

Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) (Text with EEA relevance)

CHAPTER III

**NETWORK ACCESS AND CONGESTION MANAGEMENT**

*SECTION 2*

*Network charges and congestion income*

*Article 18*

**Charges for access to networks, use of networks and reinforcement**

1 Charges applied by network operators for access to networks, including charges for connection to the networks, charges for use of networks, and, where applicable, charges for related network reinforcements, shall be cost-reflective, transparent, take into account the need for network security and flexibility and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non-discriminatory manner. Those charges shall not include unrelated costs supporting unrelated policy objectives.

Without prejudice to Article 15(1) and (6) of Directive 2012/27/EU and the criteria in Annex XI to that Directive the method used to determine the network charges shall neutrally support overall system efficiency over the long run through price signals to customers and producers and in particular be applied in a way which does not discriminate positively or negatively between production connected at the distribution level and production connected at the transmission level. The network charges shall not discriminate either positively or negatively against energy storage or aggregation and shall not create disincentives for self-generation, self-consumption or for participation in demand response. Without prejudice to paragraph 3 of this Article, those charges shall not be distance-related.

2 Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support efficient investments, to support related research activities, and to facilitate innovation in interest of consumers in areas such as digitalisation, flexibility services and interconnection.

3 Where appropriate, the level of the tariffs applied to producers or final customers, or both shall provide locational signals <sup>F1</sup>..., and take into account the amount of network losses and congestion caused, and investment costs for infrastructure.

4 When setting the charges for network access, the following shall be taken into account:

- <sup>F2</sup>a .....
- b actual payments made and received as well as payments expected for future periods, estimated on the basis of previous periods.

*Changes to legislation: Regulation (EU) 2019/943 of the European Parliament and of the Council, SECTION 2 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

5 Setting the charges for network access under this Article shall be without prejudice to charges resulting from congestion management referred to in Article 16.

6 There shall be no specific network charge on individual transactions for cross-zonal trading of electricity.

7 Distribution tariffs shall be cost-reflective taking into account the use of the distribution network by system users including active customers. Distribution tariffs may contain network connection capacity elements and may be differentiated based on system users' consumption or generation profiles. Where [<sup>F3</sup> smart metering systems have been deployed, the regulatory authority] shall consider time-differentiated network tariffs when fixing or approving transmission tariffs and distribution tariffs or their methodologies <sup>F4</sup>... and, where appropriate, time-differentiated network tariffs may be introduced to reflect the use of the network, in a transparent, cost efficient and foreseeable way for the final customer.

8 Distribution tariff methodologies shall provide incentives to distribution system operators for the most cost-efficient operation and development of their networks including through the procurement of services. For that purpose regulatory authorities shall recognise relevant costs as eligible, shall include those costs in distribution tariffs, and may introduce performance targets in order to provide incentives to distribution system operators to increase efficiencies in their networks, including through energy efficiency, flexibility and the development of smart grids and intelligent metering systems.

[<sup>F5</sup>8A The references to Article 15(1) and (6) of Directive 2012/27/EU of the second subparagraph of paragraph 1 are to be treated as references to those provisions with the following modifications—

- a Article 15(1), subparagraph 1 is to be read as if—
  - i for “Member States” there were substituted “the Secretary of State”;
  - ii for “national energy regulatory authorities” there were substituted “the regulatory authority”;
  - iii for “Directives 2009/72/EC and 2009/73/EC regarding their” there were substituted “retained EU law regarding its”;
- b Article 15(1), subparagraph 2 is to be read as if—
  - i for “Member States” there were substituted “the Secretary of State”;
  - ii for “national energy regulatory authorities” there were substituted “the regulatory authority”;
  - iii for “Directive 2009/72/EC” there were substituted “retained EU law”;
- c Article 15(1), subparagraph 4 is to be read as if—
  - i for “Member States” there were substituted “the Secretary of State”;
  - ii for “Regulation (EC) No 714/2009” there were substituted “Regulation (EU) 2019/943”;
- d Article 15(6) is to be read as if for “Member States” (in both places it occurs) there were substituted “the Secretary of State”;
- e A reference to “the regulatory authority” in Article 15(1) as modified by this Article has the meaning given in Article 2 of this Regulation.]

