

Energie-Control Austria
Vorstand der E-Control
Rudolfsplatz 13a
1010 Wien
Austria

office@e-control.at

Your ref./date	Our ref.	Liabile/phone	in Malacky
	L-II/1223-2025-ROaM	M. Beňa/034-772 5939 ext.214	on 14 November 2025
	File Nr.: 1222-2025-OaM		

Subject: R SNE G 01/2025 / Consultation Gas-Systemnutzungsentgelte-Verordnung 2013 (GSNE-VO 2013) – Novelle 2026

Dear Mr Urbantschitsch,

Dear Mr Haber,

We refer to the draft for amendments to the Gas-Systemnutzungsentgelte-Verordnung 2013 / Novelle 2026 (“GSNE-VO”) published by E-Control in October 2025 and our previous discussions with E-Control on the tariff for the access to storage in Austria.

For your convenience we also attach our response to the consultation process of the draft Gas-Systemnutzungsentgelte-Verordnung 2013 (GSNE-VO 2013) – Novelle 2026, which we submitted on 14 November 2025.

Our analysis showed that by adopting the proposed amended tariffs, starting from January 2026 POZAGAS will be required to pay a capacity tariff (as adopted in the 2nd Amendment of the GSNE-VO in 2025) that is 27% higher compared to storage operators connected at the distribution level. Even more striking is that our direct competitors in Austria are now proposed to be entirely exempted from the commodity tariff, whereas for POZAGAS a commodity tariff of 0,11963 EUR/MWh would apply. Consequently, POZAGAS would be required to bear overall costs (composed of the capacity tariff and commodity tariff) for the connection to the gas grid in Austria that is 46% higher compared to storage operators connected at the distribution level.

We understand from the explanatory notes from E-Control with respect to the latest proposed changes to the GSNE-VO that the exemption from the commodity tariff applicable to the Austrian storage operators has been justified based on the principle of tariff stability („Dieses Regulierungskonto wurde in Zuge der letzten Verordnung aufgrund der Stellungnahme der Speicherbetreiber über zwei Jahre verteilt, daher wird heuer der zweite Teil des Regulierungskontos aufgelöst. Dies ist hinsichtlich der Tarifstabilität vertretbar, um Tarifsprünge zu vermeiden.“)

As we explain below, the same rationale needs to be applied to POZAGAS as well.

The objectives pursued by Regulation No. 2024/1789 and Commission Regulation No. 2017/460 seek to ensure (i) that network access tariffs fully comply with the principle of non-discrimination, (ii) the requirements of the proper functioning of the internal market, and (iii) to increase competition through the creation of liquid wholesale markets for gas. The requirement of a non-discriminatory nature of the tariffs or the methodologies used to calculate them is also emphasized in Article 17(1) of Regulation No. 2024/1789 as well as in related case law (see e.g. Judgment of the CJEU, Case C-369/24 MET Magyarország, para. 37, similarly Judgment of the CJEU, Case C-771/18 Commission/Hungary, paras. 45, 46).

As mentioned above, the proposed model of the GSNE-VO (i) will require that a SSO such as POZAGAS pays a capacity tariff that is 27% higher compared to storage operators connected at the distribution level and (ii) exempts our direct competitors from the commodity tariff without providing any reason or justification. Hence, the proposed model of the GSNE-VO is in direct conflict with the above-mentioned objectives of the Regulation No. 2024/1789 and Commission Regulation No. 2017/460.

At the same time, such treatment of an SSO such as POZAGAS is in direct conflict with the general principle of equality and non-discrimination which precludes comparable situations from being treated in a different manner unless the difference in treatment is objectively justified (see e.g. Judgment of the CJEU, Case C-442/00 Rodríguez Caballero, para. 32). The existence of this argued discrimination is also clearly demonstrated by comparing the newly proposed tariffication with E-Control's past practice, according to which tariffs were applied to storage operators connected both at the distribution and transmission levels to a comparable extent. The non-discrimination principle was observed also in 2023 when the commodity tariff was applied to storage operators connected both at the distribution and transmission levels. Therefore, a decision to apply the commodity tariff only at the transmission network

level without further justification is prima facie discriminatory and has strong market foreclosure potential as our competitors in Austria are to be fully exempt from the commodity tariff that is of significant value. Without elaborating at this time further, we also note that the proposed approach may be problematic from state aid and abuse of dominant position perspectives.

