads to a price increase at interconnection points. The same applies to a calculation with an adjusted entry-exit split. Against this background, the uniform postage stamp reference price methodology already confers privileged status on interconnection points compared with the reference price methodology provided for in Regulation (EU) 2017/460.

264 For example, for booking at interconnection points (entry and exit) under the capacity weighted distance reference price methodology with an adjusted entry-exit split, on average €15.07/kWh/h/a would have to be calculated or €15.87 for an entry-exit split of 50/50 (instead of €12.12/kWh/h/a under a uniform postage stamp). This illustrates the fact that, if distance is taken into account as a cost driver, the tariffs for cross-system network use generally rise.

7. Allowed revenue, transmission services revenue and ratios for the transmission services revenue pursuant to Article 26(1) point (b) of Regulation (EU) 2017/460

265 The requirements set out in Article 26(1) point (b) in conjunction with Article 30(1) point (b)(i), (iv) and (v) of Regulation (EU) 2017/460 should be seen in a thematic context with the reference price methodology established according to operative part 1. Accordingly, the

indicative information relating to the allowed revenue of the transmission system operators, including transmission services revenue and ratios for the transmission services revenue, must be published (in this context only the entry-exit split and the intra-system/cross-system split pursuant to Article 30(1) point (b)(v)(2) and (3) of Regulation (EU) 2017/460) are relevant). The indicative information is detailed in Annex 1.

266 The entry-exit split represents a logical weighting of the transmission services revenue with respect to the entry and exit points on the basis of the forecasted capacities. As the level of capacity booking is in principle to be regarded as an indicator for the use of the key cost driver figure and therefore for the level of the costs associated with it, the (indirectly) defined capacity weighted entry-exit split reflects the costs and revenue that have to be allocated appropriately to the entry and exit side in a cost-reflective manner.

267 As an alternative to this, the entry-exit split could be determined ex ante with a fixed value. However, any such determination is always of a sweeping nature because it is not possible to allocate costs specifically to the entry and exit sides. Inasmuch as standardised assumptions are made based on type, for example that costs would have to be transferred to the exit points because these supposedly tend to be lower cost than entry points, the implicitly determined capacity weighted entry-exit split in the booking situation in the German market area also does justice to this. It thus also leads to easing at the entry points and the related assumed increased liquidity at the VTP. No compelling, substantiated indications for a different entry-exit split were submitted in the context of the consultations to date. Capacity weighting, on the other hand, constitutes an objective and transparent yardstick.

8. Simplified tariff model according to Article 26(1) point (d) of Regulation (EU) 2017/460

268 In accordance with Article 26(1) point (d) in conjunction with Article 30(2) of Regulation (EU) 2017/460, a consultation on an indicative basis is to be carried out on a simplified tariff model.

269 With regard to the provisions set out in Article 30(2) point (a)(ii) and point (b) of Regulation (EU) 2017/460, the ruling chamber has made a simplified tariff model available in Annex 5, which can be used to estimate the evolution of transmission tariffs for the remainder of the time in the fourth regulatory period (which, however, ends in 2027). The figures are based on forecasts by the transmission system operators on the evolution of costs and bookings. The transmission system operators were asked for updated forecasts for 2027 – estimated allowed transmission services revenue and forecasted contracted adjusted capacity – at the beginning of April 2025. This new request resulted in an increase of the forecasted reference price to €6.92/kWh/h/a for 2027 from €6.42/kWh/h/a in the consultation. The ruling chamber wishes to emphasise that the indicative reference price for 2027 in Annex 5 represents a non-binding

forecast for a period of 12 months. The specific reference price for 2027 will be calculated by the transmission system operators in May 2026 and then published.

270 The ruling chamber takes the view that the updated data survey also deals with the criticism expressed from some quarters in the responses to the forecasted indicative reference prices published in the REGENT annexes. The ruling chamber made a deliberate decision not to request updated data for the forecast of the indicative reference price for 2026 because the specific reference price for 2026 will be calculated and then published by the transmission system operators in May 2025, shortly after publication of this decision. From the perspective of the ruling chamber, publishing another estimated reference price shortly before the publication of the specific reference price for 2025 would lead to more confusion, rather than clarity, among network users.

271 The ruling chamber welcomes the request made a few times in the consultation for the transmission system operators to hold an annual event with an outlook on upcoming developments and underlying assumptions for the reference prices in the years ahead. This kind of event could be set out in the cooperation agreement, for example.

II. Discounts at storage facilities pursuant to Article 26(1) point (a)(ii) of Regulation (EU) 2017/460 (operative part 2)

272 The decision pursuant to operative part 2 is based on section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentence 3 and sentence 4 EnWG in conjunction with Article 27(4) sentence 1, Article 26(1) point (a) and Article 9(1) of Regulation (EU) 2017/460. Article 9(1) of Regulation (EU) 2017/460 stipulates that a discount of at least 50% must be applied to capacity-based transmission tariffs at entry points from and exit points to storage facilities, unless and to the extent a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point.

1. Discount level

273 The Regulation does not set an upper limit to this discount; the only requirement is for a discount of at least 50% to be applied. In addition, the Regulation requires that the discount be applied under only one condition: if a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point, a discount may not be applied. According to recital 4 of Regulation (EU) 2017/460, storage facilities can make a general contribution to security of supply and system flexibility in transmission systems. This fact is to be taken into account in the form of a discount on the transmission tariff. Moreover – presumably in the interest of setting cost-reflective tariffs – double charging for transmission to and from storage facilities should be avoided.

274 The minimum discount of 50% in accordance with the provisions of Article 9(1) of Regulation (EU) 2017/460 is in line with the provisions of Article 17(3) of Regulation (EU) 2024/1789, pursuant to which, from 1 January 2026, the regulatory authority may apply a discount of up to 100% to capacity-based transmission and distribution tariffs at entry points from, and exit points to, underground natural gas storage facilities for the purpose of increasing security of supply.

275 These considerations are applicable and are particularly important when determining the discount to be applied at entry and exit points at storage facilities. Storage facilities do indeed make a significant contribution to security of supply and system flexibility. In certain situations of higher demand or low supplies, for example during cold spells or during the winter months, storage facilities can balance out restrictions in gas supply. Gas reserves stored in the storage facility can be made available to the system when demand is high and possibly cannot be met by other means. To this extent a storage facility can, to a certain degree, perform the function of a network substitute. Storage facilities also have an important role to play in the provision of balancing gas.

276 In addition, it is appropriate in any case, including in respect of setting cost-reflective tariffs, to apply a mandatory discount to tariffs at entry and exit points at storage facilities. An entry tariff for gas input into the transmission system and an exit tariff for gas offtake at the final customer or in transit are already calculated for the capacity delivered into and later off-taken from the storage facility. Storage facility users thus already bear a share of the costs of transport infrastructure. Charging an additional full entry and exit tariff at storage facilities would effectively constitute double charging, which is to be avoided according to the considerations of Regulation (EU) 2017/460; overall, the tariffs charged would be twice as high even though putting gas into or taking gas out of storage does not result in double the costs for the network operator and does not put twice as much strain on the system.

