

Cover page

Content:

The Ordinance regulates system access as well as balancing, clearing and settlement pursuant to section 41 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011.

Alternatives:

none

Effects on Austria as a place for doing business:

Efficient and market-based mechanisms for capacity allocation in natural gas systems and the related rules for balancing, clearing and settlement promote a competitive, EU-wide integrated natural gas market and contribute to secure and cost-effective natural gas supply.

Financial effects:

No impact on the budget of the state or the federal provinces

Relationship to European Union legislation:

The rules implement the regulatory regime of Directive 2009/73/EC concerning common rules for the internal market in natural gas in consideration of Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks, which is reflected in the *Gaswirtschaftsgesetz* (Natural Gas Act) 2011.

Special features of the legislative procedure:

The Ordinance is issued pursuant to section 7 para. 1 *Energie-Control-Gesetz* (E-Control Act) by the Executive Board of E-Control. Pursuant to section 41 para. 1 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011, a public consultation was held on the intended rules; in addition, pursuant to section 119 E-Control Act, the Ordinance was presented to the Regulatory Advisory Council.

Explanatory Notes on the *Gas-Marktmmodell-Verordnung (Gas Market Model Ordinance) 2012*

General Part

The *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 provides for significant new rules regarding transmission system access. The previous system of capacity booking on the basis of contractually agreed transport paths is replaced by an entry/exit system in which capacity at entry and exit points can be booked and traded independently of each other. Entry capacity is to be booked by traders and suppliers and entitles them to feed gas into a market area's transmission network and transport it to the market area's virtual trading point. Exit capacity entitles the holder to transport gas from the virtual trading point to the exit point and to withdraw it from the transmission network. The virtual trading point is not a physical entry or exit point and enables market participants to purchase and sell natural gas also without the need to book capacity.

Section 90 Natural Gas Act 2011 stipulates that each system user must belong to a balance group. Management of the balance groups is part of the activities of the market area manager. The clearing and settlement of imbalances in the distribution network is the task of the clearing and settlement agent.

Section 41 para. 1 Natural Gas Act 2011 empowers the regulatory authority to set rules on system access by ordinance to achieve efficient system access as well as harmonised rules for all market participants and to attain the aims of that Act. When setting rules, the network codes adopted pursuant to Article 6 of Regulation (EC) No 715/2009 and guidelines pursuant to Article 23 of Regulation (EC) No 715/2009 are to be taken into consideration. A legally binding Network Code on Capacity Allocation Mechanisms adopted in accordance with these stipulations was not yet available at the time the *Gas-Marktmmodell-Verordnung* (Gas Market Model Ordinance) 2012 was issued; rules on capacity allocation and bundling, however, are modelled on the Framework Guideline¹ and the draft network code² based thereon.

In addition, pursuant to section 41 para. 4 Natural Gas Act 2011, the regulatory authority may, by ordinance, set rules on the conditions for the provision of balancing services in the market area, the handling of nominations and schedules, the exchange of data between the market participants and the definition of the gas day.

The Ordinance contains both rules on access to the transmission and distribution networks and on balancing, clearing and settlement in market areas pursuant to section 12 Natural Gas Act 2011. Title 2 of the Ordinance applies to the eastern market area, Title 3 to the Tyrol and Vorarlberg market areas. As those two market areas are not physically linked to the eastern market area but only to the NetConnect Germany market area in Germany, the provisions of this Title aim at facilitating access to this market area and at coordinating the relevant rules on system access and balancing, clearing and settlement with the neighbouring market area to a great degree.

By implementing the entry/exit system and by adapting the balancing regime (daily balancing for SLP consumers), the new market model is meant to result in an increase of competition while at the same time optimising the total costs of the system access and balancing model. After an appropriate period, for the first time at any rate after six months after system changeover, the new market model will be evaluated, involving the market participants. After the evaluation the regulatory authority will publish a relating report and will highlight the effects on the costs, efficiency and competition in the market area and, where appropriate, explain the need for changes.

¹ Agency for the Cooperation of Energy Regulators, Framework Guidelines on Capacity Allocation Mechanisms for the European Gas Transmission Network, FG-2011-G-001, of 3 August 2011.

² European Network of Transmission System Operators for Gas (ENTSOG), CAM Network Code, <http://www.entsog.eu/publications/camnetworkcode.html>

Special Part

Regarding Title 1: Principles

Regarding section 1: Scope of Application

This section defines the matter regulated in the Ordinance.

Regarding Title 2: Rules Governing the Eastern Market Area

Regarding section 3: Capacity Offers

Para. 1: This provision specifies the basic principle of the entry/exit system, according to which it must be possible to transport gas from injection to subsequent withdrawal without having to determine a specific path for the transport (cf. Article 13 of Regulation (EC) No 715/2009). As a result, system users have the possibility to control gas transport according to their needs and to trade gas after injection and before withdrawal. It is only through this possibility that the gas market becomes flexible. Already when determining available transport capacity, the transmission system operators must bear in mind that the capacity can be allocated freely and, where necessary, evaluate and arrange for measures to increase capacity pursuant to para. 2.

