



# **Charging Methodology III**

**Version number 4.2**

**Valid: from 21 November 2023**  
**Effective: 10 December 2023**

**2023/2024**

**The first date of publication: 09 December 2017**



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## Preamble

In accordance with the Act CLXXXIII of 2005 on Railway Transport (hereinafter Railway Act) and the Joint Decree of the Minister of Development No. 58/2015 (IX.30.) NFM frameworks of the network access charging system, and basic regulations of determination of network access charges<sup>1</sup> (hereinafter Charging Decree), the rail capacity allocation body -as charging body - is assigned to settle network access charges to be applied by non-independent infrastructure managers on the open access railway network. In this document, rail capacity allocation body and charging body indicates Rail Capacity Allocation Office: VPE Rail Capacity Allocation Nonprofit Ltd. (hereinafter VPE).

According to the 17th Paragraph<sup>2</sup> of the Charging Decree, to prepare a document on the methodology of assessing charges for every five timetable years is the task of VPE. The document is called Charging Methodology (hereinafter CM).

The actual access charges concerning the given timetable year are set out by VPE on the basis of CM, the factual data of the Infrastructure Manager's previous fiscal year, other data sources stated in CM, and the volume of expected central budgetary subsidy (hereinafter state contribution). All data and detailed calculations used in setting out access charges are set in the Charging Document (hereinafter CD).

In compliance with § 67/O (1) of the Railway Act CM shall be published in Hungarian and English languages. In the event of any legal dispute, CM published in Hungarian language shall prevail.

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<sup>1</sup> Network access charges: amounts payable in respect of each service.

<sup>2</sup> § 17. (1) The CM is prepared by the charging body for 5 timetable years. The charging body shall prepare and publish the CM at least 25 months before the date of publication of the Network Statement of the first timetable year concerned by the CM.

## 1 General instructions

### 1.1 Validity of Charging Methodology

#### 1.1.1 *Temporal force of CM*

VPE prepares this document for 5 timetable years. Principles set out in the current CM shall be used for the first time to the preparation of the CD determining network access charges to the timetable period 2020/2021 that begins from 00:00h of 12 December 2020. Principles also have to be followed when supplying data and information - necessary to prepare CD - by non-independent infrastructure managers. Regulations set out by this CM have to be applied for the last time to the preparation of CD determining access charges to the timetable period 2024/2025 that begins from 00:00h of 07 December 2024.

The modification of CM could become necessary because of possible changes to legal rules applicable during the compilation of CM, obligation for revision defined by § 67/J (2)<sup>3</sup> of the Railway Act as well as the fact that service portfolio provided by infrastructure managers may differ in various timetable periods or data or information related to the determination of charges must be updated in every year. As a result, different CM versions might be created. However both validity and effectiveness of the given CM version are indicated on the front page of the CM with the proviso that only one of the CM versions may be effective for a given period at any time. This CM version (4.2) contains rules for timetable period 2023/2024.

#### 1.1.2 *Territorial scope and objects covered by CM*

Rules of this CM shall apply to the national open access railway networks operated by MÁV Zrt and GYSEV Zrt and also when determining network access charges to be paid for the use of services provided by MÁV Zrt and GYSEV Zrt.

### 1.2 Legal framework

The legal framework for the establishment of the infrastructure access charging system is made up of domestic laws and regulations which are harmonised with the rules of the European Union, particularly with the 2012/34/EU Directive.

These rules are as follows:

- Rules of the EU
  - Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast)

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<sup>3</sup> Railway Act § 67/J. (2) The Charging Methodology shall be reviewed annually and amended as necessary in the light of international best practice.

- Commission Implementing Regulation (EU) 2015/429 of 13 March 2015 setting out the modalities to be followed for the application of the charging for the cost of noise effects
- Commission Implementing Regulation (EU) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service (hereinafter: direct cost regulation)
- Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services (hereinafter: service facilities implementing regulation)
- National legal rules
  - Act CLXXXIII 2005 on railway transportation (hereinafter: Railway Act)
  - Joint Decree No 50/2007. (IV. 26.) GKM-PM on the separation of accounts of railway business segments within the railway company
  - Joint Decree No 58/2015. (IX. 30.) NFM on frameworks of the network access charging system, and basic regulations of determination and implementation of network access charges (hereinafter: charging decree)
  - Decree No 55/2015 (XII. 22.) GKM on detailed regulations of open access to railway network
  - Government Decree No 268/2009 (XII.1.) on the legal relationship between the Rail Capacity Allocation Office and the non-independent infrastructure manager
  - Governmental Decree No 321/2023 (VII.17.) on legal relationship between the Rail Capacity Allocation Body and rail infrastructure managers.

During the force of this CM, a given version of CM and the Network Statement (hereinafter NS) in force for the same period issued also by VPE, shall constantly and totally harmonize with each other.



## 2 Structure of the charging system

### 2.1 *Elements of the charging system*

On the basis of legal rules, elements of the charging system can be distinguished as follows: mandatorily applied elements, elements applicable in case of occurrence, elements applicable on decision.

#### 2.1.1 *Mandatorily applied elements*

Mandatorily applied elements are those that are part of the charging system regardless of the decision of VPE and the infrastructure managers, or any other circumstances. CM shall specify the rules of modalities for setting out these elements.

Mandatorily applied elements:

- charge of basic services<sup>4</sup>,
- charge of supplementary services<sup>5</sup>, within it
  - charge of access to serving facilities,
  - charge of services provided in serving facilities,
- charge of additional services<sup>6</sup>,
- charge of ancillary services<sup>7</sup>,
- charge of ETCS.<sup>8</sup>

##### 2.1.1.1 *Charge of services*

Charges shall be determined in the same way for basic, supplementary, additional and ancillary services as follows:

- First items shall be settled that are the basis of charges, and also performance indicators required to the calculation of charges.
- Infrastructure managers shall define plan values of items for the year of charging as the fundament of charging on the basis of fact data of the last closed business year, as well as on the basis of plan values of the business plan of the infrastructure manager.

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<sup>4</sup> Services as defined in point 1 of Annex 2 to the Railway Act

<sup>5</sup> Services as defined in point 2 of Annex 2 to the Railway Act

<sup>6</sup> Services as defined in point 3 of Annex 2 to the Railway Act

<sup>7</sup> Services as defined in point 4 of Annex 2 to the Railway Act

<sup>8</sup> It is no longer a mandatory element under Directive 2016/2370 / EU of the European Parliament and of the Council. Member States are free to decide whether differentiated infrastructure charges are to be used to speed up the establishment of the ETCS system. However, under the current Railway Transport Act, the ETCS fee remains among the mandatory elements.



- Infrastructure managers shall define the value of performance indicators necessary to calculate charges on the basis of fact data of the performance in the basis period, information gathered from the applicants and tendencies to be expected.
- Charges shall be settled on the basis of plan values of items relating to charges and on the basis of planned performance data.

For formula relating to the determination of charges of services provided in the timetable period affected by this version of the CM, see Annex 8.

### **2.1.1.2 Charge of ETCS**

In compliance with § 67/G (3) of the Railway Act, in order to stimulate applicants to equip their trains with on board ETCS devices, ETCS charge shall be established. ETCS charge is mandatory on the sections mentioned in § 67/G (3) of the Railway Act. In compliance with § 11 of the Charging Decree the applications of ETCS charges can be extended to all those sections of the railway network where the track is equipped with ETCS device. Rules related to the use of ETCS charge shall be the same for all the sections where ETCS charge is applied.

Basis of calculation for ETCS fee is data supplied by the infrastructure managers. When establishing data, infrastructure managers shall use data of the basis period but they shall take into consideration both in respect of rail track data and data of running of trains the expected change in the status of the installation of ETCS equipments in the year of charge.

