

# **Report on the Periodic Consultation on Article 26 requirements of the Network Code on harmonised transmission tariff structures for gas, Regulation EU 2017/460 (including UK amendments to the Tariffs Code, Schedule 5) (TAR NC)**

September, 3th 2024

## **Details of the consultation**

BBLC undertook its Periodic Consultation as required by TAR NC Article 26 between 8<sup>th</sup> July 2024 and 6<sup>th</sup> August 2024. TAR NC Article 26 requires BBLC to publish the consultation response(s) and its summary.

## **Overview of the consultation response(s) received**

BBLC currently has over 50 active shippers. No responses were received from them. BBLC concludes, therefore, that the companies that are active and use the products and services that BBLC provides are satisfied with the way BBLC operates in relation to the TAR NC. As a result, no changes are proposed.

One Third Party response was received from the Energy Traders Europe (ETE) and this is attached as Appendix One to this report.

## **BBLC response to the consultation response received**

ETE's response to BBLC's consultation makes reference to obligations under TAR NC Article 30 and specifically the information requirements set out in Article 30 (1) (b) (vi) and (vii).

It should be noted that TAR NC Article 26's consultation requirements do not extend to Article 30 (1) (b) (vi) and (vii) and, therefore, ETE's comments related to these conditions are 'out of scope' of this consultation. Consequently, a response to ETE's comments is not supplied within the main body of this report.

However, BBLC notes the points made in ETE's response and has provided a separate response to the points raised. This is set out in Appendix Two.

As required, this report is submitted to Ofgem in its role as the National Regulator Authority.

## Appendices

### Appendix One - Response received from Energy Traders Europe (Formally EFET)

Good afternoon,

We thank you for the opportunity to submit our comments to the periodic consultation on article 26 requirements of the Network Code on harmonised transmission tariff structures for gas (Regulation (EU) 2017/460), including UK amendments to the Tariffs Code, Schedule 5.

We specifically seek to understand when and to what extent the obligations stipulated under article 30 (1) (b) (vi) and (vii) NC TAR will be published and apply, given that:

- 1) These obligations are not listed under article 26 NC TAR and hence do not form part of Ofgem's derogation decision for BBL.
- 2) BBL qualifies as a merchant TSO functioning under a non-price cap regulatory regime.

Article 26 NC TAR lists several of the obligations stipulated under article 30 regarding information to be published by the NRA or TSO before the tariff period, but not all of them. Amongst the information for inclusion in the periodic consultation under article 26 is the information set out under article 30(1) (b) (i), (iv), (v), i.e., the allowed and/ or target revenue of the TSO, the transmission services revenue, the capacity-commodity split, the entry-exit split and the intra-system/ cross-system split. Amongst those obligations not listed under article 26 are the publication of information related to the previous tariff period regarding the reconciliation and the regulatory account for TSOs functioning under a non-price cap regulatory regime (*i.e., obtained revenue, under- or over-recovery of the allowed revenue and the part attributed to regulatory account*), which is the case for BBL, as well as the intended use of the auction premium.

We moreover point out that, since 2022, CREG has been publishing the revenues and regulatory account levels of the Interconnector, although the latter is not required to return the regulatory account to its customers, as a non-regulated TSO ([2021](#) : art. 41, *Interconnector's regulatory account decreased by 4 MGBP, to arrive to almost – 28 MGBP at Dec 31<sup>st</sup> 2021/* [2022](#) : art. 43, *Interconnector's regulatory account increased by 128 MGBP, to arrive to + 101 MGBP at Dec 31<sup>st</sup> 2022/ 2023 expected soon*). We hence assume that BBL would have to do so, as well. More broadly, given that BBL has not asked for an Ofgem derogation from points vi and vii of article 30 (1) (b), we assume that this information must be made publicly available.

We remain at the full disposal of BBLC to further discuss this matter.

Thank you for your consideration.

Sincerely,  
**Mariana Liakopoulou**  
Markets and Policy Associate  
EU Liaison Office



Avenue des Arts - Kunstlaan 44  
1000 Brussels  
M: +32 456 57 03 03  
Email: [m.liakopoulou@energytraderseurope.org](mailto:m.liakopoulou@energytraderseurope.org)  
<https://energytraderseurope.com/>

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## **Appendix Two - Applicability of TAR NC Article 30 (1) (b) (vi) and (vii) to BBLC**

ETE's response to BBLC's TAR NC Article 26 consultation made reference to obligations under TAR NC Article 30 and specifically the information requirements set out in TAR NC Article 30 (1) (b) (vi) and (vii). The consultation process outlined in Article 26 of the TAR NC does not include these elements and, therefore, they are outwith the scope of this consultation.

Indeed, TAR NC Article 30 as a whole is not applicable to BBLC since it applies only to a specific '*tariff period*'. Since BBLC is not a revenue, or price, regulated TSO it does not have a '*regulatory period*' nor a related '*tariff period*' and therefore Art. 30 is not applicable.

However, despite the above position, BBLC provides its views on the points raised by ETE below.

BBLC considers that neither Article 30 (1) (b) (vi) or (vii) are applicable to BBLC for the following reasons:

### **Article 30 (1) (b) (vi)**

As stated within TAR NC, the provisions of Article 30 (1) (b) (vi) are only applicable "*to the extent that the transmission system operator functions under a non-price cap regime*".

BBLC, as a merchant interconnector, operates in a highly dynamic, competitive and challenging market environment. Future developments in the energy industry, including decarbonisation, also create further market uncertainty.

BBLC competes with numerous other regulated and unregulated commercial sources of energy flexibility such as other gas and electricity interconnectors, LNG shipping, gas storage and energy portfolio managers. BBLC has no captive customers and therefore no baseline demand and no certainty of receiving any revenue or recovery of its costs. As a result, BBLC does not operate with a '*regulatory period*', '*allowed revenue*', '*rate of return*', '*revenue cap*' or a '*cost-plus regime*' as defined in TAR NC Article 3. Therefore, the concept referred to in TAR NC Art.30 (1) (b) (vi) of '*under and over recovery*' attributable to a regulatory account, together with a reconciliation period and incentive mechanisms as foreseen under Chapter IV of TAR NC, cannot be applied to BBLC.

BBLC, therefore, does not function under a '*non-price cap*' regime and the provisions of this Article do not apply.

### **Article 30 (1) (b) (vii)**

Article 30(1) (b) (vii) refers to publication of information regarding '*the intended use of the auction premium*'.

Given the nature and structure of BBLC's physical operation and assets there is no opportunity for it to use such premia to efficiently and economically invest in reducing physical congestion at the cross-border interconnection. Also, as explained in the section above, BBLC does not operate under a non-price cap regime. Therefore, the principles set out in TAR NC Article 19(5) cannot be applied to BBLC.