Para. 2: This provision obligates the market area manager to evaluate, in close cooperation with the transmission system operators and the distribution area manager, measures to increase capacity which aim at making it possible to announce capacity available at entry and exit points to the extent required. The more capacity rights are made available, the better, in principle, the prerequisites for achieving an increase in competition on the gas market will be. When evaluating possible measures, the market area manager, in close cooperation with the transmission system operators and the distribution area manager, is to adhere to the order stated, which provides first of all for the evaluation of measures with the least impairment of free allocation and then of measures with greater impairment of free allocation. Use of flow commitments and the specifications of allocation restrictions are to be kept as low as possible so as to reduce, as far as possible, any impairment of competition or, if applicable, any potential of discrimination. For instance, the free allocation of capacity could be restricted so that the capacity is firm in combination with specific entry/exit points but interruptible in combination with other entry/exit points or the virtual trading point. Pursuant to section 46, the provision is not applicable when existing contractual rights under section 170 para. 6 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 are changed, in order to avoid a contradiction between specifying the order in which measures (flow commitments and allocation restrictions) are to be applied on the one hand and the statutory obligation to transform existing contractual rights into capacity contracts with firm or interruptible access to the virtual trading point.

Para. 3: This provision obligates transmission system operators to handle flow commitments and allocation restrictions in a transparent and non-discriminatory manner. "Under appropriate conditions" means that e.g. the product size and contract durations are to be specified in line with the market. If necessary, the transmission system operator must take the measures referred to in para. 2. This ensures that the flexibility of the gas market is only impaired to the smallest extent possible. Against this background, close cooperation between the market area manager, the transmission system operators and the distribution area manager is provided for so that measures to increase capacity are only applied to the smallest extent possible. "Available capacity" means the capacity determined pursuant to section 34 para. 2 Natural Gas Act 2011.

Para. 4: This provision obligates the transmission system operators, in cooperation with the market area manager, to hold a standardised, binding open season procedure on the online platform, coordinate it with neighbouring system operators and publish its results in order to verify that network expansion adequately responds to capacity needs. This provision specifies details of the transmission system operators' obligation to verify that network expansion adequately responds to capacity needs, laid down in section 35 para. 2 Natural Gas Act 2011.

Regarding section 4: Bundling of Capacity

Para. 1: This paragraph specifies that bookable exit and entry points are to be bundled. Both sides of a cross-border interconnection point are to be merged into one bundled entry/exit point for each flow direction. However, there is an exemption from the bundling obligation to the extent that and as long as the neighbouring system operator does not enable bundling for the respective cross-border interconnection point.

Para. 2: This paragraph clearly states that the bundling of exit and entry capacity at a bundled entry/exit point applies both to firm and to interruptible capacity. Transport via a bundled entry/exit point is possible by making a single bundled nomination. Capacity that has already been booked, i.e. contracts concluded up to and including 31 March 2013 (existing contracts), are exempted from the bundling obligation. To the extent, however, that a system user holds corresponding exit and entry capacity, i.e. as far as it holds capacity of the same amounts on both sides, a change of contracts can be requested. Available capacity may be marketed as unbundled only until unbundled capacity becomes available on the neighbouring side of the booking point due to the end of existing contracts, so that bundling becomes possible in the future.

Para. 3: This provision allows the transmission system operators to offer capacity also subject to certain allocation restrictions, where such restrictions are required pursuant to section 3. This rule applies both to bundled and to unbundled capacity.

Regarding section 5: Virtual Interconnection Points

Para. 1 and para. 2: These provisions obligate transmission system operators to combine bookable entry and exit points in their systems into so-called virtual interconnection points. This obligation only applies insofar as it is technically and economically feasible. The rules provide for a more flexible use of the gas network and help to increase the amount of available technical capacity. Before such combination into virtual interconnection points takes place, the market participants are to be consulted and the regulatory authority is to be notified.

Para. 3: This provision specifies that the transmission system operators continue to be obligated to maximise technical capacity.

Regarding section 6: Capacity Allocation

Para. 1: Paragraph 1 regulates the mechanism for allocating firm and interruptible entry and exit capacity. In principle, firm and interruptible entry and exit capacity is auctioned by the transmission system operators through the online platform (primary capacity platform). Auctioning entry and exit capacity avoids discrimination, as it may occur when capacity is allocated on a first come, first served basis e.g. due to the fact that established system users have a head start on information over new or smaller system users. Auctioning ensures that individual system users are not preferred over other system users due to having a head start on information. In addition, auctions of scarce capacity send reliable, market-based expansion signals, which are reflected in the respective capacity price. Available capacity is to be auctioned with the lead times defined in the ENTSOG CAM Network Code for the capacity products defined in section 36 para. 2 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 and in the ENTSOG CAM Network Code from 1 April 2013.

Para. 2: This rule allows transmission system operators to create categories that reflect the probability of interruptions when allocating interruptible capacity. Theoretically, interruptible capacity may be allocated to an unlimited extent, although the specific risk of interruption will increase when more and more interruptible capacity has already been allocated.

Para. 3: This rule obligates transmission system operators to auction capacity which results from the application of the renomination limits pursuant to section 11 on a day-ahead basis, i.e. daily for the following day. Capacity is allocated up to the time specified in the ENTSOG CAM Network Code.

Regarding section 7: Capacity Allocation and Use for Particular Purposes

This rule clarifies that sections 4, 5, 6, 11 and 12 do not apply to exit capacity from the transmission network into the distribution network in the market area, into storage or for consumer supply, or to entry capacity into the transmission network from storage or from production of natural gas or biogas. As only one market participant, e.g. the distribution area manager, is entitled to book capacity at these points, the provisions contained in sections 4, 5, 6, 11 and 12 do not make sense in these situations. As there is no potential for discrimination at these bookable entry/exit points, capacity is allocated on a first come, first served basis. Should consumers be connected at transmission level (cf. section 31 para. 4 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011), sections 13 and 14 apply *mutatis mutandis*.

