

RESULTS OF THE PUBLIC CONSULTATION
- on the Draft Methodology for the Determination of the Amount of Tariff Items for the Unloading and Send Out of Liquefied Natural Gas -
(consultation conducted in the period from 14 June to 5 July 2016)

ARTICLE	SUMMARY OF REMARKS	ACCEPTED - implemented changes to the Methodology NOT ACCEPTED - explanation for non-acceptance RESPONSE TO THE OPINION OR COMMENT
General remarks on the Draft Methodology	<p>Energy entities (hereinafter: EEs) have generally submitted the following opinions and remarks:</p> <ul style="list-style-type: none">- It was noted that the Methodology does not provide a clear focus on competitive tariffs and for the clients who are to conclude a multiannual contract it does not provide the certainty of equal tariffs throughout the term of the respective contract.- The EEs hold that the proposed methodology may not be efficient in the case of insufficient lease of capacities in the regulatory period, because of the resulting uncompetitive tariffs.- The EEs hold that the potential impact of state/EU subsidies has not been anticipated in the calculation of allowed revenue.- It was noted that the tariffs for evacuation (transmission of the gas from the terminal) should reflect the CAPEX/OPEX pertaining to that part of the transmission system which is associated with the terminal through its use, that is, separately for each individual Phase of the terminal. In addition, they suggest to conduct the evaluation of the Methodology in conjunction and systematically with the Methodology for Determining the Amount of Tariff Items for Gas Transmission.- It was emphasized that it is unknown how the cost of the FSRU is to be treated, and remarked that given the stipulated expected useful life of fixed tangible assets from the category of plants and equipment of 20 years, in the event that the operator of the LNG terminal is the owner of the FSRU, the amount of depreciation and revenue from regulated assets would include the value of the FSRU. In addition, it was noted that if the FSRU is leased, which is common international practice, the expense of the FSRU would be a part of the recognized OPEX. However, the FSRU can be leased for 5, 10, 15 or more years, which directly affects the expense of FSRU lease, i.e. OPEX, allowed revenue and the amount of tariff items. Therefore, the EEs hold that clear criteria should be elaborated on the treatment of the expense of FSRU lease.- It was suggested to introduce EUR as the basis for the calculation of tariffs for the services of the LNG terminal, which was explained in detail and corroborated by additional documentation, also stating that the adoption of the tariff in euros is a condition without which the project cannot be implemented.- It was suggested to abandon the expression "the contracted capacity on the annual basis", and to define the amounts of tariff items for basic services in the respective regulatory year. The EEs hold that those services should have a lower price if they have been contracted in an annual or multiannual auction, or higher if they have been contracted in monthly auctions of LNG terminal operators.- It was suggested to define tariff items for additional services (Reloading, Cargo transshipment, Bunkering services (trucks, bunker/feeder vessels).- It was pointed out that the document does not cover Boil-off, which will represent a major expense in the case of a terminal which is not operating constantly (base load facility), hence it was proposed to define it- It was proposed to increase the tariffs for interruptible capacity in order to increase the competitiveness of constant capacity in relation to interruptible capacity.	<p>HERA understands that lowering the expenses of lease of capacity and competitiveness of tariffs and their harmonization, especially during multiannual periods in the case of long-term lease of capacity, is of utmost importance for the future utilization of the terminal's capacity. It is precisely for this reason that the methodology provides for an incentive regulatory account model, provides for the terminal operator, under certain preconditions, a return of the funds invested over a longer time period, with the aim of achieving competitive and equal tariffs. However, it should be noted that in the case of insufficient interest and capacity lease during the Open Season procedure, below a certain limit, it will not be possible to achieve the said goals with regard to tariffs and at the same time provide for a satisfactory rate of return to the terminal operator, that is, to strategic investors. Additionally, with the aim of enabling the entire implementation of the Open Season procedure and long-term contracting of the terminal capacities, as well as the final adoption of tariffs for the use of terminal services, in the Methodology HERA has provided for a possibility of adopting an indicative tariff even before the stipulated tariffs have been enacted. In that regard, we emphasize that the previous implementation of the Open Season procedure will represent a guarantee for the project's cost-efficiency, a measure to eliminate the risk of unused capacity, and a positive future impact on the price for the use of both the terminal, and the gas transmission infrastructure.</p> <p>With regard to tariffs for evacuation (transmission of gas from the terminal), HERA will implement in a timely manner the necessary amendments to the Methodology for Determining the Amount of Tariff Items for Gas Transmission, with the aim of providing for the lowest possible prices of the use of gas infrastructure and preventing a potential construction of capacities that would not be utilized.</p> <p>The potential impact of state/EU subsidies is covered through the calculation of allowed revenue, in such a way that the depreciation of regulated assets does not include the depreciation of grants, and that the value of regulated assets is reduced by the grants obtained to finance the development of the LNG terminal.</p> <p>HERA notes that the justified level of the expense of lease, or capital expenses in the case of a purchase of the FSRU, shall be considered and approved by the decision on the amount of tariff items. Namely, the Methodology provides a framework and method of calculation of individual components of allowed revenue and tariff items, whereas the analysis of the justifiability of individual expenses will be conducted upon the submission of a request for the amount of tariff items.