277 Consequently, a 75% discount must be applied to capacity-based transmission tariffs at entry and exit points at storage facilities unless and to the extent a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point. This discount is to be applied to the tariff for the respective booked capacity product. The tariff to be used as the basis for the discount therefore depends on whether the capacity product to be booked is firm, interruptible or with an attached condition. Pursuant to Article 18(1), first subparagraph, point (b) and third subparagraph of Regulation (EU) 2024/1789, the discount set out therein for renewable gas and low-carbon gas of 100% applies from 1 January 2026 (on the time of application see margin number 48) for capacity-based transmission tariffs at entry points from and exit points to natural gas storage facilities, unless such a storage facility is connected to more than one transmission or distribution

network and is used to compete with an interconnection point; the discount is set in the Member States where the renewable gas or low-carbon gas was first injected into the system. As this discount is 100%, the storage discount of 75% would not be relevant in this arrangement. However, under Article 18(5) of Regulation (EU) 2024/1789, the regulatory authority may decide to derogate by not applying this discount or by laying down a lower discount. (The ruling chamber is currently considering opening proceedings to this end).

278 The ruling chamber considers a discount of 75% to be appropriate. Some market participants have often suggested that an even higher discount of up to 100% should be applied, thus fully removing tariffs at entry and exit points at storage facilities. In contrast, prior to the entry into force of Regulation (EU) 2017/460 the majority of network operators set a discount amounting to 50%, in conformance with the national provisions to the extent that they previously applied as established by the decision dated 24 March 2015, file reference BK9-14/608. In the opinion of the ruling chamber, however, the set discount of 75% takes account of the principle of the cost-reflectivity of tariff setting at storage facilities required under Regulation (EU) 2017/460 and at the same time adequately reflects the general contribution made by storage facilities to security of supply and system flexibility. The entry and exit tariffs at storage facilities are therefore reduced by a significant amount, which in the opinion of the ruling chamber not only reflects the contribution to security of supply made by storage facilities but also further enhances the attractiveness of storage facility usage, supporting security of supply. Furthermore, in the opinion of the ruling chamber, the discount set takes appropriate account of the costs incurred within a network for transport in connection with storage facility usage. On the one hand, there is acknowledgement that there would be no justification to charge double the tariff. On the other hand, it also takes into account the fact that there is usually an additional strain on the network infrastructure when a storage facility is used to transport gas, which is an argument against a complete exemption from tariffs by applying a discount of 100%. Otherwise, the costs arising from this transport would always be spread indirectly among all network users and would not be allocated to the user that initiated this network use or profits from it.

279 No aspects were raised in the consultations so far that would justify a different assessment. As far as alternative flexible products such as imports via LNG terminals are concerned, it should be noted that the aim of the storage discount is not to ensure that the use of storage is economically equivalent to importing via LNG terminals. In fact, the discount is intended to reflect the costs and benefits of storage for the transmission system. The discount for temperature-dependent capacity was also mentioned, but this is a further systematic aspect that can lead to another discount in accordance with Article 4(4) of Regulation (EU) 2017/460, but cannot directly influence the level of the storage discount, in particular for firm, freely allocable capacity. Regarding the investment costs for the connection of storage facilities to

the network and any capacity expansion, a storage discount of 75% still allows for an appropriate participation in the costs. Given the significance of storage for security of supply and system flexibility, for systematic reasons the costs do not have to be covered completely.

280 There were some calls for the discount to be raised to 100% in view of the current market situation (negative summer-winter spread), but the ruling chamber does not see this as a fundamental aspect for an(other) increase of the discount. The discount is intended, as explained, to balance essential aspects of cost-reflectivity and security of supply appropriately. The determination of the size of the discount should not be a reaction to current market events that are caused by other regulatory/economic and political decisions and the resulting market incentives and that could disappear or change again in the near future. Moreover, an increase in the discount would not set specific incentives to store gas under market conditions to meet storage targets, since as far the network tariffs are concerned, the discount would apply in the same way for storage targets, whether met under market conditions or not.

2. Storage facilities connected to more than one transmission or distribution network

281 Capacity bookings at storage facility connection points which are connected to more than one transmission or distribution network can only have a discount applied if evidence has been provided to the network operator that the storage facility cannot be used by the respective user for a discounted border crossing or swaps within the storage facility followed by a discounted border crossing in the specific case (ie in the case of a capacity booking, not generally at the level of the storage facility). The above follows from the provision in Article 9(1) of Regulation (EU) 2017/460, pursuant to which a discount on transmission tariffs at entry points from and exit points to storage facilities may only be granted if a storage facility is not used to compete with an interconnection point. As detailed in recital 4 of Regulation (EU) 2017/460, the background for this provision is the potential for discrimination which arises at such storage facilities where discounted entry and exit tariffs are applied in that they can be used as an interconnection point but this usage would be discounted if the discount were applied. Network users who (have to) book a normal interconnection point without a discount would therefore be put at a disadvantage because they would have to pay a higher transmission tariff for crossing a border at an interconnection point than the network user using the storage facility as a “discounted” interconnection point. This provision is now also set out in Article 17(3) of Regulation (EU) 2024/1789.

282 To be certain that the storage facility at which a discounted transmission tariff is set will not be used to compete with an interconnection point, thus resulting in discrimination against certain network users, there may be the possibility of entirely ruling out discounts being applied to transmission tariffs at entry and exit points at such storage facilities, ie to set these tariffs

without any discounts. However, in the opinion of the ruling chamber this would contradict the intention expressed in Regulation (EU) 2017/460 that discounts should generally be applied to transmission tariffs at entry points from and exit points to storage facilities and would also disregard the undoubted contribution to security of supply and system flexibility made by storage facilities which are connected to more than one transmission or distribution network. It is therefore not appropriate to completely prohibit the discounting of capacity tariffs at such storage facilities.

283 It thus appears to the ruling chamber to be advisable to approve the mandatory application of a discount of 75% to transmission tariffs at entry points from and exit points to storage facilities under certain conditions. Accordingly, application of this discount is to be stipulated if the network operator has received evidence in each individual case that the storage facility – for reasons such as contractual prohibitions – is not being used as a “discounted” interconnection point in the specific case in question (ie in the case of this capacity booking, not generally at the level of the storage facility). The storage facility operator must provide the network operator with such evidence. In cases where such evidence is lacking, the tariff calculated using the reference price methodology must be set without any discount applied. Similarly, the tariff calculated according to the reference price methodology without a discount applied is to be set if it is intended from the outset for there to be a possibility of using the storage facility as an interconnection point in the corresponding booking case.

284 It follows that, whatever the network and storage facility user’s booking situation, there are only two alternatives at storage facilities which are connected to more than one transmission or distribution network: firstly, the storage facility can be used by the network and storage facility user as a storage facility without the potential of being used as an interconnection point, in which case input and offtake of the gas quantities stored with the corresponding capacity is only possible within Germany (flexibility in the sense of security of supply is also ensured in these cases, see B.II.2.a)); in such cases a discount of 75% must be applied to the transmission tariff. Secondly, the storage facility can be used by the network and storage facility user as an interconnection point, in which case input and offtake of the gas quantities stored with the corresponding capacity is also possible in neighbouring countries without other conditions; in these cases, however, a discount may not be applied. It is not necessary to allocate a storage facility as a whole to these alternatives; rather, a differentiated analysis must be carried out at the level of the respective booking.