Regarding section 8: Contract Duration

Para. 1: This paragraph specifies up to which percentage shares of the technical annual capacity of a cross-border interconnection point can be booked through contracts with certain contract durations. The limits set specifically

apply to each individual cross-border interconnection point. The percentage for short-term capacity is based on the rules in the ENTSOG CAM Network Code. By limiting the percentage of capacity bookable in the long term to a fixed percentage of technical capacity and by staggering permissible contract durations for capacity exceeding such percentage, competition for the acquisition of such capacity is opened up at regular intervals, and new competitors are given the opportunity to enter the market. After the end of existing long-term capacity contracts, such long-term capacity is not supposed to simply change holders but rather to be transformed into short-term capacity by way of a change in the length of contract durations. The limitation of the percentage of capacity bookable in the long term is therefore suited to help reach the objective of creating well-functioning competition on the gas market.

Pursuant to section 36 para. 2 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 the share of the capacity reserved for each contract term is to depend on demand. For that reason, the market area manager is to conduct a poll indicating such demand on the online platform annually in cooperation with the transmission system operators and, where appropriate, increase the percentage of short-term capacity at the individual cross-border interconnection points. Fixing the percentage at no more than 65% of capacity for contract durations of more than four years is confirmed by the preference for short-term capacity by suppliers as revealed in the poll conducted by AGGM AG (“Agora project”) identifying need regarding the transfer of capacity pursuant to section 170 para. 7 Natural Gas Act 2011, and by the increasing flexibilisation of take-or-pay minimum amounts in the context of the adjustment of contracts between producers and importers, which also forms the basis of the recommendation by the German Bundeskartellamt (Federal Cartel Office, final report on the sector inquiry *Kapazitätssituation in den deutschen Fernleitungsnetzen* (Capacity Situation in the German Transmission Networks) of December 2009).

Para. 2: This provision obligates transmission system operators to offer capacity freed due to the expiry of long-term contracts first as products with durations of up to and including one quarter until a share of 10% is reached and then as products with durations of up to and including four years until a share of 35% of the technical annual capacity of the entry/exit point is reached. Thus freed capacity is made available at regular intervals first with durations of up to and including one quarter, which opens up competition for such capacity between the competitors active on the gas market.

Para. 3: This provision allows for adjusting the percentages so that they conform to the rules and resulting technical annual capacity in neighbouring states. Even if the percentages referred to in para. 1 also apply at a cross-border interconnection point in a neighbouring state, different technical annual capacity can result from applying the percentages due to the different amounts of technical annual capacity that may be announced by transmission system operators adjacent to the cross-border interconnection point. Before the percentages can be adjusted in individual cases, the adjacent transmission system operators are to closely cooperate in order to achieve coordinated technical annual capacity to the greatest extent possible. Advance notice of any adjustment of the percentages and the grounds for it is to be given to the regulatory authority.

Regarding section 9: Online Platform for Capacity Offers

In order to facilitate as efficient capacity allocation as possible in the interest of a functioning capacity market and, in particular, to better enable market participants to carry out gas transports, the number of points of contact for booking capacity is to be reduced. Parties entitled to system access must be able to book entry and exit capacity for their transports as simply and in as uncomplicated a manner as possible. Combining primary capacity trading on a primary capacity platform and a joint internet presence of primary and secondary trading platforms can be expected to result in considerable simplification for parties entitled to system access.

Para. 1: This rule obligates the market area manager, in cooperation with the transmission system operators, to organise the establishment and operation of the online platform; the undertakings referred to are free to use an existing platform instead of establishing a new one. This paragraph, however, does not regulate the details of the establishment and operation of the online platform; this is subject to the business decisions by the operator of the online platform.

Para. 2: Paragraph 2 obligates the operator of the online platform to provide for simple, automated capacity trading on a suitable scale for general business.

Para. 3: This paragraph obligates the operator of the online platform to simplify capacity trading by increasing the transparency of offers of and demand for like capacity.

Para. 4: The information to be published pursuant to section 39 paras 2 and 3 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 is to be made accessible to all market participants and must not be made dependent upon registration.

Usage of the online platform is free of charge, although reasonable costs of establishing and operating the platform are to be considered in the procedure pursuant to section 82 Natural Gas Act 2011.

Para. 5: The registration process required to book capacity is to comply with the market area manager's General Terms and Conditions for Using the Portal. These Terms and Conditions contain specific rules for using the online platform.

Para. 6: This rule enables transmission system operators to allocate bundled capacity at cross-border interconnection points also through a platform other than the online platform pursuant to section 39 Natural Gas Act 2011 if that platform complies with the provisions of the Ordinance. This rule is meant to enable transmission system operators to allocate capacity also on an overarching platform at regional or European level.

Regarding section 10: Secondary Market for Entry and Exit Capacity

Para. 1: This paragraph prescribes that secondary trading in transport capacity must be handled on *one* platform. The aim is to obtain greater transparency of capacity available on the secondary market and thus make functioning competition possible. Against this background, this paragraph gives system users the right to resell or sublet acquired capacity to third parties. Pre-trading actions must be absolutely anonymous. This requirement, in particular, eliminates one of the most important obstacles on the way to a functioning secondary market. If pre-trading actions take place completely anonymously, it is ruled out that market participants obtain insight into the business processes of the buyer or seller which could be used to manipulate the market.