</p> <p>HERA accepts the proposal to introduce the EUR, i.e. to stipulate the tariff expressed in euros. However, we would like to note that the calculation of all of the elements of allowed revenue, as well as the audit of allowed revenue and determination of generated revenue, shall be executed in HRK, in view of the legal provisions defining that the amounts in business ledgers, annual financial reports and other financial information which represent the basis of all information submitted to HERA, are expressed in HRK.</p> <p>The suggested abandonment of the expression "the contracted capacity on the annual basis", in order for the services to have a lower price if they have been contracted in an annual or multiannual auction, or higher if they have been contracted in monthly auctions of LNG terminal operators, is achieved precisely by calculating tariff items for the basic services of the LNG terminal on an annual basis pursuant to the Methodology, and by the application of coefficients for the contracted SSP and the coefficient for the contracted basic service on a monthly basis or on a daily basis.</p> <p>Additional services, such as Reloading, Cargo transshipment, Bunkering services (trucks, bunker/feeder vessels), will be covered by the price list of non-standard services, which will be defined by the Rules for the Use of the LNG Terminal. Furthermore, the same Rules shall define Boil-off, as well as the method of reimbursement for it.</p>
Article 3		<p>HERA has amended the definition of the reference interest rate, in view of the new classification of interest rates of the Croatian National Bank. The reference rate is defined as the "average interest rate of credit institutions for long-term Kuna credits exceeding HRK 7.5 million, with a currency clause in euro, approved for non-financial companies in the Republic of Croatia in the last 12 months, according to the data of the Croatian National Bank."</p>
Article 7	<p>The EEs suggest nomenclature changes in the signature of the formula for the distribution of achieved savings. In addition, it was noted that the indices were questionable.</p> <p>The EEs hold that the operator should have the right to keep a part of the savings achieved over the entire regulatory period, and hence proposes to amend paragraphs 1 and 2 - by adding the words "every year of the regulatory period".</p>	<p>HERA accepts the remarks related to the indices, and in order to avoid any ambiguities, the formula has been deleted from the Article, and the procedure is explained in more detail by the new wording of the Article.</p> <p>HERA emphasizes that the incentive mechanism for the distribution of achieved savings is implemented in such a manner that the difference between the allowed amount of operating expenses and the achieved amount of operating expenses is calculated for the given year on the basis of which the base amount of justified operating expenses is calculated (T-2, or T-1 in the subsequent audit of allowed revenue). The established difference is distributed between the client and the operator in such a manner that the base amount of operating expenses is smaller than the previously approved for the same year (base), by 50% if the achieved amount of operating expenses is smaller than the previously allowed one. The said reduction is reflected in the smaller amount of OPEX in the subsequent regulatory period, where this amount is not smaller by the entire amount of achieved savings in the base year, but by 50% of that amount. In this manner, the operator in the subsequent regulatory period keeps a part of the previously achieved savings, which is a significant incentive mechanism.</p>
Article 9	<p>The EEs note that indices I₁ are mixed up in the formula and in the explanation (as well as in other formulas in the document).</p> <p>The EEs note that it should be clarified from which input data the projected operating expenses will be created in the first regulatory year, that is, the base amount of OPEX.</p> <p>The EEs suggest to change the formula for the calculation of allowed revenue, by adding two elements, namely:</p> <ul style="list-style-type: none">- projected return on working capital- additional revenue not intended to co-finance a part of investment expenses.	<p>HERA accepts the remark related to the indices and has in that regard performed the necessary corrections (the objection pertains to the translation of the methodology into English, whereas in the original form the methodology does not contain the said error).</p> <p>With regard to the determination of the projected OPEX in the first regulatory year, HERA notes that Article 47 of the Methodology stipulates that, by way of exception for the years of the first regulatory period, the projected amount of OPEX is determined on the basis of estimated amounts explained in detail which the Agency considers to be justified. Hence, the formula "1+CPI-X" will not necessarily be applied for the said years, given the significant investment ventures and the instability of operating expenses, and thus the inapplicability of the said formula during this period.</p> <p>HERA does not accept the suggestion to supplement the formula for the calculation of allowed revenue:</p> <ul style="list-style-type: none">- with the element of working capital. More specifically, the recognition of working capital would pertain to additional capital to cover the "time value of money", i.e. the time gap between the generation of expenses and revenue (from the tariff), as well as the reimbursement for opportunity cost of the investor's capital, i.e. "lost" profit in the period from the moment of investing capital to generating profit from the tariff. All of the above has been covered by the existing regulatory method, given the focus on long-term stability of the operators' operations, which is provided for by recognizing capital expenses through the return on regulated assets and depreciation, which also include new investments in a given year. The said investments are recognized ex-ante through the approved development plan as part of the decision on the amount of tariff items (with subsequent revision with regard to the efficacy of investments, but also justifiability if the realized investments differ from those previously approved), which represents an additional incentive for the operator. Likewise, the opportunity cost of capital has been covered by the rate of return on equity.- with the element of additional revenue, because the proposed mechanism is unclear, i.e. in contravention of the regulatory method of maximum allowed revenue by which the tariff items are calculated in such a way that the projected achieved revenue during the regulatory period is equal to the projected allowed revenue, whereby the subsequently established differences (during regular audit) are reimbursed in the subsequent regulatory period.