Therefore, as already discussed with E-Control and stated in our submission in the consultation process, there is no good reason for treating us differently than the other storage operators, with whom we compete directly on the Austrian storage market. The current tariff regime and the proposed model of the GSNE-VO make it impossible for us to compete with the Austrian storage operators and constitute a significant distortion of the market conditions.

To create a fair level playing field for storage services on the Austrian market and to ensure compliance with European and Austrian law, we urge E-Control to adjust the proposed model. This requires a tariff model, where all storage operators, which are directly connected to the Austrian network are treated equally. This can be easily achieved by applying the same and non-discriminatory tariff to all market participants.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M-Beňa'.

Martin Beňa
Sales and marketing director

A handwritten signature in blue ink, appearing to read 'Marián Krška'.

Marián Krška
General director

Annex: Submission of POZAGAS to Consulation Gas-Systemnutzungsentgelte-Verordnung 2013 (GSNE-VO 2013) – Novelle 2026

Annex

Energie-Control Austria
Rudolfsplatz 13a
1010 Wien
Austria

recht-post@e-control.at

Your ref./date	Our ref.	Liable/phone	in Malacky
	L-II/1222-2025-ROaM	M. Beňa/034-772 5939 ext.214	on 14 November 2025
	File Nr.: 1222-2025-OaM		

Subject: **R SNE G 01/2025 / Consultation Gas-Systemnutzungsentgelte-Verordnung 2013 (GSNE-VO 2013) – Novelle 2026**

Dear Madams,

Dear Sirs,

We refer to the draft for amendments to the Gas-Systemnutzungsentgelte-Verordnung 2013 / Novelle 2026 (“GSNE-VO”) published by E-Control in October 2025 and welcome the opportunity to submit our comments in the consultation process.

POZAGAS a.s. (“POZAGAS”) is a Slovak storage operator, which is connected to the Austria gas grid and a direct competitor of storage facilities connected to the Austrian distribution network.

The system charges proposed by GSNE-VO would result in a markedly disadvantageous treatment of POZAGAS. By adopting the amended tariffs, POZAGAS will be required to pay a **capacity tariff** (as adopted in the 2nd Amendment of the GSNE-VO in 2025) **that is 27% higher** compared to storage operators connected at the distribution level. Even more striking is that our direct competitors in Austria shall be entirely exempted from the commodity element of the tariff (mengenbasiertes Netznutzungsentgelt according to Section 12 para 6 GSNE-VO), whereas for POZAGAS a tariff of 0,11963 EUR/MWh applies. By comparing the total network connection costs (capacity tariff and commodity tariff) of storage operators in Austria, it can be observed that POZAGAS will be required to

bear **overall costs that are 46% higher** compared to storage operators connected at the distribution level.

In our view there is no justification for treating us differently than the other storage operators, with whom we compete directly on the Austrian storage market. For the identical mode of storage utilization (injection of gas into the storage from the VTP Austria and its subsequent withdrawal from the storage back to the VTP Austria), a tariff regime is applied that grants our competing operators an economic advantage, which considerably distorts competition.¹ We consider the different treatment of POZAGAS and its competing operators a state measure in violation of European law, including the European competition rules. In addition, the different treatment contravenes the principle of non-discrimination under European and Austrian gas law.

To create a fair level playing field for storage services on the Austrian market and to ensure compliance with European and Austrian law, we urge E-Control to adjust the proposed model. This requires a tariff model, where all storage operators, which are directly connected to the Austrian network are treated equally. This can be easily achieved by applying the same tariff to all market participants.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M-Beňa'.

Martin Beňa
Sales and marketing director

¹ See also Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union, C/2016/2946,