ETCS charges can increase (malus) or reduce (bonus) the sum to be paid. ETCS charge may not result in a comprehensive change regarding the income of the infrastructure manager. Having regard to this, values arising from imposing ETCS fees that increase (malus) or reduce (bonus) the sum to be paid, must be in balance. When establishing the value of bonus and malus state subsidy shall be taken into account if there is such subsidy dedicated for ETCS charge.

If an amount of state contribution is determined in connection with the ETCS fee, it shall be taken into account in determining the value of the bonus and malus and shall be used in connection with ETCS fees in accordance with the rules on the allocation of public participation.

In order to ensure this equilibrium, cash flow related to ETCS charges shall be examined at least at the end of each timetable year. Infrastructure managers shall make the necessary data to VPE available. VPE shall examine the total values of items increasing or reducing the sum to be paid for the given timetable year, and settle the balance for the given timetable year. When defining the values of the ETCS fee for the given timetable year, also the balance of the previous timetable year shall be taken into account.

The value of the bonus and malus amounts from the ETCS fee must be in balance, so the balance between the bonus and malus amounts must be examined by the infrastructure manager. If the difference between the bonus and malus amounts exceeds the amount which specified in the NS, the infrastructure manager shall settle the difference with the railway undertakings after the timetable period, until the end of the business year.

### ***2.1.2 Elements applicable in case of occurrence***

Elements that can be used in the case of occurrence can be introduced in cases when conditions under which the elements can be applied are given. Thus, they can be used even after starting the timetable period. CM shall specify condition for the application of certain elements.

Elements that are applicable upon occurrence:

- mark-up,
- state contribution,
- general discount,
- individual discount,
- countervailing benefit,
- congestion fee.

#### ***2.1.2.1 Mark-up***

Mark-up can be interpreted only if it is directly connected to the fee of a service, as described in section 2.1.1; therefore no mark-up may be used in the charging system that is added in percentage to a sum payable<sup>9</sup> for the ad hoc service portfolio.

The calculation of the mark-up may in all cases be documented, based on the data provided by the infrastructure manager.

In compliance with § 67/E (1)<sup>10</sup> of the Railway Act, if the network access charges are not expected to cover all the eligible costs and expenses of the infrastructure manager that may be included in the charges, the charges for the services may be increased by a general mark-up to cover all eligible costs and expenses related to that service.

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<sup>9</sup> Amount to be paid: the amount of the fee and mark-up related to the service, ie. the total value to be paid per unit for the service.

<sup>10</sup> Railway Act 67/E. § \* “(1) Where the market for rail services allows and network access charges are not expected to cover all eligible costs and expenses of the infrastructure manager operating the open rail network, the charges for the services set out in Annex 2 may be increased by a mark-up which shall not exceed the level of coverage of all eligible costs and expenses. It also must take into account

a) the increase in productivity of the contracting railway undertakings,  
b) the requirements of efficient use of the railway network,  
c) the requirements of optimal competitiveness of railway market segments, and  
d) the principles of transparency and equal treatment.”



When determining a mark-up, it shall be taken into account that it may not distort competition between railway companies; consequently mark-up can be used only if certain conditions are fulfilled.

The level of network access charges increased by a mark-up shall not exclude the use of infrastructure by market segments that can pay at least the costs that is directly incurred as a result of using the railway service plus a rate of return which the market can bear.

In order to check the fulfilment of conditions defined in legal rules for applying mark-ups, VPE is obliged to examine whether certain segments are able to pay the network access charges increased by mark-up as regards basic services, access services of supplementary services, and access service part of complex supplementary services. If on the basis of the examination the fulfilment of conditions defined by legal rules cannot be ensured, it is not possible to levy a mark-up.

#### ***2.1.2.2 State contribution***

In compliance with Articles (4)-(6) § 28 of the Railway Act, the Minister on behalf of the State may define such budget support in the rail infrastructure operating contract that occurs in the charging system as an element reducing the sum to be paid. Article 4.6 of CM shall specify rules relating to taking account of state contributions.

#### ***2.1.2.3 Discounts***

Discount can be interpreted only if it is directly connected to the fee of a service; therefore no discount may be used in the charging system that is deducted in percentage from a sum payable for the ad hoc service portfolio.

Expectations regarding the granting of discounts:

- it shall be taken into account that discount may not distort the competition between applicants; consequently both general and individual discounts can only be granted if certain conditions are fulfilled
- discount may only be granted on a definitive section of an open access railway network that must unambiguously be defined; the entire open access network operated by one infrastructure manager cannot be considered as a defined section,
- similar discount shall apply for similar services,

Calculation of discounts shall always be documented and shall base on the data supply of the infrastructure manager.

#### **2.1.2.3.1 General discount**

It is possible to grant general discount only when infrastructure manager can achieve such administrative cost savings while it provides services which were not anticipated in the planning phase, therefore infrastructure manager could not take these savings into consideration when calculation of network access charges took place.

When granting general discount, the general cover principle shall apply in that case, when general discount will be granted for an open access regional or suburban railway network including national or state owned railway infrastructure. In this case equality shall be demonstrated between the network access charges to be expectedly paid by and accounted to applicants plus the amount of state contribution on the one hand, and all justified items of the infrastructure manager incurred to the infrastructure manager in relation of providing of the given service, on the other hand.

#### **2.1.2.3.2 Individual discount**

Individual discount can only be granted upon a request in discussions as specified in legal rules<sup>11</sup> and supervised by the rail Regulatory Body.

Granting of individual discounts is possible exclusively in the following cases:

- on considerably underutilised railway sections in order to increase traffic, or
- to temporally encourage development and introduction of new services on certain section of railway lines in a maximum time span of two consecutive timetable years.

A request or a proposal for an individual discount shall clearly include which discount type and which track section it relates to. Applicant shall also indicate the volume of traffic growth to be expected on considerably underutilised railway sections. If it is possible, additional model calculations or a justifying documentation shall also be attached.

Development of new services does not necessarily mean services provided by the infrastructure manager, but also services applicants intend to introduce may be taken into account, provided that discount may not be limited to one single applicant, discount must apply to the service. As a result of the introduction of the new service, demonstrable traffic-increase shall have proceeded, or existing traffic flows must have been shifted to this railway section from other transport modes or from other networks.

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<sup>11</sup> Charging Decree, “§ 15. The capacity applicant, the VPSZ (rail capacity allocation body), the infrastructure manager and the railway administration are entitled to initiate negotiations on the elements of the charging system. The request for capacity shall be initiated in writing by the capacity applicant, the infrastructure manager and the railway administration, stating the reason for the negotiation, with the charging body. ...”



#### **2.1.2.4 Countervailing benefit**

Countervailing benefit shall emerge in the charging system as its element if the Minister responsible for transport orders to determine a supportive amount of money to be spent on countervailing benefit to compensate environmental, accidental and infrastructure costs that will probably not be refund by other sources and that results from transport activity other than railway transport activity. Countervailing benefit shall be taken into consideration as an element that reduces the sum to be paid.

#### **2.1.2.5 Congestion fee**

In accordance with § 62 of Railway Act, in the case of track sections declared to be congested, for parts of the section where congestion can clearly be identified, to facilitate the effective utilisation of relevant railway track section, congestion fees shall be added to fee of basic services, and regarding supplementary services to the fee to be paid for the access to serving facilities. When determining congestion fees, measures and deadlines specified in the capacity enhancement plan, availability of replacement track section and value of extra costs possibly incurred because of the declaration of the track section to be congested, shall be taken into account.

#### **2.1.3 Elements applicable upon decision**

When compiling a certain CM version, VPE and infrastructure managers shall jointly decide on the introduction of elements that can be applied upon decision. Should an element that can be applied upon decision be used in a given timetable year, rules relating to the modality of specification of the given element shall be defined in the relevant CM version.