Article 10	<p>The EEs suggest changes in a part of OPEX, as follows:</p> <ul style="list-style-type: none">- to provide specific expenses related to the FSRU which are considered to be justified OPEX (expenses of ship lease, guarantees, towing expenses)- changes in the part of unjustified expenses (exclusion of entertainment costs related to the FSRU)- division of OPEX to controlled and uncontrolled expenses, and the associated change of entire paragraphs 5, 6 and 9	<p>HERA accepts the said suggestions, however, no changes have been executed in the Methodology, for the following reasons:</p> <ul style="list-style-type: none">- justifiability of specific expenses related to the FSRU will be considered by HERA during the analysis of applications for the amount of tariff items, and they cannot be stipulated by the Methodology at this point because the final technical solution of the terminal has not yet been defined- entertainment costs related to the FSRU cannot be excluded from unjustified expenses, because HERA holds that they cannot be an integral part of the regulated tariff for the use of the terminal, as well as that all operators of gas infrastructure in Croatia should have the same regulatory treatment with regard to the exclusion of unjustified expenses- HERA will define and divide OPEX to controlled and uncontrolled expenses subsequently, simultaneously in all tariff methodologies for the use of gas infrastructure, following the completion of the project on "Optimization of Methodologies for the Determination of the Tariff Items for Gas Distribution, Transmission and Storage in the Part of Operating Expense Regulation", which HERA is planning to complete based on the subject of procurement by September 2016.
Article 11	<p>It is noted that in the respective depreciation, given that in the First Phase of the project it pertains to the matter of FSRU lease, only depreciation related to the category of plant and land equipment (jetty) can be included. Moreover, in the development of the Second Phase of the project, land terminal, which will also use the same already partly depreciated plants, the same should be taken into consideration.</p> <p>The EEs propose to stipulate in paragraph 3 that for specific equipment, if the operator submits adequate proof, one can also determine the expected useful life of under 20 years (which is the minimum useful life for fixed assets from the category of plants and equipment).</p> <p>The EEs propose a new paragraph which would stipulate that in the case of write-off of a certain asset, this will affect the decrease of the value of the regulated base only if the write-off occurred due to inefficient and negligent actions of the operator. Namely, the EEs hold that the Agency should not treat asset write-off automatically as unallowed loss (impairment of RAB) without prior dialogue with the operator.</p>	<p>This is in line with the Methodology, because the depreciation in question which enters into the calculation of allowed revenue is calculated based on established regulated assets which are considered to be fixed tangible and intangible assets in use, which are in function of the LNG terminal, with previous impairment for the grants financing the development of the LNG terminal. Therefore, assets in preparation are not a part of regulated assets, and also any assets that may have been put to use but are not in function of the terminal will not be a part of regulated assets.</p> <p>Given the specific nature of equipment for the LNG terminal, HERA accepts the suggestion for a possible determination of useful life at under 20 years for individual specific fixed tangible assets from the category of plants and equipment, provided that the operator submits adequate proof and explanations with the application for the determination or change of the amount of tariff items for LNG unloading and send out, and that the Agency deems it justified. The Methodology also provides for individual specific fixed tangible assets from the category of plants and equipment to have their useful life determined as longer than 20 years.</p> <p>HERA does not accept the suggestion to exclude a certain type of asset write-off from the impairment of the value of the regulated base. Namely, the Methodology stipulates that the initial value of regulated assets is taken from the operator's balance sheet, and includes the net book value of fixed tangible and intangible assets in use, which are in function of the LNG terminal. To this value, for each year of the regulatory period the value of planned new investments into construction and reconstruction is added, and the planned amount of depreciation is subtracted, as well as the planned value of grants and planned value of sold and disposed assets in the regulatory year. It is assumed that disposed assets will be replaced by new assets, if this is necessary for the efficient performance of the energy activity.</p>
Article 12	<p>The EEs suggest the following changes in the calculation of the projected return on regulated assets:</p> <ul style="list-style-type: none">- in such a manner that the total return is the sum of all returns on every asset individually (and all associated changes to further formulas)- that the value of each regulated asset as the basis for the calculation of return is taken from the beginning of the regulatory year, and not the average for the regulatory year (and all associated changes to further formulas)- the rate of return which for each individual asset equals the sum of WACC and premium on WACC for the specific individual asset. For new investments, the EEs suggest 10 years of constant premium on WACC. For the suggested premium, the EEs give the example of France and Italy in which the NRA stimulates new investment with the possibility of approving temporary premiums on WACC (FRA 2% constantly + 2% for 10 years, for new investments into the LNG terminal; ITA 2% for 16 years, for the construction of a new terminal, or 30% increase in the capacity of the existing terminal)	<p>HERA accepts the suggestion to introduce a premium on WACC (premium for additional risk in the calculation of the rate of return on equity capital - for a more detailed description see Article 14), with the aim of stimulating individual riskier investments into the LNG terminal. The Methodology enables the calculation of WACC with the included premium separately for certain regulated assets, which is stipulated by Article 14(11), and hence there was no need to change the formula with regard to the calculation for each individual asset.</p> <p>HERA does not accept the suggestion to take the value of regulated assets as the basis for the calculation of return from the beginning of the regulatory year, because the existing method of calculation (average of the values for the entire regulatory year) reflects fairly the value of invested capital into regulated assets, given the recognition of depreciation and return on regulated assets in the operator's allowed revenue.</p>