285 If this results in not only the actual use of the storage facility to compete with an interconnection point leading to a rise in costs (or the lack of a fall in costs) of capacity but merely the option to use it, regardless of its actual use, it should be noted that general economic principles set

out that options have a value and thus a higher price. This option is acquired with the corresponding capacity and should therefore also be reflected in the tariff for the capacity.

a) Flexibility of storage use

286 Gas volumes put into storage with and without a discount are available without restriction at all storage facilities – ie storage facilities connected to more than one transmission or distribution network and storage facilities connected to only one transmission network – in order to guarantee security of supply, including to the foreign market areas,. In this regard, in the case of volumes put into storage from within the German market via discounted exit capacity (assuming there are no other capacity bookings), the booking of discounted entry capacity back to the Germany market area and capacity for the market area crossing is necessary. Especially for customers with long-term bookings who, when putting their gas into storage, do not yet want to specify its ultimate destination, this opens up the possibility of responding flexibly to market opportunities and, if applicable, arranging a crossing to an adjacent market area despite discounted input.

287 Instead of such bookings, on application from the shipper the transmission system operator concerned may also issue an invoice for the corresponding discounted entry tariffs at the storage facility and the exit tariffs at the cross-border interconnection point. As the gas is already in the storage facility anyway and is merely to be withdrawn to the adjacent market area, from the regulatory standpoint no corresponding bookings of real capacities are necessarily required.

288 If a network and storage facility user wishes to use an undiscounted capacity for the withdrawal of discounted stored volumes back into the German market area, that user is free to do so. Compulsion to rebook a discounted capacity is not appropriate.

289 Gas volumes put into storage from outside Germany cannot be withdrawn into the German market area directly using an already booked, discounted entry capacity. To do this, it would be necessary to book additionally an undiscounted entry capacity for the withdrawal into the German market area. This booking arrangement would be the only way for the shipper to prove that the cross-border gas volumes had not been transported using discounted capacity. Instead of such a booking, on application from the shipper the transmission system operator concerned may also issue an invoice for the undiscounted entry tariffs at the storage facility.

290 If it can be proven that volumes put into storage from Germany without a discount are fed back into the German market area, a discounted entry capacity can be used for this purpose. In such cases the storage facility is not used to compete with an interconnection point at the time of withdrawal, so the exception allowed in Article 9(1) of Regulation (EU) 2017/460 regarding the discount generally to be granted at storage facilities does not apply to the entry capacity.

However, with undiscounted exit capacity and the corresponding allocation of volumes, the network and storage facility user putting the gas in storage has acquired full flexibility allowing potential use of the storage facility to compete with an interconnection point (option) and the price is to be set without a discount accordingly. Retrospective discounting of the exit capacity used for storing these volumes is thus out of the question. This applies both in the event that the gas volumes are traded (possibly multiple times) between being put into and taken out of storage and the event that the volumes remain with the network and storage facility user putting the gas into storage. In these cases, on the one hand, in relation to putting gas into storage the situation remains unchanged with undiscounted exit capacity, with which full flexibility was acquired, and, on the other hand, in relation to withdrawal from storage the option remains of using a discounted entry capacity back into the German market area, which when taken advantage of does not constitute use to compete with an interconnection point. The bookings of exit and entry capacities and the associated input into and withdrawal from storage must therefore be considered in isolation. It is not appropriate to deny the acquirer or owner of the volumes the discount for the entry capacity provided no crossing to another market area takes place. It is appropriate, however, not to apply a discount for the exit capacity because a price must be set for the acquisition of flexibility. Whether use or non-use is deemed to compete with an interconnection point is therefore determined by the network user at the time of booking the corresponding capacities.

b) Non-discrimination

291 Taken as a whole, the rules of storage discounts are non-discriminatory, even though the legal consequence of the discounting rule actually takes effect when the capacity is booked and not only when the gas is withdrawn from storage. For a system to be non-discriminatory, it is not necessary for an undiscounted withdrawal into an adjacent market area to be connected with the repayment of the storage discount when the gas is put into storage.

292 In accordance with Article 9(1) of Regulation (EU) 2017/460, the discount is to be granted on the transmission tariff unless and to the extent that a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point. Therefore, a discount can only be granted on the exit tariff at such a storage facility if it is ruled out when the tariff is imposed that the network user will later inject the corresponding gas volumes into a market area other than the originating market area.

293 Having carefully weighed up the interests of network and storage customers, both against each other and in the light of the requirements of a functioning and coherent regulatory framework, the ruling chamber takes the view that this provision is a balanced solution. Storage customers wanting to keep open the option of changing market area have to pay for

it, even if they might not make use of the option later on. The pricing of the options is in line with the recognised economic principle that just the option of accessing a service has an economic value.

294 Moreover, even storage customers that initially take the discount are not hindered in their flexibility; they can still decide to change market area at a later point in time. They then merely have to book – discounted – entry capacity into the originating market area and then, like any other network user, undiscounted capacity at the interconnection point or at the storage facility for the change in market area. These storage users then even have the advantage of not having to acquire actual capacity (no booking/offer risk). Rather, the transmission system operator issues an invoice for the tariffs.

295 The economic result is therefore that such a customer pays half a capacity tariff more than a customer who chose to do without a discount from the start, because the former has to make use of two additional capacities, although each of these is discounted by 75%. This half-tariff is thus the price of the unused option.

296 Regarding a perceived discrimination between long-term and short-term storage customers on the basis that customers wanting to withdraw their gas again within a short time typically already know its ultimate destination when it is put into storage and thus are rarely forced to pay additionally for an option they may not need, it is doubtful whether this constitutes unequal treatment of different customer groups. In principle, all storage customers have the option of putting their gas into storage for a short or long period. In any case, the unequal treatment is justified because it is necessary to prevent discounted border crossings. It actually serves to prevent discrimination against network users booking exit capacity at cross-border interconnection points compared to customers who would otherwise get the same service at a price 75% lower, which would then have to be paid by everyone else in the community of network users. No other means of preventing this kind of discounted market area crossing is evident. The tariff for the exit capacity is due when the gas is put into storage if the future use of the gas is not yet foreseeable. Thinking logically, therefore, it must be clear at this time whether a discount is to be granted or not.

297 The ruling chamber does not support either the idea put forward in the consultation, to grant a discount at storage facilities whereby a discount on the network tariff applied for putting gas into storage is only paid back when the gas is withdrawn and at the same time the storage facility is used as an interconnection point or the version in which a discount is granted for the storing of gas for at least seven days in “deposit accounts”. It is not clear from which storage period there is no more competing with an interconnection point. Moreover, it is not the case that under the current system, storage customers have to decide at the time when they inject gas into a storage facility whether the gas should in future also be available for withdrawal into

a different market area. As has been shown repeatedly, this option is always there. It is just not free of charge. The ruling chamber sees no need to create an additional incentive to use storage facilities as interconnection points to a greater extent.

c) Seasonal factors

298 Any year-round discounts other than the uniform discount of 75% applicable to transmission tariffs at entry points from and exit points to storage facilities are not permissible for FZK at these points. To the extent that Regulation (EU) 2017/460 governs the application of seasonal factors, this relates to interconnection points only. From the legal perspective, in accordance with Regulation (EU) 2017/460 in the absence of an enabling provision there is no possibility of regulating seasonal factors at entry and exit points at storage facilities on this basis. Accordingly, the application or non-application of seasonal factors at points other than interconnection points is carried out on the basis of the BEATE 2.0 determination (BK9-18/608 in the version amended by decision BK9-24/608, BEATE 2.1), which is based on national legislation. Insofar as the application of seasonal factors is permissible under national legislation or determinations based on such legislation, operative part 2 of this determination does not preclude this, because, in the opinion of the ruling chamber, seasonal factors do not constitute discounts within the meaning of this determination.