Para. 2: This paragraph specifies the procedures for secondary trading. For the purpose of standardised capacity trading, the operator of the online platform is to make available the related standard contracts. Before establishing the secondary market platform, the operator of the online platform is to consult the market participants in order to determine their preferences for procedures and specifications.

Regarding section 11: Nomination and Renomination

The central objective of this provision is to make technically unused but booked capacity available. This is meant to give simultaneous system access to a larger number of system users. Capacity that is expected not to be used is to be surrendered to the market on short notice (“day ahead”) so that it can be booked by other system users. In essence, this provision is about better balancing the contrary interests of established and new market participants.

Para. 1: This paragraph stipulates that the responsibility for nominating and renominating lies with the balance responsible party of the balance group into which the system user has entered capacity in accordance with section 23 para. 1.

Para. 2: The gas volume to be transported is nominated by 14.00 hrs. If an ENTSOG Network Code should bindingly set another time, that time applies in any event because of the primacy of Union law. The Ordinance would have to be adjusted accordingly to make this clear.

Para. 3: The renomination limits specified in this paragraph are meant to ensure that a certain share of capacity can always be offered on the market as firm day-ahead capacity in both transport directions.

Para. 5: This rule ensures that the specifications for the limitation of the right to renomination are not circumvented. The share of a renomination exceeding the permissible limits is treated as a nomination of interruptible capacity and will be interrupted first. This means it is ruled out that transport customers obtain unjustified advantages from not complying with the renomination limits.

Para. 6: This paragraph provides for an exemption from the renomination limits for system users whose total capacity bookings at the respective bookable entry/exit point account for less than 10% of the technical annual capacity announced. This exception is based on the consideration that system users with small portfolios have less portfolio effect and, at the same time, in many cases have less flexibility at their disposal. Therefore, applying paras 3 through 6 would mean discriminating against these system users as opposed to major system users. For that reason, the draft congestion management guidelines of the European Commission also contain this rule.

Para. 7: This rule takes into consideration cases where several system users introduce capacity at a bookable entry/exit point to the same balance group, and allows renomination limits to be calculated and applied in respect of each direct balance group member separately so that the renomination limits for system users with small portfolios are not applied even if the total capacity entered into a balance group exceeds the relevant limits.

Para. 8: This rule ensures that system users can use bundled products in as uncomplicated a manner as possible. This is achieved by introducing bundled nominations.

Para. 9: The transmission system operator offers any capacity freed due to the application of the renomination limits pursuant to paras 3 to 6 as day-ahead capacity in accordance with section 6 para. 3.

Para. 10: Day-ahead capacity must be nominated by 20.00 hrs. The reason for such a late nomination deadline is that after the availability of day-ahead capacity becomes known, there must still be sufficient time for concluding trades.

Regarding section 12: Long-Term Use-It-Or-Lose-It Mechanism

Para. 1: Paragraph 1 obligates system users to offer unrequired capacity rights on the secondary market for the time and to the extent the capacity will not be used. The aim is to increase the availability of firm capacity rights, which is restricted by the technical capacity announced and the extent of capacity already booked. From the viewpoint of system users, firm capacity is of higher value than interruptible capacity so that it is not sufficient to merely give system users the opportunity to offer capacity rights on the secondary market. Rather, a release obligation is needed. This improves the prerequisites for increasing (trading) activities on the gas market.

Para. 2: Paragraph 2 is meant to prevent the non-use or hoarding of capacity. The aim is to avoid a negative impact on liquidity on the primary capacity market due to capacity hoarding, as a liquid capacity market, among other things, is an important prerequisite for more competition on the gas market. Against this background, transmission system operators are obligated to withdraw capacity from system users if it is systematically unused.

Para. 3: The extent to which capacity is withdrawn corresponds to the extent to which the system user has failed to use it.

Paras 4 to 7: The provision in paragraph 4 allows system users to object to the withdrawal of capacity on certain conditions. In addition, the provisions contain certain obligations to keep records and to submit information which give the regulatory authority the possibility to monitor application of the mechanism. If capacity is offered on the secondary market at a price that is considerably higher than the primary market price, there is the possibility for system operators to withdraw it. This helps to prevent speculative behaviour.

Regarding section 13: Applications for System Access and Capacity Expansion

This provision regulates the minimum requirements for applications for system access and capacity expansion. The minimum requirements are listed in Annex 1. Once the distribution system operator has accepted a system access application, it is to send the system user the system access contract without delay.

Regarding section 14: Application for Admission to the System

This provision regulates the requirements for establishing first connections to a system or changing existing connections (admission to the system).

Regarding section 15: Capacity Management at Distribution Level

Paras 1 and 2: These provisions stipulate that capacity at internal interconnection points from the transmission into the distribution network may be booked exclusively by the distribution area manager so that there is no need for capacity allocation by means of auctioning or for congestion management.

Para. 3: In some rare instances cross-border interconnection points are located at distribution level. In these cases, the rules on capacity allocation (section 6), contract durations (section 8), the online platform (section 9) and the long-term use-it-or-lose-it mechanism (section 12) are to be applied *mutatis mutandis*. In this context, “*mutatis mutandis*” means that the provisions referred to also apply to system access at the cross-border interconnection points in the distribution network.