Article 13	<p>The EEs note that regulated assets, for the First Phase of the project - FSRU with the annual capacity of 2 bn m³ of gas, can include only those investments related to this phase of the project and be included in the model of tariff calculation.</p> <p>The EEs suggest to supplement paragraph 4 by including the following items into the amount of net book value of fixed tangible assets:</p> <ul style="list-style-type: none">- development costs prior to construction- capital expenditure during the construction, for the financing of tangible assets acquisition- costs of financing during construction (interest rates and other fees)- yield on accumulated input of capital from the moment of their recording- costs of putting the terminal in operation <p>Moreover, the EEs suggest to supplement item 5 by also including into the net book value of fixed intangible assets the capital expenditure during construction for the financing of the procurement of intangible assets.</p>	<p>With regard to the EEs' comment that regulated assets for the First Phase of the project - FSRU can include only those investments that are associated with that phase of the project and be included into the tariff calculation model, see response no. 1 under Article 11.</p> <p>HERA does not accept the suggestion to include the amount of development costs prior to construction, of capital expenditure and costs of financing during construction, yields on accumulated input of capital and costs of putting the terminal in operation in the amount of the net book value of fixed tangible assets, nor of capital expenditure during construction into the net book value of fixed intangible assets. Namely, capital expenditure and costs during construction are capitalized and thus recognized through the value of tangible and intangible assets which at the moment of deployment represents the initial value of regulated assets for the performance of the energy activity. In addition, it is unclear how pursuant to the EEs' suggestion the operator would be reimbursed for the value of the said elements, given that before putting the terminal into operation there would be no clients representing a source of revenue. Furthermore, additional incentives to compensate for the costs of financing and entry of capital are enabled by the introduction of a new element - premium for additional risk - in the calculation of the rate of return on equity capital, and in that regard HERA considers that the recognition of assets under preparation would represent a double counting of risk.</p>
Article 14	<p>The EEs suggest the following changes in the calculation of WACC:</p> <ul style="list-style-type: none">- variability coefficient of the return on operator shares in relation to the average variability of return on the market portfolio return (β) - is proposed to reflect the degree of risk of investing in the gas infrastructure activity in relation to the risk of investing in the market, instead of the risk of investing into the energy activity of managing the LNG terminal in relation to the risk of investing in the market. The EEs explain this by the fact that the shares of the LNG terminal operator are not listed and that they should be compared to the appropriate gas operators, but taking into account that the risk of managing the LNG terminal is greater than, for example, of gas transmission.- the rate of return on the diversified market portfolio (r_m) - the EEs express their doubts that the Croatian market is representative and sufficiently liquid to serve as a basis for the calculation of meaningful figures (premiums on market risk)- the rate of return on debt (r_d) - it is suggested to be equal to the reference interest rate that would be determined by a comparative analysis of the rational debt cost of other similar operators. The EEs explain that the method of determination using the said reference rate would be stimulating for the operator to reduce the actual cost of borrowing. <p>The EEs suggest a new Article 14a that pertains to the calculation of the working capital. It is suggested for the annual reimbursement for working capital to be calculated as 0.8% of gross regulatory base, multiplied by the rate of WACC for the relevant regulatory period, and to add it to the calculation of DP. The EEs explain this noting that the stipulation of a return on working capital is a common practice, because working capital is an investment expense. Due to significant complexity of the calculation of working capital, it is noted that working capital is usually calculated as the share of the net value of regulated assets, and the example of Italy is provided.</p>	<p>HERA accepts the suggestion to change the following elements in the calculation of WACC:</p> <ul style="list-style-type: none">- a premium will be introduced for the additional risk of investing into the energy activity of LNG terminal management (r_{WACC}) which reflects the additional risk inherent in individual new investments into the LNG terminal, and is applied for a specific time period, and determined pursuant to the Methodology and the criteria for the evaluation of investment into energy and gas infrastructure projects, which the Agency publishes on its website. Namely, this stipulates the possibility of determining the premium for additional risk, where the operator, in order to determine it, will need to prove the existence of additional risk inherent in the individual new investment, which is not covered by other elements in the calculation of WACC, or other stimulating elements of the regulatory method,- variability coefficient of the return on the operator shares in relation to the average variability of the return on the market portfolio (β) - it is stipulated that it should reflect the risk of investing into the energy activity of LNG terminal management in relation to the risk of investing in the market, and that it is determined by a comparative analysis of variability coefficients