Elements applicable upon decision:

- fee of environmental protection, within it
  - noise pollution fee,
  - other environmental fee,
- track network maintenance fee
- fee for a different gauge,
- investment fee.

During the validity of this CM version, no element is used that can be applied on decision.

#### 2.1.4 Amount to be paid

Amount to be paid shall be determined on the basis of elements used in the given timetable year by taking into account infrastructure and services used for running of trains and their parameters.

The following items can increase the amount to be paid:

- charge of basic services,
- charge of access part of supplementary services,
- *charge of supply part of supplementary services*
- charge of additional services,
- charge of ancillary services,
- ETCS fee,
- mark-up,
- congestion fee,
- environment protection fee,
- track maintenance fee,
- fee of a different gauge,
- investment fee.

The following items can decrease the amount to be paid:

- ETCS fee,
- state contribution,
- general discount,
- individual discount,
- countervailing benefit,
- environment protection fee.

In order to determine charges transparently, CD shall individually demonstrate the value of every element relating to the given timetable year.

The basic elements of the sum to be paid are in the following

	Charges of access service part	Charges of supply part	mark-ups
Basic services	X		X
Complex-supplementary services	X	X	X
<i>Supply part of supplementary services</i>		X	
Additional services		X	
Ancillary services		X	

## 2.2 Logical steps of formation of the Charging System

The basis of the Charging System is the clear definition of basic, supplementary, additional and ancillary services provided by infrastructure managers. Definitions of the services comply with the regulations of the Appendix 2 of the Railway Act.

- The structure of the Charging System is defined in accordance with the technical content and the utilization characteristics of the services provided by infrastructure managers. In other words, after the use of certain services which charges are to be paid.
- The next step of the formation of the Charging System was to define the range of justified costs and investments (and incomes as declining items) of services provided by infrastructure managers; and the presentation of concerning data sources.
- Elements that must be considered when identifying the element of the charging system and elements that cannot be involved in the charging system, shall be demonstrated separately.
- Determination of the calculation methodology of concrete charge items is based on the charge structure, the range of network access charges to be taken into account in the charges of some services, and the efficiency of some possibly used services.

For unification of the domestic system of network access charges:

- the content of services provided by the infrastructure managers,
- the structure of network access charges,
- basic range of costs to be considered for the charging of certain services,
- the logic of distribution of costs to be distributed among several services,
- methodology for determining concrete network access charges,
- methodology for determining discounts and mark-ups are defined in one common document for all the infrastructure managers concerned by present CM.

Differences between the IMs which may come, as for instance, from their various recording systems, are handled by detailed specifying rules laid down in Annexes. When establishing the CM, within possibilities ensured by legal rules defining the framework system, also practices used by states participants of the Agreement on the European Economic Area were considered (logic of charging, type of mark-ups to be used, etc.).

Main features of charging practices of European countries can be seen in Annex 1.



## 2.3 Review and modification of the Charging System

### 2.3.1 General rules of the modification of the Charging System

VPE is entitled to modify the Charging System and CM as its part. As part of this activity, VPE follows the operation of the charging system which is based on the CM and gathers experience on its working. At the request of VPE, facts and figures are sent to VPE by IMs in accordance with Paragraph 16 of the Charging Decree.

Should the recalculation of the elements of the charging system become necessary, modified elements may only be introduced in that case if they correspond to the rules specified in § 67/B<sup>12</sup> of the Railway Act.

Correspondence to law shall be judged by VPE. During this judgement, also statements of applicants and infrastructure managers relating to the subject can be taken into consideration.

### 2.3.2 The compulsory modification of the Charging System

VPE shall modify the Charging System if the System does not compile with Paragraph 16 of the Charging Decree. In Accordance with Paragraph 16 (1), the considerable extent is determined by VPE as follows:

- 10%, regarding the change in the amount of state contribution granted to the IM,
- 5%, regarding the change in the size of the open access railway network operated by the IM.

As for the amount of state subsidies, if the amount of the state subsidy changes from HUF 0 to any amount, the amount is classified as considerable amount.

Beyond the above, VPE is obliged to carry out the modification of the charging system if modification becomes necessary because elements are used which are applicable upon occurrence as defined in Article 2.1.2, or infrastructure manager decides to modify services that were taken into account when the charging system for the given

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<sup>12</sup> § 67/B. (1) The Infrastructure Manager shall ensure that  
a) the charging system specified in § 67/A. (1) with the exception of the charging system specified in § 67/G. (2) be based on the same principles for the entire railway network,  
b) the application of the charging scheme should result in equivalent and non-discriminatory charges for railway undertakings providing railway services of the same nature in a similar rail services market,  
c) the network access charges paid or settled comply with the rules of the charging system published in the NS for the given timetable year.  
(2) With the exceptions determined in § 67/C. (1) and (2) and § 67/E. and § 67/G., the charges for the service specified in point 1 of Annex 2 and for the use of the network providing access to service facilities in accordance with point 2 of Annex 2 shall not exceed the costs directly incurred in the operation of the train. "



year was established or in the change state distribution is declared significant by the IM.

In compliance with Paragraph 3 of Governmental Decree No 268/2009 and Paragraph 3 of Governmental Decree No 321/2023, infrastructure manager shall make available to VPE, without delay, the basis for the change, and related to services provided for the changes to those data which are involved in charging.

### ***2.3.3 Revision of charges affecting full scale of service***

Basis of the revision shall be costs and performance data deriving from the business plans of the infrastructure managers accepted for the year of charge prior to the revision. VPE shall take the above into consideration and shall identify the elements of the charging system in compliance with the following principles:

- Performances involved in the revision of charges and planned performances of all services provided by the infrastructure manager in the period that began after that the recalculated elements had entered into force, shall correspond to each other.
- On the basis of the recalculated elements taking account of the planned performances relating to the given period, calculated revenues, revenues from trains that run until the date when recalculated elements entered into force and calculated on the basis of elements already published, as well as state contribution shall cover the costs received from data supply for the given timetable period.
- Should recalculated elements in comparison to elements already published increase, they shall be used for all services provided by the infrastructure manager beginning with the day when recalculated elements enter into force. (For services requested in the period between the publication of recalculated elements and their entering into force recalculated elements shall apply if requests relate to the period that begins after that recalculated elements had entered into force).
- Should recalculated elements compared to the elements already published, decrease, they shall be used beginning with the day when recalculated elements enter into force for all the services provided by the infrastructure manager inclusive of already allocated train paths. Application of new elements shall not count as modification of train paths.
- In the event of train paths that affect more than one day, services shall be invoiced on the basis of element values that were in force at the time of the allocation.

### ***2.3.4 Revision involving only a certain part of services***

If the revision takes place because of the introduction of (a) new service(s), revision may not affect elements already published. In this case all the costs delivered by the



infrastructure manager as regards services shall be considered as direct costs in the network access charge of the new service. The already distributed dividable direct costs and indirect costs and the state distribution in which that value remains unchanged shall not be distributed again.

If the revision of fees takes place because a service which was involved in the charging process ceases, revision may affect the already published elements only if the service is deleted as an individual service, but it can be used further on within the framework of all the other earlier published services. In this case all the costs connected to the deleted service shall be ranked into the costs of the integrating service by keeping the former cost ranking, so the affected charging elements of the integrating service shall change. The discontinuing service split value of state distribution shall be ranked into the integrating service value of state distribution. If the process results in a negative charge, then the value of the state distribution shall be allocated into any other service in the elements of the charging system.

Should the service involved in the charging process cease in that way that it is not integrated by another service, costs connected to the service and involved in charging shall be ranked into costs not involved in the charging process. The value of state distribution in the discontinuing services shall be allocated to the other services.

