

Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (Text with EEA relevance)

CHAPTER X

FINAL AND TRANSITIONAL PROVISIONS

Article 34

Methodologies and parameters used to determine the allowed or target revenue of transmission system operators

1 Before 6 April 2019, the Agency shall publish a report on the methodologies and parameters used to determine the allowed or target revenue of transmission system operators. The report shall be based on at least the parameters referred to in Article 30(1)(b)(iii).

2 National regulatory authorities shall submit to the Agency, in accordance with the process defined by the Agency, all necessary information related to the methodologies and parameters used to determine the allowed or target revenue of transmission system operators.

Article 35

Existing contracts

1 This Regulation shall not affect the levels of transmission tariffs resulting from contracts or capacity bookings concluded before 6 April 2017 where such contracts or capacity bookings foresee no change in the levels of the capacity- and/or commodity-based transmission tariffs except for indexation, if any.

2 The contract provisions related to transmission tariffs and capacity bookings referred to in paragraph 1 shall not be renewed, prolonged or rolled over after their expiration date.

3 Before 6 May 2017, a transmission system operator shall send the contracts or the information on capacity bookings, if any, referred to in paragraph 1 to the national regulatory authority for information.

Article 36

Implementation monitoring

1 In order to assist the Agency in its monitoring duties pursuant to Article 9(1) of Regulation (EC) No 715/2009, ENTSOG shall monitor and analyse in accordance with Article 8(8) and (9) of Regulation (EC) No 715/2009 how transmission system operators have implemented this Regulation. In particular, ENTSOG shall ensure the completeness and correctness of all relevant information to be provided by transmission system operators. ENTSOG shall submit to the Agency that information in accordance with the following deadlines:

- a 31 March 2018 as regards the requirements under Chapter VIII;
- b 31 March 2020 as regards all other provisions of this Regulation.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EU) 2017/460. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

2 Transmission system operators shall submit to ENTSOG all information required by ENTSOG to comply with its obligations pursuant to paragraph 1, in accordance with the following deadlines:

- a 31 December 2017 as regards the requirements under Chapter VIII;
- b 31 December 2019 as regards all other provisions of this Regulation.

3 The implementation monitoring cycle as set out in paragraphs 1 and 2 shall be repeated in forthcoming years subject to corresponding requests from the Commission.

4 The confidentiality of commercially sensitive information shall be preserved by ENTSOG and the Agency.

5 Within three years as from the entry into force of this Regulation, the Agency shall publish a report on the application of reference price methodologies in Member States.

Article 37

Power to grant derogations

1 National regulatory authorities may, at the request of an entity which operates an interconnector that has benefited from an exemption from Article 41(6), (8) and (10) of Directive 2009/73/EC in accordance with Article 36 of that Directive or a similar exemption, jointly grant such entity a derogation from the application of one or more Articles of this Regulation in accordance with paragraphs 2 to 6 of this Article where the application of those Articles to such entity would have one or several of the following negative consequences. It would:

- a not facilitate efficient gas trade and competition;
- b not provide incentives for investment for new capacity or to maintain existing levels of capacity;
- c unreasonably distort cross-border trade;
- d distort competition with other infrastructure operators that offer services of a similar nature to those of the interconnector;
- e not be implementable when taking into account the specific nature of interconnectors.

2 The entity requesting a derogation under paragraph 1 shall include in its request a detailed reasoning, with all supporting documents, including, where appropriate, a cost-benefit analysis, demonstrating that one or more of the conditions in paragraph 1(a) to (e) are complied with.

3 The national regulatory authorities concerned shall jointly assess the request for a derogation and deal with it in close cooperation. Where the relevant national regulatory authorities grant a derogation, they shall specify its duration in their decisions.

4 The national regulatory authorities shall notify their decisions granting such derogations to the Agency and the Commission.

5 The national regulatory authorities may revoke a derogation if the circumstances or underlying reasons, or both, no longer apply or upon a reasoned recommendation of the Agency or the Commission to revoke a derogation due to a lack of justification.

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Article 38

Entry into force

1 This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2 It shall apply as from entry into force.

3 However, Chapters VI and VIII shall apply as from 1 October 2017. Chapters II, III and IV shall apply as from 31 May 2019.

Changes to legislation:

There are outstanding changes not yet made to Commission Regulation (EU) 2017/460. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole legislation item and associated provisions