III. Firm capacity products to which a condition is attached pursuant to Article 4(2) of Regulation (EU) 2017/460 and benchmarking in accordance with Article 6(4) point (a) of Regulation (EU) 2017/460 (operative part 3)

299 The decision pursuant to operative part 3 is based on section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentence 3 and sentence 4 EnWG in conjunction with Article 7 of Regulation (EU) 2017/460 in conjunction with Article 13 of Regulation (EC) No 715/2009.

1. Firm capacity products to which a condition is attached pursuant to Article 4(2) of Regulation (EU) 2017/460

300 Pursuant to Article 4(2) of Regulation (EU) 2017/460, transmission tariffs may be set in a manner as to take into account the conditions for firm capacity products. Article 4(2) of Regulation (EU) 2017/460 contains no further provisions. However, standards for the determination of discounting may be taken from Article 7 of Regulation (EU) 2017/460 in conjunction with Article 17(1) of Regulation (EU) 2024/1789. These require that, among other things, the transmission tariffs must be non-discriminatory and facilitate efficient gas trade and competition, while at the same time avoiding undue cross-subsidies between network users.

From these general provisions, it ensues that the discounting of tariffs for conditional firm capacity products – like tariffs for firm or interruptible standard capacity products – must be designed in an appropriate manner.

a) Provision in operative part 3

301 Tariffs for conditional firm capacity products, with the exception of transmission tariffs at entry points from and exit points to storage facilities and taking into account the above considerations with respect to appropriateness and in particular with respect to the prohibition of undue cross-subsidisation, must not be lower as a result of discounting than the capacity tariffs for the interruptible standard capacity product with the lowest discount at this point. Conditional firm capacity products comprise all capacity products which are neither a firm capacity product without any condition nor an interruptible capacity product. Products to be considered, therefore, according to operative part 1 a) of decision BK7-18-052 of 10 October 2019 ("KASPAR"), are capacity products with conditional firmness and free allocability (bFZK) or products with firm, dynamically allocable capacity (DZK). A corridor is thus defined for the setting of tariffs for conditional firm capacity products, the upper limit of which is the tariff for a firm capacity product without any condition (the objectively most valuable product) and the lower limit the tariff for an interruptible capacity product, which is to be interrupted first and thus has objectively the lowest economic value.

302 In contrast to the FZK product (firm usage possibility only) and the uFZK product (interruptible usage possibility only), the DZK product has parts of both forms of use depending on the corresponding entry or exit point chosen. It should thus be located between the other two products. Moreover, the KASPAR determination set out that in the event of transport congestion, all transports on the basis of uFZK products must be interrupted first before, if it is still necessary, any interruption of a DZK product.

303 Capacity is marketed in open auction proceedings and is thus valued according to objective criteria. Objectively, products with a firm component are always more valuable than those that may not be able to be used at all. This confirms the position of DZK between the FZK and the uFZK products. Correspondingly, these considerations also apply to bFZK products in which the firm part is determined not using a combination of entry and exit points but rather, in accordance with the KASPAR determination, using pre-defined, external conditions (temperature, flow or a combination of temperature and flow).

304 The lower limit formed by the tariff for an interruptible product is justified by the fact that, viewed objectively, interruptible capacity is a lower quality product than the other capacity products. An interruptible capacity product is always interruptible. A network customer must always reckon with the possibility of an interruptible capacity indeed being interrupted, even if the

probability of an interruption may be very low. There are no circumstances where this potential for being interrupted is completely absent (in actual fact interruption is improbable in many cases). In contrast, this is by definition not the case for conditional firm capacity products. Even though such products – depending on the chosen one – likewise carry some restrictions and as a result may be rated differently, they always have a part of the product that is to be classified as firm capacity. In this case, in contrast to interruptible capacities, network users can be confident that they will be able to use the booked product with certainty provided that they keep within the framework of the condition attached to the firm capacity product. Because of this "firm product part", it is objectively the case that conditional firm capacity products must be classed as higher quality than interruptible ones; in this sense, interruptible capacities objectively represent the "most inferior" product. Accordingly, it is appropriate that the network operator is not permitted to set a lower tariff for conditional firm capacity products than for interruptible capacities.

305 The provision specified in operative part 3 does not contradict the requirements set by Article 7 of Regulation (EU) 2017/460 for the choice of reference price methodology. To start with, the transparency of the reference prices within the meaning of Article 7 sentence 2 point (a) of Regulation (EU) 2017/460 is not affected: the prices resulting from the discounts for conditional firm capacity products in conjunction with the transmission system operators' respective contractual conditions are transparent and understandable. The effect of discounting on the other prices can be reproduced using the rescaling mechanism detailed in Article 6(4) point (c) of Regulation (EU) 2017/460. As a general rule, the postage stamp method delivers sound and sufficient cost reflectivity within the meaning of Article 7 sentence 2 point (b) of Regulation (EU) 2017/460 with respect to firm capacity products. However, the conditions that come into consideration here and the resulting lower quality justify a discount that ranges above the framework of that which is provided for in Article 16 of Regulation (EU) 2017/460 for objectively even lower quality interruptible standard capacity products. Non-discrimination within the meaning of Article 7(c) of Regulation (EU) 2017/460 is thus also ensured. It would be hard to justify if, contrary to the above, network users were made to pay a higher price for an inferior product than for a firm standard capacity product.

306 As capacity products which do not allow any access to the VTP are no longer permissible anyway according to operative part 1 a) of decision BK7-18-052 ("KASPAR") of 10 October 2019, full orientation of the tariffs for conditional capacity products on the reference price is appropriate without exception.

307 ACER considers that there is no clarity regarding the way the tariffs of individual firm capacity products were established by the transmission system operators and what factors influenced their chosen discount level. ACER therefore expressed a desire in its statement for more clarity

on the determining of the tariff/discount level for firm capacity products beyond the range defined for these tariffs. The ruling chamber assesses the narrow range of possible discounts granted by the transmission system operators as uncritical. Moreover, respondents to the consultation did not express any criticism of the current regulation with a small amount of leeway for transmission system operators to set the level of discount for binding capacity products. The ability for network users to forecast future discounts for binding capacity products does not seem to be impacted, either, as the ruling chamber considers that the transmission system operators largely continue their individual discount rates steadily. Finally, the network users do have the opportunity to have the discount applied by transmission system operators examined for possible abuse in individual cases.

b) Customers' individual benefits and behaviours not decisive

308 The provision of operative part 3 is correctly based on objective criteria and not on the interests of individual network users.

309 It may be true that different network users pursue different interests and the subjective value of certain capacity products is not always identical for individual groups of users. However, these interests, which are varied and not always evident to the provider, cannot play a role in the pricing of the products.

310 As stated above, the basic principle is that capacity is marketed in open auction proceedings and must thus be valued according to objective criteria. Objectively, products with a firm component are always more valuable than those with the possibility of a total loss. A particular customer's specific perception of value cannot be ofrelevance because capacity is not tied to particular persons and can be traded again on the secondary market.