Regarding section 16: System Access for Storage System Operators

These provisions regulate the modalities of the agreement between storage system operators and system operators on the maximum firm capacity to be reserved. On the one hand, system operators are obligated to permanently reserve the firm capacity booked in a year for the next year. On the other hand, it is possible for storage system operators to book significantly less annual capacity than has been agreed with the system

operator for a year only to the extent that the latter can market the capacity elsewhere. For capacity in the context of storage projects which have caused network capacity expansion, annual booking may only be reduced insofar as this is foreseen in the capacity expansion contract. The provisions of chapter 2 also apply to storage system operators whose facilities are connected at transmission level. The rights and obligations necessary for operation are to be agreed in contracts between the storage system operators and the distribution area manager.

Regarding section 17: System Access for Producers of Natural or Biogenic Gas

These provisions regulate the modalities of the agreement between producers as defined in section 7 para. 1 item 52 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 or producers of biogenic gas and system operators on the maximum firm capacity to be reserved. On the one hand, system operators are obligated to permanently reserve the firm capacity booked in a year for the next year. On the other hand, annual capacity bookings that fall short of the capacity that has been permanently reserved by more than 10% are only permissible for producers of natural or biogenic gas to the extent that the system operator can market the capacity elsewhere. The rights and obligations necessary for operation are to be agreed in contracts between the producers of natural or biogenic gas and the distribution area manager.

Regarding section 18: Basic Principles of the Balancing Regime

Para. 1: This provision stipulates that balance groups for all system users must be registered with the market area manager. Storage system operators and producers of natural and biogenic gas whose status as system users is based merely on the connection of their facility with a system and that do not themselves inject into or withdraw from a system are not required to be members of a balance group. A balance responsible party may establish several balance groups and register them with the market area manager.

Para. 2: The market area manager clears all gas volumes known beforehand by way of schedules or nominations in the market area. This can be understood as “ex ante” clearing. The clearing and settlement agent is responsible for calculating and financially settling the gas volumes in the distribution area with regard to the special balance groups of the distribution networks, deviations between scheduled and metered input by biogas facilities and deviations between consumption schedules and consumers’ actual (metered or calculated) consumption (“ex post”).

Para. 3: After they have registered with the market area manager, balance groups can access the virtual trading point, also without booking capacity. The possibility to use the virtual trading point is to be ensured for direct balance group members by means of rules in the contract between the balance responsible party and the direct balance group member.

Para. 4: This provision obligates the balance responsible parties to be in balance within their balance groups, if possible on an hourly or a daily basis, as applicable, and to assume economic responsibility for any imbalances.

Para. 5: In principle, the gas day is the balancing (measurement) period for all system users in the market area.

Para. 6: Notwithstanding the rules specified in para. 5, on the basis of technical and economic considerations, hourly balancing applies for system users equipped with load profile meters.

Para. 7: System users that are equipped with load profile meters and have agreed on a contractual maximum hourly capacity of 50,000 kWh/h with the system operator may annually opt for hourly or daily balancing. The prerequisite for daily balancing, however, is that the meter readings of the respective system user are available online and that these readings are accessible for the distribution area manager to control the distribution area.

Para. 8: For the groups of consumers described in paras 5 and 7, and those described in para. 6, separate consumption schedules are to be drawn up. The lead time in the market area is harmonised and set at two full hours and thus corresponds to the internationally customary standard.

Para. 9: This provision obligates the market participants to trade and transfer gas volumes at the virtual trading point. Not only does this provide for higher liquidity, but also it is not reasonable and cannot be handled in another manner as the transmission and the distribution area make up one common market area.

Para. 10: This provision obligates the market area manager and the distribution area manager to use the gas exchange at the virtual trading point to procure balancing energy. This is done to ensure that procurement of balancing energy is market-based, transparent and non-discriminatory.

Regarding section 19: Registration in the Market Area

Paras 1, 2, 4 and 6: The market manager is to act as a one-stop shop for new market participants and future balance responsible parties. It is the central point of contact for questions regarding registration, capacity management and balancing and, in general, is also the central information platform. With regard to contract organisation and the resulting relations with other institutions (the operator of the virtual trading point, distribution area manager and clearing and settlement agent), the market area manager acts as the authorised agent and as first-level support. Questions of detail, e.g. the amount of the security deposit and the handling of invoices by the clearing and settlement agent, are to be organised directly with the respective contract partner.

Para. 3: Handling at distribution level refers to the supply of consumers, the injection and withdrawal of gas into/from storage, the injection of natural or biogenic gas from production, and the entry and exit of gas at the interconnection points at the market area border in the distribution area.

Para. 7: To enable the market area manager to fulfil its balancing and clearing tasks, balance responsible parties must be at least non-clearing members of the gas exchange at the virtual trading point. The operator of the virtual trading point is to provide access to and obtainment of such membership in as simple and efficient a manner as possible.

Para. 8: For suppliers of consumers in the distribution area, a due diligence analysis by the clearing and settlement agent is mandatory, and depending on the result of such analysis the amount of the security deposit is set.

Para. 10: Registration with the regulatory authority may be performed simultaneously. To finalise the process, however, the authority requires a confirmation by the market area manager.

Regarding section 20: Balance Group Membership

Para. 1: Natural gas undertakings as defined in section 7 para. 1 item 16 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 also include storage system operators and producers of biogenic gas.

Para. 2: Membership of a balance group member in several balance groups is permissible. Membership in a balance group can also be conferred by assignment by the regulatory authority, if this is required due to the dissolution of a balance group.

Para. 3: If several metering points of a balance group member are part of the same balance group, this does not establish multiple membership of the balance group member in that balance group. The respective member is counted as only one member of this balance group.