of the return on the shares of operators of gas infrastructure applied in the regulatory mechanisms of European countries, based on the publicly available data. HERA accepts the fact that the shares of LNG terminal operator are not listed and that the variability of the return on shares should be compared to appropriate gas operators, for which there are publicly available data,- rate of return on the diversified market portfolio \rightarrow market risk premium ($r_m - r_f$) - given the fact that the Croatian capital market is not liquid enough to serve as basis for the calculation of the market risk premium, and in order provide for more certain determination, HERA has stipulated that it is to be determined by a comparative analysis of market risk premiums, based on publicly available data from relevant international studies and databases. <p>HERA does not accept the suggestion to change the rate of return on debt (r_d), because the existing model is also stimulating for the operator. Namely, if the operator borrows at a certain interest rate, the rate of return on debt is determined in accordance with this interest rate, whereas if the operator does not borrow, the rate of return on debt is determined in the amount of the reference interest rate. During the regulatory period, the operator may also borrow at a lower interest rate, and the rate of return on debt shall thereby not be impaired because the WACC is not audited during a regular audit of allowed revenue, and the achieved savings are kept by the operator.</p> <p>HERA does not accept the suggestion to introduce elements of working capital (see the argumentation under Article 9).</p>

Article 15	The EEs suggest a correction of the formula for the calculation of smoothed allowed revenue for the years of the regulatory period, by removing index P (projected) from the elements of WACC ²	HERA accepts the said suggestion, considering that the WACC amount is not subject to audit.
Article 16	With regard to the auditing of allowed revenue and the fact that pursuant to both regular and extraordinary audit, there could be an audit of all elements of the formula for the calculation of tariff items, i.e. change in the amount of the tariff, the EEs hold that it is necessary to provide for a termination of the contract and indemnification of the client if this has caused direct financial damage for the client. The EEs suggest to specify explicitly that the Agency conducts both regular and extraordinary audits.	The Methodology stipulates the method of calculating tariff items which are applied for the regulatory period, in an unbiased and non-discriminatory manner for all clients of the LNG terminal. Both regular and extraordinary audits shall affect the amount of tariff items, which are variable during the term of contract. The suggestion is accepted and, in order to avoid any ambiguities, it has been stipulated that the Agency shall conduct the audit of allowed revenue.
Article 19	Amendments are suggested in the calculation of the audited amount of return on regulated assets, related to the suggested amendments in Articles 11 and 12.	See the response under Articles 11 and 12.
Article 20	Amendments are suggested in the calculation of audited allowed revenue, related to the proposed amendments in Article 9.	See the response under Article 9.
Article 25	The EEs suggest amendments to the concept of the calculation of tariff items for the basic services of the LNG terminal on the annual basis and the unit fee amount for the contracted standard service package (SSP). Namely, the suggestion is, in order to have a sufficient tariff, not to apply coefficients for the calculation of the fee for SSP, i.e. to provide for no discount, but in order to stimulate the use of the terminal, to apply coefficients greater than 1 for the calculation of tariff items for the basic services of the terminal (suggested related amendments in Articles 26, 27 and 28) It is suggested to abandon the expression "contracted capacity on the annual basis" and to define the tariff items for basic services in the individual regulatory year, which should have a lower price if they have been contracted in an annual or multiannual auction, and a higher price if they have been contracted in monthly auctions. Furthermore, a different method of expressing tariff items (units) is suggested.	The suggestion to change the concept is not accepted, as it essentially presents no difference compared to the concept stipulated in the proposed Methodology. Namely, it should be clarified that it is precisely the coefficients of the influence of the planned revenue from the service of berthing of LNG carrier, from the service of temporary storage of LNG, and from the service of sending out natural gas into the transmission system contracted on the annual basis on the operator's total planned revenue in the regulatory year t, that represent a mechanism to ensure "tariff sufficiency" to cover allowed revenue, where the sum of the specified three coefficients can also be greater than 1. The amounts of the said coefficients shall be determined as part of the determination of the amount of tariff items, depending on the planned total number of berthings of LNG carriers, capacity of the temporary storage of LNG, and the capacity of sending out natural gas into the transmission system, contracted on the annual basis as the basic service of the LNG terminal and as part of the standard service package of the LNG terminal (hereinafter: SSP), all of the clients in the regulatory year t. It is implied that in doing so the amounts of the said coefficients will take into account a discount for SSP, that is coefficients for the contracted SSP on a short-term, mid-term, and long-term basis. Under the Methodology, the unit price of the contracted capacity on the annual or multiannual basis shall be greater than the unit price of the contracted capacity on the monthly and daily basis, pursuant to the stipulated amounts of coefficients for the contracted SSP, as well as the amounts of coefficients for the contracted basic service on the monthly and daily basis. Given the fact that the terminal operator has not issued Rules for the LNG Terminal Use, HERA has accepted the services proposed to HERA by the operator, which services are stipulated by the proposed Methodology. HERA holds that the stipulated method of expressing tariff items most adequately reflects the nature of the LNG terminal basic services and sees no need to change them again.