311 There were some comments that access to the VTP was irrelevant for DZK products, in particular, but these were not convincing. As explained, the owner of DZP has two forms of use in one product: interruptible access to the whole market area and a firm usage possibility for one or more specific combination(s) of points. The network user does not need to book one of two products at short notice depending on which usage form is ultimately needed, but can instead acquire a product containing both variants for the long term. In that regard, DZK is more valuable than a fully interruptible capacity product (uFZK).

312 In addition, as mentioned above, the probability of interruption is far lower for DZK than for uFZK due to the KASPAR determination. The pricing is thus appropriate and consistent with the access side if DZK is priced between the most valuable product, FZK, and the product that will be interrupted first, uFZK.

c) No differentiation by product duration

313 The discounting for a network operator's specific conditional firm capacity product may not vary according to whether such a product is classified as a within-day, daily, monthly, quarterly or yearly standard capacity product. The level of discounting depends on the assessment of the respective condition; pursuant to Article 4(2) of Regulation (EU) 2017/460, it is the conditions for firm capacity products that may be taken into account when setting tariffs. Objectively, however, the condition in the case of, for example, a daily standard capacity product should not be rated differently from that in the case of, for example, a monthly standard capacity product. Consequently, a specific conditional firm capacity product always has an identical discount, regardless of the duration of the standard capacity product. The lower limit determined by the tariff for an interruptible capacity product is based on the lowest discount calculated for a standard capacity product at the relevant point in accordance with Article 16 of Regulation (EU) 2017/460. If this lowest discount were not taken, the consequence would be that a conditional firm capacity product with any duration could be granted a higher discount than the corresponding interruptible standard capacity product. This would obviously be inappropriate and would, from the outset, undermine the requirement already explained above that tariffs for conditional firm capacity products must not be lower than tariffs for the interruptible standard capacity product with the lowest discount at this point.

d) Application at storage facilities

314 The requirement set out in operative part 3 applies to capacity-based transmission tariffs at entry points from and exit points to storage facilities only under the condition that the discount determined according to operative part 2 is applied to the transmission tariff beforehand. It is true that, as a consequence of this, the tariff for a firm capacity product at a storage facility may be lower than the tariff for an interruptible capacity product at interconnection points. However, this is appropriate in the interest of the general contribution that storage facilities can make to security of supply and system flexibility, and ultimately also in the interest of cost-reflective pricing, as double charging for transmission to and from gas storage facilities is to be avoided. These aspects are expressly set out in recital 4 of Regulation (EU) 2017/460. For this reason, Article 9(1) of the Regulation stipulates that a discount of at least 50% must be applied to capacity-based transmission tariffs at entry points from and exit points to storage facilities, unless and to the extent a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point.

2. No application of benchmarking in accordance with Article 6(4) point (a) of Regulation (EU) 2017/460

315 In accordance with Article 6(4) point (a) of Regulation (EU) 2017/460, benchmarking by the national regulatory authority can be carried out, whereby reference prices at a given entry or exit point are adjusted so that the resulting values meet the competitive level of reference prices.

316 This provision is based on the fact that in certain constellations there may be competition between transmission systems (for example where there are alternative transport routes across other countries). If a determined reference price methodology were applied, there would be no possibility that the transmission system operators concerned could respond to this competitive situation.

317 In the arrangement used in previous REGENT proceedings (BK9-18/610-NCG of 29 March 2019 and BK9-19/610 of 11 September 2020), however, the starting point for benchmarking was not actually existing competition but the threat of competition in the form of the impending construction of a direct pipeline. Given the particular network situation at the time at the Burghausen network node in the region of the border with Austria, entry and exit points there were formally integrated into the German market area but they did not have unrestricted access to the virtual trading point. The exit point to Wacker Chemie AG and the entry and exit points at the Haidach storage facility were affected by the particular network situation. The network situation has meanwhile improved to the extent that, at least since 2023, the exit point of final customer Wacker Chemie AG has had unrestricted, firm access to the VTP. FZK and bFKZ have been offered for the entry and exit points at the Haidach storage facility since 2020. Moreover, there is no impending construction of a direct pipeline from the storage facility to the Austrian network area. Rather, this direct pipeline has now been completed. The ruling chamber therefore considers that there are no conditions justifying the possible application of benchmarking. Regarding both the final customer exit point at Wacker Chemie AG and the entry-exit situation at the Haidach storage facility, there are comparable situations as for other final customers and storage booking points. It is thus no longer appropriate to deal with the tariff situation at these booking points separately.

IV. Adjustments concerning the application of the reference price methodology to all entry and exit points in accordance with Article 6(4) point (c) of Regulation (EU) 2017/460 (operative part 4)

318 The directives in operative part 4 are issued on the basis of section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentences 3 and 4 EnWG in conjunction with Article 6(4) point (c) of Regulation (EU) 2017/460.

319 Rescaling in accordance with Article 6(4) point (c) of Regulation (EU) 2017/460 is necessary because only forecasted, average contracted, non-adjusted capacities are used in the reference price methodology calculations, with no account being taken for example of adjustments in accordance with Article 9(1) of Regulation (EU) 2017/460 at entry and exit points from/to storage facilities, multipliers in accordance with Articles 13 and 14 of Regulation (EU) 2017/460, discounts in accordance with Article 16 of Regulation (EU) 2017/460 or discounts in accordance with Article 18 of Regulation (EU) 2024/1789 for weighting the capacities.

320 Determination BK9-17/609 dated 19 July 2017 already included the decision that individual transmission system operators should undertake rescaling in accordance with Article 6(4) point (c) of Regulation (EU) 2017/460 at all entry and exit points with the aim of being able to collect the transmission services revenue in actual fact (competence for rescaling). Operative part 4 of this determination provides that the change to the reference prices at all points should be made by means of multiplication with a constant. In contrast to the addition or subtraction of a constant, multiplication with a constant has the advantage that the higher or lower revenues resulting from the unadjusted reference price are added or deducted in a non-discriminatory manner at all entry and exit points thereby maintaining the difference between discounted entry and exit points (for example at storage facilities and at entry and exit points where conditions for firm capacity products apply) and non-discounted entry and exit points.

321 Since tariffs are set annually, the adjustment factor must also be reset annually by the transmission system operators and shown transparently within the framework of the information to be published in accordance with Article 30 of Regulation (EU) 2017/460.