Para. 4: This provision obligates direct balance group members to inform the balance responsible party of the intended commencement of the activities listed in a manner that allows sufficient time for the balance responsible party to reflect this in its system. Energy trades of direct balance group members on the gas exchange at the virtual trading point require clear rules on liability as the entire trading point might be affected in the event that an exchange trade needs to be reversed. The balance group responsible party may pass on the costs for any assumption of liability to the respective balance group member.

Regarding section 21: Balance Responsible Parties

This provision regulates the relationship between balance responsible parties and balance group members.

Para. 2: Balance responsible parties are to keep a record in their systems of the capacity entered by their balance group members and submit the schedules and nominations relating to such capacity. Balance group members are to inform their balance responsible party of the type and extent of the capacity booked without undue delay.

Regarding section 22: Compensation and Remuneration of Balance Responsible Parties

This provision obligates balance responsible parties to advance the imbalance charges and transaction costs of the operator of the virtual trading point in the market area and further empowers them to pass these charges and costs on to their direct balance group members, respecting the principle of causation and ensuring equal treatment of the balance group members. Charging on the balancing incentive markup to be paid by balance responsible parties for hourly imbalances calculated ex ante by the market area manager to the balance group members is not normally foreseen because drawing up correct schedules and nominations is the responsibility of the balance responsible parties. However, charging on of the markup, respecting the principle of causation, can be agreed on in the balance group contract for cases where a balance group member does not fulfil its obligations

pursuant to section 90 para. 2 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 and it is the balance group member that causes a balancing incentive markup.

Regarding section 23: Entry of Capacity to Balance Groups

This provision obligates system users to enter capacity booked into a balance group before the capacity can be used.

Para. 1: Handling and using booked capacity requires that such capacity is entered into a balance group in time and its balance responsible party is informed without undue delay.

Para. 2: No capacity booking is required to merely trade gas at the virtual trading point. However, capacity bookings are required for injection towards or withdrawal from the virtual trading point.

Regarding section 24: Special Balance Groups

This provision regulates the functioning of the special balance groups for system losses and own consumption at distribution level.

Para. 1: In the special balance groups for system losses and own consumption, any metering differences are also to be taken into account. They are to be established only in the distribution area.

Regarding section 25: Information and Data Exchange Among Market Participants

This provision obligates market participants to communicate to third parties or publish certain data and information. This is to be done in accordance with chapter 2 and chapter 3 of the Gas Market Code. Additional data and information required for the smooth and optimised functioning of the market are to be made available by the market participants, even if such data and information is not included in the list given in this provision.

Regarding section 26: Balancing and Clearing by the Market Area Manager

This provision regulates the clearing of all scheduled and nominated gas volumes executed by the market area manager, also called ex ante clearing.

Para. 4: The market area manager continuously monitors whether the balance groups maintain their daily balance. Any imbalances are offset by way of market-based procurement from the gas exchange at the virtual trading point with the purpose of acting transparently and respecting the principle of causation. The reaction or renomination period of one hour after the market manager gave notice of any imbalance must be adhered to so as not to unduly prolong the imbalance situation and to prevent it from having a negative effect on system control. Due to the large gas volumes which are transported and traded in the transmission network, any discrepancy between injection and withdrawal is generally to be regarded as critical because due to the operational circumstances in Austria such discrepancy could endanger system stability and could therefore particularly have a negative effect on the security of supply for consumers.

Para. 5: This provision specifies how to deal with the carryover of imbalances which are not marketable or cannot be cleared in time. As renominations are possible until 03:00 hrs of the respective gas day (applying corresponding matching or, where appropriate, restriction procedures), information about the volume for the current gas day D cannot always be made available in time to be taken into account on gas day D+1. It is therefore made possible that the balance responsible party is informed about the final carryover of gas day D after 06:00 hrs on gas day D+1 and can take into account such volume as early as in the initial nomination procedure for gas day D+2 (until 14:00 hrs on D+1).

Para. 6: The balancing incentive markup incentivises a balanced hourly position of nominations during the balancing period. It is meant to be a strong incentive to prevent balance responsible parties from intentionally exploiting the system without facing consequences. Normally, each balance responsible party should be able to maintain the hourly balance of its scheduled and nominated injections into and withdrawals from the market area. The balancing incentive markup is calculated on the basis of the balancing costs incurred by the market area manager and is to be calculated at least once a year. If the costs incurred change considerably within a short period, the market area manager can take this into account when calculating and determining the balancing markup incentive.

Regarding section 27: Clearing by the Clearing and Settlement Agent

This provision regulates the clearing of discrepancies between scheduled/nominated and metered gas volumes carried out by the clearing and settlement agent, also referred to as ex post clearing.

Paras 6 and 7 regulate how consumption forecasts for SLP consumers are drawn up by the distribution area manager; this service can also optionally be rendered by the balance responsible parties. Volumes to be financially settled are determined on the basis of the actual temperature of the respective day.

Paras 8 and 9 regulate handling and procurement of physical balancing energy by the distribution area manager.

Regarding section 28: Standardised Load Profiles

This provision obligates the distribution system operators to cooperate with the distribution area manager when the latter draws up the consumption forecasts for SLP consumers, based on the standardised load profiles submitted by the clearing and settlement agent; the distribution area manager makes the data available to the respective balance responsible parties and must submit the aggregate totals of the consumption forecast to the market area manager for publication. This provision does not rule out that balance group responsible parties draw up their own forecasts and use them for their scheduling. In any event, clearing and settlement takes place on the basis of the consumption values submitted by the system operators, taking into consideration actual metered temperatures.