### ***2.3.5 Revision in case of targeted state contribution***

If the change in the value of the targeted state contribution in addition to the original data provided for a specific purpose does not reach the considerable extent described in Section 2.3.2, it is not necessary to request data for the review. The review shall be carried out using the data of the original reporting, which may be introduced retrospectively for the relevant timetable period.

If the change in the value of the targeted state contribution reaches or exceeds the considerable extent, the actual cost / expenditure / revenue and related performance data available during the review period must be taken into account for the use of targeted public involvement, based on data provided by infrastructure managers, as follows:

- If the relevant timetable period has not yet begun, then the review will be performed on the basis of the last closed business year, based on the last known business plan.
- If the review takes place during the relevant timetable period, then on the basis of the last closed business year, the data of the last known business plan will be adjusted for the review with the available actual data of the given period.

If the state contribution is to be accounted for a service that includes a combined tariff for several train types and segments and the targeted state subsidy is only established for a subset of it, the review will establish several charges for the



service. The division between each subset is in proportion to the performance of the service, which is provided to VPE by the infrastructure manager.

In order to divide the state contribution, it is necessary to establish at the beginning of the review the procedure to be followed in the case of train types and segments not involved in the use of the targeted state contribution. In other words, in the case of the published tariffs related to these types of trains and segments, it is expected that the value of the state contribution taken into account, or the published payable amounts assigned to the services, should be unchanged during the review. This provision may also provide important information when the revision of charges takes effect.

The rules for the division of state contribution described in point 4.7 do not apply in this special case.

### **3 Services that infrastructure managers can provide**

Services that infrastructure managers may provide are defined in accordance with Annex 2 of the Railway Act. If any of the infrastructure managers provided already a certain service in a former timetable period or intends to provide in the timetable period under the force of this CM version, composition of the service shall be described in CM. If infrastructure managers have not provided a certain service in the previous timetable period yet, or do not intend to provide in the timetable period under the force of this CM version, the given service shall be listed only with its title without any description of the service.

For services provided in the timetable period under the force of this CM version, see Annex 8.

#### **3.1 Basic services**

Services defined by Annex 2 (1) of Railway Act that infrastructure managers are obliged to provide to the applicants of capacities.

##### ***3.1.1 Ensuring of train path***

The service comprises:

- reception of the customer's request (including supplementary, additional and ancillary services belonging to the request) in electronic form,
- examination of the feasibility of the request,
- construction of the necessary timetable,
- examination of the achievability of the service belonging to the request,
- information to the applicant about accepting and fulfilling of the request,
- arrangement for the execution.

##### ***3.1.2 Running of trains***

The service consists of a train kilometer-based part and a gross ton kilometer-based part.

The service includes:

- making the open access railway network available to applicant for freight traffic, passenger traffic or for traction,



- ensuring of the use of open access railway lines, straight main running lines, lie points in straight main lines, branching in open lines, track connections, engineering structures, as well as signalling equipments,
- running of train traffic by providing staff, equipment and information system of traffic operation, including suspension of service stoppage,
- handling and forwarding data needed for running of trains (if necessary, issuing of permit required to forwarding exceptional consignments, registering of the consignment, making an offer in writing to the applicant),
- activity of the infrastructure manager for handling of train run document and its annexes.

### ***3.1.3 Use of catenary***

The service includes access to and use of the overhead contact wire system and power supply system (without electricity).

## **3.2 Supplementary services**

Services included in Point 2 of Annex 2 of Railway Act are considered to be basic services provided in a service facility based on Article 3 of service facilities implementing regulation.

Regarding supplementary services, three types of other services can be differentiated within this group, namely the access part of supplementary services (providing access to infrastructures and facilities), supply part of supplementary services (providing services connected to infrastructures and facilities) and complex services (ensuring both services mentioned before).

Within supplementary services three types of services are distinguished:

- services ensuring access to serving facilities and equipments, i.e. supplementary services of access character,
- services ensuring services in connection with serving facilities and equipments, i.e. supplementary services of supply character, and
- complex services that ensure both listed types at the same time.

Supply part of service within the group of complex services can be provided only at places that have the necessary infrastructure and/or facilities to provide a particular service.



### ***3.2.1 Use of stations for stopping by passenger trains - complex service***

#### ***The access part of service includes:***

- ensuring access to track network and other facilities of passenger stations, halts and stops used for passenger transport and not included in basic services,
- ensuring access to passenger service buildings, facilities, passenger areas, platforms, underpasses and footbridges.
- ensuring direction change
- ensuring the use of traffic operation activity related to stopping and direction change of trains at stations and necessary for dispatching and receiving of trains.

#### ***The supply part of service includes:***

- ensuring use of track network and other facilities of passenger stations, halts and stops used for passenger transport and not included in basic services,
- providing information to passengers at stations and ensuring of services to passengers
- ensuring the surveillance of stations with security and patrol service not containing the security service related to railway vehicles ensuring the use of passenger service buildings, facilities, passenger areas, platforms, underpasses and footbridges, and ensuring the use of the ticketing buildings, ensuring the use of the waiting hall, other passenger areas and buildings as well as services connected to them.

### ***3.2.2 - Use of origin/destination stations by passenger trains - complex service***

#### ***The access part of service comprises:***

- ensuring access to track network necessary for formation, shunting and splitting-up of passenger trains, as well as access to track related technical devices containing signalling and safety equipment,
- ensuring the use of traffic operation activity related to shunting,
- ensuring access to and use of installed equipment necessary for preheating, pre-cooling, water supply, emptying waste water from closed system toilets, wagon cleaning of passenger trains as well as access to facilities related to rail rolling stock maintenance facilities,



*The supply part of service includes:*

- ensuring access to and the use of installed equipment necessary for pre-heating, pre-cooling and water supply and providing services related to them (without providing energy).

### **3.2.3 Use of stations by freight trains - complex service**

*The access part of service comprises:*

- access to railway tracks, train reception tracks and facilities belonging to stations but not included in basic services (tracks and related engineering equipment used by the trains and detached/inserted wagons) for the purpose of freight transport,
- ensuring direction change,
- use of traffic operation activity at stations related to dispatch and reception and direction change of trains but not included in basic services (traffic control, recording of data of train run),
- access to marshalling yards and wagon shunting equipment, as well as access to station sidings ensuring track access there,
- provision of traffic operation activity needed for marshalling, with the **exception** of provision of traffic activity related to the use of the following services: Ensuring access to wagon weigh bridges, Ensuring access to refuelling facilities and Storage of vehicles.
- access to open access privately-owned networks, loading places, public loading sidings designated for loading, as well as ensuring access to facilities enabling transshipment between different gauges, to rail rolling stock maintenance facilities and to tracks enabling access to freight terminals.

*The supply part of service comprises*

- ensuring the surveillance of stations with security and patrol service not containing the security service related to railway vehicles
- ensuring the use of buildings necessary for freight transport and providing related services

### **3.2.4 Storage of vehicles complex service**

The access part of service comprises:

- providing access to sidings enabling track access to storage sidings





provision of relating traffic operation activity.

The supply part of service includes:

- storage of vehicles beyond 24 hours,
- use of sidings enabling track access to storage sidings

### ***3.2.5 Use of wagon weigh bridges (scales) - complex service***

The access part of service comprises:

- access to sidings ensuring track access to the scale house, and
- provision of relating traffic operation activity.

The supply part of service includes:

- use of sidings ensuring track access to the scale house
- ensuring scales in good working order
- access to the scale house
- supervising the weighing of wagons carried out by the applicant

### ***3.2.6 Use of refuelling facilities - complex service***

The access part of service comprises:

- access to sidings enabling track access to refuelling facilities, and
- provision of relating traffic operation activity.

The supply part of service includes:

- use of sidings enabling track access to refuelling facilities
- ensuring the use of buildings and devices necessary for refuelling and providing related services (without providing fuel).