Article 26	A complete change of the Article is suggested, in such a way as to stipulate in this Article the method of calculating the unit amount of the fee for the contracted standard service package (SSP) of the terminal (covered in Article 27 of the Proposed Methodology), as well as the calculation of "basic" tariff items. With regard to the fee for SSP, it is suggested for it to imply the right to the berthing of LNG carrier, temporary storage of LNG and the right to the send out of natural gas into the transmission system, without specifying the number of berthings, amount of LNG in storage or send out capacity. Moreover, it is suggested to amend the formula for the calculation of the unit fee for SSP, whereby the elements X_{SKL} (m ³ LNG) and X_{OTP} (MW/d) and a more detailed description of the service would be covered by the Rules for the LNG Terminal Use. In the calculation of "basic" tariff items the following is suggested: - to specify explicitly that the coefficient of the influence of planned revenue from a given service on the annual basis on the operator's total planned revenue in the regulatory year t is determined by the operator - to use the "nominal" capacity for the calculation of tariff items, instead of the planned contracted capacity	The suggested complete change of the Article is not accepted, in accordance with the argumentation under Article 25. The suggestion to redefine the formula for the unit fee for SSP so as for the formula and the wording not to specify the capacity of temporary storage of LNG and the capacity of sending out natural gas into the transmission system contained in one SSP, is accepted. A detailed description of SSP, as well as the method of allocation, contracting and use of SSP shall be regulated by the Rules for the LNG Terminal Use. The suggestion to specify explicitly that the coefficient of the influence of planned revenue from a given service contracted on an annual basis on the operator's total planned revenue in the regulatory year t is determined by the operator, is not accepted, as it is in contravention of the provisions of Article 29 of the Energy Act (OG 120/12, 14/14, 102/15), under which the operator submits an application to HERA to determine the amount of tariff items. HERA conducts an analysis and renders a decision on the approval or dismissal of the application. In the case of dismissal, in the decision on dismissal HERA independently determines the amount of tariff items. Likewise, in the decision HERA may independently determine the amount of tariff items based on the Methodology. Given the foregoing provisions, in the application the operator suggests all of the calculation elements, including the said coefficients, and HERA accepts or corrects them as necessary. The suggestion to use the "nominal" capacity for the calculation of tariff items instead of the planned contracted capacity is not accepted, as this would be in contravention of the regulatory method of allowed revenue, that is, it would not provide for the sufficiency of tariff items.
Article 27	The EEs indicate that the average FSRU carrier has the capacity of about 150,000 m3 and therefore the defined standard service package will not result in the best use of the capacities. The EEs suggest an increase in the capacity of shipping natural gas and reduction of the temporary storage period with the aim of increasing ship transport. The EEs indicate that the contracted periods listed in the Table of Coefficients for the Contracted SSP are not in compliance, given the decision on gradual project development adopted by the Government of the Republic of Croatia. The EEs hold that it is possible to conclude the contract only for the period of duration of FSRU lease, which is indicated in the decision as a period of 5 years. The second phase of the project, the land terminal, owing to completely different technologies, will also include different tariffs and the signing of another contract. It is indicated that the suggested coefficients for the contracted SSP do not stimulate long-term lease of the capacities to a sufficient extent, and the EEs suggest a larger discount for long-term lease. In addition, the EEs also suggest that the periods should be redefined to be more in compliance with the maturity of the market sources and LNG contracts, to include periods of 1-5 years, 6-10 years, and periods exceeding 10 years.	The suggestion is accepted with regard to the amendments to Article 26. When defining the SSP, during the LNG terminal operator's adoption of the Rules for the LNG Terminal Use and HERA's consent to such Rules, the integral parts of the SSP shall be optimized, that is, the amounts of the capacities of specific services constituting the SSP, with the aim of maximizing the usability of the terminal capacities, in compliance with the latest available results of the Open Season procedure. With regard to the comments on non-compliance of the contract periods, and given the decision on gradual project development adopted by the Government of the Republic of Croatia, HERA highlights that the Methodology does not prejudice the concept and the method of execution of the terminal, that is, the Methodology is applicable both to the FSRU and to the land LNG terminal. In the process, the coefficients for the contracted SSP reflect the level of risk associated with the long-term lease by reducing the amount depending on the duration of the contract period. The duration of the contract periods is determined in accordance with the interest expressed in the use of the terminal capacities to date, according to the latest results of the Open Season procedure submitted to HERA by the LNG terminal operator, with the aim of maximizing the utilization of the LNG terminal capacities.
