

Energy Focus Team

29 July 2021

ARERA final guidelines on the waste tariff method for the second regulatory period (MTR-2)

Energy Focus Team

**Focus Team Leader**

Catia Tomasetti

catia.tomasetti@belex.com

phone: +39 02 771131

**Authors**

Catia Tomasetti

catia.tomasetti@belex.com

phone: +39 02 771131

Giovanna Zagaria

giovanna.zagaria@belex.com

phone: +39 02 771131

Lorenzo Tringali

lorenzo.tringali@belex.com

phone: +39 02 771131

1. Introduction

With resolution 138/2021/R/RIF of 30 March 2021, the Italian Regulatory Authority for Energy, Networks and the Environment (“**ARERA**”) started the procedure to define the waste tariff method for the second regulatory period (“**MTR-2**”).

On 11 May, Consultation Document 196/2021/R/rif (“**DOC 196**”) was published, which sets out the ARERA’s general guidelines for defining: (a) criteria for the recognition of efficient operating and investment costs regarding the integrated waste management service; and (b) access tariffs for waste treatment plants. This was done in compliance with EU and national principles of law and to ensure **certainty** and **stability** in Italy’s regulatory framework.

Consultation Document 282/2021/R/rif (“**DOC 282**”) followed on 2 July, which sets out the ARERA’s final guidelines on the MTR-2 and announced a public consultation on the rules governing the calculation of the costs that can be included in the tariff. Interested parties had until 19 July to file their observations. The deadline to conclude the procedure to define the MTR-2 and the new tariff mechanism for access to waste treatment plants is **31 July**.

To define the MTR-2, the ARERA adopted an asymmetrical approach in relation to tariff regulation for the different treatment services. Emphasis was placed on the infrastructural aspects and capacity of the system to manage waste, and **incentive measures** and an **equalisation mechanism** were evaluated based on the waste management hierarchy.¹

The ARERA started its evaluation of regulatory measures with DOC 196, based its evaluation on the degree of integration of the waste management entity concerned, and distinguished between: (a) **integrated operators**;² and (b) **non-integrated operators**.³ The non-integrated operator category was sub-divided into:

- “minimum plants” closing the waste management cycle (i.e.,

¹ Art. 179 of Legislative Decree 152/2006 sets out the following priority order “of what constitutes the best environmental option”: a) prevention; b) preparation for re-use; c) recycling; d) other types of recovery (energy recovery); and e) disposal.

² Under Art. 183, para. 1, point ll) of Legislative Decree 152/2006, operators that carry out “the set of activities ... aimed at optimising waste management” entrusted with the “collection, sorting, marketing and sending to disposal and recovery – and as the case may be [in which the management and supply of the service include the construction and management of the plants], complete disposal – of all urban waste”.

³ The characteristics of the plant concerned and its placement in the waste management hierarchy are considered.

- classified as essential); and
- “additional plants” closing the waste management cycle.

2. Identification of minimum plants closing the cycle

With DOC 196, the ARERA expressed a wish for government intervention to update the list of minimum plants, and with DOC 282 proposed that **regions have an active role** if the timings for government intervention are not compatible with those required to adopt the necessary acts for the tariff determinations for the MTR-2.

The ARERA proposed a **strengthened role of the regions** entailing that they each **draft a list of the minimum plants** in their respective regions and file it with the ARERA by 30 November this year.

To be included in the list, the minimum plants must meet one or more of the following requirements (to be demonstrated by the operator concerned):

- have a committed capacity for flows provided under planning instruments or other administrative acts;
- offer capacity in a market with structural rigidity, characterised by a strong and stable excess of demand and a limited number of operators; and
- be identified during the planning phase, based on the decisions adopted by the competent entities at the end of the waste management cycle.

Failure by the regions to file a list of minimum plants will entail that all plants closing the waste management cycle (excluding plants managed by an integrated operator) will be classified as additional plants, with the consequent impact on the tariff for access to waste treatment plants described below.