### ***3.2.7 Ensuring of shunting staff - supply part of service***

The service includes the provision of shunting staff for shunting activity.

### ***3.2.8 Staff available for shunting - supply part of service***

The service includes the staff available for shunting activity.



### ***3.2.9 Ensuring of traction unit - supply part of service***

The service includes ensuring of traction unit for shunting activity and ensuring of driving crew operating the traction unit.

### ***3.2.10 Traction unit available for shunting - supply part of service***

The service includes the available traction unit for shunting activity and also includes ensuring of driving crew operating the traction unit.

### ***3.2.11 Ensuring of fuel for traction - supply part of service***

The service includes the provision of fuel for traction.

### ***3.2.12 Ensuring water for water supply - supply part of service***

The service includes the provision of water for filling and for water supply.

### ***3.2.13 Train acceptance- supply part of service***

The service includes in case of departing trains the registration of data required for preparing the total weight report (VTK), communication of these data in order to enter them into the IT system of the infrastructure manager, carrying out braked weight calculation and handling of rear light.

### ***3.2.14 Train preparation - supply part of service***

The service includes in case of departing trains the registration of data required for preparing the total weight report (VTK), communication of these data in order to enter them into the IT system of the infrastructure manager, carrying out braked weight calculation and handling of rear light. On demand the service also includes the labelling of railway wagons and the checking of the existence of wagon lock, in case of lack or damage, replacement of wagon lock.



### **3.2.15      *Ensuring of staff for weighing - supply part of service***

The service includes the carrying out of weighing of wagons.

### **3.2.16      *Exchange of axles - supply part of service***

The service includes

- changing of bogies of different gauges of vehicles (conversion of bogie either from wide gauge to normal gauge or replacement from normal to wide gauge) and
- the technical inspection of vehicles after exchange of axles, ie technical inspection of wide gauge wagons converted to normal track gauge and wide gauge re-mounted wagons in accordance with Technical Wagon Service Instructions No. E.12.

### **3.2.17      *Use of bogies - supply part of service***

The service includes the use of bogies.

### **3.2.18      *Use of maintenance facilities***

### **3.2.19      *Use of inland waterway port facilities connected to railway activity***

### **3.2.20      *Use of relief facilities***

## **3.3      Additional services**

Services defined in point 3. of Annex 2 of the Railway Act.

### **3.3.1      *Ensuring of traction current***

The service includes the transmission of traction current through private wire.



### ***3.3.2 Ensuring of electric energy for other than traction purposes (for preheating, precooling)***

The services include the transmission of electric energy through private wire for other than traction purposes (preheating, precooling).

### ***3.3.3 Ensuring of fuel for other than traction purposes (for preheating, precooling).***

The service includes the ensuring of fuel for other than traction purposes (for preheating, precooling).

### ***3.3.4 Individual contracts for supervising transportation of dangerous goods***

### ***3.3.5 Individual contracts for assistance to run exceptional trains***

## **3.4 Ancillary services**

Services defined in point 4. of Annex 2 of the Railway Act.

### ***3.4.1 Technical inspection of railway vehicles***

The service includes the performing of technical inspection of railway vehicles in accordance with Technical Wagon Service Instructions No. E.12.

### ***3.4.2 Ticketing and reckoning activity***

This service includes the following activities performed by the staff of the infrastructure manager:

- Sale of train tickets and other articles defined in the Passenger Transport Statement and in its annexes, instructions and orders of the railway company (hereinafter together: train tickets) as well as provision of relevant information
- reimbursement of train tickets,
- handling of complaints, reports, damage claims relating to the sale of train tickets, provision of relevant information
- accounting for and reckoning with cash income



- cash activity relating to selling of train tickets during the sales activity, expenses and collecting income to the benefit of the railway company
- other tasks relating to the above

#### ***3.4.3 Access to telecommunication networks***

#### ***3.4.4 Supply of additional information***

#### ***3.4.5 Significant maintenance works performed in individual maintenance facilities***

### **3.5 Activities in NS which RUs are required to be indicate**

Charging process is not related to these services but according to NS, the applicants must order capacity.

#### ***3.5.1 Use of public loading sidings***

Requests for use of public loading sidings and loading areas belonging to these sidings.

#### ***3.5.2 Indication of shunting for own operation***

Shunting without the usage of shunting staff of the infrastructure manager and/or traction unit ensured by the infrastructure manager. The authorised applicant must indicate its own shunting in the train path requesting IT system of VPE.

#### ***3.5.3 Service stoppage***

Indication that the applicant intends to use the capacity in different place and time than announced service locations and times.

## 4 Charge items of services of the infrastructure managers that can be involved in charging and charging rules

### 4.1 Separation of revenues, costs and expenditures

In order to determine network access charges set out by this CM, revenues, costs and expenditures related to open and not open access railway networks must be unambiguously separated.

This separation must be done by railway infrastructure managers affected by this CM:

- as appropriate, regarding items which may unambiguously be connected to open and not open access railway networks,
- and, regarding items which may not unambiguously be connected to open and not open access railway networks, on an 'in-kind basis', arising from unambiguous and verifiable data sources.

### 4.2 Classification of items involved in charging

Revenues, costs and expenditures (hereinafter items) that can be included in the charging of the basic services, access part of supplementary services and access part of complex-supplementary services shall be determined based on the following groupings:

Cost content of services		Variable cost component	Fixed cost component
Direct costs	Connected to one service	C1	C3
	Connected to more services	C2	C4
Indirect costs	Operational costs	-	C5



C1 - variable cost component of direct costs: items to be clearly and directly assigned to certain services directly arising from the operation of trains and the use of services,

C2 - variable cost component of direct costs to be distributed: items directly relatable to the provision of railway infrastructure services but arising in order to facilitate several of these services concurrently and thus to be distributed among these services on an in-kind basis, and which are directly attributable to the operation of trains and the use of services,

C3 - fixed cost component of direct costs: items to be clearly and directly assigned to certain services that do not directly arise from the operation of trains and the use of services,

C4 - fixed cost component of direct costs to be distributed: items directly relatable to the provision of railway infrastructure services but arising in order to facilitate several of these services concurrently and thus to be distributed among these services on an in-kind basis, and which are not directly attributable to the operation of trains and the use of services,

C5 - indirect costs: indirect cost items to be distributed among all services arising with infrastructure managers.

Revenues, costs and expenditures that can be included in the charging of the supply part of supplementary and complex-supplementary services as well as additional and ancillary services shall be determined based on the following groupings:

- direct costs - items to be clearly and directly assigned to certain services
- direct costs to be distributed - items directly relatable to the provision of railway infrastructure services but arising in order to facilitate these services concurrently and thus to be distributed among these services on an in-kind basis.
- indirect costs - indirect cost items to be distributed among all services arising with infrastructure managers.

Because of the diversity of the range of provided services, the deviating organisational structures and the various registration systems, detailed rules for gathering the costs of infrastructure managers shall be obviously determined individually. Items belonging to certain services and the methodology applied when preparing CD (to ensure the monitoring process) can be seen in Annex 2 (MÁV Zrt) and Annex 3 (GYSEV Zrt). If the registering system of the infrastructure managers is developed or modified, Annexes 2 and 3 shall be revised, and if necessary, shall be modified by taking into consideration rules of Chapter 1. and Section 1.1.

As a consequence of existing differences between organisations of infrastructure managers, it may occur that regarding one infrastructure manager certain items can

directly be linked to the services provided by this infrastructure manager, whilst regarding the other infrastructure manager these items must be distributed on an in-kind basis to several services.

#### **4.3 Determination of justified costs**

VPE is determining the values of charges based on the data received from the infrastructure manager and the state contribution.