Regarding section 29: Interconnection Point Agreements and Linepack

This provision regulates how transmission and distribution linepack is used and handled, which is free of charge within the contractually agreed limits.

Para. 4: This paragraph regulates the use of linepack by the distribution area manager. The distribution area manager may use not only the linepack at distribution level but also, following advance coordination with the market area manager, the linepack at transmission level to keep the distribution area in balance. The transmission system operators are obligated to make available the entire available linepack volume and the injection and withdrawal rates of the linepack for the distribution area, via notice to the market area manager, unless it is required for the technical operation of the transmission lines. The transmission system operators are to draw up a detailed report on the calculation and notification of the linepack every month and send that report to the regulatory authority.

Regarding section 30: Prerequisites for Balancing Energy Providers

This provision regulates the prerequisites for offering balancing energy at the clearing and settlement agent's. No special requirements are stipulated for providing balancing energy on the gas exchange at the virtual trading point, as this is handled as part of normal trading operations (see section 33 para. 2).

Regarding section 31: Merit Order List

This provision regulates how balancing energy offers submitted to the clearing and settlement agent are handled and how the distribution area manager accepts such offers, as well as how to proceed in case no balancing energy offers have been made or the offers are insufficient.

Regarding section 32: Calculation of Imbalance Prices

This provision regulates how the different imbalance prices are calculated.

Para. 2: The imbalance prices for consumers with hourly balancing are based on the volume-weighted average prices for each hour of all balancing energy procured by the distribution area manager, which is adjusted by a markup for positive balancing energy or an offset for negative balancing energy (multiplied by 1.2 or by 0.9, respectively). This markup or offset is an incentive to balance portfolios in advance and thus serves to avoid exploitation of the balancing energy system. The revenues generated from these at the clearing and settlement agent's reduce the overall system balancing costs and thus also the contribution referred to in para. 6.

Para. 3: The prices of positive or negative balancing energy are based on the balancing energy purchased by the distribution area manager, with the marginal buy price and the marginal sell price being used.

Para. 4: Special balance groups and biogas infeed are settled at the daily exchange reference price.

Para. 6: Due to the new balancing structure, it is to be expected that the clearing and settlement agent's settlement of imbalances will result in an overhang or shortfall. In order to transparently distribute this overhang or shortfall, a contribution reflecting the volumes of network users according to section 18 paras 5 and 7 is passed on to all concerned balance responsible parties that represent balance groups with consumers with daily balancing. A balanced result of the costs and revenues expected from the settlement of imbalances and the charging of contributions is to be sought. For any differences resulting from the settlement of balancing energy, including the contribution, within one business year, it seems reasonable to apply section 71 para. 1 second sentence *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 by analogy.

Regarding section 33: Virtual Trading Point

Para. 1: The operator of the virtual trading point is to ensure that the products demanded by the market to maintain network balance and meet the demand for balancing energy are available at the virtual trading point. As a first step, a “rest-of-the-day” (i.e. “balance-of-the-day”) product is to be introduced as the standard for within-day exchange trading.

Regarding section 34: Formats for Data Exchange, Schedules and Nominations

This provision regulates the data formats and communication channels for scheduling and nominating and for information exchange.

Para. 1: Detailed specifications are contained in chapter 2 of the Gas Market Code.

Para. 5: The “lesser rule” is an international standard pursuant to EASEE-gas CBP 2003-002/02.

Regarding Title 3: Tyrol and Vorarlberg Market Areas

Regarding section 35: Principles

This provision stipulates that for the Tyrol and Vorarlberg market areas the operation and cooperation with the adjacent NetConnect Germany (NCG) market area for the purpose of supplying consumers is to be kept simple and straightforward. The cross-border balancing laid down in para. 1 refers to the Tyrol and Vorarlberg market areas, between which cross-border balancing is to be ensured.

Regarding section 36: Capacity Management

Capacity at the exit points of the upstream systems to the distribution networks in Tyrol and Vorarlberg is exclusively booked by the distribution area manager.

Regarding section 37: Basic Principles of the Balancing Regime

Para. 1: This provision stipulates that balance groups for all system users must be registered with the clearing and settlement agent. A balance responsible party may establish several balance groups and register them with the clearing and settlement agent.

Para. 2: After registration with the clearing and settlement agent the virtual trading point can be accessed by way of the corresponding balance group or balancing sub-account in the adjacent NCG market area.

Para. 5: By analogy with the rules for the eastern market area, the gas day, in principle, applies as the balancing or measurement period for all system users.

Para. 6: Notwithstanding the rules specified in para. 5, on the basis of technical and economic considerations, hourly balancing applies for system users equipped with load profile meters.

Para. 7: System users that are equipped with load profile meters and have agreed on a contractual maximum hourly capacity of 50,000 kWh/h with the system operator may annually opt for hourly or daily balancing. The prerequisite for daily balancing, however, is that the meter readings of the respective system user are available online and that these readings are accessible for the distribution area manager to control the distribution area.

Para. 8: The lead time in the market area is harmonised and set at two full hours and thus corresponds to the internationally customary standard.

Para. 9: This provision obligates market participants to trade and transfer gas volumes at the virtual trading point in the NCG market area.