V. Transmission services and non-transmission services according to Article 26(1) point (c)(ii) of Regulation (EU) 2017/460 (operative parts 5 and 6)

322 Pursuant to Article 4 of Regulation (EU) 2017/460, tariffs must be charged for transmission services and for non-transmission services. Pursuant to Article 3 point 12 of Regulation (EU) 2017/460, transmission services are the regulated services that are provided by the transmission system operator within the entry-exit system for the purpose of transmission. Pursuant to Article 3 point 15, non-transmission services are the regulated services other than transmission services and other than services regulated by Regulation (EU) 312/2014 that are provided by the transmission system operator. Pursuant to Article 4(1) of Regulation (EU) 2017/460, a given service is considered a transmission service if the costs of such service are caused by the cost drivers of both technical or forecasted contracted capacity and distance and the costs of such service are related to the investment in and operation of the infrastructure which is part of the regulated asset base for the provision of transmission services. Cost drivers

pursuant to Article 3 point 18 of Regulation (EU) 2017/460 are key determinants of the transmission system operator's activity which is correlated to the costs of that transmission system operator. Should one of these two criteria not be met, a specific service may be deemed either a transmission service or a non-transmission service. In this context, the term "non-transmission service" [in the German version of the Regulation *Systemdienstleistung* = system service] is not identical to system service within the meaning of the GasNEV but is defined in effectively negative terms by differentiating it from the term "transmission service" (see also the wording of the English version of Regulation (EU) 2017/460: "non-transmission service"), and thus covers a broader scope of application. According to Article 4(4) of Regulation (EU) 2017/460, the tariffs for non-transmission services must be cost-reflective, non-discriminatory, objective and transparent and must be charged to the beneficiaries of a given non-transmission service with the aim of minimising cross-subsidisation between network users within and/or outside the Federal Republic of Germany. If, in the opinion of the Bundesnetzagentur, all network users are the beneficiaries of a specific non-transmission service, the costs of this service must be borne by all network users.

1. Market area conversion charge

323 Unlike in previous decisions, most recently REGENT 2021, the market area conversion charge is not classed as a non-transmission service. This corresponds to the view of ACER, which does not consider that the market area conversion charge is a non-transmission service.[4]

324 The German legislature sets out in section 19a(1) EnWG that, where the operator of a gas supply system permanently converts the gas quality maintained in their network from L-gas to H-gas due to a conversion process initiated by one or more transmission system operators and technically necessary for the network, that operator must undertake the necessary technical adjustments of network connections, customer facilities and consumer appliances at its own expense. Up to and including 31 December 2016, these costs were shared among all the gas supply systems within the market area in which the gas supply system was located. Since 1 January 2017, the costs have been shared among all the gas supply systems in Germany, regardless of the market area. The finer details of the calculation are set out in the cooperation agreement pursuant to section 20(1b) and section 8(6) GasNZV or a determination pursuant to section 20(4) EnWG.

[4] "The Agency agrees that the costs related to the MACL [Market area conversion charge] are not fully related to TSOs. According to Article 3(15) of the NC TAR, non-transmission services should be services provided by the TSO. For this reason, the costs associated to the MACL charge do not formally classify as a nontransmission services." Agency Report, Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Germany, 17 July 2020.

325 Section 19(2) EnWG also includes a provision about which costs are to be regarded as necessary. The network operators inform the competent regulatory authority by 31 August each year which necessary costs they incurred the previous calendar year due to the conversion and which necessary costs they are planning to incur the following calendar year. The regulatory authority can take decisions in the form of determinations pursuant to section 29(1) EnWG to define the extent to which technical adjustments to network connections, customer facilities and consumer appliances are necessary. It can also rule that certain costs incurred by a network operator were not necessary. The network operator must provide evidence of necessity. Costs that the regulatory authority has ruled as not necessary may not be passed on.

326 The details of the redistribution mechanism must be determined by agreement between the transmission system operators and the affected distribution network operators. At the time this decision was made, this is guaranteed by the relevant provisions of the Cooperation Agreement between the Operators of Gas Supply Networks in Germany (KoV) and the implementation of the details of the charge there does not raise any legal concerns, in particular as regards the allocation of the charge among all network users at the exit points with the exception of interconnection points and storage points, as these benefit all network users. All affected customers benefit from the system conversion and the associated increased liquidity in the German market area. This applies irrespective of the possibility of converting L-gas to H-gas free of charge, which already exists, in accordance with decision BK7-11-002 dated 27 March 2012 (Konny Gas), as this economic and/or balancing option cannot be considered separately from its technical and physical prerequisites and only the conversion of the networks ensures that gas can continue to be traded on a permanent basis across the entire market area. In the opinion of the ruling chamber, transit customers, in contrast, do not benefit from the market area conversion, or at least only to a negligible degree. Essentially the conversion does not relate to the networks themselves but to German final customers' consumer appliances connected to those networks and these customers are not supplied by transit customers anyway. Furthermore, the interconnection points in the former L-gas networks are typically used only for imports, whereas the offtake to neighbouring countries' market areas previously affected by the market area conversion charge generally takes place exclusively in H-gas networks, which do not require conversion. Even after the conversion, in light of the geographical and network-related operational circumstances the transit of H-gas through Germany will continue to take place through historical H-gas networks and not through former L-gas networks. Cross-subsidisation of domestic customers through cross-border trade via the market area conversion charge is ruled out with this arrangement. It is also appropriate to exempt the storage points from the charge. Otherwise gas that is first put into storage and then later withdrawn to end users would in effect be subject to the charge twice. Moreover,

storage facilities are also used by transit customers, so they would indirectly be drawn in to financing the gas conversion.

327 Higher or lower revenues from the redistribution mechanism are appropriately balanced by means of special mechanisms. An annual comparison between forecasted and actual values is carried out for each transmission system operator for differences arising from divergences in the incurred costs and the respective difference is taken into account in the charge in the next year but one in each case. Differences arising from divergences in the booked capacities are likewise balanced via a comparison of forecasted and actual values in which every year each transmission system operator calculates the differences between forecasted and booked capacities and the resulting higher and lower revenues from the charge so that they can be balanced within the framework of the charge itself and not via the regulatory account in interaction with other higher and lower revenues. The interest is calculated in accordance with section 5(2) ARegV. Thirdly, compensation payments will be made between the transmission system operators in the market area in order to prevent individual transmission system operators from obtaining higher or lower revenues from the charge than correspond to the conversion costs specifically arising in their network area.

328 The ruling chamber's decision not to class the market area conversion charge as a non-transmission service thus has no practical consequences. The calculation, collection and processing of the charge would occur in compliance with the law both up to and including 31 December 2025 and from 1 January 2026 in accordance with the above explanations.

329 The ruling chamber wishes to point that, for reasons for transparency, the relevant charges with relation to capacity bookings should be published on booking platforms.

2. Biogas charge

330 Unlike in previous decisions, most recently REGENT 2021, the biogas charge is not classed as a non-transmission service. This corresponds to the view of ACER, which does not consider that the biogas charge is a non-transmission service.[5]

331 According to current legislation, the German legislature has ordered in section 20b GasNEV that the following costs be spread across all German networks: costs for efficient network connection and for maintenance and operation in accordance with section 33(2), the measures pursuant to section 33(10) and the measures pursuant to section 34(2) GasNZV, costs for

[5] "The Agency notes that the costs related to the biogas charge are not fully related to TSOs. According to Article 3(15) of the NC TAR, non-transmission services should be services provided by the TSO. For this reason, the costs associated to the biogas charge do not formally classify as a non-transmission services." Agency Report, Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Germany, 17 July 2020.

extended balancing actions pursuant to section 35 GasNZV minus the lump sum to be paid by the balance responsible party pursuant to section 35(8) GasNZV, costs for measures pursuant to section 36(3) and (4) GasNZV and costs for the tariffs for avoided network costs to be paid by the network operator to the shippers of biogas in accordance with section 20a GasNEV.

332 The details of the current redistribution mechanism must be determined by agreement between the transmission system operators and the affected distribution system operators. At the time this decision was made, this is guaranteed by the relevant provisions of the cooperation agreement KoV and the implementation of the details of the charge there does not raise any legal concerns, in particular as regards the appropriate allocation of the charge among all network users on the exit side with the exception of interconnection points and storage points.