When determining justified costs, infrastructure manager shall take into consideration the followings:

- coherency between fact data of the last closed business year and fact data of the previous terms, and trends resulting from this coherency,
- data of approved business plan provided by the infrastructure manager,
- comparative market prices of products and services that are also available on the market,
- other domestic and international benchmark data, information.

In accordance with Paragraph 19 point b) of Charging Decree controlling of the justified costs taken into account when determining the network access charges is the charge of the regulatory body.

In accordance with Paragraph 16 section 4 of Charging Decree the justified costs/incomes should be considered based on the comparison of network access charges of charging year and the costs taken into account in the calculation of network access charges and if the value of comparison is different from 0 the difference can be taken into account as justified cost/income. The determination of allowance is based on the comparison of the revenue of the infrastructure manager from invoiced charges in given timetable year and on the cost taken into account in the calculation of that same timetable year. The values which can be taken into account and the rules regarding the division of those values are laid down in the CD of the affected timetable period.

#### **4.4 Items that may not be taken account of during the charging process**

When charging, the following items cannot be taken into consideration:

- Items which occur relating to services, but may not be embodied in charges
- Items which are connected to services, but cannot be involved in charging





- Items related to activities which are not included in services listed by point I-IV of Annex 2 of the Railway Act, as well as
- Every item that Regulatory Body qualifies to be cost that may not be involved in charging

#### **4.5 Taking into account the effect of the time between the basis period and the charge year when determining costs**

In accordance with Paragraph 3 of the Charging Decree, identification of items that can be considered during the determination of charges, shall be carried out on the basis of the last closed fiscal year (i.e. on the basis of data of the basis period). In line with regulations relating to the publication of charges, three years<sup>13</sup> may pass between the basis period and the charge year, thus, regarding items that can be taken account of, it is necessary to determine expected values for the charge year.

##### ***4.5.1 Based on business plan***

Determination of probable values for the charge year shall happen on the basis of values defined in the business plan specified in the infrastructure operating agreement concluded in compliance with Article (1) of § 28 of the Railway Act.

Should the infrastructure operating agreement be not available, not include business plan for the charge year, or business plan specified in the infrastructure operating agreement be delivered for supervision and acceptance as stipulated in § 12 of the Railway Act, the basis of charging shall be the last accepted business plan of the infrastructure manager.

If the business plan in the infrastructure contract or the approved business plan of the infrastructure manager is the basis for the calculation of the charge, the infrastructure manager may not modify the items established on the basis of these with further corrections.

##### ***4.5.2 Base period adjustment***

If the determination of items related to each service that can be included in the calculation of charges is based on the actual data of the base period, the change in the price level (partly based on factual data, partly planned) between the base period and the charge year is taken into account as follows. This methodology shall only be applied through a specific request of the infrastructure manager, which shall state why the infrastructure manager does not request the application of the business plan.

Relating to individual services, as governing rule, the rate of price level changing that may be taken into account is

- the consumer price index given by KSH (Central Statistics Office) for the period from the basis period up to the end of the quarter<sup>1314</sup> prior to the month of determination of charges
- is the consumer price index forecasted by MNB (Hungarian National Bank) for the period from the end of the quarter prior to the month of determination of charges until the end of the year of charge.

The rate of price level changing that may be taken into consideration to personal-like expenditures:

- for the year following the basis period (year of charge calculation) is the degree of wage-increase set out in the collective agreement or, in absence of this, degree of wage-increase approved by OÉT.
- for the period from the year after the basis period (year of charge calculation) to the charge-year, is the degree of national economic gross income-increase forecast by MNB.

No price level changing may be taken into consideration

- to the costs of depreciation and loss in value,
- to the revenues and expenditure of financial transactions,
- to provisions for liabilities and charges, as well as

Beyond the above, in the case of determination of network access charges the following modifications influencing the fact data of the basis period may be taken into account.

- Changes to the tax and contributions system fixed by legislation, until the month prior to the calculation of charges
- Activated investments, sorting outs, derecognising up to the end of the quarter prior to the month of calculation of charges in the course of determination of cost depreciations and losses in value
- Regarding state contribution, instead of fact data the value planned for the year of charge shall be based on a contract concluded between the state and the infrastructure manager, and in the absence of that, based on the statement of the minister responsible for transport.

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<sup>13</sup> Fees valid in timetable year T must be announced at the end of year T-2, ie year T-3 can be considered as the last closed year.

<sup>14</sup> If charges are calculated in December, until the end of the third quarter.

## **4.6 Rules applied to the distribution of items involved in charging**

### **4.6.1 Distribution of direct items related to more services**

Distribution of direct items assigned to several services shall be carried out on the basis of common principles regarding infrastructure managers subject to this CM.

Consequently, distribution of direct items to be assigned to several services shall be carried out on the basis of the degree of fact “in-kind performances” which possibly form the basis of invoicing, are registered and planned for the year of charge and are derived from unambiguous and controllable resources. Planning must be performed on the basis of fact data of the basis period, information gathered from the applicants and trends to be expected.

If items must be distributed among services which can be characterised by diverging “in-kind performances”, a so called projecting equivalent must be defined as a projecting basis of the distribution, and parameters of exchanging of measured “in-kind performances” to this equivalent shall be determined based on the experimental characteristics of technology in the periods passed.

Detailed rules for the distribution of direct items to be distributed shall be laid down separate for each company affected by CM because of differences in their service portfolio, costs structure, register systems. These detailed methodological rules - to be used when preparing CD - (inclusive of determination of exchanging ratios between certain „in-kind performances” (and projecting equivalents) can be seen in Annexes 2 and 3.

Items in connection with the operative control shall be distributed among activities guided by operative control in proportion of man hours linked to the individual activity codes.

### **4.6.2 Distribution of indirect items involved in charging**

In absence of ‘in-kind performances’ which could be used as an adequate projecting basis, distribution of indirect costs occurred at the infrastructure manager to the services provided by the infrastructure manager - but regarding running of trains, and within distribution of indirect costs to part of charges proportional to gross ton kilometres on one hand and to part of proportional to train kilometres on the other hand - shall take place proportionately to the sum of direct items and direct items to be distributed.

Should the infrastructure manager provide other services beyond services subject to this CM (operates other activities), indirect items listed in Annex 4 shall be first distributed among these services and activities and among services listed in CM in proportion to direct costs, and then in the second phase, the part falling on services listed in CM shall be broken down further to individual services.

Indirect items to be distributed among all the services can be divided into four groups:

- central (general) and governance items of the infrastructure manager;
- in case of integrated railway companies, it is possible to determine separately the internal items of services provided by other organisations of the integrated railway company (exclusive of costs of other services that were used for the sake of a given service which must be accounted among the items of the concrete service).
- part of central and governance items in connection with the administration of the integrated railway company, distributed to the infrastructure-operating activity.
- other indirect items.

These items are presented in Annex 4.

Out of the services provided by the infrastructure manager

- Supply of traction current
  - Supply of transmitted electric energy for other than traction purposes (for preheating, precooling)
  - Supply of fuel for traction
  - Supply of fuel for other than traction purposes (for preheating, precooling)
  - Ensuring water for water supply
- no indirect item can be distributed to the charge elements of the service.

#### **4.6.3 Break down of items involved in charging to line sections**

In order to correspond to provisions of § 17 (2) point<sup>15</sup> c) of Charging Decree, items related to basic services and to access to electric power system can also be broken down to line sections.

In order to establish an unambiguous break down, direct items belonging to these services - where applicable - shall be registered in linkage to (statistical) track sections.