Article 28	Amendments were proposed for the calculation of the fee for contracted basic services of the LNG terminal on the monthly and daily basis, related to the suggested amendments in Articles 26 and 27.	See previous argumentation.
Article 30	The EEs generally suggest amendments to the concept of calculating the amount of the fee for the contracted interruptible service of sending out natural gas into the transmission system, that is the EEs believe that <i>ad hoc</i> calculation for the LNG terminal should be applied, taking into account the probability of interruption. Furthermore, the EEs suggest a new additional paragraph whereunder it would be regulated that the interruptible service of sending out natural gas into the transmission system shall be offered when 100% of the send out capacities have been leased and when, in compliance with the Rules of Terminal Operation, the nominations are below the leased capacities. The EEs suggest an increase in the tariffs for interruptible capacity in order to increase the competitiveness of constant capacity in comparison with interruptible capacity, in such a manner as to apply one sixth of the amount of the tariff item in the fee calculation instead of one twelfth.	HERA does not accept the suggested amendment to the concept of calculation of the fee for the contracted interruptible service of sending out natural gas into the transmission system, which would take into account the probability of interruption. Namely, HERA believes that it is more appropriate to calculate the fee for the contracted interruptible service in accordance with the <i>ex-post</i> determined duration of the interruption, for the sake of accuracy of the calculation and prevention of potential speculations. With regard to the proposal for adding a new paragraph, we would like to indicate that the method of offering, allocating, nominating and establishing the actual use of the interruptible service of sending out natural gas into the transmission system shall be regulated under the Rules for the LNG Terminal Use. With regard to the suggestion to increase the unit amount of the fee for the contracted interruptible service of sending out natural gas, HERA clarifies that the fee for the contracted interruptible service of sending out natural gas into the transmission system on the annual and/or monthly basis depends on the established duration of the interruption of the contracted interruptible service in a month. Therefore, the fee for the contracted interruptible service is based on the unit amount of the fee for the service of sending out natural gas denominated on the monthly basis, and accordingly, the calculation should include one twelfth of the amount of the tariff item. The foregoing results in the interruptible service being more cost-effective than the permanent service precisely in the ratios according to the regulated coefficients for the contracted interruptible service.
Article 31	In the event that the operator fails to ensure regular operation of the LNG terminal through his own fault, the EEs suggest the number of gas days, that is, the fee for the client to be reduced by threefold in relation to the suggested method of calculation. Should the interruption last for more than one week, the EEs suggest the number of gas days as a base for the fee calculation to be reduced by fivefold. The EEs also highlight that this "sanction" is an obligation of the operator without restrictions, and that any further damage incurred to the client of the capacities resulting from such interruption shall be borne by the operator.	The suggestion to amend paragraphs 7 and 8 is not accepted, given the fact that all gas system operators receive equal treatment, regulated under other tariff methodologies in the cases when the operator fails to ensure regular operation of the system through his own fault.
Article 35	The EEs suggest that the Agency should approve the regulatory account by a decision on the establishment of the regulatory account for the LNG terminal management, and solely upon the request of the operator. The above-mentioned is explained by the fact that as long as the tariff during the regulatory period is maximum, and there may be cases when no revenues are generated, the decision shall solely be made by the Operator. Furthermore, the EEs suggest that the prerequisites for the establishment of the regulatory account should be independent, i.e. that it should be sufficient to fulfil a single, and not all prerequisites for the establishment of the regulatory account.	The suggested amendment is not accepted. Namely, the regulatory account model is an optional model of incentive regulation of the energy activity regarding the LNG terminal management, allowing the operator, in specific cases, and upon fulfillment of the criteria for the establishment of the regulatory account, to receive reimbursement of the revenues in subsequent years of the regulatory account, which revenues were generated in the previous years of the regulatory account in the amount less than the allowed revenue which would have resulted from the application of the Methodology, that is, it enables an adequate return on reasonably invested funds during a longer period of time. The Methodology allows the operator to submit the request for establishing a regulatory account, but if that is not the case, the Agency should also have the possibility of rendering the decision on the establishment of the regulatory account independently, given the fact that the Agency may estimate that the foregoing is required in order to ensure a competitive tariff and utilization of the terminal, and thus also to ensure a long-term return on the invested funds of the operator, where it has not been previously established by the operator. Prior to rendering the decision, HERA would in such a case request any required data and forecasts needed for the calculation from the terminal operator. In terms of the prerequisites, they are to a certain extent interdependent and represent clear criteria for the establishment of the regulatory account, as an incentive regulation model for undertaking significant investments in the gas system.