333 Higher or lower revenues from the redistribution mechanism are appropriately balanced by means of special mechanisms. An annual comparison between forecasted and actual values is carried out for each transmission system operator for differences arising from divergences in the incurred costs and the respective difference is taken into account in the charge in the next year but one in each case. Differences arising from divergences in the booked capacities are likewise balanced via a comparison of forecasted and actual values in which every year each transmission system operator calculates the differences between forecasted and booked capacities and the resulting higher and lower revenues from the charge so that they can be balanced within the framework of the charge itself and not via the regulatory account in interaction with other higher and lower revenues. The interest is calculated in accordance with section 5(2) ARegV. Thirdly, compensation payments will be made between the transmission system operators in the market area in order to prevent individual transmission system operators from obtaining higher or lower revenues from the charge than correspond to the biogas costs specifically arising in their network area.

334 It is as yet unclear whether there will be a provision in a law or ordinance succeeding section 20b GasNEV, which will be revoked on 31 December 2027. As the biogas charge will no longer quality as a non-transmission service from 1 January 2026, there is no sort of pre-determination or restriction of the legislature in their decision on the continuation of the charge.

335 For the period from 1 January 2026 to 31 December 2027, the continuance of section 20b GasNEV despite the expiry of the GasNZV is unlikely to lead to any major change with regard to the charge for existing facilities, because the reference to section 20b GasNEV, which does not expire until 31 December 2027, is likely to be interpreted in such a way that, at least for existing biogas plants, there is reference to the relevant provisions of the GasNZV at the time before it ceased to be in force.

336 The ruling chamber wishes to point that, for reasons for transparency, the relevant charges with relation to capacity bookings should be published on booking platforms.

3. Meter operation including metering (operative part 5)

337 The directives set out in operative part 5 are based on section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentence 3 and sentence 4 EnWG in conjunction with Article 27(4) sentence 1, Article 26(1) point (c)(ii), Article 4(1) of Regulation (EU) 2017/460.

338 Pursuant to Article 4(1) sentence 2 of Regulation (EU) 2017/460, meter operation including metering is classified as a non-transmission service at exit points to final customers and to downstream distribution networks but as a transmission service at all other points. The costs of meter operation are not caused by the cost driver of distance, but at least in part by the cost driver of capacity within the meaning of Article 4(1) sentence 1 point (a) of Regulation (EU) 2017/460. As a rule, the larger the exit capacity at a specific point in the network, the more capable and therefore more cost-intensive the existing infrastructure for metering must be, even if, as far as the ruling chamber is aware, this correlation is not always inevitable, at least on the cost side. Furthermore, normally these costs are linked to investments in infrastructure, namely the above-mentioned metering infrastructure, which is part of the regulated asset base within the meaning of Article 4(1) sentence 1(b) of Regulation (EU) 2017/460. However, this correlation, too, does not always apply, since some transmission system operators merely run their metering stations operationally without obtaining ownership of them. Moreover, the costs of metering associated with meter operation, which account for a quite considerable proportion of metering station operating costs for many transmission system operators, are neither attributable to the cost drivers of capacity and distance nor are they linked to investment in infrastructure. Since the criteria of Article 4(1) sentence 1 of Regulation (EU) 2017/460 are thus not clearly met, according to Article 4(1) sentence 2 of Regulation (EU) 2017/460 classification is incumbent upon the ruling chamber.

a) Meter operation at exit points to final customers

339 With regard to exit points to final customers, classification as a non-transmission service makes sense because these are not purely internal system control measures but operations that are caused by individual clearly definable consumers or by the network customers supplying gas to those consumers. The costs incurred as a result should therefore also be allocated to those customers. Furthermore, designating separate tariffs for meter operation leads to transparency and facilitates comparability with other providers of the same service, such that the connected final customer is able to take a well-founded decision on whether to

have meter operation carried out by the network operator or to commission a different meter operator in accordance with section 5(1) of the Metering Act (MsbG).

340 The transmission system operators must determine the relevant cost drivers for meter operation at final customers in their respective system and allocate them appropriately to the individual exit points. In this context, in addition to the meter operation tariffs, separate tariffs for metering according to a separate methodology can be determined and designated if such differentiation is appropriate according to the cost structures and the design of the services provided. The meter operation tariffs (and if applicable metering tariffs) must satisfy the criteria set out in Article 4(4) sentence 2 of Regulation (EU) 2017/460. Otherwise the ruling chamber leaves the decision on the design of the tariff methodology to be used to the individual transmission system operators. It does this firstly against the background that the evolved structures in metering and the methods of tariff setting used to date that have emerged on that basis differ very widely in some cases and attempts at standardisation by the ruling chamber have proved to be difficult and frequently not expedient. Secondly, demand for regulatory intervention in meter operation is less apparent than in other areas. Since the MsbG entered into force, network operators no longer have a natural monopoly in meter operation but are in a competitive relationship with other independent meter operators. This is intended to ensure the formation of appropriate prices by means of market mechanisms, which is why restraint is advisable for regulatory intervention by the state. Market disruption is threatened, if at all, by cross-subsidisation of meter operation from other regulated business areas, although this is not a question of tariff methodology but of cost allocation, which is subject to supervision by the Bundesnetzagentur anyway. In the course of data collection in preparation for this decision, all transmission system operators that operate metering stations at connection points to final customers explained the methodologies they currently use to form the relevant tariffs to the ruling chamber. In this process the ruling chamber did not become aware of any arrangements that in its estimation are not cost-reflective, non-discriminatory, objective and transparent or that lead to cross-subsidisation between network users.

341 Higher or lower revenues that can arise when the number of connection users for whom meter operation is carried out by the network operator change in the course of time are balanced using a separate regulatory account. This is necessary in order to prevent the transmission tariffs being influenced by differences relating to meter operation. Meter operation is used only by a clearly definable group within the totality of network customers; this group alone has to cover the costs of meter operation, which is why positive and negative effects from any differences arising from this must be allocated among this group. A separate regulatory account is not inconsistent with Article 19(4) of Regulation (EU) 2017/460. Although according to this, each transmission system operator is to use only one regulatory account, this provision – as does Chapter IV of Regulation (EU) 2017/460 as a whole – relates solely to transmission

services revenue that is to be reconciled using such an account. Article 17(3) of Regulation (EU) 2017/460 thus establishes that these requirements may be applied mutatis mutandis to non-transmission services revenue. There are no further provisions on how this is to happen in detail or on what the relationship should be between the reconciliation of non-transmission services revenue and the reconciliation of transmission services revenue in this case. Since as a matter of principle it is not mandatory to use the regulatory account for non-transmission services and alternative compensation mechanisms are also permitted, setting up a separate regulatory account that operates in an identical manner cannot be impermissible. Moreover, only this arrangement satisfies the provisions of Article 4(4) sentence 2 point (a) and Article 7 sentence 2 point (c) of Regulation (EU) 2017/460, according to which both the reference price relevant for transmission services and the non-transmission tariffs must be set without cross-subsidisation, including mutual cross-subsidisation. The provisions of section 5 ARegV (or a succeeding provision as per section 21a(3) sentence 3 para 6 EnWG) on running and auditing the regulatory account are applied equally to both accounts without change; it is only with respect to the distribution of the balances in accordance with section 5(3) sentence 2 ARegV or a succeeding provision that in addition to the raising or lowering of the (still uniform) revenue cap there will in future be a differentiation according to amounts that need to be taken into account when forming transmission tariffs and when forming meter operation tariffs.