#### **4.6.4 Special rules related to newly provided or ceased services in the year of charge compared to the basis period**

The planned value of items occurred in connection with the provision of the given service may be taken into consideration for calculating the items of services mentioned by this CM, not provided in the basis period (no cost effect), but to be

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<sup>15</sup>Charging Decree § 17. (2): CM „c) provides for the allocation of the justified costs of services to the smallest units of the railway network, which allows the costs and expenses of services provided on the open and non-open rail networks to be determined separately, even if any section of the railway network is classified as open access or exempted,”



published in the year of charge. Items that may directly be connected to the service mentioned by this CM, provided in the basis period, but not to be published in the year of charge and also the planned volume of use of the service must not be used for the calculation.

#### **4.6.5 The cost difference determining the value of the charging decree 16 § (4)**

##### **4.6.5.1 Tasks arising from legislation of post calculation**

Based on the charging decree 16 § (4) <sup>16</sup>, in the interest of infrastructure managers being able to recover all reasonable costs which are in relation to the services covered by the NS, in connection with the various services fees which are paid or declared income data by applicant to the infrastructure managers, the data are compared with that closed business year data when the value of the planned year, planned services fee to the charging system as elements are taken into account and determined.

After the aggregation of individual values related to services it will be determined how the total values differ from each other. If the two values differ by at least 10% from each other, the differential enforcement of the infrastructure managers is obliged to declare in accordance with the contract which was signed between the State and IMs, in the next period charging process among the types of reasonable costs. If the past business year actually accounted for all income paid on the basis of the elements of the charging system based on the applicants or accounted for a higher value, then a negative sign, cost-reduction item, if the planned total cost of the revived year is higher, then a positive sign, cost-increasing item.

If the annual settlement clause of the infrastructure manager contract related to the closed business year contains a quantified value for the cost discrepancy, it shall be taken into account in the settlement.

The infrastructure managers shall make available to VPE the data necessary for the calculation. The statement of compensation of cost differences is the IMs responsibility, and in accordance with the preparation of the CD charging decree 19. § it shall be forward it to VPE within 30 calendar days after the reporting deadline for VPE.

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<sup>16</sup> "(4) If, after the end of the business year, the fee paid or accounted for by infrastructure managers on the basis of the elements of the CM is found to differ from the costs taken into account in determining the elements of the charging scheme, the the cost difference can be enforced in the justified costs of the data provision related to the next fee calculation according to the rules described in the CM."



#### 4.6.5.2 The process of post-calculation and other related tasks

##### Data provision

The infrastructure managers shall send the values related to the post-calculation as part of the data provided for the preparation of the CD. During the data provision of post-calculation, the infrastructure managers provide the revenues related to the services.

##### Data analysis

To examine the data, calculations are made using the performance and amount to be paid data related to the year of the post-calculation. The calculations determine related for all services: total cost-based amount to be paid, total amount to be paid when used a service and the deviation from the revenue of infrastructure managers. The calculations may be supplemented by additional checks based on the decision of VPE.

After the completion of the analysis, it will be determined whether there is a deviation in the post-calculation between the cost data of the years. If there is a deviation, and this value exceeds +/-10%, infrastructure managers will make a statement in writing that they request the value to be accounted in the charge year. Based on the statement, the value may be added in indirect costs in the calculation of the charge year.

#### 4.7 Distribution of state contribution to services

In accordance with Article (6) § 28 of the Railway Act, infrastructure operating agreement to be concluded between the state and the infrastructure manager, includes among others the volume of state contribution (budget subsidy), title of granting of subsidy and also the aim of utilisation.

Should the valid infrastructure operating agreement contain the rules specifying how state contribution shall be taken into account in the charging system, distribution of state contribution into services shall be carried out in accordance with the stipulation of the agreement.

Should the infrastructure operating agreement be not available, or not contain the volume of the state contribution, or rules on taking state contribution into consideration in the charging system, Minister responsible for transportation may define in another commitment document the volume of the state contribution and rules to be followed when taking state contribution into account in the charging system. In such cases stipulation of the commitment document shall apply.

Failing an infrastructure management contract or the other ministerial regulation, State contribution shall be distributed as follows:



- In a case of a state contribution defined as a certain amount of money, distribution of the State contribution between the infrastructure managers shall happen in proportion to the amount of all items involved in charging and relating to the given timetable year.
- Should the re-distribution of state contribution become necessary because of changes in the volume of state contribution defined as a certain amount of money, proportions defined in the above point 1) may not change.
- Should the re-distribution of state contribution become necessary not because of changes in the volume of state contribution defined as a certain amount of money, only the volume of state contribution assigned to services shall be re-distributed.
- If the segment analysis comes up with a result showing that regarding the segments the applicants are able to pay most of the costs represented as mark-ups, the amount of charges and/or mark-ups of basic and supplementary services has to be reduced with the amount of state contribution. It shall be carried out in a way that the same amount of services should be available at the same price in real terms compared to the previous timetable year.
- If the segment analysis comes up with a result showing that regarding a segment or more segments the applicants are not able to pay (all) the costs represented as mark-ups, the amount of these charges regarding basic services, access part of supplementary services related to the particular segment and access part of complex-supplementary services has to be reduced with an amount that the segment(s) can bear according to the segment analysis.
- If the amount of state contribution is not available to a sufficient extent to cover costs represented as mark-ups in basic and affected supplementary services to full extent or at least to an extent that applicant in certain segments can bear, regarding services to which state contributions cannot be distributed to a sufficient extent, the highest published sum to be paid by applicant may be a sum that applicants are able to pay according to segment examination, but it shall at least cover direct variable and direct variable distributable costs. In this case an examination is needed, how cost connected to these services covered neither by network access charge revenues nor realisable by mark-ups can be refunded from other resources, taking account of the rules related to the ensuring of a full cover as defined in Article (1) § 28<sup>17</sup> of the Railway Act, the procedural rules as specified in the infrastructure operating agreement, as well as provisions of Article 4.7.

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<sup>17</sup> „§ 28.-(1) On behalf of the state, the Minister, with the consent of the Minister responsible for public finances, undertakes in a contract of at least five years to the infrastructure manager operating the railway network of national importance to reimburse the costs incurred in connection with the operation of the infrastructure network and not covered by the network access charge and the railway undertaking's other business activities, which are deemed justified.”



- If there is any amount to be distributed remaining from state subsidy after covering the costs represented as mark-ups, that amount will be distributed between the basic and supplementary services based on the suggestions of the Infrastructure Managers and the examination of train profiles carried out by VPE. This distribution shall be carried out in a way that the same amount of services should be available at the same price in real terms compared to the previous timetable year.

Distributions of state contribution is only possible for services which were established during the pricing process a cost-based fee by the CM and based on the principles, cost and performance data provided by CM. A cost-based fee a service in no case shall be broken down further by gender, category, or segment of the state contribution in the process of allocation. If the infrastructure managers contract specifies additional services specify, in that case the infrastructure managers are required to initiate the taking up of new services into the CM, which can be determined by cost-based fee for services in the expected breakdown.

Distribution of state contribution should be carried out using the results of the train profile model analysis. Train profile models are made by train type: freight train, passenger train and locomotive train. At the start of the analysis, infrastructure managers and railway undertakings will be requested to provide average data on the train profiles that can be associated with each train type. The requested data includes the parameters of typical and sensitive trains used by the railway undertakings. The companies specify what percentage of their portfolio the given train profile represents.

Based on the given parameters, the train profiles participating in the test are created, preferably in such a way that all train types are represented in the test. If necessary, VPE shall supplement the train profiles provided by the infrastructure managers and railway undertakings with train types determined on the basis of ordering data.

The train profile model can be used to examine how the charges, mark-ups and amounts to be paid have changed compared to the previous timetable year. In the course of the analysis, the percentage values of the change are compared to the value of the change defined, expected or maximized in the principles established for the distribution of state contribution. If the change values of the train profile test do not correspond to this expected change, then it may be necessary to modify the amounts to be paid in the examined calculation with the participation of the infrastructure managers.