Article 36	The EEs suggest an amendment to item 3 under paragraph 1, to replace the WACC ² element (the projected WACC amount for the period of the regulatory account) with WACC (the WACC amount for the period of the regulatory account). The EEs also hold that there should be no restrictions to the operator determining a tariff exceeding the maximum tariff, if there are clients who are ready to pay such a tariff.	Given the fact that the audit of the regulatory account is performed in the last year of every regulatory period during the period of the regulatory account, in such a manner as to perform a re-forecast of the regulatory account, in the process the actual WACC amount should also be forecast, in accordance with the current situation in the capital market and at the level of operational risks of the operator of the LNG terminal in the Republic of Croatia. HERA does not accept the possibility of the operator determining a tariff exceeding the maximum tariff, if there are clients who are ready to pay such a tariff, as in such a case it would be a discrimination against some clients of the terminal. The foregoing would be in contradiction with the regulated access of the third party to the gas system, and in such a case an exemption from third party access should be requested in compliance with the provisions of the Gas Market Act.
Article 37	The EEs suggest an amendment to the Article in such a manner as to make it clear that the decision on the application of the method for calculating depreciation of regulated assets shall be taken by the operator.	HERA accepts the foregoing suggestion given the fact that it concerns a specific accounting category, and has made the required amendment to the wording under paragraph 1.
Article 38	The EEs believe that in the event of closing of the regulatory account, the manner in which the net present values of the revenues will be reimbursed without applying the regulatory account should be defined.	The regulatory account is not a guarantee to the operator for the reimbursement of all projected revenues. More specifically, the regulatory account should be based on realistic forecasts for the long-term use of the capacities and on the input OPEX and CAPEX components. In other words, the operator assumes the risk of investing in the terminal, and the Methodology provides incentives which reduce such risks. One of the incentives is definitely the very possibility of establishing a regulatory account, as otherwise, for instance, it would not be possible to ensure tariff competitiveness. However, in the event of a failure to achieve the initial assumptions used as a base to calculate the tariff in the regulatory account, and where the effective tariff is restricted by the maximum tariff, that is, where this prevents the possibility of fulfilling the requirements for equal net present values of audited revenue and unaudited revenue for the entire period of the regulatory account, the operator may submit a request to close the regulatory account. It is therefore up to the operator, that is up to the investors, to make a timely risk assessment and to provide additional measures in order to mitigate such risks and make the investment decision accordingly.
Article 39	The EEs suggest a correction of the OPEX Table under Annex 1 in order to exclude unjustified expenses.	Article 10 regulates unjustified expenses, which unjustified expenses constitute an integral part of the expenses incurred by the operator, in accordance with the profit and loss account. To be able to identify and reduce such expenses, and to be able to perform any required checks and comparisons, such expenses should be included in the table. Such expenses are then deducted from the base for the calculation of the projected OPEX.
Article 40	Identical to the comment on Article 39.	See argumentation under Article 39.
Article 41	Identical to the comment on Article 39.	See argumentation under Article 39.
Article 42	Identical to the comment on Article 39.	See argumentation under Article 39.
Article 44	The EEs indicate that the Methodology fails to provide a clear focus on competitive tariffs and fails to provide certainty to the clients, who are to conclude a multiannual contract, of having equal tariffs throughout the term of the relevant contract.	See argumentation under General Remarks and under Articles 16 and 27.
Article 47	Identical to the comment on Article 39.	See argumentation under Article 39.
Article 50	The EEs suggest that HERA should proceed in accordance with this Article, with regard to determining an indicative average tariff, for the purpose of prompter consideration of business opportunities.	HERA plans to determine an indicative average tariff even prior to submitting a request for determining the amounts of tariff items for LNG unloading and send out, upon request of the operator or independently.

ANNEX 1	<p>Amendments concerning the suggested amendments to Article 10 (OPEX). Modification of the terminology of WACC elements.</p> <p>Furthermore, the EEs consider it necessary to specify the elements of the plants and equipment, and the tools (different categories and description of elements included in every category) in more detail.</p>	<p>The amendments in the OPEX section are not accepted, in accordance with the argumentation under Article 10. The modification of the WACC element terminology (levered) is partially accepted.</p> <p>The elements of plants and equipment, and the tools, as a category of tangible assets, are developed in principle, in compliance with other tariff methodologies. HERA does not consider it necessary to specify such categories in more detail, especially taking into account that the more detailed technical specification has not been defined yet. In that regard, given the specificity of the equipment for the LNG terminal, HERA has accepted the suggestion for potential determination of the useful life at under 20 years for particular specific fixed tangible assets under the category of plants and equipment, and has made the required amendments to Article 11.</p>
ANNEX 2	<p>The EEs suggest amendments to Tables 2, 3 and 4 in accordance with the comment on Article 25 concerning the method of stating tariff items (units).</p>	<p>See argumentation under Article 25.</p>