<sup>F6</sup>9 .....

<sup>F6</sup>10 .....

*Changes to legislation: Regulation (EU) 2019/943 of the European Parliament and of the Council, SECTION 2 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

### Textual Amendments

- F1** Words in Art. 18(3) omitted (E.W.S.) (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(2)**
- F2** Art. 18(4)(a) omitted (E.W.S.) (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(3)**
- F3** Words in Art. 18(7) substituted (E.W.S.) (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(4)(a)**
- F4** Words in Art. 18(7) omitted (E.W.S.) (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(4)(b)**
- F5** Art. 18(8A) inserted (E.W.S.) (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(5)**
- F6** Art. 18(9)(10) omitted (E.W.S.) (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 17(6)**

## Article 19

### Congestion income

1 Congestion-management procedures associated with a pre-specified timeframe may generate revenue only in the event of congestion which arises for that timeframe, except in the case of new interconnectors which benefit from an exemption under Article 63 of this Regulation, Article 17 of Regulation (EC) No 714/2009 or Article 7 of Regulation (EC) No 1228/2003. The procedure for the distribution of those revenues shall be subject to review by the regulatory [<sup>F7</sup>authority] and shall neither distort the allocation process in favour of any party requesting capacity or energy nor provide a disincentive to reduce congestion.

2 The following objectives shall have priority with the respect to the allocation of any revenues resulting from the allocation of cross-zonal capacity:

- a guaranteeing the actual availability of the allocated capacity including firmness compensation; or
- b maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion.

3 Where the priority objectives set out in paragraph 2 have been adequately fulfilled, the revenues may be used as income to be taken into account by the regulatory [<sup>F8</sup>authority] when approving the methodology for calculating network tariffs or fixing network tariffs, or both. The residual revenues shall be placed on a separate internal account line until such a time as it can be spent for the purposes set out in paragraph 2.

4 The use of revenues in accordance with point (a) or (b) of paragraph 2 shall be subject to a methodology proposed by the transmission system operators after consulting [<sup>F9</sup>the regulatory authority] and relevant stakeholders and after approval by [<sup>F10</sup>the regulatory authority]. <sup>F11</sup>...

---

*Changes to legislation:* Regulation (EU) 2019/943 of the European Parliament and of the Council, SECTION 2 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

F12  
...

The methodology shall set out at least the conditions under which the revenues can be used for the purposes referred to in paragraph 2, the conditions under which those revenues may be placed on a separate internal account line for future use for those purposes, and for how long those revenues may be placed on such an account line.

5 Transmission system operators shall clearly establish, in advance, how any congestion income will be used, and shall report to the regulatory [<sup>F13</sup>authority] on the actual use of that income. By 1 March each year, the regulatory [<sup>F14</sup>authority] shall publish a report setting out:

- a the amount of revenue collected for the 12-month period ending on 31 December of the previous year;
- b how that revenue was used pursuant to paragraph 2, including the specific projects the income has been used for, and the amount placed on a separate account line;
- c the amount that was used when calculating network tariffs; and
- d verification that the amount referred to in point (c) complies with this Regulation and the methodology developed pursuant to paragraphs 3 and 4.

Where some of the congestion revenues are used when calculating network tariffs, the report shall set out how the transmission system operators fulfilled the priority objectives set out in paragraph 2 where applicable.

#### Textual Amendments

- F7** Word in Art. 19(1) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(2)**
- F8** Word in Art. 19(3) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(3)**
- F9** Words in Art. 19(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(4)(a)(i)**
- F10** Words in Art. 19(4) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(4)(a)(ii)**
- F11** Words in Art. 19(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(4)(a)(iii)**
- F12** Words in Art. 19(4) omitted (E.W.S.) (31.12.2020) by virtue of The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(4)(b)**
- F13** Word in Art. 19(5) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(5)(a)**
- F14** Word in Art. 19(5) substituted (E.W.S.) (31.12.2020) by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1006), reg. 1(2), **Sch. 4 para. 18(5)(b)**

**Changes to legislation:**

Regulation (EU) 2019/943 of the European Parliament and of the Council, SECTION 2 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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

- [Art. 63\(4A\)](#) words substituted by [2023 c. 52 Sch. 17 para. 18](#)