Regarding section 38: Registration in the Tyrol and Vorarlberg Market Areas

Paras 1 and 2: The clearing and settlement agent is to act as a one-stop shop for new market participants and future balance responsible parties. It is the central point of contact for questions regarding registration, capacity management and balancing and, in general, is also the central information platform. With regard to contract organisation and the resulting relations with the distribution area manager, the clearing and settlement agent acts as first-level support. Questions of detail are to be organised directly with the distribution area manager.

Para. 6: Registration with the regulatory authority may be performed simultaneously. To finalise the process, however, the authority requires a confirmation by the clearing and settlement agent.

Para. 7: Balance groups and balancing sub-accounts must be established and registered in compliance with the legal and organisational provisions applicable in the NCG market area.

Regarding section 39: Balance Group Membership

Para. 1: Natural gas undertakings as defined in section 7 para. 1 item 16 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 also include storage system operators and producers of natural or biogenic gas.

Para. 2: Membership of a balance group member in several balance groups is permissible. Membership in a balance group can also be conferred by assignment by the regulatory authority, if this is required due to the dissolution of a balance group.

Para. 3: If several metering points of a balance group member are part of the same balance group, this does not establish multiple membership of the balance group member in that balance group. The respective member is counted as only one member of this balance group.

Para. 4: This provision obligates direct balance group members to inform the balance responsible party of the intended commencement of the activities listed in a manner that allows sufficient time for the balance responsible party to reflect this in its system.

Regarding section 40: Balance Responsible Parties

Para. 1: This provision regulates the relationship between balance responsible parties and balance group members.

Para. 2: This paragraph regulates the obligation of balance responsible parties to provide data relating to the balance group members to the extent that is necessary for the distribution area manager or the system operators to be able to fulfil their tasks and obligations.

Regarding section 41: Balancing

This provision regulates balancing energy procurement at the virtual trading point of the NCG and the calculation of balancing energy in the Tyrol and Vorarlberg market areas for deviations in respect of consumers' actual consumption, in the special balance groups and for deviations of biogas infeed.

Paras 6 and 7 regulate how consumption forecasts for SLP consumers are drawn up by the distribution area manager; this service can also optionally be rendered by the balance responsible parties. Volumes to be financially settled are determined on the basis of the actual temperature of the respective day.

Regarding section 42: Standardised Load Profiles

This provision obligates the distribution system operators to cooperate with the distribution area manager when the latter draws up the consumption forecasts for SLP consumers; the distribution area manager makes the data available to the respective balance responsible parties if needed and in any case submits the aggregate totals of the consumption forecast to the distribution area manager for publication.

Regarding section 43: Interconnection Point Agreements

This provision regulates how transmission and distribution linepack is used and handled, which is free of charge within the contractually agreed limits, mutually provided between the system operators in the Tyrol and Vorarlberg distribution areas and the upstream system operators.

Regarding section 44: Calculation of Imbalance Prices

This provision regulates the formation of imbalance prices for daily balancing in the Tyrol and Vorarlberg market areas.

Para. 2: The prices of positive or negative balancing energy are based on the balancing energy purchased by the distribution area manager, with the marginal buy price and the marginal sell price being used, taking into account any costs or revenues resulting from the OBA accounts.

Para. 3: The imbalance prices for consumers with hourly balancing are based on the volume-weighted average prices for each hour of all balancing energy procured by the distribution area manager, which is adjusted by a markup for positive balancing energy or an offset for negative balancing energy (multiplied by 1.2 or by 0.9, respectively). This markup or offset is an incentive to balance portfolios in advance and thus serves to avoid exploitation of the balancing energy system. The revenues generated from these at the clearing and settlement agent's reduce the overall system balancing costs and thus also the contribution referred to in para. 5.

Para. 5: Due to the new balancing structure, it is to be expected that the clearing and settlement agent's settlement of imbalances will result in an overhang or shortfall. In order to transparently distribute this overhang or shortfall, a contribution reflecting the volumes of network users according to section 37 paras 5 and 7 is passed on to all concerned balance responsible parties that represent balance groups with consumers with daily balancing. A balanced result of the costs and revenues expected from the settlement of imbalances and the charging of contributions is to be sought. For any differences resulting from the settlement of balancing energy, including the contribution, within one business year, it seems reasonable to apply section 71 para. 1 second sentence *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 by analogy.

Regarding section 45: Schedules and Nominations

This provision regulates scheduling and nominating of gas destined for consumption in the Tyrol and Vorarlberg market areas in interaction with the adjacent NCG market area.

Para. 1: In spite of daily balancing, schedules and nominations of volumes are sent to the distribution area manager as hourly time series.

Regarding section 46: Transitional Provisions

Para. 1: This provision serves to facilitate system changeover to the new market model.

Paras 2 and 4: In order to be able to quickly adjust the contribution to requirements, it is to be calculated on a monthly basis in the first few months after the system changeover.

Para. 3: This provision makes it possible to carry out necessary changeover preparations in the Tyrol and Vorarlberg market areas even before 1 October 2013.

Regarding section 47: Entry Into Force

In principle, the Ordinance enters into force on 1 January 2013 for the eastern market area. A longer transition period is only provided for parts which require intensive preparation measures. For the Tyrol and Vorarlberg market areas, entry into force is provided for as of 1 October 2013, but section 36 para. 1 can be applied as early as from 1 January 2013 if the contractual prerequisites are met.

Regarding annex 1

The provisions regulate the minimum contents of applications for system access, system admission and capacity expansion. The contents of system access contracts listed apply to all system users. Any missing data must be supplemented subsequently.