342 The indicative meter operation tariffs for the individual exit points to final customers notified to the ruling chamber by the transmission system operators and their share of the allowed total revenue for each transmission system operator are apparent from Annexes 1 and 4.

b) Meter operation at exit points to downstream network operators

343 In addition, the ruling chamber has decided that meter operation at exit points to downstream distribution networks should also be classed as a non-transmission service insofar as it is not carried out by the distribution system operator but by the transmission system operator. Otherwise there would be unequal treatment of final customers who are directly connected to the transmission network compared with those supplied via the distribution network. The former would then not only finance meter operation that relates to themselves but also meter operation that is carried out exclusively for the customers in a specific distribution network. In contrast with the exit points to individual final customers, however, in this case the MsbG is not applied, so the transmission system operator is not in competition with competing metering service providers. The precise design of the tariff system cannot therefore be handed over to the transmission system operators themselves in this case, simply relying on market mechanisms. The ruling chamber is thus ruling that the costs of a metering station at the interconnection point to a distribution network are to be borne by the respective distribution network operator. This provision allocates the costs directly to the corresponding originator of

the costs, and furthermore is non-discriminatory and, thanks to its simplicity, is objective and transparent. The resulting non-transmission tariff is to be paid within the framework of the internal ordering process by the distribution system operators, who can then pass it on to their own customers in the form of upstream network costs.

344 A ruling on the regulatory account or on other compensation mechanisms can be dispensed with. Since the tariffs to be paid by the respective downstream network operator correspond precisely to the costs incurred by the customer, no higher or lower revenues are to be expected.

345 The indicative meter operation tariffs for the individual exit points to downstream distribution networks notified to the ruling chamber by the transmission system operators and their share of the allowed total revenue for each transmission system operator are apparent from Annexes 1 and 4.

c) Meter operation at interconnection points, LNG facilities and storage points

346 In contrast, the operation of metering stations at interconnection points, LNG facilities and storage points is classified as a transmission service. These are procedures that are not attributable to individual network customers but relate to a multiplicity of network users in each case. In this respect too, point-specific allocation would be possible in order to charge the relevant costs to at least those network users who use the respective points on a cost-reflective basis. However, it is not possible to justify why there should be such precise cost allocation for meter operation whereas all other costs, for instance for the use of specific pipeline sections, are shared evenly across all users as a general transport tariff. No impediment to competition can be considered in metering either, because the MsbG does not apply anyway at the relevant exit points and there is no market for competing meter operators owing to a lack of potential clients (apart from the network operators themselves).

4. Alternative nomination procedure (operative part 6)

347 The directives set out in operative part 6 are based on section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentence 3 and sentence 4 EnWG in conjunction with Article 27(4) sentence 1, Article 26(1) point (c)(ii), Article 4(1) of Regulation (EU) 2017/460.

348 The alternative nomination procedure pursuant to section 15(3) GasNZV (or a succeeding provision as per section 20(4) EnWG) is classified as a non-transmission service. It is not a transmission service according to Article 4(1) sentence 1 of Regulation (EU) 2017/460. Within the meaning of Article 4(1) sentence 1 point (a) of Regulation (EU) 2017/460, the costs of the alternative nomination procedure are not based on the cost drivers of capacity and distance and are not related to investment in infrastructure which is part of the regulated asset base for

the provision of transmission services within the meaning of Article 4(1) sentence 1 point (b) of Regulation (EU) 2017/460. This is a procedure that has only an economic, not a technical link to gas transport and gas balancing.

349 In accordance with Article 4(4) sentence 2 point (a) of Regulation (EU) 2017/460, it is cost-reflective and non-discriminatory that those network users who use an alternative nomination procedure themselves or through their balance responsible party be expected to bear the costs of this procedure. The transmission system operators provide an additional, individual service at the request of individual network users that ensures that the relevant exit points are automatically balanced within the balancing system. A separate, individual settlement of this service for the individual customer to the amount expended by the transmission system operators therefore seems appropriate. In addition, it is objective and transparent and does not cause cross-subsidisation within the meaning of Article 4(4) sentence 2 point (b) of Regulation (EU) 2017/460.

350 The expected costs and revenues for the alternative nomination procedure are given in Annex 1.

VI. Duration of applicability of the determination pursuant to Article 27(5) of Regulation (EU) 2017/460 (operative part 7) and revocation of determination BK9-19/610 (operative part 8)

351 The directives in operative provisions 7 and 8 are issued on the basis of section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentence 3 and sentence 4 EnWG in conjunction with Article 27(4) sentence 1 and Article 27(5) of Regulation (EU) 2017/460.

352 Pursuant to Article 27(5) sentence 4 of Regulation (EU) 2017/460, the procedure pursuant to Articles 26 and 27 of Regulation (EU) 2017/460, including the calculation and publication of tariffs, which was to be carried out for the first time by 31 May 2019, is to be repeated at least every five years. The REGENT 2021 determination applies from 1 January 2021 to 31 December 2025 at the latest. Accordingly, the subsequent determination REGENT 2026 is to apply from 1 January 2026 until no later than 31 December 2030. In line with these provisions, operative part 8 leads to a formal revocation of determination BK9-19/610 of 11 September 2020 (“REGENT 2021”).

VII. Removal of reporting requirement

353 Given that the application of the postage stamp reference price methodology is now established, the ruling chamber has decided to do without the notification and reporting requirements set out in the previous determinations. Nevertheless, transmission system

operators must of course still inform the Bundesnetzagentur of any circumstances that could require the determination to be amended or reissued ahead of time.

VIII. Other issues

354 Annexes 1 to 6 form part of this decision.

355 In accordance with section 91(1) sentence 3 EnWG, no fees are payable for decisions served by public notification in accordance with section 73(1a) EnWG.

356 Since the determination is issued in relation to all transmission system operators operating in the German market area within the meaning of section 3 para 5 EnWG, pursuant to section 73(1a) sentence 1 EnWG the ruling chamber replaces service pursuant to section 73(1) sentence 1 EnWG with public notification of the determination. According to section 73(1a) sentence 2 EnWG this public notification is effected by publication of the operative part of the determination, the notification of appellate remedies and a brief statement that the decision in full has been published on the regulatory authority's website in the Bundesnetzagentur's Official Gazette. In accordance with section 73(1a) sentence 3 EnWG the determination is considered to have been served on the day on which two weeks have elapsed since the date of public notification in the regulatory authority's Official Gazette.

Information on legal remedies

Appeals against this decision may be brought within one month of its service. The appeal must be submitted to the Higher Regional Court of Düsseldorf (address: Cecilienallee 3, 40474 Düsseldorf).

The appeal must be accompanied by a written statement setting out the grounds for appeal. The written statement must be provided within one month. The one-month period begins with the filing of the appeal; this deadline may be extended by the court of appeal's presiding judge upon request. The appeal and the grounds for appeal must be signed by a lawyer.

The appeal does not have suspensory effect (section 76(1) EnWG).

Bonn, 14 May 2025

Chair	Vice Chair	Vice Chair
Dr Christian Schütte	Dr Björn Heuser	Roland Naas