3. Tariff for access to waste treatment plants

In defining the MTR-2, the ARERA identified different regulatory schemes based on the category concerned.

	Type of supply chain		Integrated closing cycle plants	Minimum closing cycle plants	Additional closing cycle plants
Level of integration	Integrated operator		Tariff regulation with incentives mechanism (through equalisation mechanism) based on the hierarchy		
	Non-integrated operator	Composting & anaerobic digestion		Tariff/costs regulation & equalisation mechanism, with incentives to be granted to parties that deliver the	No tariff regulation tout court but transparency

			waste	duties concerning access requirements
		Incineration (with energy recovery – R1)	As above but incentives to be limited	
		Landfill/Incineration (without energy recovery – D10)	As above but disincentives for the parties that deliver the waste	As above plus disincentives for parties that deliver the waste

Source: DOC 282.

With respect to non-integrated waste management, the ARERA instead adopted an asymmetrical approach based on the differences between **minimum plants** and **additional plants**:

- (a) **Minimum plants** are subject to regulation on the recognised costs and the tariffs with incentives in line with the hierarchy of the waste management. The ARERA foresees a regulatory asset base approach, entailing the following:
 - Introduction of a tariff regulation for the **recognition of efficient management and investment costs**⁴, based on which the access tariffs will be calculated. The ARERA envisages an **asset-based determination** of the calculation of the costs eligible for recognition in the tariff, with the consequence that any plants with already amortised costs could suffer a reduction in access tariffs.⁵
 - Introduction of an access regulation with a **limit on yearly fee increases** and the possibility for the competent entities to define proximity criteria for the benefit of the communities in the neighboring areas.
 - Introduction, in relation to the **limit on increased earnings**, of a component that considers technological and environmental characteristics, with the aim of promoting increasingly innovative solutions.
- (b) **Additional plants** are not subject to a regulation system tout court but must fulfil certain transparency duties on the economic requirements to access waste treatment plants. The applicable tariffs are:

⁴ As long as they are qualified as indispensable (i.e., at least for the period 2022–2023, with the possibility of an update in 2023 for the following two years).

⁵ See para. 3 of DOC 282. Para. 3.22 (Capital Use Costs) stipulates the following: The Authority [ARERA], in each year $a = \{2022, 2023, 2024, 2025\}$, intends to confirm the general capital use cost structure CKa , equal to: $CKa = Amma + Acca + Ra + RLIC, a$ where:

- *Amma* is the component covering the amortisation of the operator’s fixed assets;
- *Acca* is the component covering provisions eligible for tariff recognition;
- *Ra* is the component related to the remuneration of the net invested capital for the integrated cycle service; and
- *RLIC, a* is the component relating to the remuneration of fixed assets under construction for the integrated cycle service.

- those calculated following the **negotiation procedures**;
or
- those calculated in accordance with **current practice**.

Regions are required to notify the ARERA of the minimum plants that will benefit from the new tariff method. If they do not, plants will be automatically classified as additional plants and the following will apply:

- a different tariff method in local communities that have adopted a local tariff method; and
- the exercise of a market power with the ability to continue generating extra-profit in less competitive markets or markets that have no tariff system.⁶

4. Conclusion

Application of the ARERA's new tariff method for non-integrated waste management will be subject to the action or inaction of the regions – unless any observations received during the consultation period lead the ARERA to provide otherwise.

As mentioned, under the draft form of the new tariff method, the ARERA's new (RAB-based) tariff method will apply in regions that have duly filed a list of their minimum plants; otherwise – i.e., for regions that fail to file the abovementioned list – the current market structure will essentially remain unchanged.

⁶ Position paper no. 186: “Mtr2 e tariffe “al cancello” degli impianti: un cambio di passo” (MTR-2 and tariffs ‘at the gates’ of plants: a step change), REF Research Laboratory, July 2021.