#### **4.8 Reasonable profit<sup>18</sup>**

Fees of supply services within supplementary services, fees of the supply service part of complex supplementary services as well as fees of additional and ancillary services can be increased by a reasonable profit if these services are provided by one single supplier.

When determining reasonable profit, account shall be taken of risk relating to the provision of the service and affecting among others the income, or the lack of risk, and also the average of profit assessed in the sector in the last three years.

Should a reasonable profit be levied, fees of basic services, access services within supplementary services, access service part of complex supplementary services and the values of mark-ups can be reduced to such an extent which can be covered by the planned revenue arising from the imposed reasonable profit.

#### **4.9 Ensuring recovery of projects for improving efficiency and for enhancing volumes**

Based on the decision of the infrastructure manager, results of projects for improving efficiency and enhancing volumes shall not be taken into consideration in item and performance data that can be involved into charging as follows with the aim that projects have their effects in reality:

- costs savings of efficiency-improving investments from the beginning of the year following the year when the project has been completed to 10 subsequent years;
- performances related to volume-enhancing investments from the beginning of the year following the year when the project has been completed to 5 subsequent years.

CD shall show cost-savings and surplus performances that have not been taken into consideration when charging. Infrastructure manager shall enclose to its data supply project documentation equipped with an executive summary that demonstrates the project, and the calculations regarding surplus performances and costs not involved in charging.

This possibility will cease if no unambiguously identified cost savings and/or performance-increase of projects can be demonstrated in the first half period of the determined period in case of efficiency improving investments and volume-enhancing investments (i.e. for 10 years until the end of the fifth year, for 5 years until the end of the third year).

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<sup>18</sup> Railway Act § 2. „3.3. reasonable profit: for operators of service facilities, a rate of return on equity which takes into account the risk or lack of risk, including revenue, assumed by the operator of the service facility, and which is in line with the average profit of the last three years in the sector concerned;”

Infrastructure manager shall display these cost savings and surplus performances separately in its data supply for charging.

#### **4.10 Other examinations related to the determination of network access charges**

##### **Examination of relevant segments**

In accordance with Paragraph 67/E (2) of the Railway Act, the degree of mark-ups cannot reach that level that some market segments are not able to use the infrastructure and not able to pay the costs related to the use of a service or pay the reimbursement rate.

Based on Paragraph 9 (2) of the Charging Decree, before calculating the mark-ups we have to examine if there is a market segment that is not able to pay, or only partially able to pay the mark-up to be paid for the basic service or the service of 'access to infrastructures and facilities'.

Accordingly, in case of the charges in the point 2.1.4 the charge of the supply part of service in case of access part of supplementary services is not the part of the examination.

The research to be carried out by VPE is based on the Segment Analysis Methodology (Annex 9). The list of the relevant segments can be found in the annex of NS. 90 days prior to the publishing of the Network Statement the results of the analysis are published by VPE on its website. It then uses the results in distribution of state contribution. The process is summarized in the related CD when the Network Statement is published.

##### **Potential segments**

Based on Paragraph 9 (5) of the Charging Decree the market segments in which the infrastructure managers are expected to provide services during the segment list's five years validity must be determined. These segments are also published in the list of relevant segments as potential segments. If a potential segment will be introduced, mark-up cannot be charged in the amount to be paid.

Potential segments will not be deleted from the segment list during the 5 year validity period of the list, even if the service is provided during this period.

#### **4.11 Additional data in the reporting process**

VPE may request additional data during the charging process related to the costs, performance of services and includes additional breakdown information in basic data services.

Such data is particularly related to:



- achievement of ensuring train path in broken down by train category (passenger / freight / locomotive) - number of train paths
- data of train km
- use of catenary system in broken down by gender
- achievement of vehicles in broken down by train category (passenger / freight / locomotive)
- charge of ETCS costs, performance, etc.

The additional data used in the calculation are described fully in the CD.

#### **4.12 Optional Deviation from Basis charges in case of train kilometre based part of charge for running of trains**

Infrastructure manager may deviate from any charges assigned to any line categories as follows:

##### Per-unit costs per train km

Direct costs of track section of category III / train km of category III = per-unit cost per train km of category III

Direct costs of track section of category II / train km of category II = per-unit cost per train km of category II

Direct costs of track section of category I / train km of category I = per-unit cost per train km of category I

Calculations need the total of per-unit costs per train km.

##### Ratio of per-unit costs

Ratio of per-unit cost of track section of category III shall be considered as a unit (to be one).

Per-unit cost per train km of track section of category II / per-unit cost per train km of track section of category III = ratio of per-unit cost of track section of category II.

Per-unit cost per train km of track section of category I / per-unit cost per train km of track section of category III = ratio of per-unit cost of track section of category I.

##### Weighted performances

Ratio of per-unit cost of track section category III (=1) \* train km performance of track section of category III = weighted performance of track section of category III



Ratio of per-unit cost of track section category II \* train km performance of track section of category II = weighted performance of track section of category II

Ratio of per-unit cost of track section category I \* train km performance of track section of category I = weighted performance of track section of category I

Calculations need the total of weighted performances.

Unit price (charge to be paid) per category

Direct costs of all track sections / total of weighted performance of all track sections  
= unit price of track section of category III

Unit price of track section of category III \* ratio of per-unit costs of track section of category II = unit price of track section of category II

Unit price of track section of category III \* ratio of per-unit costs of track section of category I = unit price of track section of category I

Format of data supply also in this case coincides with data supply range in point B/1 related to direct cost based charging.

Format of data supply shall be also in this case the same as the format of data supply relating to direct cost-based charging.

In the CD, both the calculated and the deviated charges have to be presented.

## 5 Data supply and liability of data supply

In accordance with paragraph 19 (1) of Charging Decree, infrastructure managers involved in CM are bound to deliver to VPE all data and information necessary to prepare CM and CD with the required content and in the required form.

Information needed for preparing CD shall be required by VPE from infrastructure managers in advance.

Each infrastructure manager and applicant obliged to provide data for VPE inspections is fully responsible for the accuracy and appropriateness of the content of the provided information. VPE is entitled to review the information provided and to ask for completion or modification of data. Furthermore VPE is entitled to ask for justification in case of basic costs and costs of an access part of service connected to supplementary and complex-supplementary services as long as the variable cost component of these costs exceeds 35% of the total cost that can be taken into account at a particular service. In case of some basic and supplementary services, the performances divided into train categories are needed to be determined in order to carry out the analysis and calculations connected to the segment analysis mentioned in point 5.10. Therefore, the infrastructure managers in their data supply submit the performances broken down to train categories in case of access part of services, basic services and complex -supplementary services.

Should data supply be based on the business plan of the infrastructure manager, infrastructure manager shall make as part of data supply its last accepted business plan available. Data supply and data of the delivered business plan shall correspond to each other. Infrastructure manager shall be responsible to ensure correspondence.

Should the modification of categories or services established during the charging process become necessary due to the provision on state contribution laid down in Article 4.6, VPE is entitled to request at short notice from the infrastructure manager further data supply besides data being already at its disposal for charging, in order to comply with rules relating to the distribution of state contribution. Infrastructure manager is obliged to make available additional data required to a proper distribution of state contribution as soon as possible.

In order to perform analyses and calculation relating to segment examinations specified in Article 4.10, as regards certain basic and supplementary services, a break-down of values of performances to train types may become necessary, consequently infrastructure managers shall deliver to VPE in their data supply performances of basic services, access services and complex supplementary services in a break-down to train types, if it is necessary.

VPE is not responsible for damages due to incorrect information supplied by infrastructure managers and applicants. Data arriving at VPE after the deadline



assigned for data supply cannot be taken into consideration in the calculation process.

VPE is responsible for the calculation of charges on the basis of information provided by infrastructure managers and keeping methodology set out in CM in compliance with regulations in force.