- Signature words omitted by [S.I. 2019/531 Sch. 5 para. 19](#)
- Art. 2(2)-(6) inserted by [S.I. 2019/531 Sch. 5 para. 2\(4\)](#)
- Art. 3(3) words substituted by [S.I. 2019/531 Sch. 5 para. 3\(3\)](#)
- Art. 3(5) words substituted by [S.I. 2019/531 Sch. 5 para. 3\(3\)](#)
- Art. 3(11) words substituted by [S.I. 2019/531 Sch. 5 para. 3\(3\)](#)
- Art. 3(17) words substituted by [S.I. 2019/531 Sch. 5 para. 3\(3\)](#)
- Art. 4(4)(b) words substituted by [S.I. 2019/531 Sch. 5 para. 4](#)
- Art. 5(3)(a) words substituted by [S.I. 2019/531 Sch. 5 para. 5\(2\)\(a\)\(i\)](#)
- Art. 5(3)(a) words substituted by [S.I. 2019/531 Sch. 5 para. 5\(2\)\(a\)\(ii\)](#)
- Art. 5(3)(b) words substituted by [S.I. 2019/531 Sch. 5 para. 5\(2\)\(b\)\(i\)](#)
- Art. 5(3)(b) words substituted by [S.I. 2019/531 Sch. 5 para. 5\(2\)\(b\)\(ii\)](#)
- Art. 5(4)(a) words substituted by [S.I. 2019/531 Sch. 5 para. 5\(3\)\(a\)\(i\)](#)
- Art. 5(4)(a) words substituted by [S.I. 2019/531 Sch. 5 para. 5\(3\)\(a\)\(ii\)](#)
- Art. 5(4)(b) words substituted by [S.I. 2019/531 Sch. 5 para. 5\(3\)\(b\)\(i\)](#)
- Art. 5(4)(b) words substituted by [S.I. 2019/531 Sch. 5 para. 5\(3\)\(b\)\(ii\)](#)
- Art. 13(1)(a) word substituted by [S.I. 2019/531, Sch. 5 para. 5D\(2\) \(as inserted\) by S.I. 2019/1393 Sch. para. 3](#)
- Art. 15(3)(d) word substituted by [S.I. 2019/531, Sch. 5 para. 5E\(2\)\(a\) \(as inserted\) by S.I. 2019/1393 Sch. para. 3](#)
- Art. 15(3)(h)(i) word substituted by [S.I. 2019/531, Sch. 5 para. 5E\(2\)\(b\) \(as inserted\) by S.I. 2019/1393 Sch. para. 3](#)
- Art. 21(4)(5) inserted by [S.I. 2019/531 Sch. 5 para. 6\(4\)](#)
- Art. 25(1)(b)(ii) words inserted by [S.I. 2019/531 Sch. 5 para. 7](#)
- Art. 25(1)(b)(ii) words substituted in earlier amending provision [S.I. 2019/531, Sch. 5 para. 7](#) by [S.I. 2020/1016 reg. 4\(5\)](#)
- Art. 26(1)(a) words omitted by [S.I. 2019/531 Sch. 5 para. 8\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 8 substituted (25.10.2019) by [S.I. 2019/1393, reg. 1\(2\), Sch. para. 4](#))
- Art. 26(1)(a)(v) words substituted by [S.I. 2019/531 Sch. 5 para. 8\(2\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 8 substituted (25.10.2019) by [S.I. 2019/1393, reg. 1\(2\), Sch. para. 4](#))
- Art. 26(1)(a)(ii) substituted by [S.I. 2019/531 Sch. 5 para. 8\(2\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 8 substituted (25.10.2019) by [S.I. 2019/1393, reg. 1\(2\), Sch. para. 4](#))
- Art. 26(1)(a)(vi) omitted by [S.I. 2019/531 Sch. 5 para. 8\(2\)\(b\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 8 substituted (25.10.2019) by [S.I. 2019/1393, reg. 1\(2\), Sch. para. 4](#))
- Art. 26(1)(c)(ii)(3) words omitted by [S.I. 2019/531 Sch. 5 para. 8\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 8 substituted (25.10.2019) by [S.I. 2019/1393, reg. 1\(2\), Sch. para. 4](#))
- Art. 28(1)(b) words substituted by [S.I. 2019/531 Sch. 5 para. 10\(3\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 10(3)(4) omitted (25.10.2019) by virtue of [S.I. 2019/1393, reg. 1\(2\), Sch. para. 6](#))
- Art. 28(1)(c) words substituted by [S.I. 2019/531 Sch. 5 para. 10\(4\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 10(3)(4) omitted (25.10.2019) by virtue of [S.I. 2019/1393, reg. 1\(2\), Sch. para. 6](#))
- Art. 31(1)(d) omitted by [S.I. 2019/531 Sch. 5 para. 11\(2\)\(b\)](#)
- Art. 31(3)(b) omitted by [S.I. 2019/531 Sch. 5 para. 11\(4\)\(a\)](#)
- Art. 31(3)(c)(vii)(2) omitted by [S.I. 2019/531 Sch. 5 para. 11\(4\)\(b\)\(ii\)](#)

- Art. 31(3)(c)(vii) words substituted by [S.I. 2019/531 Sch. 5 para. 11\(4\)\(b\)\(i\)](#)
- Art. 32(c) words omitted by [S.I. 2019/531 Sch. 5 para. 12\(2\)\(a\)](#)
- Art. 32(c) words substituted by [S.I. 2019/531 Sch. 5 para. 12\(2\)\(b\)](#)
- Art. 32(c) words substituted by [S.I. 2019/531, Sch. 5 para. 12\(as substituted\) by S.I. 2019/1393 Sch. para. 7](#)
- Art. 33(6)(7) inserted by [S.I. 2019/531 Sch. 5 para. 13\(5\)](#)
- Art. 37(6) inserted by [S.I. 2019/531 Sch. 5 para. 17\(6\)](#)